

Appeal to the Deputy Superintendent of Public Instruction

~~For complaints that allege violation of Oregon Division 22 Standards, restraint and seclusion or retaliation as defined in Oregon Revised State (ORS) 659.852, the complainant may have appeal rights for a complaint with the Deputy Superintendent of Public Instruction, if the complainant has exhausted the local complaint procedures and one of the following occurred:~~

- ~~1. The district failed to render a written decision within 30 days of the submission of the complaint at each step identified in the district's complaint process; or~~
- ~~2. The district failed to resolve the complaint within 90 days of the initial filing of the written complaint with the district, unless the district and the complainant have agreed in writing to a longer time period.~~

~~The appeal must be received by the Oregon Department of Education (ODE) no later than one year after the date of the final decision of the district or if the district fails to issue a final decision, no later than two years after the date the complainant first filed the underlying complaint with the district.~~

- ~~1. The complaint upon which the appeal is based, must have filed with the district by the later of the either stated below:
 - ~~a. Filed the complaint within two years after the alleged violation or unlawful incident occurred or after the complainant discovered the alleged violation or unlawful incident. If the alleged violation or unlawful incident is of a continuing nature, the right to file an appeal exists so long as the complaint was filed within two years of the most recent incident; or~~
 - ~~b. One year after the affected student has graduated from, moved away from or otherwise left the district.~~~~
- ~~2. The appeal shall be in writing submitted by mail, in person or electronically, and contain:
 - ~~a. The name and address of the person bringing the appeal;~~
 - ~~b. The name and address of the district which is alleged to have violated the statute or administrative rule; and~~
 - ~~c. A statement of the facts on which the appeal is based.~~~~
- ~~3. Upon receipt of the appeal, the Deputy Superintendent will determine whether the appeal alleges a violation of a statute or administrative rule for which the Deputy Superintendent has jurisdiction and whether the requirements contained in section 2. of OAR 581-002-0040 have been satisfied.~~

~~After these determinations, the Deputy Superintendent will either, not accept the appeal and will notify the complainant and the district, or will accept the appeal and notify the complainant and the district that the appeal has been accepted.~~

- ~~4. If the Deputy Superintendent has accepted an appeal and made notification to the complainant and the district involved as described in OAR 581-002-0040, the district shall submit a written report within 30 days of receipt of the notice which shall include:
 - ~~a. A statement of facts;~~
 - ~~b. A statement of district action, if any, taken in response to the complaint; if none was taken, the reason(s) why no action was taken;~~
 - ~~c. A stipulation, if one was reached, of the settlement of the complaint; and~~
 - ~~d. A list of any complaints filed with another agency by the party concerning the subject of the appeal.~~~~

- ~~5. The Deputy Superintendent may for good cause extend the time for the filing of a report by the district.~~

- ~~6. Upon receipt of the district's report, the Deputy Superintendent will conduct an investigation that will include a review of the written materials submitted by the complainant and district and may also include, but not be limited to:
 - ~~a. Onsite investigations;~~
 - ~~b. Interviews;~~
 - ~~c. Surveys; and~~
 - ~~d. Reviewing documents.~~~~

- ~~7. The Deputy Superintendent will issue a written final order that addresses each allegation in the complaint that was accepted for appeal and contains the reasons for the Deputy Superintendent's decision on whether or not the district is deficient. The final order will be issued within 90 days of the date the Deputy Superintendent receives the district's report,¹ or the Deputy Superintendent may extend the time period for issuing a final order pursuant to OAR 581-002-0040(7)(b),(c).~~

- ~~8. If a violation is found, the Deputy Superintendent's final order will include any necessary corrective action to be taken by the district as well as any documentation to be supplied by the district to ensure that the corrective action has occurred.~~

- ~~9. Corrective action ordered by the Deputy Superintendent must be completed within the timelines established in the final order.~~

¹~~If the 90 day period for issuing the final order would conclude during the time when the schools of the district are closed for the summer, the final order will be issued within 90 days of the date the Deputy Superintendent received the district's report exclusive of the time the schools are closed for the summer. The Deputy Superintendent of Public Instruction may extend the time period with agreement from the complainant. The Deputy Superintendent shall prepare a timeline and plan for investigation and provide copies to the complainant and the district within two weeks of receiving the district's report.~~

An appeal process has been established by the Oregon Department of Education (ODE) by Oregon Administrative Rules (OAR) 581-002-0001 – 581-002-0023¹ for complaints that allege violation of OAR Chapter 581, Division 22 (Division 22 Standards), Oregon Revised Statute (ORS) 339.285 – 339.303 or OAR 581-021-0550 – 581-021-0570 (Restraint and Seclusion), or ORS 659.852 (Retaliation).

The complainant may appeal the district’s final decision for a complaint to the Deputy Superintendent of Public Instruction if:

1. The complainant has exhausted the district’s complaint procedures except as otherwise allowed by statute;
2. The district failed to render a written decision within 30 days of the submission of the complaint at any step unless the district and complainant have agreed in writing to a longer time period for that step; or
3. The district failed to resolve the complaint within 90 days of the initial filing of the complaint, regardless of the number of steps in the district complaint process, unless the district and the complainant have agreed in writing to a longer time period.

The appeal may include a complaint alleging a violation of ORS 659.852 if the complainant alleges that retaliation occurred in response to a complaint for which the complainant received the district’s final decision for a complaint.

The appeal must be received by ODE no later than:

1. One year after the date of the final decision by the district; or
2. If the district fails to resolve the complaint, no later than two years after the date on which the complainant first filed the complaint with the district.

The complaint upon which the appeal is based must have been initially filed with the district by the later of the following two dates;

1. The date occurring two years after the date on which the alleged violation or unlawful incident occurred or on which the complainant discovered the alleged violation or unlawful incident².
2. The date occurring one year after the date on which the affected student graduated from, moved away from or otherwise left the district.

¹ The following is not a representation of the complete rules. See complete rules available on the Oregon Administrative Rules.

² If the alleged violation or unlawful incident is of a continuing nature, the date on which the alleged violation or unlawful incident occurred is the most recent date on which the alleged violation or unlawful incident occurred.

The appeal shall:

1. Be in writing;
2. Be submitted in person, by mail, or electronically.

The appeal must contain:

1. The name of the person filing the appeal;
2. The phone number, address, or email address, if available, of the person filing the appeal;
3. The name of the student if the person filing the appeal is filing on behalf of the student;
4. A statement of the facts on which the appeal is based; and
5. Other information requested by ODE.

Upon receipt of an appeal, ODE will determine whether the appeal satisfies the requirements of OAR 581-002-003 and OAR 581-002-005.

After these determinations, ODE will give written notice to the complainant and the district whether the appeal has been accepted.

If ODE has accepted an appeal and gave notice to the complainant and the district involved, the district shall submit a written response and all correspondence, documents, and other information ODE requested within 30 days of receipt of the notice.

The district's written response shall include:

1. A statement of facts;
2. A description of district action taken in response to the complaint; or if none was taken, an explanation of the reason(s) why no action was taken;
3. Any stipulation reached concerning settlement of the complaint; and
4. A list of any complaints filed with another agency by the complainant concerning the subject of the appeal to the extent that the district is aware of such complaints.

The Director of ODE may for good cause extend the time by which a district must make a submission described above.

Upon receipt of the district's written response, ODE will conduct an investigation to determine whether the district violated a rule of law described in OAR 581-002-003.

ODE shall issue a final order pursuant to OAR 581-002-0017.