

OSBA Model Sample Policy

*revised
complaint + appeal
process
policy + AR*

Code: **KL**
Adopted: *10/23/95*

Public Complaints ***/**** (Version 4)

we want the AR

(This version of sample policy KL does not need an accompanying administrative regulation, it is a stand-alone policy. If this policy is chosen by the Board, recommend delete any other existing complaint procedure.)

Board members recognize that complaints about schools may be voiced by ~~employees, students,~~ parents of students who attend a school in the district, and community members from time to time persons who reside in the district. When such complaints are made to a Board member, the Board member shall refer the person making the complaint to the superintendent or designee. A Board member shall not attempt to respond, review, handle or resolve such complaints as the individual board member has no authority to do so.

A complaint of retaliation against a student or a student's parent or guardian who in good faith reported information that the student believes is evidence of a violation of state and federal law, rule or regulation, should be made to the superintendent.

*KL-AR(s) required
supervisor*

A person may initiate a complaint by discussing the matter with the appropriate administrator/principal. That administrator/principal shall attempt to resolve the complaint or identify the reasons for not resolving the issue. In the event a complaint is not resolved within 10 working days at the building level, of initiation by the complainant in discussion with the administrator/principal. If the complainant is dissatisfied, the complainant may file a written complaint with the superintendent within 10 working days of the decision from the administrator/principal. The superintendent will attempt to resolve the complaint. If the complaint remains unresolved after 10 working days of receipt of the complaint by the superintendent, the complainant may request to place the complaint on appeal to the Board agenda. A written complaint referred to the Board may be considered at the next regularly scheduled or special Board meeting. Any written complaint bearing the signature of a complainant, and which is presented to the Board, may be considered by the entire Board. A final written decision regarding the complaint shall be made by the Board within 20 working days from receipt of the complaint. The written decision of the Board will be final and will address each allegation in the complaint and reasons for the district's decision. If the Board chooses not to hear the complaint, the superintendent's decision is final. The Board may hold the hearing in executive session if the subject matter qualifies under Oregon law.

*KL-AR(s)
required*

The complaint procedure set out above will not be longer than 90 days from the filing date of the original complaint with the administrator/principal. The timelines may be extended upon written agreement between the district the complainant.

[†]The timelines may be extended upon written agreement between both parties.

[For district information. The district's timeline established by each step of the district's complaint procedure for alleging a violation found in OAR 581-002-0003 must be 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. However, the district's complaint procedure should not exceed a total of 90 days from the initial filing of the complaint, regardless of the number of steps involved, unless the district and the complainant have agreed in writing to a longer time period. (OAR 581-002-0005)]

§ The district may offer mediation or another alternative dispute resolution process as an option if all parties to the complaint agree in writing to participate in such mediation or resolution.

Complaints against the principal ~~may~~ **should** be filed with the superintendent. The superintendent will attempt to resolve the complaint. If the complaint remains unresolved within **10** working days of receipt by the superintendent, the complainant may request to place the complaint on the Board agenda at the next regularly scheduled or special Board meeting. ~~The Board may use executive session if the subject matter qualifies under Oregon law. The Board shall decide, within 20 days, in open session what action, if any, is warranted. A final written decision regarding the complaint shall be issued by the Board within 10 days. The written decision of the Board will address each allegation in the complaint and reasons for the district's decision.~~

Complaints against the superintendent should be referred to the Board chair on behalf of the Board. The Board chair shall present the complaint to the Board ~~in a Board meeting. A final written decision regarding the complaint shall be made by the Board within 20 working days from receipt of the complaint. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. The Board may use executive session if the subject matter qualifies under Oregon law. After receiving the results of the investigation,~~ **the Board shall decide, within 20 days, in open session what action, if any, is warranted. A final written decision regarding the complaint shall be issued by the Board within 10 days. The written decision of the Board will address each allegation in the complaint and reasons for the district's decision.**

Complaints against the Board as a whole or against an individual Board member should be made ~~referred~~ to the Board chair on behalf of the Board. The Board chair shall present the complaint to the Board ~~in a Board meeting. A final written decision regarding the complaint shall be made by the Board within 20 working days from receipt of the complaint. The written decision of the Board will be final and will address each allegation in the complaint and reasons for the district's decision. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. After receiving the results of the investigation,~~ **the Board shall decide, within 20 days, in open session what action, if any, is warranted. A final written decision regarding the complaint shall be issued by the Board within 10 days. The written decision of the Board will address each allegation in the complaint and reasons for the district's decision.**

Complaints against the Board chair ~~may~~ **should** be made directly to the ~~district counsel~~ **the Board vice chair** on behalf of the Board. The ~~district counsel~~ **Board vice chair** shall present the complaint to the Board ~~in a Board meeting. A final written decision regarding the complaint shall be made by the Board within 20 working days from receipt of the complaint. The written decision of the Board will be final and will address each allegation in the complaint and reasons for the district's decision. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. Once~~ **When the investigation is complete, the results will be presented to the Board. After receiving the results of the investigation,** ~~the Board shall decide, within 20 days, in open session what action, if any, is warranted. A final written decision regarding the complaint shall be issued by the Board within 10 days. The written decision of the Board will address each allegation in the complaint and reasons for the district's decision.~~

§ A complainant must file a complaint within the later of either time limit set below, in accordance with State law:

1. Within two years after the alleged violation or unlawful incident occurred or the complainant discovered the alleged violation or unlawful incident. For incidents that are continuing in nature, the time limitation must run from the date of the most recent incident; or
2. Within one year after the affected student has graduated from, moved away from or otherwise left the district.

The district's final decision for a complaint processed under this Board policy that alleges a violation of Oregon Administrative Rule (OAR) Chapter 581, Division 22 (Division 22 Standards), ORS 339.285 - 339.303 or OAR 581-021-0550 - 581-021-0570 (Restraint and Seclusion) or ORS 659.852 (Retaliation), will be issued in writing or electronic form. The final decision will address each allegation in the complaint and contain reasons for the district's decision. If the complainant is a student, parent or guardian of a student attending school in the district or a person that resides in the district, and the complaint is not resolved through the complaint process above, the complainant may have file an appeal rights with to the Deputy Superintendent of Public Instruction as outlined in under OAR 581-0021-00400001 - 581-001-0023 (See KL-AR(2) - Appeal to the Deputy Superintendent of Public Instruction).

If the complaint alleges discrimination pursuant to ORS 659.850 (Discrimination) and the complaint is not resolved at the local level through administrative regulation AC AR Discrimination Complaint Procedure, the complaint may meet the criteria to file an appeal with the Superintendent of Public Instruction as outlined in OAR 581-021-0049.

END OF POLICY

Legal Reference(s):

An appeal must meet the criteria found in OAR 581-002-0005(1)(a).

| ORS 192.610 ~~192.690~~ ~~660~~
ORS 332.107

ORS 659.852
~~OAR 581-002-0001 - 002-0005~~

OAR 581-022-2370

Anderson v. Central Point Sch. Dist., 746 F.2d 505 (9th Cir. 1984).
Connick v. Myers, 461 U.S. 138 (1983).

OSBA Model Sample Policy

Code: KL-AR[(1)]

Revised/Reviewed:

Public Complaint Procedure

Step One

Any member of the public parent or guardian of a student attending a school in the district, ~~or a person who resides in the district,~~ a staff member, or a student who wishes to express a concern should discuss the matter with the school employee involved. The employee shall respond within [five] working days.

The Administrator/Supervisor: Step Two One

If the individual is unable to resolve a problem or concern with the employee, the individual may file a written, signed complaint with the [administrator/supervisor] within [five] working days of the employee's response. The [administrator/supervisor] shall evaluate the complaint and render a decision within [five] working days after receiving the complaint. (A form is available, but is not required.)

The Superintendent: Step Three Two

If Step 2 One does not resolve the complaint, within [10] working days of the rewritten response from the [administrator/supervisor], the complainant, if he/she wishes to pursue the action, shall ~~may~~ file a signed, written, signed complaint with the superintendent or designee clearly stating the nature of the complaint and a suggested remedy. (A form is available, but is not required.)

The superintendent or designee shall investigate the complaint, confer with the complainant and the parties involved, and prepare a report of his/her/their findings and conclusion, and provide the report ~~in writing or in an electronic form~~ to the complainant within [10] working days after receiving the written complaint.

The Board: Step Four Three

If the complainant is dissatisfied with the superintendent's or designee's findings and conclusion, the complainant may appeal the decision to the Board within [five] working days of receiving the superintendent's decision. The Board ~~may hold a hearing to~~ will review the findings and conclusion of the superintendent, ~~to hear the complaint and to hear and evaluate any other evidence as it deems~~ in a public meeting to determine what action is appropriate. The Board may use executive session if

[For district information. The district's timeline established by each step of the district's complaint procedure for alleging a violation found in OAR 581-002-0003 must be 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. However, the district's complaint procedure should not exceed a total of 90 days from the initial filing of the complaint, regardless of the number of steps involved, unless the district and the complainant have agreed in writing to a longer time period. (OAR 581-002-0005)]

[If the Board chooses to accept the superintendent's decision as the district's final decision on the complaint, the superintendent's written decision must meet the requirements of OAR 581-022-2370(4)(b).]

the subject matter qualifies under Oregon law. Appropriate action may include, but is not limited to, holding a hearing, requesting additional information, and adopting the superintendent's decision as the district's final decision. All parties involved, including the school administration, may be asked to attend such hearing for the purposes of making further explanations and clarifying the issues.

If the Board chooses not to hear the complaint, the superintendent's decision in Step Two is final³.

The Board may hold the hearing in executive session if the subject matter qualifies under Oregon law.

The complainant shall be informed in writing or in electronic form of the Board's decision within 20 working days from the hearing of the appeal by the Board. The Board's decision will address each allegation in the complaint and contain reasons for the district's decision. The Board's decision will be final.

~~The complaint procedure set out above will not be longer than 90 days from the filing date of the original complaint with the [administrator][supervisor].~~ The timelines may be extended upon written agreement between the district and the complainant.

The district's final decision for a complaint processed under this administrative regulation that alleges a violation of Oregon Administrative rule (OAR) Chapter 581, Division 22 (Division 22 Standards), ORS 339.285 - 339.303 or OAR 581-021-0550 - 581-021-0570 (Restraint and Seclusion) or ORS 659.852 (Retaliation), will be issued in writing or electronic form. The final decision will address each allegation in the complaint and contain reasons for the district's decision. If the complainant, who is a student, parent or guardian of a student attending school in the district or a person that resides in the district, and this complaint is not resolved through the complaint process, the complainant may have appeal rights with the district's final decision to the Deputy Superintendent of Public Instruction as outlined in under Oregon Administrative Rule (OAR) 581-002-0040~~0001 - 581-002-0023~~.

If the complaint alleges discrimination pursuant to ORS 659.850 (Discrimination) and the complaint is not resolved at the local level through the Board's administrative regulation AC-AR-Discrimination Complaint Procedure, the complaint may meet the criteria to file an appeal with the Deputy Superintendent of Public Instruction as outlined in OAR 581-021-0049.

Complaints against the principal may should be filed with the superintendent. The superintendent will attempt to resolve the complaint. If the complaint remains unresolved within 10 working days of receipt by the superintendent, the complainant may request to place the complaint on the Board agenda at the next regularly scheduled or special Board meeting. The Board may use executive session if the subject matter qualifies under Oregon law. The Board shall decide, within 20 days, in open session what action, if any, is warranted. A final written decision regarding the complaint shall be issued by the Board within 10 days. The written decision of the Board will address each allegation in the complaint and reasons for the district's decision.

³ [If the Board choose to accept the superintendent's decision as the district's final decision on the complaint, the superintendent's written decision must meet the requirements of OAR 581-022-2370(4)(b).]

⁴ The timelines may be extended upon written agreement between both parties. This also applies to complaints filed against the superintendent or any Board member.

⁵ An appeal must meet the criteria found in OAR 581-002-0005(1)(a).

Complaints against the superintendent should be referred to the Board chair on behalf of the Board. The Board chair shall present the complaint to the Board ~~in a Board meeting~~. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. ~~After receiving the results of the investigation, the~~ Board shall decide, within ~~(20)~~ days, in open session what action, if any, is warranted. ~~The Board may use executive session if the subject matter qualifies under Oregon law. A final written decision regarding the complaint shall be issued by the Board within (10) days. The written decision of the Board will address each allegation in the complaint and reasons for the district's decision.~~

Complaints against the Board as a whole or against an individual Board member should be ~~made referred~~ to the Board chair on behalf of the Board. The Board chair shall present the complaint to the Board ~~in a Board meeting~~. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. ~~After receiving the results of the investigation, the~~ Board shall decide, within ~~(20)~~ days, in open session what action, if any, is warranted. ~~A final written decision regarding the complaint shall be issued by the Board within [10] days. The written decision of the Board will address each allegation in the complaint and reasons for the district's decision.~~

Complaints against the Board chair may be ~~made referred~~ directly to the ~~[district counsel]~~ Board vice chair on behalf of the Board. The ~~[district counsel]~~ Board vice chair shall present the complaint to the Board ~~in a Board meeting~~. If the Board decides an investigation is warranted, the Board may refer the investigation to a third party. When the investigation is complete, the results will be presented to the Board. ~~After receiving the results of the investigation, the~~ Board shall decide, within ~~(20)~~ days, in open session what action, if any, is warranted. ~~A final written decision regarding the complaint shall be issued by the Board within (10) days. The written decision of the Board will address each allegation in the complaint and reasons for the district's decision.~~

[Name of District]

COMPLAINT FORM

To: District Office _____ (Name of School) Employee* Administrator/Supervisor* Superintendent Board chair Board vice chair * Form available but is not required

Person Making Complaint _____

Telephone Number _____ Date _____ Email _____

Nature of Complaint _____

Who should we talk to and what evidence should we consider? _____

Suggested solution/resolution/outcome: _____

Signature of Complainant: _____ Date: _____

Office Use

Disposition of Complaint: _____

Signature: _____ Date: _____

cc: District Office

OSBA Model Sample Policy

Code: KL-AR(2)

Revised/Reviewed:

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, An appeal process has been established by the Oregon Department of Education (ODE) by Oregon Administrative Rules (OAR) 581-002-0001 – 581-002-0023 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 have appeal rights for a the district's final decision for a complaint with to the Deputy Superintendent of Public Instruction, if:

1. if the complainant has exhausted the local district's complaint procedures and one of the following occurred: 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 each any step identified in the district's complaint process 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 written complaint with the district, 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 the Oregon Department of Education (ODE) no later than:

1. One year after the date of the final decision of by the district or
 2. If the district fails to issue a final decision resolve the complaint, no later than two years after the date on which the complainant first filed the underlying 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 either stated below following two dates:
1. a. Filed the complaint within The date occurring two years after the date on which the alleged violation or unlawful incident occurred or after on which the complainant discovered the alleged violation or unlawful incident. If the alleged violation or unlawful incident is of a continuing nature,

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

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 right to file an appeal exists so long as the complaint was filed within two years of the most recent incident; or

2. ~~b. The date occurring~~ ~~One year after the date on which the~~ affected student has graduated from, moved away from or otherwise left the district.

~~2. The appeal shall~~

1. ~~b. Be in writing~~
2. ~~Be submitted in person, by mail, in person or electronically, and~~

~~The appeal must contain:~~

1. ~~a. The name and address of the person bringing 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~~

~~b. The name and address of the district which is alleged to have violated the statute or administrative rule; and~~

4. ~~e. A statement of the facts on which the appeal is based; and~~
5. ~~Other information requested by ODE.~~

~~3. Upon receipt of the an appeal, the Deputy Superintendent ODE 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 the requirements of OAR 581-002-0003 and OAR 581-002-0003.~~

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

~~4. If the Deputy Superintendent ODE has accepted an appeal and made notification gave notice to the complainant and the district involved as described in OAR 581-002-0040, the district shall submit a written report response and all correspondence, documents, and other information ODE requested within 30 days of receipt of the notice, which~~

~~The district's written response shall include:~~

1. ~~a. A statement of facts;~~
2. ~~b. A statement description of district action, if any, taken in response to the complaint; or if none was taken, an explanation of the reason(s) why no action was taken;~~
3. ~~e. Any stipulation, if one was reached, of the concerning settlement of the complaint; and~~

4. ~~d. A list of any complaints filed with another agency by the party complainant concerning the subject of the appeal to the extent that the district is aware of such complaints.~~

5. ~~The Deputy Superintendent Director of ODE may for good cause extend the time for the filing of a report by the district by which a district must make a submission described above.~~

6. ~~Upon receipt of the district's report written response, the Deputy Superintendent ODE 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: to determine whether the district violated a rule or law described in OAR 581-002-0003.~~

- a. ~~Onsite investigations;~~
- b. ~~Interviews;~~
- c. ~~Surveys; and~~
- d. ~~Reviewing documents.~~

7. ~~The Deputy Superintendent ODE will shall 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,³ or the Deputy Superintendent may extend the time period for issuing a final order pursuant to OAR 581-002-0040(7)(b),(c) pursuant to OAR 581-002-0017.~~

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.~~

³ 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.