

581-022-1940

Appeal Procedure

- (1) A complainant may direct an appeal of a final decision by a school district to the State Superintendent of Public Instruction if:
 - (a) The complaint alleges a violation of standards of the Oregon Administrative Rules, chapter 581, division 022; or
 - (b) A violation of other statutory or administrative rule requirements for which the State Superintendent has appeal responsibilities.
- (2) The appeal must be in writing and contain:
 - (a) The name and address of the person bringing the appeal, and the district in which that person resides;
 - (b) The name and address of the district which is alleged to have violated standards; and
 - (c) A brief statement indicating each standard the district is alleged to have violated and how the district is alleged to have violated it.
- (3) A decision is deemed final if:
 - (a) The district has failed to comply with the procedural time limits in its written complaint process;
 - (b) In a multi-step district complaint process, the district fails to render a written decision within 30 days of the submission of the complaint at each step; or
 - (c) The district fails to resolve a complaint within 90 days of the initial filing of a written complaint, regardless of the number of steps in the district complaint process.
- (4) Upon receipt of the appeal the State Superintendent will determine whether a violation of standards has been properly alleged and the requirements of section (2) of this rule have been satisfied.
 - (a) If the State Superintendent determines that the facts of complaint, if true, would be a violation of a standard, the appeal will be accepted and the procedures listed in this rule in the following sections will be applied;
 - (b) If the State Superintendent determines that the complaint, even if true, would not violate a standard, the appeal will not be accepted. In either case, the State Superintendent will give notice of the determination to the complainant and the school district.
- (5) Within 30 days of receipt of notice of the State Superintendent's acceptance of the appeal, the district shall submit a written report with the State Superintendent which shall include:
 - (a) A statement of facts;
 - (b) A statement of district action, if any, taken in response to the complaint, or if none was taken, the reason(s) therefore;
 - (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.

(7) Upon receipt of the district's report, the State Superintendent will investigate the allegations of the complaint to the extent necessary including but not limited to:

(a) Authorizing an on-site investigation; and

(b) Conducting interviews, meetings and surveys and reviewing documents, data and district procedures.

(8) The State Superintendent will issue a written decision within 60 days of receiving the district's report that addresses each allegation in the complaint and contains reasons for the State Superintendent's decision as to whether or not the district is deficient. If the schools of the district are not open during the 60-day period due to summer vacation, the decision shall be issued within 60 days after the beginning of the school year.

(9) Notwithstanding section (8) of this rule, the State Superintendent may extend the time period for issuing a written decision on a complaint to a time period that is more than 60 days if the State Superintendent has the consent of the complainant and the allegation concerns a comprehensive or widespread deficiency and more extensive investigation is needed than may be reasonably completed within 60 days. The State Superintendent shall prepare a timeline and plan for investigation and provide copies to the complainant and district within two weeks of receiving the district's report.

(10) If a deficiency is found, the State Superintendent's written decision will include any necessary corrective action to be undertaken by the district as well as any documentation to be supplied to ensure that the corrective action has occurred.

(11) If a deficiency is not corrected, the provisions of ORS 327.103 will apply.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 327.103 & 326.051

Hist.: EB 18-1996, f. & cert. ef. 11-1-96; ODE 31-2007, f. & cert. ef. 12-12-07