

# Complaints and Appeals to ODE

OSBA Annual Conference 2015

# Complaints and Appeals to ODE

- Division 22 Appeals – [Emily.Nazarov@state.or.us](mailto:Emily.Nazarov@state.or.us)
- IDEA – [Mike.Franklin@state.or.us](mailto:Mike.Franklin@state.or.us)
- 504 – [Winston.Cornwall@state.or.us](mailto:Winston.Cornwall@state.or.us)
- Civil Rights – [Winston.Cornwall@state.or.us](mailto:Winston.Cornwall@state.or.us)
- Virtual Charter Appeals – [Kate.Pattison@state.or.us](mailto:Kate.Pattison@state.or.us)

# Complaints to others

- US Department of Education
  - Ex: sharing student information in violation of FERPA
- Bureau of Labor and Industries (BOLI)
  - Ex: supervisor harassment or retaliation
- Teacher Standards and Practices Commission (TSPC)
  - Ex: complaint against a specific educator
- Local School Board
  - Ex: homework policy; personnel decisions

# Division 22 Appeals

- Statutory and Rule Authority:
  - ORS 327.103
    - All districts are presumed standard until found to be deficient
    - State Board must adopt rules for determining when a district is deficient
    - If a district is found to be deficient, district must get back into compliance or may lose state school funds
  - OAR 581-022-1940
    - Division 22 appeal procedure

# Division 22 Appeals

- Scope of Authority:
  - ODE has appeal authority over a final decision by a school district where the complainant alleges:
    - Violation of a Division 22 standard; or
    - Violation of a statute or rule that gives ODE appeal authority

# Division 22 Appeals

- Requirements for appeal to be accepted:
  - Filed by a proper party
    - Person who resides in the district
    - Parent or guardian of a student who attends school in the district
  - In writing with required contact information
  - Alleges violation of a standard or rule within ODE's appeal authority
    - Standard: Does the complaint alleges facts which, if true, would be a violation of a standard or rule within ODE's appeal authority

# Division 22 Appeals

- Requirements for appeal to be accepted (cont.):
  - Includes a brief statement of what the district did wrong
  - Appeals a final decision of the district
    - Look to the district's complaint policy
    - A decision is deemed final if the district failed to meet procedural time limits

# Division 22 Appeals

- Investigation:
  - If appeal is accepted, district has 30 days to provide a response that includes the following:
    - A statement of facts
    - A statement of district action taken in response to complaint
    - Information on any settlement of the complaint
    - Similar complaints filed with other agencies
  - ODE then has 60 days to investigate and issue a final order



# Division 22 Appeals

- Final Order:
  - Must address each allegation in the appeal and contain reasons for the Deputy Superintendent's decision as to whether or not the district is deficient
  - If a deficiency is found, the final order must include any necessary corrective action to be undertaken by the district
- Appeal:
  - Parties can ask ODE for reconsideration
  - Parties can appeal the final order in circuit court

# Division 22 Appeals

- Corrective Action:
  - Corrective action plan must be adopted by the local school board and submitted to Deputy Superintendent for approval within 90 days of final order
  - Corrective action must be completed by the beginning of the following school year
    - extension may be granted
  - If corrective action is completed on time, district is restored to “standard school” status; if not, ODE may withhold state school funds

# Division 22 Appeals

- Common Problems:
  - Complaint policy does not match state law
  - District does not follow process in its own complaint policy
  - Treating complaints as informal
  - Not putting decisions in writing
- Tools:
  - Training for dealing with the never-ending conflict
  - Mediation

# Civil Rights Complaints

- Statutory and Rule Authority:
  - ORS 659.850 and 659.855
  - OAR 581-021-0049
- Process:
  - Must first file district-level complaint
  - Appeal to ODE
  - ODE issues Final Order
    - no substantial evidence exists for the charges of discrimination, and no further action will be taken;  
**or**
    - Discrimination may exist, and conciliation will be attempted to reach agreement by both parties

# Civil Rights Complaints

- Process (cont.):
  - If the parties fail to reach agreement through conciliation, they can request a hearing with ODE
- Final Order
  - Whether district is in compliance with the provisions of ORS 659.850
- Corrective Action
  - District has 30 days to comply
- Remedies

# Civil Rights Complaints

- Appeal:
  - Reconsideration
    - Parties may file a petition for reconsideration or rehearing of the final order within 60 days after the final order is served.
    - The process for filing a petition for reconsideration or rehearing is set forth in the Model Rules of Procedure for Contested Cases (OAR 137-003-0080)
  - Judicial Review
    - Parties may file for judicial review in Oregon Court of Appeals
    - Review is pursuant to ORS 183.482

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