



Code: KL-AR(1)
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Public Complaint Procedure**

A complaint under Policy KL must be in writing. Verbal or “informal” complaints will not be process under Policy KL. For complaints that involve a District staff member other than the Superintendent, School Board or a School Board member, the Executive Director of Human Resources will determine the appropriate administrator for Step 1. For complaints about students or from students, the Executive Directors of Elementary, Middle or High Schools are responsible for determining the appropriate administrator for Step 1. For a complaint about policies, programs or services, the Superintendent is responsible for determining the appropriate administrator for Step 1.

The complainant should utilize the complaint form found in administrative regulation KL-AR (2) – Complaint Form.

1. 3-Step Appeal Process:

- 1.1 **Step 1 (School/Program Administrator):** After the District has received a complaint it will be referred to the appropriate administrator for investigation and resolution. It is the District’s intent that a complaint would be resolved at the lowest level. The administrator will investigate the complaint, attempt to resolve the complaint and make a Step 1 decision if the complaint cannot be resolved to the complainant’s satisfaction.
 - (a) The administrator responsible for Step 1 has 30-calendar days to investigate the complaint, attempt to resolve the complaint and make a written decision on the complaint if the complaint is not resolved.
 - (b) The administrator responsible for the complaint at Step 1 has wide latitude to attempt to resolve the complaint by conferring with the complainant, the subject, and other parties involved. In some cases, it may involve the administrator requesting the complainant and the subject of the complaint to meet and try to resolve the dispute. In other cases, it may not be appropriate to have such a meeting.
 - (c) The 30-day time limit for Step 1 may only be extended by written agreement of the complainant.
 - (d) The administrator will include in the Step 1 decision a notice that the decision may be appealed within 7 calendar days after the decision is sent to the complainant. The notice will explain how to appeal the decision, where to send the appeal, along with the applicable timeline to appeal.

- (e) The complainant who appeals the Step 1 decision shall provide in writing the reason(s) for the appeal.
- (f) **Athletic Issues:** For complaints involving athletics (except for Title IX complaints which are not subject to this subsection), the first step in the complaint process is the coach directly responsible for the student athlete. If the issue is not resolved within 5-school days, the issue may be appealed to the high school athletic director. A decision of the athletic director may be appealed to the high school principal within 5-school days of the athletic director's decision. The decision of the high school principal is final and may not be appealed.
- (g) **Students with Disabilities:** Complaints about athletics that involve students who are eligible for special education or reasonable accommodations under either the IDEA or Section 504 will be process under applicable statutory procedures under those laws. Further information on this subject may be found in the OSAA Handbook.

1.2 **Step 2 (Superintendent or Designee):** If the complainant disagrees with the decision of the administrator in Step 1, the complainant may appeal the decision to the administrator indicated in the Step 1 decision. Normally this administrator would be the supervisor of the Step 1 administrator.

- (a) The Superintendent determines the appropriate Step 2 administrator.
- (b) The Step 2 administrator will review the investigation that occurred at Step 1, the Step 1 administrator's decision, and the complainant's written appeal.
- (c) The Step 2 administrator may, but is not required, to do more investigation if that administrator determines it is necessary. This may include additional interviews of the complainant and other relevant witnesses.
- (d) The Step 2 administrator will attempt to resolve the complaint with the complainant. If this is not possible, the Step 2 administrator will issue a final decision.
- (e) The administrator responsible for Step 2 has 30-calendar days to investigate the complaint, attempt to resolve the complaint and make a written decision on the complaint if the complaint is not resolved.
- (f) The 30-calendar day time limit for Step 2 may only be extended by written agreement of the complainant.
- (g) The administrator will include in the Step 2 decision a notice that the decision may be appealed within 7 calendar days after the decision is sent to the complainant. The notice will explain how to appeal the decision, where to send the appeal, along with the applicable timeline to appeal.

1.3 **Step 3 (School Board):** The School Board is the final step in the District's complaint process. For complaints under this policy, the School Board may hear the appeal. If the School Board decides to provide a hearing on the appeal it will render a decision within ninety (90) calendar days of initiation of the complaint. If a hearing on the appeal is granted, the process will include:

- (a) The Board will schedule a hearing on complainant’s appeal. The Board leadership in consultation with the Superintendent and/ or legal counsel will determine whether the hearing will be in public session or in executive session, according to the Oregon public meeting law. The administrator will include in the Step 2 decision a notice that the decision may be appealed within 7 calendar days after the decision is sent to the complainant. The notice will explain how to appeal the decision, where to send the appeal, along with the applicable timeline to appeal.
 - (b) The appeal before the Board will be on the record developed by the Step 1 and Step 2 administrators. No witnesses may be called. The Superintendent or designee will present its position. The complainant will present their position. The Board may ask clarifying questions of the parties. The Board will make a final decision on the appeal in an open public session.
 - (c) The Board will provide a written order to the complainant following the Board decision.
 - (d) The Board has 30-calendar days from the day it receives a written appeal to make a final decision in a Board meeting. The 30-calendar day timeline may be extended with written consent from the complainant.
- 1.4 It is the District’s goal that the complaint process be resolved within 90 calendar days. For example:
- 1. 30 calendar days at Step 1 to review complaint, investigate and render decision.
 - 2. 7 calendar days to appeal: Days 31-38.
 - 3. Day 38 appeal received.
 - 4. Day 68 for Step 2 decision.
 - 5. 7 calendar days to appeal: Days 69-75.
 - 6. Day 75 Step 3 appeal to the Board. The Board has 15 calendar days to have a Board hearing (if applicable) and render final decision.
2. **Complaints made to Board Members:** From time to time Board members may receive complaints from community members, groups or staff by email or other means. Board members shall refer complainants to the Superintendent.
3. **Complaints filed with Public Agencies:** If the complainant chooses to engage in another complaint process with an outside agency such as the Oregon Department of Education, the Teacher Standards and Practices Commission, the Oregon Bureau of Labor and Industries, the Employment Relations Board, the Office for Civil Rights or other such agencies, the District is under no obligation to either begin or complete its complaint process.
- 3.1 If the complainant refuses to use the District complaint process and instead goes directly to a public agency with the complaint, the District is under no obligation to consider the same complaint in the future.

3.2 If the complainant withdraws their complaint within the first 30-calendar days after filing the complaint with the public agency but prior to receiving a decision or a dismissal notice from the public agency, the complainant may file a complaint under the applicable policy with the District provided that the complaint is filed with the District within the time limitation.¹

4. **Complaints that cannot be processed within 90-calendar days:** There may be situations where it is not practical that a complaint can go through the 3-step process from start to finish within the 90-day time period. An example of such a complaint might require an unusual amount of investigation at Step 1 that makes it impossible to complete Step 1 within 30-calendar days. Another example might be a complainant who raises an issue that can only be decided by the Superintendent or Board. A third example is a situation where the Board is not able to schedule a Board hearing within the 90-day window because of an event outside the control of the Board (e.g., a snow day closure with cancellation of the Board meeting, or a necessary party to the hearing being unavailable because of illness).

4.1 It is important that both the District personnel who are responsible for responding to the complaint as well as the complainant understand that there are many possible events that could delay the 3-step process that leads to a final Board decision within 90-calendar days of the date the complaint is filed. In these instances, the District will work with complainant to come to a mutual agreement on the path forward, which may include the following modification of the 3-step complaint procedures:

- (a) Mutual agreement on an extension of time for the complaint process: complainant must confirm such an agreement in writing.
- (b) Waive Step 1 and go directly to Step 2: Both the complainant and the District must mutually agree in writing to this process. The Step 2 process will complete the investigation and render a decision within 60-calendar days. Any appeal to the Board under Step 3 must be completed with a Board decision by day 90.
- (c) If a complaint is received at the end of the school year, and an investigation must include interviews of staff and students who may be unavailable during the summer months, it may be necessary for the District to request an extension of time to complete the investigation. If the complainant refuses the extension of time for the investigation at Step 1, the District may skip Step 1 to give the investigator the amount of time needed for the investigation. The process will then begin at Step 2 so that the investigation can be completed so there is enough time for a Step 2 decision and a Step 3 appeal.
- (d) If the complainant has not otherwise agreed to an extension of time and the District has not been able to render a final decision at the Board level in Step 3 within 90-calendar days, the complainant may appeal directly to the Deputy Superintendent of Public Instruction as outlined below.

¹ All complaints must be received by the District on the later date of: (1) within two years of the alleged violation or the complainant's discovery of the alleged violation, or (2) one year after the affected student has graduated from, moved away from, or otherwise left the District. If the alleged violation is continuing, the time limitation must run from the date of the most recent incident.

5. **Final Decisions of the School Board that may be appealed:** Certain Step 3 final decisions by the Board may be appealed to the Deputy Superintendent of Public Instruction, as allowed in OAR 581-002-0001 to 581-002-0023. The Board’s final decision regarding complaints of discrimination under Policy AC, complaints about restraint and seclusion of students, complaints about harassment of students in OAR Division 22 Standards and complaints of retaliation in ORS 659.852 may be appealed. All other decisions of the Board are final and may not be appealed to the Deputy Superintendent of Public Instruction.
- 5.1 In those complaints that may be appealed to the Deputy Superintendent of Public Instruction, a complainant may appeal if the Board has failed to render a decision within 90 calendar days of the initial filing of the complaint, unless the District and the complainant have agreed in writing to a longer period.
- 5.2 The appeal to the Deputy Superintendent of Public Instruction must be received by the Oregon Department of Education no later than one year after the date of the final decision by the District, or if the District fails to issue a final decision, not later than two years after the date the complainant first filed the underlying complaint with the District.
6. **Investigations:** Investigations will normally occur at Step 1 after a complaint is received. The Step 1 administrator may be the investigator, or a third-party investigator may conduct the investigation. The investigator will not be a person who is the subject of the complaint or who is directly involved in the subject matter of the complaint. The District staff responsible to determining the sufficiency of the complaint in Section 3.1 will normally determine who will investigate the complaint.
- 6.1 **Investigations involving District’s Legal Counsel:** At the sole discretion of the Superintendent or designee, it may become necessary to request the District’s legal counsel to assist the District in an investigation.
- 6.2 **Investigation Process:** There is no set investigative process. Each complaint should be investigated in a manner that makes the most sense, but should include interviews of the complainant, the subject of the complaint, and any relevant fact witnesses who know something about the issue.
- 6.3 **Burden of Proof:** The complainant has the burden of proof in determining the truth of the matter asserted. The subject of the complaint (for example, the staff person who is alleged to have done something wrong) bears the burden of proving a defense to the complaint. The investigator is entitled to make credibility findings based upon the demeanor of the interviewees.
- (a) The burden of proof is a preponderance of the evidence, whether it is more likely than not that the issue complained about is true, and whether it violates a District policy.
- (b) Sometimes it will not be possible for an investigator to determine which version of the facts is correct, such as when there are only two witnesses and the witnesses have contrary testimony. In this situation the investigator may but is not required to determine which witness is more believable. The investigator may also determine that neither witness is more believable than the other and the evidence is therefore inconclusive. In this case the complaint will be deemed denied.
- 6.4 **Investigation Timeline:** The District’s goal at each step is to conclude each step within 30 calendar days, for a total complaint process of 90 calendar days. Some complaints will have

relatively simple issues to be investigated. Complaints that contain many issues over a period of several years may present challenges for the completion of an appropriate investigation within the 30 calendar day time frame. The Step 1 administrator responsible for initiating an investigation shall notify the complainant of any delays or impediments to a timely investigation.

(a) **Agreement to Extend Investigation Timeline:** There may be circumstances that arise that make it impossible to complete an investigation with 30-calendar days, such as summer break, the unavailability of witnesses to participate in an interview, or the complexity or large number of issues to be investigated. If a delayed or prolonged investigation is necessary, the District will contact the complainant and explain the situation with the goal of getting consent for an extension of time. All extensions of time for the investigation will be put in writing and sent to the complainant.

(b) If the complainant refuses to allow for an extension of time for an investigation and it appears that an investigation cannot be completed within the time period allowed, the District may conclude the investigation and inform the complainant that the complainant may advance to the next level of appeal.

6.5 **Investigation regarding Sexual Harassment Complaints:** All complaints alleging sexual harassment shall be investigated by the District.

6.6 **Investigations Reports:** Complaint investigations will be concluded with a written investigation report. Depending about the investigation, the District may be required to keep the investigation report confidential pursuant to state or federal law.

(a) The District will respond to public records requests for investigation reports consistent with the Oregon Public Records law in ORS Chapter 192.

(b) The District will notify complainants and the subject of the complaint regarding the results of an investigation. This will include (a) whether the complaint is substantiated and (b) the District's intended action for a substantiated complaint.

(c) The District will determine on a case-by-case basis whether the actual investigation report is subject to disclosure to the complainant, subject of the complaint, or the public according the applicable District policy, state law, federal law and collective bargaining agreements with the associations.

7. **Complaints about the Superintendent:** A complaint that is directly against the Superintendent is not subject to the 3-step complaint process above. Any complaint received by the District under any complaint policy will be referred directly to the Board Chair.

7.1 The Board Chair shall notify the Vice Chair and District's legal counsel about the complaint. The District's legal counsel will notify the full Board of Directors about the complaint and the general nature of the complaint. The Board Chair will notify the Superintendent about the complaint.

7.2 The Board Chair and Vice Chair will determine how to conduct a preliminary investigation of the complaint in consultation with the District's legal counsel. The Board Chair will keep the Board of Directors apprised of the status of the investigation.

- 7.3 If the nature of the complaint appears to the Board Chair and Vice Chair to be a complaint that could be resolved between the complainant and the Superintendent, the Board Chair will notify the Board of Directors that an informal resolution may be possible. The Board Chair shall complete an investigation and informal resolution within 30 calendar days of the filing of the complaint.
- a. The Board Chair shall contact the complainant and determine if the complainant is willing to engage in an informal resolution.
- 7.4 If the complainant is unwilling to engage in an informal resolution, or if the nature of the complaint alleges serious misconduct of the Superintendent or appears to the Board Chair and Vice Chair not to be a complaint that may be informally resolved, the Board of Directors shall be notified of this conclusion.
- (a) The Board Chair shall present the complaint to the Board of Directors with a plan on how the allegations in the complaint will be investigated.
 - (b) At the conclusion of the investigation, the Board Chair will provide a summary of the investigation to the Board of Directors, the Superintendent, and the complainant.
 - (c) The Board Chair will schedule a hearing on the complaint before the Board of Directors at the next regularly scheduled Board meeting, or a special Board meeting.
 - i. The Board Chair shall provide written notification to the complainant and the Superintendent of the time and place of the hearing. The hearing will be conducted in public or executive session as determined by Oregon public meeting law.
 - ii. The Board will make a final decision on the complaint in an open public session and provide a written order of its decision to the complainant and the Superintendent.
 - iii. The complainant's right to appeal the Board's decision is subject to Section 5 above.
 - (d) The timeline to process a complaint shall be a total of 90-calendar days from the date of the complaint was received by the Board Chair.

8. **Complaints about the School Board or Individual Board Members:** Complaints about the Board or individual Board members should be filed with the Board's Secretary in the Superintendent's office. Complaints against the School Board or individual School Board members are not subject to the 3-step complaint process as described above. This is subject to resolution within 90 calendar days. This is because Board members are elected officials and not subject to the direction and control of the District administration.

- 8.1 Any complaint received by the District under any complaint policy will be referred directly to the Board Chair. The Superintendent will be notified of the complaint within 3 calendar days.
- 8.2 The Board Chair shall notify the Vice Chair and District's legal counsel about the complaint within 3 calendar days of receipt of the complaint. The District's legal counsel will notify the

full Board of Directors about the complaint if the complaint is about the full Board within 7 calendar days of legal counsel's receipt of the complaint.

- 8.3 If the complaint is against one or more individual Board members, the Board Chair will notify the Board of Directors that a complaint has been filed against named Board member and the general nature of the complaint within 3 calendar days of the Chair's receipt of the complaint.
 - (a) The Board Chair shall offer to meet with the individual Board members who are the subject of the complaint and will provide a copy of the complaint to the Board member(s). The District's legal counsel may be included in meetings with Board members.
- 8.4 The Board Chair in consultation with the Vice Chair will determine whether and how to conduct a preliminary investigation of the complaint in consultation with the District's legal counsel. The Board Chair will keep the Board of Directors apprised of the status of the investigation.
- 8.5 In all complaints against individual Board members, the Board has an interest in providing named Board members with some informal resolution process such as the Step 1 process that is afforded to complainants and subjects of complaints as described above. If at all possible, complaints directed at Board members should be resolved on an informal basis with the cooperation and participation of the complainant and the named Board member. The ultimate decision about whether an informal process occurs is at the discretion of the complainant, not the Board member about whom the complaint is made.
 - a. If an informal resolution is reached between a complainant and Board member(s), the informal resolution will be reduced to writing and the writing will be provided to the complainant and the involved Board member(s). The full Board will be notified that the complaint has been resolved.
- 8.6 If either the Board of Directors or the complainant determine that an informal resolution of the complaint is not possible, the Board will schedule the complaint for a hearing before the Board of Directors.
 - (a) The Board Chair will schedule a hearing on the complaint before the Board of Directors at the next regularly scheduled Board meeting, a subsequent Board meeting if the agenda has already been published, or a special Board meeting.
 - i. The Board shall provide reasonable prior written notification to the complainant of the time and place of the hearing. The hearing will be conducted in public or executive session as determined by the Oregon public meeting law.
 - ii. The hearing before the Board will include:
 - A. An opportunity for the Board member who is the subject of the complaint to respond to the complaint;
 - B. An opportunity for the Board to review any investigative report that has been done on the complaint;
 - C. An opportunity for the complainant to address the Board;

- D. An opportunity for Board members who will be deciding the complaint to ask questions of the complainant and the Board member who is the subject of the complaint; and
 - E. The Board Chair, or other Board member presiding at the hearing shall consult with the complainant to mutually agree on the order of presentation of the hearing. The Board Chair or Board member presiding at the hearing shall make the final decision on the order of presentation.
- iii. The District's legal counsel will assist the Board during the hearing.
 - iv. The Board will make a final decision on the complaint in an open public session and provide a written order of its decision to the complainant.
 - v. The complainant's right to appeal the Board's decision is subject to Section 5 above.
- (b) Complaint against Board Chair or Vice Chair: In the event the Board Chair or Vice Chair is individually the subject of a complaint (as opposed to all Board members being the subject of a complaint), the Board Chair or Vice Chair shall not be involved in the complaint process in Section 8. Other Board members may be appointed to process the complaint against the Board Chair or Vice Chair.
 - (c) Complaints against both Board Chair and Vice Chair: In the event both the Chair and Vice Chair are the sole subjects of a complaint (as opposed to a complaint against all Board members), the Board member with the most seniority on the Board will be appointed by the Board to process the complaint.

9. Complaints by and against District Staff: Special consideration is required in processing complaints by staff or against staff. These complaints will be evaluated by the appropriate District administrators.

9.1 **Complaints made by staff:** Complaints filed by District staff under a District complaint policy may be subject to the collective bargaining agreement of which the staff person is a member. If the matter complained about is a matter that is covered by the applicable collective bargaining agreement, that agreement controls, and the staff complaint will not be permitted.

- (a) Staff complaints under Policy KL: Although a District staff person may be a resident of the District, or be the parent or guardian of a student in the District, that alone does not give a staff person standing to file a public complaint under Policy KL unless the staff person is doing so either (a) because the complaint relates to their own child who is a student in the District; or (b) because the complaint relates to being a resident in the District, not a staff member of the District.
- (b) Staff Complaint under Policy GBM: Complaints under Policy GBM may only be made by current employees of the District. The complaint procedure will not be available to resolve disputes and disagreements related to the provisions of any collective bargaining agreements, nor in any other instance where a collective bargaining agreement provides a dispute resolution procedure. Disputes concerning the dismissal, nonrenewal or nonextension of any employee are not subject to Policy GBM. The Board's decision is final and may not be appealed to the Oregon Department of Education.

- 9.2 **Complaints about staff:** Complaints about District staff by District staff or third persons are confidential personnel matters subject to state law and applicable collective bargaining agreements. The complaint processes outlined above are all subject to applicable law and collective bargaining agreements.
- 9.3 Complaints about staff or staff performance shall be directed to the District’s human resources office.
10. **Complaints made by District Board Members:** District Board members have the right to use the District complaint policies. In doing so, the complainant/Board member waives the right to participate as a decision-maker in the appeal process outlined in Section 1.3.
- 10.1 Board members have the same protections as staff, students and third parties to not experience discrimination, harassment or other forms of conduct prohibited by District policy.
- 10.2 Board members are residents of the District. However, as a Board member they are in a unique position to challenge District policies and procedures in their role on the School Board. Unless the District makes a decision that directly affects a Board member as a District resident, or as the parent or guardian of a District student, Board members may not make a complaint under Policy KL.
- (a) Board member complaints about District Staff: A complaint made by a Board member about a District staff person will be made directly to the Superintendent. The Superintendent will consult with the Board Chair and District Legal Counsel about the appropriate next steps, including notification to the staff person that is consistent with any applicable collective bargaining agreement and how the complaint will be investigated.
- (b) Complaints will begin at Step 2 at the Superintendent or designee level. Appeals from the Superintendent’s decision shall be heard at the Step 3 level by the School Board. The complaining Board member(s) shall not participate in the Board decision at the Step 3 level.
- 10.3 Board members will refrain from filing complaints under the District complaint policies because of disagreement with policy decisions the Board has voted on or for decisions that have been delegated to the administration. Board members shall use the Board meetings to address policy concerns.
- 10.4 Board members agree that if a Board member is a complainant under a District complaint policy, that complaining Board member and the Board member who is the subject of the complaint agrees not to do the following:
- (a) Participate in the selection of an investigator;
- (b) Communicate with fellow Board members outside of a Board meeting about the complaint;
- (c) Lobby any fellow Board member to support a position on the complaint;
- (d) Deliberate on the complaint as a Board member;
- (e) Vote on a decision about the complaint; or

(f) Retaliate against the complainant, District staff or other Board members in any way.

10.5 A Board member's failure to abide by this section may subject the Board member to the consequences of public censure.

11. Notification to Complainants and Subjects of Complaints: All notifications to complainants shall adhere to the following requirements:

11.1 Shall be sent regular mail and by email at the last known address of the complainant;

11.2 Be written in the language preferred and spoken by the complainant;

11.3 Clearly describe the decision;

11.4 Clearly describe the appeal process with identification of the time for appeal, and the person and address to whom the appeal must be addressed; and

11.5 Clearly identify any other agency to whom an appeal of the final decision may be appealed.

As used in this policy, the term parent includes legal guardian or person in a parental relationship. The status and duties of a legal guardian are defined in ORS 125.005 (4) and 125.300 - 125.325. The determination of whether an individual is acting in a parental relationship, for purposes of determining residency, depends on the evaluation of the factors listed in ORS 419B.373. The determination for other purposes depends on evaluation of those factors and a power of attorney executed pursuant to ORS 109.056. For special education students, parent also includes a surrogate parent, an adult student to whom rights have transferred and foster parent as defined in OAR 581-015-2000.