

### **Appeal to the State Superintendent For Alleged Standards Violation**

After exhausting local procedures, as described in the policy and procedure “Public Appeals and Complaints about Alleged Violation of Standards” or 90 or more days after filing a written complaint alleging violation of standards with the ESD (whichever occurs first), any complainant who resides in an ESD service area may make a direct appeal to the State Superintendent of Public Instruction.

1. The appeal shall be in writing and shall contain:
  - a. The name and address of the person bringing the appeal and the ESD in which that person resides;
  - b. The name and address of the ESD which is alleged to have violated standards; and
  - c. A brief statement indicating how the ESD is alleged to have violated standards.
  
2. Upon receipt of the appeal, the state superintendent shall give notice of the appeal by sending a copy of the appeal, via certified mail, to the ESD. Within 30 days of receipt of notice, the ESD shall file a written report with the state superintendent which shall include:
  - a. A statement of facts;
  - b. A statement of 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.

The state superintendent may for good cause extend the time for the filing of a report by the ESD.

3. Upon receipt of the report, the state superintendent shall review the appeal and report and determine whether a violation of standards has been properly alleged, and that the requirements contained in sections 1. and 2. of this rule have been satisfied. After this determination, the state superintendent may dismiss the appeal or may notify all parties that the appeal has been accepted.
  
4. If the appeal is accepted, the state superintendent shall take such action as is deemed appropriate, including, but not limited to:
  - a. Appointing a conciliator to meet with the parties to work toward a settlement. If no settlement is reached within 45 days, the state superintendent may schedule a contested case hearing as provided in ORS 183.410 to 183.470 or allow additional time for conciliation;

- b. Scheduling a visit to the ESD to determine whether the ESD is in compliance with standards;  
or
  - c. Appointing a fact-finder to conduct an investigation and file a written report which shall indicate whether the fact-finder believes the allegations in the appeal are supported by fact.
5. At any time during an appeal the parties may agree to settle the issue. The party bringing the appeal may at any time file a written request that the appeal be withdrawn. When such a request is received, the state superintendent shall terminate all further action regarding the appeal.
6. After a final review, the state superintendent may find the ESD deficient under ORS 327.103.

**EXHIBIT A**

**REQUEST FOR INVESTIGATION OF A STANDARD**

Date: \_\_\_\_\_

Request Initiated By: \_\_\_\_\_

Person Making Request Represents:     Self     Group

Name of Group: \_\_\_\_\_

1.    What is the standard?

2.    What is the alleged violation?

3.    What is the recommendation(s) to rectify the alleged violation?

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Received by superintendent on \_\_\_\_\_  
Date