July 3, 2018

**BY EMAIL AND US MAIL**

COMPLAINANT

ADDRESS

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Dr. Gustavo Balderas

Eugene School District 4J, Superintendent’s Office

200 North Monroe Street

Eugene, OR 97402

Dear COMPLAINANT and Dr. Balderas,

This letter is the Final Order on the June 1, 2018, appeal filed by COMPLAINANT alleging a violation of Division 22 Standards by the Eugene School District (“District”). The objective of this order is to determine whether the District is in compliance with the applicable Oregon Administrative Rules (OAR) and, if necessary, specify corrective action to be completed by the District.

## PROCEDURAL BACKGROUND

This is an appeal of a final decision issued by the District on April 9, 2018. COMPLAINANT first filed a complaint with the District on February 23, 2018. In that complaint, COMPLAINANT made several allegations against the District, including that the District violated the federal Individuals with Disabilities Act (IDEA), violated OAR 581-022-2370 (requiring school districts to “establish a process for the prompt resolution of a complaint”), violated other state laws and rules pertaining to negligence, abuse, student behavior and discipline, and appropriate training for school staff, and neglected to communicate important information to her related to her child’s education.

In its final decision, the District found that COMPLAINANT “did not receive specific information about the District’s formal complaint process” and that the District did not sufficiently communicate with COMPLAINANT certain information pertaining to her child’s education. Otherwise, the District found that COMPLAINANT’s allegations were unsubstantiated.

On May 9, COMPLAINANT filed an appeal of the District’s final decision with the Oregon Department of Education (“Department”).

With respect to COMPLAINANT’s allegation that the District violated IDEA, the Department launched an investigation of the complaint in accordance with applicable federal law and state rules. This order is not a part of that investigation.

With respect to COMPLAINANT’s allegation that the District violated OAR 581-022-2370, the Department accepted the appeal on June 1, 2018. The Department accepted the appeal pursuant to OAR 581-002-0040 (2)(a)(A), under which the Department may accept an appeal if the person filing the appeal has exhausted a school district’s complaint process.

With respect to COMPLAINANT’s other allegations, the Department denied the appeal on May 29, 2018. The Department denied the appeal because it lacks the statutory authority to accept those types of complaints of appeal.

## DIVISION 22 STANDARDS AND APPEALS

At the direction of the Legislative Assembly of the State of Oregon, the State Board of Education has established educational standards that every school district must implement. ORS 326.051. Those standards, known as Division 22 Standards, are set forth in OAR Chapter 581, Division 22.

School districts must comply with Division 22 Standards. If a parent or guardian of a student or a person who resides in the school district believes the district is not in compliance with a Division 22 Standard, the person may file a complaint with the school district. Following a final decision by the school district, the person may appeal the Division 22 complaint to the Department using the process set forth in OAR 581-002-0040.

If the Department conducts an investigation and determines that a school district is out of compliance with a Division 22 Standard, the school district must submit to the Department a plan for becoming compliant with the standard. ORS 327.103 (3). The plan must be approved by the Director of the Oregon Department of Education.

A noncompliant school district is required to be back in compliance before the beginning of the following school year. ORS 327.103 (2). If the director determines that a deficiency cannot be corrected before the beginning of the next school year, the director may allow an extension of time to demonstrate compliance, not to exceed 12 months. ORS 327.103(3)(a). If the district fails to show compliance within the required time, the director may withhold state school funds. ORS 327.103 (2).

## SUMMARY OF DIVISION 22 STANDARDS ON APPEAL

This order is limited to the question of whether the District, as required by OAR 581-022-2370, has made its complaint procedure available for use. COMPLAINANT is not alleging that that the District does not have a written policy for implementing OAR 581-022-2370. COMPLAINANT is alleging that the District is not in compliance with OAR 581-022-2370 on grounds that the District’s complaint procedure is not “available” as required by OAR 581-022-2370 (2)(a).

## FINDINGS OF FACT

After conducting its investigation, the Department makes the following findings of fact:

1. On or about May 21, 2018, the Department accessed the home page of the District’s website. At that time, a link at the bottom of the web page, labeled “Complaints,” redirected visitors to a web page that briefly described the District’s complaint procedure, but that did not include a full description of the complaint procedure or a link to a full description of the complaint procedure. To access a full description of the complaint procedure, a visitor had to click on a button for a drop down menu labeled “Students >>” and click on a link labeled “Student Rights and Responsibilities.” The link redirected visitors to a web page that described the District’s philosophy with respect to a student’s “right to learn and grow in a safe and welcoming school environment.” The web page included a link to a PDF version of the District’s Student Rights & Responsibilities Handbook. Among other information, the handbook includes a full description of the District’s complaint procedure.
2. On June 29, 2018, the Department received the District’s response to COMPLAINANT’s appeal. In its response, the District explained that the District had been “in the process of reviewing and revising *all* of its policies,” and had been formulating “a uniform complaint processing procedure.” The District explained that “[i]t was not until recently that the District finished formulating a uniform [complaint] processing procedure.” The District then explained that the “‘Complaints’ page has been updated so that users may directly link to the District’s uniform complaint processing procedure.”
3. On July 2, 2018, the Department accessed the home page of the District’s website. The link at the bottom of the web page, labeled “Complaints,” still redirected visitors to a page that briefly described the District’s complaint procedure. However, the web page had been updated to include two links to a full description of the complaint procedure, one embedded in the text of the description of the complaint procedure and one at the bottom of the page. The web page also includes two links to a complaint form that parents may fill out. Again, one of the links is embedded in the text of the description of the complaint procedure and the other link is located at the bottom of the page.

## ANALYSIS OF DIVISION 22 STANDARDS ON APPEAL

OAR 581-022-2370 (1) requires each school district to “establish a process for the prompt resolution of a complaint by a person who resides in the district or by a parent or guardian of a student who attends school in the school district.” OAR 581-022-2370 (2)(a) requires the complaint procedure to “[b]e in writing available at the main administrative office [of the school district] and, if the school district has a website, in a form available on the home page of the school district’s website.”

COMPLAINANT’s appeal initially raised the issue of whether a school district makes its complaint process “available” if the school district includes on its website a brief description of the school district’s complaint procedure, but not a full description of the complaint procedure or a link to a full description of the complaint procedure. The issue did not present a question of fact; it presented a question of law. The issue raised the question of the meaning of the term “available” for purposes of OAR 581-022-2370 (2)(a).

The Department does not need to answer the initial issue raised on appeal at this time because before the issuance of this order, the District updated its website in a manner that clearly comports with OAR 581-022-2370. The district has an easily identifiable link labeled “Complaints” on the home page of its website. That link redirects visitors to a web page that briefly describes the District’s complaint procedure. The webpage also includes two easily identifiable links to a full description of the complaint procedure and two easily identifiable links to a complaint form that parents may fill out.

Under the circumstances that exist at the time of this order, we find that the District is not deficient under OAR 581-022-2370.

## CONCLUSION

In conclusion, we find that the District is not deficient under OAR 581-022-2370.

Sincerely,

By Mark Mayer

Government and Legal Affairs

mark.mayer@state.or.us

503-947-0464