June 26, 2018

**BY EMAIL AND US MAIL**

COMPLAINANT

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Jim Carlile, Superintendent

PO Box 678

Clatskanie, OR 97016

This letter is the Final Order on the May 16, 2018, appeal filed by COMPLAINANT alleging violations of the Division 22 Standards by the Clatskanie School District (the 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.

## I. DIVISION 22 STANDARDS AND APPEALS

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

School districts must comply with the Division 22 Standards. If a parent or guardian of a student or a person who resides in the district believes the district is not in compliance with a Division 22 Standard, the person may file a Division 22 complaint with the district. Following a final decision by the district, the person may appeal the Division 22 complaint to the Oregon Department of Education (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 district must submit to the Department a plan for becoming compliant. ORS 327.103(3). The plan must be approved by the Deputy Superintendent.

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 Deputy Superintendent determines that deficiencies cannot be corrected before the beginning of the next school year, the Deputy Superintendent 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 Deputy Superintendent of Public Instruction may withhold state school funds. ORS 327.103 (2).

## II. PROCEDURAL BACKGROUND

This is an appeal of a final decision by the District on a Division 22 complaint. COMPLAINANT first filed his Division 22 complaint with the District on March 28, 2018. At that time, the complaint primarily concerned the improper behavior of a District principal. The District investigated the complaint and provided a written response to COMPLAINANT on April 3, 2018. In the response, the District found that the principal’s behavior was improper with respect to COMPLAINANT. The District did not find evidence that the principal’s behavior was otherwise improper. The District directed the principal to apologize to COMPLAINANT and the principal apologized. COMPLAINANT subsequently filed an appeal with the District school board on April 13, 2018.

The school board met twice before COMPLAINANT filed his appeal with the Department. Those meetings occurred on April 16, 2018, and April 18, 2016. The school board did not hear COMPLAINANT’s complaint at either meeting.

In the appeal filed with the Department, COMPLAINANT alleged, in part, that the District was in violation of OAR 581-022-2370. The Department accepted that issue on appeal on May 16, 2018. The Department accepted the appeal pursuant to OAR 581-002-0040 (2)(a)(B), under which the Department may accept an appeal if, in a school district process compromised of multiple steps, the school district fails to render a written decision within 30 days of the submission of the complaint at any one of the steps.

## III. 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 a process for the prompt resolution of a complaint. 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 has cancelled or rescheduled so many school board meetings that a person does not have the opportunity to have their complaint heard.

## IV. FINDINGS OF FACT

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

1. After COMPLAINANT filed his appeal with the District school board, the school board met on two occasions: April 16, 2018, and April 18, 2018.
2. The District school board did not hear COMPLAINANT’s complaint at either meeting.
3. Prior to COMPLAINANT filing his appeal with the Department, the District school board cancelled two meetings. The school board cancelled a meeting to be held on April 23, 2018, because of threats made against members of the school board. The school board also cancelled a meeting to be held on May 21, 2018, because at that time only one member remained on the school board, resulting in a lack of quorum. Two members of the school board resigned because of the threats made against school board members and two members of the school board were recalled at a recall election held on May 1, 2018.

## V. 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.”

COMPLAINANT alleges that the District failed to meet this standard because the District cancelled and rescheduled so many school board meetings that a person, operating under the District’s complaint process, would not be able to appeal their complaint to the school board, effectively making the complaint process unavailable to the person for “the prompt resolution of a complaint.”

The District disagrees. The District argues that the school board met regularly and was available for the prompt resolution of complaints.

As a theoretical matter, the Department agrees with COMPLAINANT: given the right circumstances, a school district would be in violation of OAR 581-022-2370 (1) if the school district established a complaint process and then systematically failed to provide complainants with access to the adjudicator of that process. However, with respect to COMPLAINANT’s specific situation, the Department agrees with the District. The evidence does not demonstrate that the school board failed to make itself available for the prompt resolution of complaints. The school board failed to hear COMPLAINANT’s complaint at two meetings, both occurring within 5 days of COMPLAINANT filing his appeal with the school board. The school board then cancelled the next two meetings, once because of threats made against members of the school board and once because a quorum of the school board was not present for reasons that the school board could not control. Even taken together, failure to hear a complaint within five days of receiving the complaint and cancelling two school board meetings does not constitute the type of systematic failure to provide complainants with access to an adjudicator necessary to substantiate a violation of OAR 581-022-2370.

We find that the District is not deficient under OAR 581-022-2370.

## VI. CONCLUSION

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

Sincerely,

By Mark Mayer

Government and Legal Affairs

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Cc: Rebakah R. Jacobson