

KEY TO RULE AMENDMENTS

~~Strikeout text~~ = rule text proposed for deletion

Underlined text = new rule text proposed for adoption

809-055-0000

Complaint ~~Investigations~~ Process

(1) "Complaint" is any issue related to compliance with the statutes and rules the Board administers or enforces in ORS 672.505 to 675.705 and OAR Chapter 809, including but not limited to: the public practice of geology or offer to publicly practice geology by an unregistered person and the alleged or apparent non-compliant conduct or practice of a registrant that comes to the attention of the Board by any means, including through the filing of a written complaint as provided in ORS 672.665. A complaint may be initiated by the Board or its designee.

(2) "Complainant" refers to the person or group of persons filing a written complaint with the Board or the Board itself in a Board-initiated complaint.

(3) "Investigation" is the process of Board review, inquiry, research, analysis, and determination of a complaint.

(4) "Respondent" refers to a person who is the subject of a Board investigation.

(5) Complaint Investigation Process:

(a) The primary objectives of the Board in the investigation of a complaint are to safeguard the health, safety, welfare, and property of the people of Oregon and regulate the public practice of geology. The primary purpose of investigation is to determine whether one or more violations of statutes and rules administered by the Board occurred and to take action where appropriate.

(b) For complaints that are not Board initiated, the following apply:

(A) The complaint must be in writing and sworn to, where sworn to means the complainant declares by signature under penalty of perjury that the statements and information in the complaint are believed to be true;

(B) Receipt of all complaints filed with the Board will be acknowledged by the Board staff;

(C) The complainant will not be considered a party to the case; and

(D) The complaint will be initially reviewed by the Board Administrator to assess Board jurisdiction and authority to address the issue(s) raised.

(i) If the complaint appears to the Board Administrator to be within the Board's jurisdiction and authority, an investigation may be opened by the Board Administrator.

(ii) If the Board Administrator is unsure whether the complaint is within the Board's jurisdiction and authority, the complaint will be taken to the Board for a determination of whether to open an investigation.

(c) For all investigations, the Board Administrator oversees the investigation process on behalf of the Board and serves as the primary point of contact.

(d) The Board may delegate its investigative powers and authority for purposes of initiating and carrying out investigations.

(e) The Board Administrator or Administrator's designee will carry out the recommendations or decisions of the Board, including but not limited to: preparing and signing documents such as requests for additional information, letters of concern, settlement proposals, notices of intent, and orders, securing technical reviewers and investigators to assist with investigations, and closing out cases.

(f) To the extent permitted by law, the Board will cooperate with other licensing boards and other agencies when conducting an investigation.

(6) Response to the Board:

(a) The respondent will generally be given an opportunity to provide a written response to the complaint as part of a Board investigation.

(b) Written response, records, or other information requested on behalf of the Board must be provided to the Board office within 21 calendar days after the Board request is mailed, unless an extension is authorized by the Board Administrator.

(A) For a registrant, mailed means sent via United States post with proper postage and addressed to the registrant's address of record on file with the Board.

(B) For a non-registrant, mailed means sent via United States post with proper postage and sent to the last known address in the Board's case file.

(c) A registrant of the Board must fully cooperate with a Board investigation, including but not limited to providing a timely response to any Board request under (6)(a) and (b). A registrant's failure to cooperate constitutes misconduct under OAR 809-020-0030.

~~(1) "Complaint" is an issue brought to the attention of the Board that may or may not result in formal charges as provided in ORS 672.665.~~

~~(2) "Coordinator" means Complaint Coordinator where used in this rule.~~

~~(3) "Respondent" refers to a person or firm against whom a complaint has been made.~~

~~(4) The primary objectives of the Board in the review of complaints are to safeguard the health, safety, welfare, and property of the people of Oregon and to regulate the public practice of geology.~~

~~(5) The Board makes all recommendations and decisions regarding complaints during a Board meeting.~~

~~(6) The Board addresses complaints as follows:~~

~~(a) The Board Chair assigns one member of the Board to serve as Coordinator. All complaints under consideration by the Board will be referred to this Coordinator for processing and investigation. The Coordinator has the investigatory powers and authority of the Board Chair for purposes of conducting the investigation.~~

~~(A) The Coordinator is supported by the Board Administrator.~~

~~(B) In the event the Coordinator requests to be recused from a case due to a potential conflict of interest, the Board Chair may appoint another Board member to serve as Coordinator for said case.~~

~~(b) Complaints filed with the Board pursuant to ORS 672.665 must be in writing and sworn to, where sworn to means the complainant declares by signature under penalty of perjury that the statements and information in the complaint are believed to be true.~~

~~(c) Receipt of all complaints filed with the Board will be acknowledged by the Board staff.~~

~~(d) The complainant will not be considered a party to the case.~~

~~(e) To the extent permitted by law, the Board will cooperate with other licensing boards during the conduct of an investigation.~~

~~(7) Complaints will be processed and investigated through the Coordinator, with assistance from the Board Administrator and staff, as follows:~~

~~(a) A case number will be assigned and a preliminary review of the complaint will be made.~~

~~(A) If the Coordinator concludes that the complaint may have validity, the Coordinator may have the Board Administrator notify the respondent of the allegations and request written response from the respondent along with supporting or requested records and information.~~

~~(B) If the Coordinator concludes that the complaint does not appear to have validity, the Coordinator will prepare a summary for the Board's consideration.~~

~~(b) The Coordinator may engage with the following individuals during the review of a complaint:~~

~~(A) The Coordinator may consult with individual Board members or, through the Board Administrator, consult with the Board counsel;~~

~~(B) The Coordinator may seek the services of one or more Board registrants serving in the capacity of technical reviewers to assist in evaluating the case; and~~

~~(C) The Coordinator may seek the services of any other individuals as necessary to gather information and complete the case investigation on behalf of the Board.~~

~~(c) The respondent must supply any written comments as follows:~~

~~(A) Written comments and information requested on behalf of the Board must be provided to the Board office within 21 calendar days after the notification is mailed, unless an extension is authorized by the Board Administrator.~~

~~(B) After the 21 calendar days or any extension authorized, the Coordinator will evaluate the complaint using available evidence including any documentation or comments received from the respondent, Board members, investigators, technical reviewers, Board staff, and the Board's counsel.~~

~~(d) The Coordinator will present the case status and investigatory results during a Board meeting.~~

~~(e) The Board Administrator, with any needed assistance from the Coordinator, will carry out the recommendations or decisions of the Board, including but not limited to preparing requests for additional information, letters of concern, settlement proposals, notices of violation, securing technical reviewers and investigators, and closing out cases.~~

Stat. Auth.: ORS 670.310(1), [670.315](#), 671.615(8) & 672.665, [and 672.675](#)

Stats. Implemented: [672.665](#), [672.675](#)