

	Department of Human Services CHILDREN, ADULTS & FAMILIES CLIENT SERVICES MANUAL I ISSUED BY: Field Operations EFFECTIVE DATE: July 1, 2001	NUMBER: I-A.5.1 OAR: 413-010-0400 / 0490
		SECTION: A. Client Rights
		SUBSECTION: 5. Right to a Hearing
SUBJECT: 1. Grievance Review - Oregon Administrative Rule		

Interpretation: Executive Assistant,
Field Operations

Approval: _____
Assistant Administrator,
Field Operations

REFERENCES: ORS 418.005
PAM 1531, "You and SCF"
PAM 1551, "Grievance Procedures for Clients and Providers"
CF 304, "Service Application"

PURPOSE

413-010-0400 These rules prescribe the standards and procedures for reviewing and resolving client and contract provider grievances. These rules do not apply to matters subject to the contested case procedures of ORS Chapter 183.

Statutory Authority: ORS 418.005

Stats. Implemented: ORS 418.005

DEFINITIONS

413-010-0410 (1) "Agency" means the State Office for Services to Children and Families, a division of the Department of Human Resources.

(2) "Client" means any person receiving services from the agency including parents, legal guardians, or custodians of an unemancipated minor client.

(3) "Contract Provider" means any person or organization under contract or agreement with the agency providing services to a SOSCF client.

(4) "Director" means the director of the State Office for Services to Children and Families, Department of Human Resources.

(5) "Formal Grievance Review" means resolution of a grievance by the procedures described in OARs 413-010-0450 and 413-010-0460.

(6) Except as provided in OAR 413-010-0430, **"Grievance"** means a complaint about:

(a) The substance or application of any rule, written or unwritten policy or practice of the agency affecting a client or provider;

(b) Any decision or action directed toward a client or provider by the

agency or any of the agency's employees or agents.

(7) "Informal Grievance Review" means resolution of a grievance by the procedures described in OAR 413-010-0440.

(8) "Representative" means a person who is authorized by a client or provider to receive confidential information from the agency and to act on behalf of the client with respect to a grievance. A representative includes, but is not limited to an attorney, relative, foster parent association member, friend or legal guardian. A representative may participate in any of the steps of the process in which the client or provider may participate.

(9) "Timelines" means the procedural timelines outlined in OARs 413-010-0400 through 413-010-0490. SOSCF will make every effort to meet the procedural timelines outlined in these rules. In the event set timelines cannot be met for good reason, extension of the time frames will be negotiated between the party and the agency.

Statutory Authority: ORS 418.005

Stats. Implemented: ORS 418.005

RIGHT TO A REVIEW

413-010-0420 It is the policy of the State Office for Services to Children and Families that:

(1) Clients have a right to a review of any substantive action or decision affecting them.

(2) Contract providers have the right to a review of any action or decision of the agency which violates a condition or term of the contract or agreement.

(3) Each client or provider will be informed of SOSCF's grievance procedure at the time the decision has been made that services will be provided or a contract is signed with a provider. The service worker will give each voluntary client a copy of the CF 304 and PAM 1531 (You and SOSCF). All other clients (protective services and court-ordered clients) shall receive a copy of their service plan and PAM 1531 (You and SOSCF).

(4) When a person notifies the agency that he/she has a grievance, they will be assisted in setting a meeting with the service worker and that person's supervisor. Information in PAM 1551, "Grievance Procedures for Clients and Providers," shall be given to the client or provider.

(5) No client or provider shall be subjected to reprisal for seeking review of a grievance.

(6) These grievance procedures shall be administered in such a manner as to protect the confidentiality of client records, (OARs 413-010-0000 through

413-010-0140).

(7) However, if the client/provider or any agent of the client/provider chooses to disclose his or her version of case information to the media or community members who would otherwise not be involved, then the local SOSCF branch manager may, as allowed under OARs 413-010-000 through 413-010-0140 disclose information from those parts of the case record that are not third* party to refute the client/provider's statements. Third party information can be used only when the client/provider has signed a release of information, and approval has been given by the party from whom the confidential information was received. See OAR 413-010-0040 (1) (e).

*Third party information would include psychological and psychiatric evaluations, police reports, references, alcohol and drug evaluations or reports, and reports from mental health professionals.

(8) At any time during an informal or formal grievance review, the parties can agree to resolve the grievance through Alternate Dispute Resolution.

Statutory Authority: ORS 418.005

Stats. Implemented: ORS 418.005

GRIEVANCES NOT SUBJECT TO THESE RULES

413-010-0430 No grievance may be reviewed or resolved through the grievance procedures set forth in these rules (413-010-0400 through 413-010-0490) if :

- (1) The client or provider is entitled to a contested case hearing;
- (2) The matter, which would be the subject of the grievance review, is presently the subject of a juvenile court proceeding;
- (3) The client or provider has initiated court action or filed notice of intent to file a tort claim;
- (4) The subject matter of the grievance should be or already has been decided by a judge;
- (5) The subject matter of a provider's grievance is a term or condition of a contract or agreement with the agency;
- (6) The subject matter of the grievance is subject to review under OAR 413-010-0700 to OAR 413-010-0750 (Review of Founded Dispositions); or
- (7) The subject matter of the grievance is subject to review under OAR413-120-0060 (Review of Adoption Committee Decision).

Statutory Authority: ORS 418.005

Stats. Implemented: ORS 418.005

GRIEVANCE PROCEDURES

INFORMAL GRIEVANCE REVIEW

413-010-0440 (1) To request an informal grievance review the client or provider need only inform the supervisor or his or her service worker.

(2) Within one week of request for an informal grievance review, the client/provider will be contacted to schedule a meeting at an agreed-upon time involving the worker, the supervisor, client or provider. Focus will be on defining the problem, identifying the desired outcome, and establishing a plan for resolution. Every effort will be made to resolve the grievance through this informal discussion. In some branches the supervisor and the branch manager may be the same person.

(3) If the matter cannot be resolved and the branch manager did not participate in the informal grievance review, the branch manager shall participate in a further discussion with the client or provider to resolve it. This discussion will be scheduled as soon as possible at a mutually agreed-upon time. If the client or provider remains dissatisfied following this discussion, the client or provider shall be informed within five working days in writing of the decision by the branch manager and of the steps necessary to initiate a formal grievance review, as described in OAR 413-010-0450.

Statutory Authority: ORS 418.005

Stats. Implemented: ORS 418.005

FORMAL GRIEVANCE REVIEW

413-010-0450 (1) The request for a formal grievance review must be made, in writing, by the client, the provider, or his or her representative. Such a request shall include a statement of the problem, the desired resolution and a consent for the public release of information by the agency if the client publicly shares information about the case. The request shall be addressed to the Assistant Administrator for Field Operations.

(2) The Assistant Administrator for Field Operations or designee shall:

(a) Obtain a summary of the issues raised through the informal grievance review and a copy of the client's written request for a formal grievance review

(b) Contact the client or provider to schedule an appointment for the grievance review with the client/provider, his or her representative, if any, and, if appropriate, the assigned service worker and supervisor(s).

(c) Send to the client or provider written notice stating the date, time, and location of the review at least 10 working days prior to the scheduled review.

(d) Reschedule the review at the earliest available time if requested by the client, the provider, or representative or if any of the necessary participants are unable to attend.

(e) Conduct the formal grievance review according to the procedures described in rule 413-010-0460.

(3) The Assistant Administrator or designee shall make a decision in accordance with the procedures described in rule 413-010-0460.

Statutory Authority: ORS 418.005

Stats. Implemented: ORS 418.005

CONDUCT OF FORMAL GRIEVANCE REVIEW

413-010-0460 (1) The formal grievance review must be scheduled within 10 calendar days of receipt of the written request for formal grievance review.

(2) The formal grievance review must be held within 30 calendar days of receipt of the written request for review, unless the client or provider requests a delay of the review, or the Assistant Administrator or designee reschedules the review pursuant to rule 413-010-0450 (d).

(3) The formal grievance review shall be held at the SOSCF office closest to the client's home or provider's facility or business during normal working hours unless a different time or location is requested by the client or provider and approved by the Assistant Administrator or designee.

(4) The review shall be audio tape recorded and the audio tape recording shall be preserved until the grievance is resolved or for one year, whichever is longer.

(5) The review will be conducted as informally as possible consistent with the need for orderly and complete presentation and resolution of the grievance.

(6) The rules of evidence and civil procedure are not applicable to formal grievance reviews. However, in reviewing and resolving a grievance, the Assistant Administrator or designee shall consider only information that concerns the actual grievance.

(7) The Assistant Administrator or designee shall prepare a written decision within 20 working days after the review and send a copy (by certified mail) to the client/provider, the assigned service worker, the supervisor, the branch manager and the director. The written decision shall be in the following format:

State of Oregon
STATE OFFICE FOR SERVICES TO CHILDREN AND FAMILIES

1. Date of Review
2. IN THE MATTER OF THE GRIEVANCE OF:
3. Persons participating in review:
4. Issue:

5. Written materials and comments relied upon:
6. Findings of Fact:
7. Conclusion:
8. Decision:
9. Notification that the matter may be appealed to the director and a statement of the procedures for requesting such appeal.

Statutory Authority: ORS 418.005

Stats. Implemented: ORS 418.005

APPEAL TO THE ADMINISTRATOR

413-010-0470 (1) If the client/provider is dissatisfied with the Assistant Administrator or designee's decision, the client/provider may request the Director, or deputy administrator in the Director's absence, to review the Assistant Administrator or designee's decision.

(2) A written request by the client/provider for review must be received by the director within 30 calendar days of the client's/ provider's receipt of the Assistant Administrator or designee's decision, and must contain a statement of the client's/provider's reasons for requesting further review of the decision.

(3) The director shall send a written acknowledgment to the client/provider that the request for review has been received. This will be done within 10 working days of the receipt of the request for review.

(4) The director shall review the written decision of the Assistant Administrator or designee. The director may also review the tape recordings of the grievance reviews and may take such other action to investigate the matter as the director deems appropriate.

(5) The director shall reach a decision and shall prepare a written report of his/her decision within 20 working days of receipt of the findings and decision of the Assistant Administrator or designee. The director shall give copies of the decision to the client/provider, the Assistant Administrator or designee, the branch manager, the service worker and the supervisor.

(6) The decision of the director is final, and is not subject to further review by the agency.

Statutory Authority: ORS 418.005

Stats. Implemented: ORS 418.005

JUDICIAL REVIEW

413-010-0480 These rules do not create a contested case subject to judicial review under ORS 183.482. However, nothing in these rules shall affect any rights of a client/provider under state or federal law to seek independent redress of grievances in the courts.

Statutory Authority: ORS 418.005

Stats. Implemented: ORS 418.005

COST AND ATTORNEY FEES

413-010-0490 This process is meant to be set up in a way which precludes the need for an attorney. However, if the client/provider chooses to use an attorney, the client/provider is responsible for any expenses or attorney fees which the client/provider may incur in presenting or resolving a grievance under these rules.

Statutory Authority: ORS 418.005

Stats. Implemented: ORS 418.005