

Policy Title:	Complaint Review – OAR		
Policy Number:	I-A.5.1 413-010-0400 thru 0480	Version:	Effective Date: 12/01/2007

Approved By: *on file*

Date Approved

Policy

Forms, etc.

Definitions

References

Contact

History

Reference(s):

- ORS 418.005
- PAM 1531, You and DHS Child Welfare

Form(s) that apply:

- DHS 0170, Client Complaint or Report of Discrimination Form
<http://dhsforms.hr.state.or.us/Forms/Served/DE0170.pdf>
- CF 304, Service Application (*use up old stock*)

Rules:

413-010-0400

Purpose

These rules (OAR 413-010-0400 to 413-010-0480) prescribe the standards and procedures for reviewing and resolving complaints about Child Welfare.

Stat. Auth.: ORS 409.194, 418.005

Stats. Implemented: ORS 409.192, 418.005

413-010-0410

Definitions

The following definitions apply to OAR 413-010-0400 to 413-010-0480:

- (1) "Client" means any individual receiving services from the Department, including the parent or legal guardian of a child, or the custodian of an unemancipated minor client.
- (2) "Contract Provider" means any individual or organization that provides services to a Child Welfare client pursuant to a contract or agreement with Child Welfare.

(3) "Department" means the Department of Human Services.

Stat. Auth.: ORS 409.194, 418.005

Stats. Implemented: ORS 409.192, 418.005

413-010-0420

Right to Review

- (1) An individual may receive a review of any action or decision of Child Welfare.
- (2) In addition to the review provided under section (1) of this rule, a *contract provider* (defined in OAR 413-010-0410) may receive a review of any action or decision of Child Welfare that violates a condition or term of the contract or agreement.
- (3) When a client or family member of a client notifies the Department that the client or family member has a complaint, the client or family member will be assisted in setting a meeting with a caseworker and the caseworker's supervisor (see DHS Form 0170, section about Resolving Complaints Informally).
- (4) An individual or *contract provider* may file a written complaint or report of discrimination by completing DHS Form 0170. The complaint or report of discrimination may be sent to the Governor's Advocacy Office, 500 Summer Street NE, Salem, or submitted as provided on DHS Form 0170.
 - (a) When an individual or *contract provider* submits a written *customer service complaint* (defined in OAR 407-005-0105), Child Welfare will follow the procedures set out in OAR 407-005-0100 to 407-005-0120.
 - (b) When a client submits a report of discrimination arising from his or her disability, the formal complaint review must comply with OAR 407-005-0030.
 - (c) When a client with a disability requests a reasonable modification (see OAR 407-005-0025) or requests auxiliary aids, auxiliary services, or alternative format communication (see OAR 407-005-0005 and 407-005-0010), the initial decision must comply with OAR 407-005-0000 to 407-005-0030 and Department Policy DHS-010-0005, "Non Discrimination on the Basis of Disability for Programs, Services and Activities."
 - (d) When an individual or *contract provider* submits a written complaint, which does not fall within subsections (a) to (c) of this section, Child Welfare will follow the procedures set out in Department Procedure DHS-010-005-01, "Filing a Client Complaint or Report of Discrimination".
- (5) No individual or *contract provider* shall be subjected to a reprisal for seeking review of a complaint.
- (6) The complaint review shall be administered in a manner that protects the confidentiality of client records to the extent prescribed by Child Welfare Policy I-A.3.2 "Confidentiality of Client Information", OAR 413-010-0000 to 413-010-0075.

- (7) If an individual or *contract provider* or any agent of the individual or *contract provider* chooses to disclose his or her version of case information to the media or community members who would otherwise not be involved, the local Child Welfare program manager must consult Administrative Procedure DHS-120-003-01, "Sensitive Issues" and may, as allowed by OAR 413-010-0000 to 413-010-0140, disclose information from the case record that is not third-party information to respond to the statements of the individual or *contract provider* by providing the Department's understanding of the facts.
- (a) Third-party information includes but is not limited to psychological and psychiatric evaluations, police reports, references, alcohol and drug evaluations or reports, and reports from mental health professionals.
 - (b) Third-party information may be disclosed only if the individual or *contract provider* has signed a release of information, and the third-party that provided the confidential information has approved the disclosure.
- (8) At any time, the parties may agree to resolve the complaint through an alternative dispute resolution procedure.

Stat. Auth.: ORS 409.194, 418.005
Stats. Implemented: ORS 409.192, 418.005

413-010-0430

Complaints Not Subject to These Rules

- (1) Except as provided in section (2) of this rule and in OAR 413-010-0440(1) and (2), complaint review procedures in these rules (OAR 413-010-0400 to 413-010-0480) are not required in each of the following situations:
- (a) The individual or *contract provider* (defined in OAR 413-010-0410) has requested a contested case hearing.
 - (b) The matter, which would be the subject of the complaint review, is presently the subject of a juvenile court proceeding.
 - (c) The individual or *contract provider* has initiated court action.
 - (d) The subject matter of the complaint has been reviewed by a judge.
 - (e) A term or condition in a *contract provider's* contract or agreement provides for a different process.
 - (f) The complainant has requested review of a Child Protective Services (CPS) disposition, under OAR 413-010-0700 to OAR 413-010-0750 (Review of Founded Dispositions), that is the subject matter of the complaint.
 - (g) The complainant has requested review of an Adoption Committee Decision, under OAR 413-120-0060 (Review of Adoption Committee Decision), that is the subject matter of the complaint.
- (2) A complaint about a "reasonable modification" (see OAR 407-005-0005(10)) or a report

of discrimination arising from the disability of a client (see OAR 407-005-0005(6)) is handled as described in these rules, in OAR 407-005-0025 and 407-005-0030, and in Department Policy DHS-010-0005, "Non-Discrimination on the Basis of Disability for Programs, Services and Activities."

Stat. Auth.: ORS 409.194, 418.005

Stats. Implemented: ORS 409.192, 418.005

413-010-0440

Informal Complaint Review

- (1) A client, family member of a client, or *contract provider* (defined in OAR 413-010-0410) may request an informal complaint review if no written complaint is submitted and the client, family member, or *contract provider* informs the caseworker or the caseworker's supervisor of the request.
- (2) Within one week of the caseworker or caseworker's supervisor receiving the request for an informal complaint review, the client, family member, or *contract provider* will be contacted to schedule a meeting at an agreed-upon time involving the caseworker, the supervisor, and the client, family member, or *contract provider*. The focus will be defining the problem, identifying the desired outcome, and establishing a plan for resolution. Every effort will be made to resolve the complaint through this informal discussion. In some local Department offices, the supervisor and the program manager may be the same individual.
- (3) If the matter has not been resolved and the program manager did not participate in the informal complaint review, the program manager shall participate in an additional discussion with the client or *contract provider* to attempt to resolve it. This discussion will be scheduled as soon as possible at a mutually agreed-upon time.
- (4) If the client, family member, or *contract provider* remains dissatisfied following discussion with the program manager, the program manager will give the client or *contract provider* a written decision regarding the subject of the complaint within five working days. If OAR 413-010-0430 does not make the matter ineligible for review, the written decision shall include information about the steps necessary to file a written complaint or report of discrimination (Form DHS 0170 and Department Procedure DHS-010-005-01, "Filing a Client Complaint or Report of Discrimination").

Stat. Auth.: ORS 409.194, 418.005

Stats. Implemented: ORS 409.192, 418.005

413-010-0480

Judicial Review

These rules (OAR 413-010-0400 to 413-010-0480) do not create a contested case, as defined by ORS 183.310, subject to judicial review under ORS 183.482.

Stat. Auth.: ORS 409.194, 418.005

Stats. Implemented: ORS 409.192, 418.005

Contact(s):

- **Name:** CAF Reception; **Phone:** 503-945-5600

Policy History

- 12/29/1995
- 07/01/2001