

LC 228: Relating to Violations of Education Law
Senator Sara Gelser Blouin

ODE Investigations of violations of discrimination, safety and welfare regulations

- ODE can immediately commence an investigation when there is a violation of Division 22 standards, non-discrimination laws, laws pertaining to the admission of students, laws related to restraint and seclusion, etc. ONLY when:
 - Failure to immediately address the situation is likely to lead to emotional or physical harm to a student, staff or volunteer
 - Failure to immediately address the situation is likely to lead to a students being inappropriately denied either part or all of 5 school days of any time OR part or all of 10 in person school days if in person instruction is the primary method of education delivery in the student's boundary school
- ODE may act upon receiving a complaint OR upon learning about an alleged violation from a reliable source. However, ODE must notify the district that it is starting an investigation

ODE may address all violations when investigating a Special Education Complaint

Currently, special education complaints regarding a violation of IDEA go directly to ODE. However, the agency is limited to investigating only the specific violations outlined in the complaint and only the student or students named in the complaint. LC 228 would:

- Allow ODE to investigate and address other violations of law discovered during its investigation of the original complaint
- Allow ODE to address systemic issues or issue impacting students not specifically named in the complaint when the investigation demonstrates that additional students are impacted by the violation

Makes Complaint Process More Accessible

LC 228 would require districts to:

- Accept complaints submitted in any language
- Prescribe the information required to be submitted, but not require the complaint to be submitted on a specific form or a specific format, and not require the complaint to cite specific statutes or regulations
- Notify person making a complaint if the complaint is incomplete, specify the information necessary for the complaint to be considered complete and allow the completed complaint to be resubmitted

Makes clear process for complaints regarding ESDs

The statute currently does not provide for complaints against ESDs. LC 228 simply asks the Department to write rules for making complaints regarding ESDs that are consistent with the rules for complaints against school districts.

Definition of Safety, Discrimination and Welfare Violations

Safety, Discrimination and Welfare Violations are defined as:

- Violations of the Division 22 Standards (ORS 327.103 and ORS 334.217)
- Violations of ORS 332.075 (1)(g) (Native American mascots)
- Violations of ORS 339.115 (admission of students)
- Violations of ORS 339.250 or 339.252 (discipline)
- Violations of ORS 339.256 (access to specialized learning areas or common areas)
- Violations of ORS 339.285 to 339.303 and 339.308 (restraint and seclusion)
- Violations of ORS 659.850 or 659.852 (discrimination and retaliation in education)
- ORS 659A.006 (1) or (2) (unlawful discrimination)

However, to be eligible for the expedited investigation by ODE the Department must find that if not addressed in this expedited way that a student, staff or volunteer will be physically or emotionally harmed, or a student will inappropriately be denied instructional time exceeding part or all of 5 school days of any kind or part or all of 10 in person school days if in person learning is the standard method of delivery in that student's school district.