

# OREGON STATE HOSPITAL

PORTLAND – SALEM

## POLICIES AND PROCEDURES

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SECTION 7: Patient Rights

POLICY: 7.006

SUBJECT: Patient Grievances

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APPROVED:   
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INTERIM SUPERINTENDENT

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### I. POLICY

The policy of Oregon State Hospital (OSH) is to maintain a Grievance Committee whose function is to oversee the grievance process as outlined in Oregon Administrative Rules 309-118-0000 through 309-118-0050. Patients with disabilities shall not, solely by reason of their disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any service provided by Oregon State Hospital (OSH).

### II. DEFINITIONS

- A. "Administrator" means the Administrator of Addictions and Mental Health (AMH), Department of Human Services (DHS).
- B. "AMH" means Addictions and Mental Health of the Department of Human Services.
- C. "Emergency Grievance" means a grievance that if delayed:
1. Is likely to cause irreparable harm to a substantial right of a patient before completion of the formal grievance procedure; AND
  2. Appears likely to be resolved in favor of the patient.
- D. "Grievance" means a complaint about:
1. The substance or application of any rule, written or unwritten policy of AMH or Oregon State Hospital affecting a patient.
  2. The lack of a rule or policy concerning a matter affecting a patient.
  3. Any decision or action directed toward a patient by AMH or any employee of Oregon State Hospital.

E. "Grievance Committee" means a group of five members (each with one or more alternates) appointed by the Superintendent, three of who shall not be employees of AMH.

F. "Interdisciplinary Treatment Team (IDT)" means a group of professional and direct care staff which has primary responsibility for the care and treatment of patients assigned to that team.

G. "Non-Grievable Issue" means an issue/complaint, may not be processed through the grievance procedures set forth in this policy if there is a contested case hearing or other separate process recognized by statute or administrative rule that affords notice and opportunity to be heard before and impartial decision-maker concerning the issue/complaint;

Examples: Institutional reimbursement orders (hospital billings)  
Property reimbursement  
Judicial certifications of continuing mental illness (civil commitments; Aid and Assist Evaluation orders-370 evaluations; PSRB commitments; writs of habeas corpus)  
Allegations of abuse  
Complaints against other agencies  
Other patients' behavior/treatment  
Medication Override (when OAR procedure has been followed)  
Issues which have been grieved and responded to previously and which have not reoccurred

H. "Patient" means a person who is receiving care and treatment on a licensed hospital residential unit at Oregon State Hospital.

I. "Person with a Disability" as defined by law, is a person with a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment. Major life activities include: Walking, speaking, breathing, performing manual tasks, seeing, hearing, learning, caring for oneself, or working.

J. "Program Director" means the director of the program in which the patient filing the grievance resides.

K. "Representative" means a person who acts on behalf of a patient with respect to a grievance, including, but not limited to, a relative, friend, employee of AMH, employee of Oregon State Hospital, attorney, or legal guardian. In no case may another patient act as the representative of a grieving patient.

- L. "Section 504" is a section of the Rehabilitation Act of 1973 as amended (29 U.S.C. 794) and addresses discrimination based on disabilities. The law and regulation may be examined in the Office of the Superintendent, Building 29, Oregon State Hospital, phone 503-945-2870.
- M. "Superintendent" means the chief executive officer of Oregon State Hospital.

### III. PROCEDURES

#### A. Grievance Process

All staff of OSH have a responsibility to assist patients and their representatives to articulate grievances and use the grievance procedures to resolve them. At a minimum, the Unit Manager/Mental Health Supervising RN/Nurse Manager or designee on each unit shall be assigned responsibility for assisting, on an "as-requested basis," the patient or representative to move through the grievance procedures. At the end of each level of the grievance procedures, the Unit Manager/Mental Health Supervising RN/Nurse Manager or designee is to make the patient or representative aware of the next level in the grievance procedures.

A clear and simple statement of the grievance procedures shall be prominently posted on each unit in areas frequented by patients. Copies of the "Grievance Statement" and "Request for Review of a Grievance" shall be accessible and available to patients and their representatives.

##### 1. Informal Resolution (no written grievance)

Whenever possible, a patient, or representative, shall attempt to present and resolve grievances informally with the person or persons causing or involved in the area of complaint.

Oregon State Hospital has Recovery Specialists who are available to assist patients with their informal grievances.

Oregon State Hospital also has the Office of Consumer and Family Services where patients, or their representatives, can call in an attempt to resolve grievances prior to them going through the formal grievance process.

**2. Level 1 - IDT Hearing (written grievance)**

If a patient, or representative, cannot resolve a grievance through informal means, he/she may submit a formal grievance statement to the patient's IDT as follows:

- a. A formal grievance must be in writing and may be on OSH "Grievance Statement" form #12092. A formal grievance statement shall include at least the nature of the grievance and the proposed resolution.
- b. Copies of the grievance statement shall be forwarded to the Superintendent, Grievance Committee, and the Program Director by the Unit Manager/Mental Health Supervising RN/Nurse Manager or designee. If grievance involves staff from adjunct program off unit, i.e., Vocational Services Department (VSD), Food Services, etc., send copy to the director of that program area.
- c. The patient may request representation during the IDT review of the grievance by the Recovery Specialist. The Recovery Specialist shall assist the patient in communicating their concerns to the IDT and assist the patient in understanding the decision of the IDT.
- d. The IDT shall assign a number to each grievance and enter it onto a unit grievance log.
- e. Within 20 days after receiving the grievance statement, representatives of the IDT shall:
  - 1) Discuss the matter and relevant materials personally with the person who filed the grievance and if the grievance was filed by a representative, with the patient.
  - 2) The IDT may also contact other persons alleged or appearing to be involved in the grievance.
  - 3) Consider any information furnished by the patient, or representative, and such other information as may be relevant to the grievance.
  - 4) Prepare a written response to the grievance containing patient's name, unit, date of original grievance, unit grievance #, date of review, IDT members present,

witnesses or others present, findings of fact the IDT's resolution of the grievance, was patient satisfied with resolution, signature of individual completing written response, and submit copies to the patient, representative, clinical/Program Director, Superintendent, and Grievance Committee. For grievances on OSH "Grievance Statement" form the written response shall be completed utilizing the form on the back of the white copy of the original grievance.

- f. When it appears that a Level 1 Grievance can be settled informally, the IDT and the patient may note on the grievance form that the grievance has been settled informally and send a copy to the Grievance Committee Chairperson and the patient. This should be dated and signed by the patient.
- g. When numerous grievances are received from the same patient on the same issue, within a 20-day period, it is reasonable practice to group the grievances together for determining a resolution.
- h. When a patient is thought to be writing an excessive number of grievances, the IDT reviewers must demonstrate regular meetings with the patient, and must demonstrate an effort to prioritize grievances and review a reasonable amount of grievances each week.
- i. If the patient's IDT determines that it is not clinically in the patient's best treatment to handle their grievances through the grievance policy, they may request a hearing by the Grievance Committee. In this meeting they must present evidence why it is not clinically appropriate for the patient's grievances to be handled through the grievance process. They must present how they shall handle the patient's grievances/concerns in a manner that is clinically appropriate for them and how that may be integrated into the patient's written Treatment Care Plan. If the Grievance Committee agrees with the patient's IDT, they shall provide in writing approval for the plan proposed by the patient's IDT. This plan may not be in effect for a period of longer than one year. The plan must also include when the patient shall have clinically met their goals and can return to use of the standard grievance process. The patient has the right to grieve this decision to the Grievance Committee.

**3. Level 2 - Grievance Committee Hearing**

The patient, or representative, may request the Grievance Committee to review the grievance for any of the following reasons; failure of the IDT to complete review of the grievance within 20 days after submission of the grievance; dissatisfaction with the IDT's decision; or dissatisfaction with the implementation of the decision. The procedure shall be:

- a. A request for review to the Grievance Committee must be in writing and may be on OSH "Request for Review of Grievance" form #12596 and shall state the reason for seeking review. A copy of the original grievance and the Level 1 IDT response should be attached. Copies of the request for review shall be sent to the IDT, Superintendent, and Program Director. If the patient or representative does not forward copies then the Unit Manager/Mental Health Supervising RN/Nurse Manager or designee shall do so. If the grievance involves staff from adjunct program off unit, i.e., Vocational Services Department (VSD), Food Services, etc., send copy to the director of that program area.
- b. Normally, a request for review shall be filed within 14 days after the team files its report. Exception can be made for good cause.
- c. The Grievance Committee shall acknowledge in writing to the patient, or representative, that the request for review has been received and shall hold a hearing within 21 days.
- d. With respect to the Grievance Committee hearing, the patient has the right to:
  - 1) Three days' written notice of the date, time, and place of the hearing;
  - 2) Be represented by the person of the patient's choice, including legal counsel, at the expense of the patient;
  - 3) Call witnesses and question witnesses called by the Grievance Committee and offer written information as evidence.
- e. Grievance Committee hearings shall be conducted as informally as possible in resolving a grievance. The Grievance Committee shall consider only information

commonly relied upon by reasonable, prudent persons. The rules of evidence for judicial proceedings are not applicable to Grievance Committee hearings.

- f. The Grievance Committee shall have 21 days after completion of the hearing to decide the matter and to send a written report of their findings of fact and the committee's resolution of the grievance to the patient, representative, Superintendent, Program Director, and IDT.

4. Level 3 - Review by the Superintendent

- a. The patient, representative, or Program Director may request the Superintendent to review the grievance for failure of the Grievance Committee to make a decision within 21 days after completion of the hearing, dissatisfaction with the Grievance Committee's decision, or dissatisfaction with implementation of the decision. The procedure shall be:
  - 1) A request for review must be in writing and may be on OSH "Request for Review of Grievance" form #12596 and shall state the reason for seeking review. Copies of the original grievance Level 1 (IDT review) and Level 2 (Grievance Committee) responses should be attached.
  - 2) The Superintendent shall send a written acknowledgement to the patient, representative, or Program Director that the request for review has been received.
  - 3) The Superintendent shall review the report of the Grievance Committee and may take such other action to investigate the matter as the Superintendent deems appropriate.
  - 4) The Superintendent shall have 30 days to prepare a written report affirming or modifying the Grievance Committee's decision, and shall submit copies to the patient, representative, Program Director, and the Grievance Committee.
- b. The Superintendent has the right to veto the implementation of any proposed resolution of a grievance.

5. Level 4 - Review by the Administrator

The patient, or representative, may request the Administrator to review the grievance if dissatisfied with the Superintendent's disposition of the grievance. The procedure shall be:

- a. A request for review shall be in writing and may be on OSH "Request for Review of Grievance" form #12596 and shall indicate the reasons for the person's dissatisfaction with the Superintendent's action. Copies of the original grievance Level 1 (IDT), Level 2 (Grievance Committee), and Level 3 (Superintendent) responses should be attached.
- b. The Administrator shall send a written acknowledgement to the patient, or representative, that the request for review has been received.
- c. The Administrator shall review the Superintendent's report and may take such other action to investigate the matter as the Administrator deems appropriate.
- d. The Administrator shall prepare a written report within 30 days and submit copies to the patient, representative, Superintendent, Program Director, and Grievance Committee.
- e. Review by the Administrator is final and not subject to appeal.

6. Emergency Grievance

- a. If a patient, or representative, believes that the grievance is an emergency, it may be submitted directly to the Grievance Committee Chairperson.
- b. The Grievance Committee Chairperson shall make a preliminary assessment of whether the grievance appears to be an Emergency Grievance and shall refer it to the full Grievance Committee to:
  - 1) Hear or investigate the grievance and make a decision; or
  - 2) If it appears the grievance is not an emergency, send the grievance to the IDT for attempted resolution; or
  - 3) Respond to the grievance with a recommendation to the aggrieved party and the Superintendent.



- c. If the grievance is a refusal to accept transfer to Blue Mountain Recovery Center, Oregon Training Center, or other treatment facilities as approved by Health Services, the grievance shall be considered an Emergency Grievance and directed to the Superintendent or the Chairperson of the Grievance Committee as outlined above in this section.

7. Section 504 Grievance for Patients with Disabilities

- a. A complaint should be in writing, contain the name of the person filing it, and briefly describe the discriminatory act. This should be done on an OSH grievance form and state that it is a Section 504 grievance.
- b. A complaint should be filed with the Office of the Superintendent within 30 days after the person filing the complaint becomes aware of the alleged discriminatory act.
- c. The Superintendent, or designee, shall investigate the complaint. The investigation shall be informal but thorough, affording all interested persons and their representatives an opportunity to submit evidence relevant to the complaint.
- d. The Superintendent shall issue a written decision determining the validity of the complaint no later than 30 days after its filing.
- e. The Section 504 Coordinator shall maintain the files and records relating to all complaints filed. The Section 504 Coordinator may assist persons with the preparation and filing of complaints, participate in the investigation of complaints, and advise the Superintendent concerning their resolution.
- f. An individual who files a complaint may pursue other remedies. This includes filing with:

Department of Health and Human Services  
Office for Civil Rights, Region X  
2201 Sixth Avenue Mall Stop RX-11  
Seattle, WA 98121-1831

- g. The Section 504 Coordinator for patient and visitors is the Director of Consumer and Family Services, telephone (503) 945-7132.

8. Alleged Patient Abuse

If the grievance is alleged patient abuse, as defined in Division Administrative Rule 407-045-0400 through 407-045-0520, Definitions, then the patient, representative, IDT, or Grievance Committee shall submit the matter to the Superintendent. The Superintendent shall forward the allegation to the Office of Investigations and Training.

B. Grievance Committee Membership, Duties of Coordinator, and Hearing Process

1. Membership: Appointed by the Superintendent

Makeup: Five Members

- a. Two hospital members. One of these members is from the Office of Consumer and Family Services and serves as the Committee Chairperson/Coordinator.
- b. Three community members. Membership shall be ongoing unless terminated by the Superintendent or the community member. Community members shall include representation by National Alliance on Mental Illness (NAMI)/Consumer Advocate, Governor's Advocacy Office, and a community member at large.
- c. Additional members may be appointed as alternates.

2. The main Grievance Committee shall be on the Salem Campus. Subcommittees shall be established on other campuses. The coordinator on the Salem campus shall appoint chairpersons for any subcommittees. Subcommittee chairpersons shall fulfill the duties of the coordinator on those campuses and shall send a quarterly report to the Salem Campus Coordinator.

3. Duties of the Coordinator:

- a. Maintain a log of all grievances.
- b. Monitor Level 1 grievances to assure that a reasonable level of satisfaction is achieved in most cases for both patient, or representative, and staff.

- c. Determine if Emergency Grievance request should be heard by the committee.
  - d. Schedule Grievance Committee hearings, coordinating with the patient, IDT, other appropriate staff, and the committee members.
  - e. Chair the grievance hearings.
  - f. Draft the findings of the committee for further committee input.
  - g. Send out necessary written notices and committee findings.
4. Committee Hearing Process:
- a. Pre-Hearing:
    - 1) When the hearing is scheduled, a copy of the grievance and the IDT's response is provided to the members for their review.
    - 2) Committee coordinator may consult with Program Director to discuss grievance and determine if staff should be present.
  - b. Hearing:
    - 1) The patient; representative, if any; and any required hospital staff shall be present during the hearing.
    - 2) The patient and representative, if any, shall present information regarding the nature of the grievance and why the Level 1 resolution was not satisfactory.
    - 3) Hospital staff shall present information regarding the basis for the Level 1 resolution.
    - 4) Written information can also be presented.
    - 5) Questioning and gathering information shall be done by the committee members. Witnesses shall not be allowed to question or cross-examine other witnesses.
    - 6) The committee shall attempt to hear all information available.

c. Post-Hearing:

- 1) The committee shall discuss the information received and any written information presented and seek consensus on "findings" and "recommendations."
- 2) Following this post-hearing meeting, a draft of "findings and recommendations" shall be drawn up and sent to the members for comment.
- 3) With consensus from the committee, the final report shall be sent to the patient, representative, IDT, Program Director, and Superintendent.
- 4) If committee recommendations are not satisfactory to the patient, the patient can request review by the Superintendent, as described in Section #4, Level 3 Review by the Superintendent.
- 5) If committee recommendations are not satisfactory to the IDT and Program Director, the Program Director can request review by the Superintendent. That request must be made within seven days of receipt of the committee's recommendations. The committee's recommendations must be followed, unless vetoed by the Superintendent.

5. Other Committee Chair Functions:

- a. Review all formal grievances filed and the resolutions to determine how the grievance process is working and to advise Superintendent regarding poorly resolved grievances and patterns of grievances.

**IV. REFERENCES**

OAR 309-118-0000 through 309-118-0050, Mental Health and Developmental Disability Services Division  
Federal Register Vol 65, No. 159, Wednesday, August 16, 2000  
Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. 794)  
OSH Policy and Procedure 7.005, Patient Rights  
OSH Policy and Procedure 1.012, Alternate Formats for Interpersonal Communications

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**SUBJECT: Patient Grievances**

**POLICY NUMBER 7.006**

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Replaces Oregon State Hospital Policy and Procedure 7.006, *Patient Grievances*, dated 3/9/2007.