



# Charter Schools Institute

*The State University of New York*

## Complaints and the Charter Schools Act

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Subdivision 2855(4) of the Education Law, which is part of the Charter Schools Act, provides a parent, as well as any other individual or entity (such as a contractor or school district) who believes that a charter school has violated a term of its charter or applicable law, with an opportunity to complain formally to the school's board of trustees and seek relief.

Your school's Charter Agreement (likely *Paragraph 2.12*) has provisions related to handling complaints. It imposes certain requirements, but also provides needed flexibility as follows:

- “The School Corporation shall implement and maintain a complaint policy to receive and handle complaints brought pursuant to subdivision 2855(4) of the Education Law. Initially, such policy shall be that policy set forth in the Terms of Operation [application]. The School Corporation shall have the power to amend the complaint policy in any way it deems necessary and appropriate, so long as, such amendments are approved by the School Board and are consistent with applicable law and due process.”
- \* Please note that a school's board can delegate the hearing of complaints to a subcommittee of the board, the Principal, Executive Director, etc. However, delegation (if not in the school's original Complaint Policy) requires school board action by resolution. Also, a copy of the changed policy should be sent to the Charter Schools Institute.
- “A copy of the School Corporation's complaint policy shall be distributed to the parents and/or guardians of students enrolled in the School and made readily available to all others requesting a copy. The School Corporation shall also provide a copy of the School's current complaint policy to the [SUNY] Trustees.”
- “Upon resolution of a complaint, the School Corporation shall provide to the complainant:
  - (a) its written determination and any remedial action thereto;
  - (b) a written notice to the complainant that he or she may appeal the determination of the School Corporation to the Trustees; and
  - (c) a copy of the SUNY Trustees' grievance policies (as they are posted on the website of the Institute [<http://www.newyorkcharters.org/parentResources.htm#questions>]).”

The above Charter Agreement provisions will be discussed in more detail below.

## **Formal Complaints vs. Informal Complaints**

### *Formal*

A formal complaint involves an alleged violation of law and/or charter. Your school's Complaint Policy must address the formal complaint process, clearly outlining the steps necessary to file a complaint, as well as who will review the complaint once received (school board or its designee) and approximately when a response might be expected.

With regard to formal complaints, a multi-tiered process is not allowed. In other words, the complainant must be able to file his/her complaint directly with the person(s) who will be reviewing the complaint and issuing the final decision. A policy cannot require a complainant to go to more than one person at the school before appealing to the Institute.

For example: a policy cannot refer complainants to the school principal first, with an appeal to the school board. The complainant should have only one stop (the board or its designee) before appealing to the Institute.

The following instances are considered violations of law/charter and are examples of ***formal complaints***:

- Improper discipline of a special education student (violates IDEA)
- Billing the wrong district for a student (violation of Charter Schools Act)
- Child abuse in an educational setting (violation of New York State law)

Your school's response to a formal complaint should be in writing, it should clearly set forth the reasoning of the person or entity handling the complaint for the school, and it should be given to the complainant within the time frame set forth in your school's Complaint Policy. In the absence of a specific time frame, a response should be given to the complainant within a *reasonable* amount of time; otherwise, the complainant will be within his/her rights to file an appeal with the Institute.

Upon resolution of a formal complaint, the school must provide to the complainant:

- (a) its written determination, including any remedial actions to be taken;
- (b) a written notice to the complainant that he or she may file an appeal with the Institute if the complaint involves a violation of law or charter; and
- (c) a copy of the Institute's Grievance Guidelines (available on the Institute's website: <http://www.newyorkcharters.org/parentResources.htm#questions>).

With respect to complaints regarding charter schools authorized by the SUNY Board of Trustees, the Institute acts on behalf of, and exercises authority for, the SUNY Board of Trustees.

## Informal

Many types of complaints do not involve violations of law or charter; rather, they are *informal complaints*. It is highly recommended that your school's Complaint Policy address the informal complaint process as well. Informal complaints should ideally be handled by school staff, not by the school's board of trustees/formal complaint designee. Unlike the formal complaint process, a multi-tiered review process is considered acceptable for informal complaints. For example, an informal complaint may be handled in the first instance by a teacher, then a dean or assistant principal and then the principal, etc.

The following instances are examples of *informal complaints*:

- “Jamal pulls my daughter’s hair. Can’t she move seats?”
- “I want my son in a different class or section.”
- “My child was retained in the 3rd grade and I think he should be in the 4th grade.” (no discrimination; assume charter was followed)
- “I think my child deserves an ‘A’ in that course, not a ‘B.’”

Your school's Complaint Policy should address responses to informal complaints and specify whether a written response will be generated. In all cases, it is recommended that a school document informal complaints and responses.

The Institute **does not** handle appeals of informal complaints; however, multiple levels of internal school appeal are permitted. It is recommended that your school's Complaint Policy address the informal complaint appeal process as well.

## *Hybrid Policies*

Some charter schools find that parents are more satisfied with a complaint policy that allows for quick action on formal complaints rather than having to wait for a high-level school decision-maker (like a school board, which is subject to the Open Meetings Law notice provisions and quorum) to act. For that reason, the Institute allows schools to have hybrid complaint policies where formal complaints may be subject to a multi-tiered resolution process *so long as the complainant can withdraw from that process at any time and present the complaint to the school's final decision-maker*, i.e., the last stop before appealing to the Institute.

## The Appeal Process

The Institute's role in the formal complaint process is a limited one, and it is generally restricted to appeals after the school's board of trustees (or designee) has handled the complaint. More information regarding the appeal process, including detailed instructions for filing an appeal, is available on the Parent Resources page of the Institute's website: <http://www.newyorkcharters.org/parentResources.htm#questions>.

Again, the Institute does not handle appeals of informal complaints. This fact should be clearly communicated to all complainants.

Pursuant to the Charter Schools Act, if a complainant who properly appealed a school's formal complaint decision to the Institute is unhappy with the Institute's final decision on the matter, he/she may appeal to the State Education Department (which handles complaints for the Board of Regents). Both the Institute and the Board of Regents can issue school remedial orders to remedy the complaint or the situation that gave rise to the complaint.

There are some instances in which the Institute, as the school's authorizer with general oversight authority, may get involved in the process before a formal appeal has been filed. Specifically, the Institute may make an initial inquiry when there have been allegations of:

- child abuse;
- health or safety violations;
- crimes;
- special education violations;
- compulsory education violations (including lack of alternative or alternate instruction); and
- suspension or expulsion without due process.

In such cases, just as when the Institute independently discovers violations of law or charter (including financial improprieties), the Institute may conduct an investigation of its own.

### **Important Guidelines:**

- It is a violation of a school's charter not to follow its Complaint Policy.
- It is a violation of a school's charter not to have its complaint policy readily available to parents, i.e., available in the school office. One of the biggest complaints of parents contacting the Institute is that they have not been able to get a copy of the Complaint Policy and/or contact information for the Institute.
- The Complaint Policy must be distributed to parents (as part of the school's Parent Handbook, as a separate handout or mailing, etc.) as well as to the Institute.
- If your school's Complaint Policy does not reflect the reality of how complaints are typically handled, have the school board amend it! Send copies of any amended Complaint Policy to the Institute for legal review and for its files, and to maintain compliance with the charter. Also, a copy of the amended policy must be sent to all parents and made available in the school office.
- The person or persons handling complaints at the decision level should not be directly involved in the substance of the allegations. Therefore, your school's Complaint Policy should name a back-up decision-maker.

- Issues involving a violation of law and/or charter (i.e., formal complaints) may be resolved informally, as long as the complainant has the option of initiating the formal process at any time.
- Document, document, document! Keeping accurate records of all complaints – both formal and informal – will save your school both time and money.
- Do not hesitate to involve school counsel when necessary.
- Communication is the key to complaint resolution:
  - Clear policies and clear communication regarding those policies;
  - Clear communication with parents regarding violations;
  - Clear communication to complainants regarding decisions made by the school; and
  - Clear communication regarding the appeal process.

**Questions:**

Questions regarding amendments to school complaint policies, procedures for handling complaints, or the provisions related to complaints in the Charter Schools Act and your Charter Agreement should be directed to the Charter Schools Institute’s Director of Charter Accountability via e-mail at: [charters@suny.edu](mailto:charters@suny.edu).