



## **Guidelines of the Charter Schools Institute for Handling Complaints Received Pursuant to Education Law §2855(4)**

*Last amended November 26, 2001*

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#### **I. Introduction**

- A. Subdivision 2855(4) of the Education Law provides that any individual or group who believes a charter school has violated its charter, the New York Charter Schools Act of 1998, or any other law relating to the management or operation of the charter school, can bring a complaint to the charter school's board of trustees (the "school board"). If the individual making the complaint, after presenting the complaint to the school board, is unsatisfied with the school board's response, then he or she has the right to present the complaint to the entity which authorized the charter school (the "Charter Entity").

The Charter Entity, upon being presented with a complaint, has the right to issue remedial orders when appropriate and necessary. If the complainant, after presenting a complaint to the Charter Entity, feels that the complaint has not been adequately addressed by the Charter Entity, he or she may bring the complaint to the Board of Regents, which also has the right to issue remedial orders. In a sense, this establishes a two-step appeals process for complaints and grievances.

Pursuant to a resolution of the Board of Trustees of the State University of New York (the "State University Trustees"), the Charter Schools Institute has been authorized to handle complaints directed to the State University Trustees in their capacity as a Charter Entity. As such, the Institute will both receive and review complaints on behalf of the State University Trustees, and make determinations and issue appropriate remedial orders.

These guidelines replace guidelines adopted on April 30, 2001 and distributed to charter schools on May 1, 2001. The guidelines have been revised to reflect the Board of Trustees grant of increased authority to the Charter Schools Institute to handle complaints received by the Board of Trustees in their capacity as a charter entity.

The guidance that follows below explains how the Charter Schools Institute will handle and review complaints. It is in the form of answers to frequently asked questions. Please note that the words grievance and complaint are used interchangeably throughout.

## **II. General Requirements**

### **A. When can a complaint be filed with the Charter Schools Institute?**

Please Note: Because, as noted in the Introduction, complaints regarding charter schools authorized by the State University Trustees will be reviewed and acted upon by the Charter Schools Institute, the Institute (and not the State University Trustees), is referred to throughout the Q&A.

By law, the Charter Schools Institute cannot undertake the review of a complaint until the complainant has presented his or her complaint to a school board of a State University authorized school and the complainant has determined that the school board has not adequately addressed the complaint. In general a group or individual should not file with the Charter Schools Institute until after a school board has acted on the complaint and provided a written response to the complainant. Each charter school, as part of its charter, has agreed to set up a process under which complaints must be reviewed by the school board. You have the right to be provided with a copy of that policy upon request of a charter school.

### **B. What if I file a grievance and the school board fails to act on my grievance?**

If a school board fails to take any action on your grievance in a reasonable time, then you may bring your grievance to the Charter Schools Institute. What is considered reasonable depends on the circumstances. Some grievances may require prompt action by a school board while others may properly be resolved in a longer time frame. Thus, in certain instances where urgent action is required, it may be appropriate for a school board to call an emergency meeting. In general, however, it is appropriate for a school board to take action on your grievance at its regularly scheduled meeting. As most school boards meet monthly, you should not necessarily expect a school board to act immediately. However, you can and should expect that, at a minimum, a school board should take action on your grievance within the time frame set out in the school's grievance policy.

In most cases where the school board has not acted, you should wait at least until the period provided for by the school's grievance policy has passed before filing your grievance with the Charter Schools Institute. As explained more fully below, the Charter Schools Institute, in reviewing and investigating your complaint, will give the

school board an opportunity to respond to your grievance. Accordingly, filing a grievance with the Charter Schools Institute, before you have given the school board a reasonable time in which to act on your complaint, may simply delay the Charter Schools Institute from undertaking its own independent review and investigation.

### **What does my grievance have to contain?**

The law does not require that your grievance be in a particular format. However, in order to ensure that your grievance is thoroughly and quickly reviewed, you should provide the following:

1. A detailed statement of the nature of the complaint (including the law or provision of the charter that you allege has been violated), the names of the individuals involved, and the time, date and place the incident(s) at issue occurred;
2. What response, if any, you have received from the school board (a copy of any response should be attached) with any relevant dates;
3. Copies of any correspondence between you and the school or school board;
4. What action or relief you are seeking; and
5. Your name, address and telephone number.

Please note that while the law does not require you to submit your complaint in any particular format, it must include at least one allegation that the school or school board has violated a term of its charter or provision of applicable law. Where there is no such allegation (and a fair reading of the complaint does not involve any violation), the Institute will not review or investigate but limit its response to a statement that no valid complaint has been presented to it. In this regard, please remember that the Charter Schools Institute does not have the power to review complaints (and issue remedial orders) for any and all complaints that you might have about a charter school. Its review powers are limited quite specifically to those complaints alleging a violation of the charter or a provision of law.

To assist you in fashioning your grievance, the Charter Schools Institute has created a **Grievance Form** on its website, which you can use when submitting grievances to it. As stated above, use of this form is not mandatory and it is provided as a convenience to you.

### **C. Where and to whom do I submit my grievance?**

Your grievance should be address to the Charter Schools Institute's Grievance Desk, 41 State Street, Suite 700, Albany, New York 12207. As noted above, the Charter Schools Institute will conduct the investigation of your grievance and issue any remedial orders on behalf of the State University Trustees. As also noted, grievances submitted to the Charter Schools Institute must concern a charter school authorized

by the State University Trustees. Complaints involving charter schools authorized by other entities, such as the Board of Regents and local school districts, must be filed with those entities.

**D. After the school board responds to my grievance, is there a time period in which I need to file my "appeal" to the Charter Schools Institute for it to be valid?**

The law does not provide a time limit in which you are required to file your grievance with the Charter Schools Institute. However, you should be aware that the Charter Schools Institute, in reviewing your grievance, may take into account any unusually lengthy delays in filing your grievance. Such delays, in appropriate cases, may affect the Institute's determination, including the terms and scope of any remedial order it issues. In general, the Charter Schools Institute would not consider any grievance to be delayed that was filed with it within sixty days of the school board's response or the end of the time period in which the school board, under its grievance policy, has to act (but in which time no action by the school board has been taken).

**III. Grievance Review and Action**

**A. How does the Charter Schools Institute process and investigate grievances that it receives?**

Upon receipt of a grievance, Charter Schools Institute staff will review the grievance and all supporting materials delivered with the grievance. Staff will then contact the person making the grievance to confirm its receipt and, if necessary, request that additional information be supplied. The Charter Schools Institute will also contact the school board and, in most cases, give the school board thirty (30) days to respond. The Institute will forward to the school board a copy of the grievance along with supporting materials. As noted above, if the Charter Schools Institute receives a grievance from an individual who has not given the school board a reasonable time in which to act, the Charter Schools Institute may defer its investigation until that reasonable period has passed. In such cases, and where the school board takes the opportunity to then act on the complaint, the Charter Schools Institute will consider the school board's action in fashioning its determination, including the scope and terms of any remedial order it issues.

In addition to the above steps, Charter Schools Institute staff will conduct whatever independent factual investigation the Institute deems necessary and appropriate. Such investigation may include, but is not limited to, requesting additional information from the grievant, the school board or other persons, conducting interviews, inspecting relevant documents, or visiting the school.

Upon completion of its investigation, the Charter Schools Institute will reach a determination as to appropriate remedial orders, if any. The Institute will provide a copy of the determination, which will include the terms of any remedial order to the person making the grievance, the school board and the Charter Schools Unit of the New York State Education Department.

**B. In presenting my grievance, may I be represented by a lawyer?**

You have the right, though you are not required, to retain an attorney to represent or otherwise assist you in presenting your grievance to the Charter Schools Institute and in any other phase of the review process.

**C. Instead of having the Charter Schools Institute formally act on my complaint, i.e., issue a written determination, can I ask the Charter Schools Institute to assist me in resolving the matter with the school and school board?**

The Charter Schools Institute appreciates that oftentimes, your complaint can be resolved without the Institute having to take formal action on it. The Charter Schools Institute stands ready to work with you to try to resolve your complaint in this way. Indeed, in many instances, the Institute may suggest that the dispute between the school and you be mediated. However, if you do not wish to try to resolve your complaint informally, you are not required to do so.

**D. What kinds of remedial orders can the Charter Schools Institute issue?**

The Charter Schools Act does not define, and generally does not limit, the remedial powers of a charter entity in regards to complaints. Accordingly, the Charter Schools Institute, acting for the State University Trustees, has wide discretion to determine the remedial order appropriate to a particular situation. There is, however, one clear limitation on the kind of remedial order the Charter Schools Institute can issue. The Institute may not place a charter school on probation or terminate a school's charter except under the specific grounds and pursuant to the procedures set forth at §2855 of the Education Law (The Charter Schools Act). Moreover, even if such grounds exist, remedial orders which involve placing a school on probation or terminating a school's charter, would require approval by the State University Trustees.

**IV. After the Charter Schools Institute Has Acted**

**A. What if I am not satisfied with the Charter Schools Institute's response to my complaint?**

If you are not satisfied with the Charter Schools Institute's response to your claim, you have the right to "appeal" to the Board of Regents. Complaints made to the Board of Regents may be filed with the Charter Schools Unit, 465 Education Building Annex, Albany, New York 12234. The State Education Department has its own guidelines and procedures for reviewing grievances. Accordingly, you should consult with State Education Department staff in the Charter Schools Unit before filing your grievance.

As a preliminary step to bringing your complaint to the Board of Regents, you may also, but are not required to, request that the Charter Schools Institute review its determination. You may find this step appropriate if you believe that the Institute has overlooked evidence before it, or if you have additional evidence that was not available to you at the time your complaint was under review. The Institute will

review any additional evidence that you have and inform all parties in writing of the results of its review, including any modifications it determines to make to its original determination. Please note that requesting a review is optional and not a prerequisite to a further "appeal." As noted above, you may at any time after an initial determination by the Charter Schools Institute bring your complaint directly to the Board of Regents without having first requested a review of its determination.

**B. If the Charter Schools Institute issues a remedial order but the school does not comply with that order, am I required to bring a complaint to the school board or can I immediately complain to the Charter Schools Institute?**

If the Charter Schools Institute has issued a remedial order which in your view the school is not following, you need not file an additional complaint with the school board but may directly apprise the Charter Schools Institute of your concern. However, if your complaint involves new facts or circumstances which were not part of your previous complaint, you must, by law, first make your complaint to the school board. As always you may contact the Charter Schools Institute for assistance in determining whether your complaint is related to non-compliance with a remedial order or to a new grievance.