



GUIDE TO COMPLAINT POLICIES

FOR CHARTER SCHOOLS AUTHORIZED BY
THE STATE UNIVERSITY OF NEW YORK BOARD OF TRUSTEES



INTRODUCTION

The New York Charter Schools Act of 1998 permits any individual or group (such as a parent, contractor, employee, or school district) to bring a formal complaint to the charter school education corporation's board of trustees if they allege the school has violated the Act, its charter, or any other applicable laws. See Education Law § 2855(4). Education corporations are required to prepare complaint policies covering each school the education corporation operates. Policies must include the procedure for bringing a formal complaint and it is recommended complaint policies differentiate between formal and informal complaints. The complaint policy must be distributed to families and made readily available to all others requesting a copy.

This guidance details the requirements of a complaint policy. If you have any questions regarding the information provided in this guidance, please contact the SUNY Charter Schools Institute (the "Institute's") Legal Department at charter.legal@suny.edu.

DISCLAIMER

Nothing implied or stated in this guidance should be construed to be legal advice. The SUNY Charter Schools Institute (the "Institute") is not a law firm and this guidance should not be interpreted as creating an attorney-client or legal advisor relationship. For questions regarding your specific situation, please consult a qualified attorney. This guidance contains general information and may not reflect current statutes, case law, or other legal developments. The Institute does not guarantee the guidance's content is correct, complete, or up-to-date.

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COMPLAINT POLICY CHECKLIST

Substance of Complaint Policy:

- The policy clearly outlines the procedures for bringing informal and formal complaints.
- The informal complaint procedure includes:
 - The steps to file an informal complaint to school-based staff members, as well as alternate staff members in the event certain staff members are implicated in the complaint; and,
 - When and how a determination will be relayed to the complainant.
- The formal complaint procedure includes:
 - The necessary steps to file directly to the board of trustees or its designee;
 - When and how a determination will be relayed to the complainant;
 - How to appeal the board's decision to the Institute; and,
 - How to appeal the Institute's decision to the New York State Board of Regents.

Availability of Complaint Policy:

- The complaint policy is distributed to families annually.
- The complaint policy is made readily available to all others requesting a copy.

Amending the Complaint Policy:

- Amendments to the complaint policy are approved by the education corporation's board of trustees.
- The amended policy is sent to the Institute per Charter Agreement Section 3.10.

APPLICABILITY

The complaint requirements of the New York Charter Schools Act of 1998 (the "Act")¹ and Charter Agreement Section 3.10, available on the [Institute's Legal Compliance website](#), require:

3.10 Complaint Policies. The Education Corporation shall implement and maintain a complaint policy for each school to receive and handle complaints brought pursuant to Education Law § 2855(4). Initially, such policy shall be that policy set forth in each school's charter application as set forth in the Terms of Operation. The Education Corporation shall have the power to amend each school's complaint policy in any way it deems necessary and appropriate, so long as such amendments are approved by the Education Corporation Board and are consistent with applicable law and due process, and reported as part of each school's annual report as required by section 6.1 of the Charter Agreement. A copy of each school's complaint policy shall be distributed to the parents and/or guardians of students enrolled in the respective school and made readily available to all others requesting a copy. The Education Corporation shall also provide a copy of each school's current complaint policy to [the State University of New York Board of Trustees (the "SUNY Trustees")]. Upon resolution of a complaint, the Education 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 Education Corporation to the [SUNY] Trustees; and,
- (c) a copy of the [SUNY] Trustees' grievance policies (as they are posted on the website of the Institute).

According to the Act, complaints alleging a violation of the provisions of the Act, the charter, or any other provision of law relating to the management or operation of the school may be brought to the education corporation's board of trustees. For this reason, such complaints are classified as "formal complaints" and all other complaints are "informal complaints." The complaint policy should clearly describe the different types of complaints and the required procedures for each.

The Institute, on behalf of the SUNY Board of Trustees, does not review informal complaints and may only review appeals of formal complaints *after* they have been brought to the school's board of trustees and the board has issued a written determination. However, the Institute may conduct an initial inquiry into a complaint before an appeal has been filed in certain circumstances. Specifically, the Institute may make an initial inquiry and conduct an investigation when it receives allegations of:

- Child abuse;
- Health or safety violations;
- Criminal activity;
- Special education violations;
- Compulsory education violations (including lack of alternative instruction); and,
- Suspensions or expulsions without due process.

1. Education Law § 2855(4).

INFORMAL COMPLAINTS

An informal complaint is any complaint which does not allege a violation of the Act, charter, or any other provision of law relating to the management or operation of the school.

Examples of informal complaints include:

- “Student A pulls my daughter’s hair. Can’t she move seats?”
- “I want my son in a different class.”
- “I think my child deserves an ‘A’ in that course, not a ‘B.’”

The school's complaint policy should include the informal complaint procedure, clearly outlining the steps to file an informal complaint, and approximately when and how a determination will be relayed to the complainant. Informal complaints should initially be handled by school based staff before any escalation to the education corporation's board of trustees. The informal complaint procedure should also provide alternate staff members in the event certain staff members are implicated in the complaint. A multi-tiered review procedure is acceptable for informal complaints. For example, an informal complainant may be required to bring their complaint to a teacher first, then a dean or assistant principal, and then the principal.

The complaint policy should clearly state the Institute, on behalf of the SUNY Board of Trustees, does not accept appeals of informal complaints.

FORMAL COMPLAINTS

A formal complaint alleges a violation of the Act, charter, or any other provision of law relating to the management or operation of the school.

Examples of formal complaints include:

- Improper discipline of a special education student (as a violation of the Individuals with Disabilities Education Act ("IDEA") and/or applicable federal regulations);
- Billing the wrong district for a student (as a violation of the Act and New York State Education Commissioner Regulations); and,
- Child abuse in an educational setting (as a violation of New York State Education Law Article 23-B).

The complaint policy is to provide the following regarding formal complaints:

Step 1 - Formal Complaint to School's Board of Trustees

Formal complaints must be allowed to be brought directly to the board of trustees. The board may delegate the review of formal complaints to a subcommittee of the board, the principal, executive director, etc., but the responsibility for handling formal complaints rests exclusively with the education corporation's board of trustees.²

2. Voluntary steps before bringing a formal complaint to the board may be offered, such as bringing formal complaints to the principal and then the board, as long as the policy clearly delineates such steps as *voluntary*.

The complaint policy must include an email address and/or mailing address where complainants may submit their formal complaints.

Even if the review of formal complaints is delegated, the board of trustees must still issue the written response unless indicated otherwise in the complaint policy. In the absence of a specific time frame, and unless there are extenuating circumstances relayed to the complainant, a response to the formal complaint should be given within 45 calendar days of receipt of the complaint. Pursuant to Charter Agreement Section 3.10, reproduced above, the response to a formal complaint must:

1. Be in writing;
2. Include any remedial actions taken or to be taken;
3. Notify the complainant they may file an appeal with the Institute, on behalf of the SUNY Board of Trustees, if the complaint alleges a violation of the Act, charter, or applicable law; and,
4. Provide the Institute's appeal process which is described in detail below in Step 2.

If the education corporation fails to comply with these requirements, the complainant is within their rights to file an appeal to the Institute. Please know the Institute will then ask for the written decision or for the board to decide the complaint within a date certain.

The Institute strongly recommends written decisions clearly set forth the reasoning of the board of trustees or its designee. When the Institute reviews appeals, it generally reviews the written decision, the allegations, and any accompanying evidence.

Step 2 - Appeal to SUNY Board of Trustees

Pursuant to a delegation from the SUNY Board of Trustees, the Institute acts on behalf of and exercises authority for the SUNY Board of Trustees with respect to formal complaints regarding SUNY-authorized education corporations and the schools each operate. The Institute's role in the formal complaint process is a limited one, and it is generally restricted to appeals after the education corporation's board of trustees, or its designee, has reviewed and issued a determination for the formal complaint. Again, the Institute does not accept appeals of informal complaints.

In order to submit an appeal to the Institute, a complainant should consult the Institute's [Complaint Process](#) on our website. The Institute provides a SUNY Formal Complaint Form which complainants must use to submit their appeals. The appeal must include the following information:

1. Complainant's contact information and the name of the school;
2. The specific law or provision of the charter that is alleged to have been violated by the school and any supporting evidence;
3. A copy of the written formal complaint that was submitted to the school's board of trustees;
4. A copy of the written determination by the board of trustees in response to the formal complaint;
5. Whether the school's board of trustees has failed to take any of the remedial actions provided in the written determination; and,
6. The action or relief the complainant is seeking.

The above information, including the copies of the formal complaint and the board's written response, should be sent to charters@suny.edu or by mail to:

SUNY Charter Schools Institute
H. Carl McCall SUNY Building
353 Broadway
Albany, NY 12246

Once the Institute has received all of the required information and documentation, the Institute will issue a final written decision on the matter. Pursuant to the Act, the Institute can issue school remedial orders in response to complaints.

Step 3 - Appeal to NYS Board of Regents

If a complainant is unhappy with the Institute's final decision, the complainant may appeal to the New York State Education Department which handles complaints for the New York State Board of Regents.

Written appeals may be sent by mail to:

Charter Schools Office
New York State Education Department
89 Washington Avenue, Room 5N Mezzanine
Albany, NY 12234

Pursuant to the Act, the NYS Board of Regents can also issue school remedial orders in response to complaints.

COMPLAINT POLICY REMINDERS

Remember, it is a violation of the education corporation's Charter Agreement not to follow its complaint policy. The following are important reminders regarding the complaint policy:

- The complaint policy must be made readily available to the public (i.e., in the main office);
- The complaint policy must be given to families each year (i.e., in the handbook);
- If the complaint policy does not reflect the reality of how complaints are handled, the education corporation should amend the policy. Once the amendments are approved by the board, it must be sent to the Institute for legal review and for our files;
- Keeping accurate records of all complaints, both formal and informal, is important for future reference;
- Do not hesitate to involve the education corporation's legal counsel when necessary; and,
- Communication is the key to complaint resolution!



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