



# Guidelines for Complaint Policies and Procedures

*For Charter Schools Authorized by the  
State University of New York Board of Trustees*

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## Introduction

New York State Education Law § 2855(4), which is part of the New York Charter Schools Act of 1998 (as amended, the “Act”), provides a parent, as well as any other individual or entity (such as a contractor, employee or school district), who believes that a charter school has violated a term of its charter or any applicable law, an opportunity to make a formal complaint to the charter school education corporation’s board of trustees to seek relief.

The SUNY Charter Agreement (typically, Section 3.10, entitled “Complaint Policies”) contains provisions related to handling such complaints. While Section 3.10 imposes certain requirements it also allows for some flexibility as follows:

- 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 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 Trustees; and,
  - (c) a copy of the Trustees’ grievance policies (as they are posted on the website of the Institute).

Please note that the education corporation’s board of trustees can delegate the hearing of complaints to a subcommittee of the board, the principal, executive director, etc. However, delegation (if not in the original complaint policy) requires action by resolution of the education corporation’s board of trustees. Also, such action cannot set up a process where complainant bring a complaint to one person or entity first and then need to go to the board of trustees. Per the Charter Agreement, a copy of any changed policy should be sent to the SUNY Charter Schools Institute (the “Institute”).

The above charter agreement provisions are discussed in more detail below.

## Formal Complaints vs. Informal Complaints

The complaint policy should be clear in the distinguishing processes between formal and informal complaints.

### Formal Complaints

A formal complaint involves an alleged violation of the law generally, the Act or of the education corporation's charter including its provisional charter or certificate of incorporation. The 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 (board of trustees or its designee) and approximately when a response might be expected.

We consider the following to be violations of law/charter, and are examples of **formal complaints**:

- improper discipline of a special education student (violation of the Individuals with Disabilities Education Act (IDEA) or applicable federal regulations );
- billing the wrong district for a student (violation of the Act and NYS Education Commissioner Regulations); and
- child abuse in an education setting (violation of New York State Education Law Article 23-B).

The Act prohibits a multi-tiered process for formal complaints. A policy cannot require a complainant to go to more than one person/group before appealing to the Institute (the "Institute"). The complainant must have only one mandatory stop (the board or its designee) before appealing to the Institute. *For example*: A policy cannot refer complainants to the school principal first, and then appeal that decision to the education corporation board. That being said, *voluntary* steps may be offered so long as the policy clearly delineates such steps as voluntary.

The education corporation's response to a formal complaint should:

1. be *in writing*;
2. clearly *set forth the reasoning* of the person or entity making the decision; and,
3. be given to the complainant within the time frame set forth in the complaint policy unless a sound reason exists for delay. In the absence of a specific time frame, a response should be given to the complainant within a *reasonable* amount of time (generally, 45 days), which should give the education corporation board time to meet and decide the complaint.

If the education corporation fails to comply with these requirements, the complainant will be within their rights to file an appeal with the Institute. Please know that the Institute will then ask for the written decision or for the board to decide the complaint within a date certain. Responsibility for handling complaints rests almost exclusively with the education corporation board of trustees.

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

1. its written determination including any remedial actions to be taken;
2. 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,
3. a copy of the Institute's Grievance Guidelines (available on the Institute's website: <http://www.newyorkcharters.org/contact/>).

Pursuant to a delegation from the State University of New York Board of Trustees (the "SUNY Trustees"), the Institute acts on behalf of, and exercises authority for, the SUNY Trustees with respect to complaints regarding SUNY authorized education corporations/charter schools.

### Informal Complaints

Many types of complaints do not involve violations of law or the charter; rather, they are **informal complaints**. We highly recommend that the complaint policy address the informal complaint process. Informal complaints should ideally be handled by school staff, not by the education corporation's board of trustees. Unlike the formal complaint process, a multi-tiered review process is 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:

- "Michael 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 complaint policy should address responses to informal complaints and specify whether a written decision to such complaints will be given. The policy should also clearly delineate that formal complaints do not have to use a multi-tiered process. In all cases, we recommend that all schools document informal complaints and resolutions for possible future reference.

If the informal complaint policy uses a multi-tiered appeal process for informal complaints, the policy must clearly delineate the informal from the formal complaint appeal process. Please note that the Institute **does not** handle appeals of informal complaints.

## 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 education corporation's board of trustees (or designee) has handled the complaint. Again, the Institute does not handle appeals of informal complaints. This fact should be clearly communicated to all complainants.

Pursuant to the Act, if a complainant who properly appealed an education corporation's formal complaint decision to the Institute is unhappy with the Institute's final decision on the matter, the complainant may appeal to the New York State Education Department (which handles complaints for the New York State Board of Regents ("Board of Regents")). Contact information for the Board of Regents is available at: <http://www.newyorkcharters.org/contact/>. Both the Institute and the Board of Regents can issue school remedial orders to remedy complaints.

In some instances the Institute, as the education corporation's authorizer with general oversight authority, may get involved in the process before a formal appeal or formal complaint has been filed. Specifically, the Institute may make an initial inquiry and conduct an investigation on its own initiative 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,
- suspension or expulsion without due process.

## Important Guidelines

Please remember it is a violation of the education corporation's charter not to follow its complaint policy. The following are important guidelines regarding the education corporation's complaint policy:

- It is a violation of the education corporation's charter not to have its complaint policy readily available to parents, i.e., available in the school office. One of the most frequent 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 (i.e., as part of the school's Parent Handbook, as a separate handout or mailing, etc.) as well as to the Institute. This directive includes major amendments to the policy.
- If the complaint policy does not reflect the reality of how complaints are typically handled, the board of trustees should amend the policy. Send copies of any amended complaint policy to the Institute for legal review and for its files, and to maintain compliance with the charter agreement.
- From the conflict of interest standpoint, the person or persons handling complaints at the decision level should not be directly involved in the substance of the allegations. Therefore, it is a good policy for the complaint policy to address alternate decision-makers.
- Issues involving violations of law and/or the charter agreement (i.e., formal complaints) may be voluntarily 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 both time and money.
- Do not hesitate to involve legal 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 complaint policies, amendments, procedures for handling complaints, or the parts of the Act or the Charter Agreement related to complaints should be directed to the Institute's Director of Charter Accountability via e-mail at: [charters@suny.edu](mailto:charters@suny.edu).