

Complaints Procedure



Stichting Internationaal En Lokaal Funderend Onderwijs

Established on February 2014

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The competent authority of the Stichting Primair and Voortgezet Onderwijs Zuid-Nederland has,

with consideration to the legislation for Primary Education legislation, the legislation with regard to specialist centres and the legislation for Secondary Education;

having heard the school participation councils for Primary and Secondary;

determined the following Complaints Procedure for the Primary and Secondary Division.

Chapter 1 Definitions

Article 1 Definitions

1. With this procedure we define the following:

- a. school: a school as mentioned within the Primary Education legislation, the legislation with regard to specialist centres and the legislation for Secondary Education;
- b. commission: the commission as mentioned in article 4;
- c. plaintiff: a (ex-)student, a parent/guardian/care taker of a minor (ex-)student, (a member of) staff, (a member of) the board, (a member of) the competent authority or a volunteer who has executed activities on behalf of the school, a person who is considered a part of the school community in the broadest sense, who has filed a complaint;
- d. complaint: complaint regarding behaviour and decisions or the omission of a response or decision of the defendant;
- e. contact person: the person as mentioned in article 2;
- f. counsellor: the person as mentioned in article 3;
- g. defendant: a (ex-)student, a parent/guardian/care taker of a minor (ex-)student, (a member of) staff, (a member of) the board, (a member of) the competent authority or a volunteer who has executed activities on behalf of the school, a person who is considered a part of the school community in the broadest sense, against who a complaint has been filed;
- h. accreditation commission: a commission which has been assigned by the competent authority appointed commission consisting of members from several groups; parents/students, staff and and competent authority.

Chapter 2 Processing of the complaints

Paragraph 1 The contact person

Article 2 Appointment and tasks of the contact person

1. A school (= one single brin number) with multiple locations has only one counsellor, however there is a contact person at each location who can refer to the counsellor.
2. The competent authority appoints, suspends and dismisses the contact person. The appointment is done based upon a proposal of the accreditation advice commission.

Paragraph 2 The counsellor

Article 3 Appointment and tasks of the counsellor

1. The competent authority will at least have appointed one counsellor who will function as main point of contact with regard to complaints.
2. The competent authority appoints, suspends and dismisses the counsellor. The appointment is done based upon a proposal of the accreditation advice commission.
3. The counsellor will assess whether a solution can be achieved through mediation. The counsellor will assess whether the event is a valid reason for filing a complaint. He/she will guide the plaintiff if required through the appropriate channels and procedure and will support with reporting the event to the police or justice department.
4. The counsellor will refer the plaintiff, if needed or desired, to other institutions specialised in specific care and after care.
5. If the counsellor receives indications of an event, however no formal complaints are filed, he/she can inform the complaints commission of the competent authority.
6. The counsellor will provide wanted and unwanted advice regarding future decisions of the competent authority.
7. The counsellor will strive for the highest care during the his/her activities. The counsellor is obliged to treat all information taken to him/her in the role as counsellor as confidential. This confidentiality remains even after he/she is no longer the counsellor.
8. The counsellor will annually issue a written report to competent authority regarding the activities.

Paragraph 3 The complaints commission

Article 4 Appointment and tasks of the complaints commission

1. There is a complaints commission for all schools under the supervision of the competent authority, which analyses the complaint and provides advice to the competent authority. The joint ORION schools have institutionalised a regional complaints commission, the ORION Klachten Commissie (OKC), to which a school can align and register itself.
2. The competent authority has, after approval of the participation councils, aligned and registered with the ORION Klachten Commissie.
3. The regulations regarding the appointment, compositions, tasks and working procedures are determined in the procedure of the OKC. This OKC procedure is a part of this Complaints Procedure and has been added as appendices tot his Complaints Procedure.

Paragraph 4 The complaints procedure

Article 5 Registering a complaint

1. The plaintiff will initially notify the person involved, the management is responsible from an organisational level and secondly if needed to the competent authority of the school.
2. If the complaint is insufficiently or inadequately dealt with, the plaintiff is able to notify and register the OKC.
3. If the OKC determines the insufficient attempts have been made by the school management, competent authority to process the complaint, the OKC will declare that the complaint as non-admissible and will re-issue the complaint to the competent authority of the school , with the request to resolve the complaint.
4. A complaint submitted and accepted to be processed by the OKC, will result in an advice on the OKC to the competent authority according the OKC regulations.

Paragraph 5 Decision-making by the competent authority.

Article 6 Decision based upon the OKC advice

1. The competent authority will inform the plaintiff, the defendant, the management of the school and the OKC in writing within 4 weeks after the OKC have issued their advice if the school is of the opinion that the complaint is grounded, and if he/she thinks measures are needed and if so which measures will be taken. The announcement will be accompanied by the OKC advice and the report of the hearing, unless serious interests required otherwise.
2. The 4-week period can be extended by a maximum of another 4 weeks. This extension will be announced to the plaintiff, the defendant and the complaints commission.

3. The to be taken decision by the competent authority as mentioned under the first section will only be taken if the defendant has been given the opportunity verbally and/or in writing to challenge the decision.

Chapter 3 Final provisions

Article 7 Publicity

1. The competent authority will ensure that this procedure is publicly available at every school. The procedure can be looked at and downloaded via the school website.
2. The competent authority will notify all involved regarding this procedure.

Article 8 Evaluation

The procedure will be evaluated 4 years after the procedure is institutionalised by the competent authority, the contact person, the counsellor, the complaints commission and the (joint) participation councils.

Article 9 Changes to the procedure

This procedure can be changed or revoked by the competent authority after consultation with the counsellor and the complaints commission, with regard to the regulations in this procedures and the legislation of participation councils.

Article 10 Other requirements

1. In situations which are not described in this procedure or when this procedure does not provide clear guideline, the competent authority will decide.
2. The explanation is part of this procedure.
3. This procedure is called "Complaints Procedure Stichting Primair and Voortgezet Onderwijs Zuid-Nederland".
4. This procedure will come into force on March 1 2014

This procedure is established on February 1 2014

General explanation

The educational legislation has changed since August 1 1998 due to the introduction of the school plan, the school guide and the complaints rights, also called the "Kwaliteitswet" (quality law).

The Kwaliteitswet coming onto force means that the school management were obliged to shape, structure and organise a complaints procedure before August 1 1998.

According to the proposed legislation, parents and students are able to file complaints regarding the behaviour and decisions of the competent authority and the staff. The complaints rights have an importing signalling function within education.

The complaint procedure allows the competent authority and the school to receive fairly simple signals, which can support the school and the staff to improve the general practices in the school.

The presented procedure is based upon an approval between national wide parent organisations, professional organisations, school leader organisations and management organisations.¹⁾

With the procedure we strive to carefully process complaints, in order to serve the interests of the involved however also the interests of the school (safe school climate).

The presented procedure is broader than the legislation requires. A number of schools have policies regarding sexual intimidation and also regarding bullying . To prevent that education will need to deal with several complaints commissions, a decision has been taken to come to one single model to process complaints for Primary and Secondary Education. Besides parents and students, anyone within the school community can file a complaint. These can be related to behaviour and decisions of the competent authority and staff or the omissions of those and also to the behaviour of others within the school community.

The present complaints procedure is only applicable if the complaints cannot be issued and filed somewhere else. The majority of complaints regarding the daily activities at school can be resolve between parents, students, staff and school management. If this is not possible, seen the nature of the complaint, or if the complaint is not processed adequately, a plaintiff can call upon the complaints procedure. For which type of complaint this procedure is meant, we refer to the article explanation at article 1, under d and article 5.

All complaints for which a separate procedure or procedural opportunity exists, require to be dealt with according to those procedures. A complaint which needs to be filed with the commission of appeal, should not be filed via the complaints procedure. Similarly accounts for a complaint which needs to be filled via the arbitrator's commission.

This procedure is also not applicable when it concerns a complaint against a decision of the competent authority of a public school in the sense of the Algemene wet bestuursrecht (Awb). When a competent authority of a public school denies a request for special leave of a teacher, the teacher involved can appeal the decision based upon the Awb.

In the procedure we refer to the competent authority. Depending on the tasks and responsibilities described in the board of directors statutes between director and the competent authority, in most cases the definition should be read as school director. Changes to the procedure are not needed as the school director acts on behalf of the competent authority.

¹⁾ Deze organisaties zijn: ABB/VO, AOob, AVS, BPCO, LOBO, NKO, Onderwijsbonden CNV, OUDERS & COO, PCSO, VBKO, VBS, VNG, VOO, VOS and VVO.

The legislator has assigned the (G)MR the consent of right regarding the formation of the complaints procedure. The accreditation advice commission will be appointed by the competent authority. This commission consists of members from parents/students, staff and the competent authority. The contact person and the counsellor will be appointed based upon the proposal of the accreditation advice commission by the competent authority. The competent authority can deviate from the proposal. Deviating from the proposal of the accreditation advice commission should not be exercised often. The proposal given by the accreditation advice commission should be considered as important advice.

Maximum periods are described within this procedure. It speaks for itself that everyone benefits if a complaint is handled adequately and as swiftly as possible.

Explanation to the articles

Article 1 under c

An ex-student is also allowed to submit a complaint. When time increases between facts related to the complaint and the submission date of the complaint, it will become more difficult for the complaints commission and the competent authority to come to a decision. Also within article 4 of the OKC procedure it states that behavioural driven event or a decision will need to be submitted within one year, unless the complaints commission determines otherwise. Deviating submission periods can be thought of when it concerns serious complaints regarding sexual intimidation, violence, aggression and discrimination.

Examples of people, when referring to people within the school community, are interns and student teacher.

Article 1 under d

Complaints can involve e.g. mentoring of students, the use of disciplinary measures, evaluation of students, the structure and organisation of the school, sexual intimidation, discrimination, aggression and bullying.

Under sexual intimidation we mean: unwanted sexual attention which is expressed in verbal, physical and non-verbal behaviour.

This behaviour is experienced by someone, regardless of their sexual gender and preference, experienced as unwanted or if it involves a minor student, by parents, guardians, care takers of the students as unwanted. Sexual intimidating behaviour can both be intentional as unintentional.

Under discriminating behaviour we mean: every form and shape unjustified separation as meant under article 2 of the "Algemene wet gelijke behandeling", every isolation, limitation or preference with the intend to or with the consequence that the recognition, enjoyment or the exercise on an equal footing from the rights of the human being and the fundamental freedoms in the political, economic, social or cultural or any other field of public life is being nullified or impaired. Discrimination can both be intentional as unintentional.

Under aggression, violence and bullying we mean: behaviour and decision or the omission of decisions which intentional or unintentionally leads to physical or mental abuse of a person or a group of people within in the school community.

Article 2

A contact person can be appointed if a school with multiple locations only has one counsellor. At the locations where there is no counsellor, the contact person will refer the plaintiff to the counsellor.

The contact person is accessible for all involved parties at school. It is important that this person has the confidence and trust of all parties at school. He/she reports to the competent authority regarding the activities as contact person. The contact person cannot experience any disadvantages stemming from the role of contact person.

Article 3

It is recommended to appoint an independent counsellor per board and an internal contact person per school.

The counsellor is required to have full view on education and the participants and is required to be capable in the areas of care taking and referrals. The competent authority will take the diversity of the school into consideration when appointing the counsellor. The counsellor is accessible to all parties at school. It is important that this person has the confidence and trust of all parties at school. The counsellor possesses the capabilities of coordinating evaluation meetings.

It can be decided to have two counsellors: one male and one female. With certain events the gender of the counsellor can be considered a barrier to the plaintiff.

Article 3, second section

The counsellor reports to the competent authority regarding the activities as counsellor. The counsellor cannot experience any disadvantages stemming from the role of contact person.

Article 3, third section

The counsellor will initially assess if the plaintiff has tried to solve the problem with the defendant or with the director of the school involved. If by this the complaint is not resolved, the complaint can be pursued through this procedure.

The counsellor can provide advice to the plaintiff, seen the nature of the complaint, not submit the complaint, to submit the complaint to the competent authority, or to report the complaint to the police/justice department.

Supporting the plaintiff also means that the counsellor will assess if the submission of the complaints might possibly lead to repercussions for the plaintiff. Finally, the counsellor will ensure the cause of the complaint is eliminated.

If desired by the plaintiff, the counsellor will support the plaintiff when submitting the complaint at the competent authority of with the complaints commission and will support him/her with reporting the complaint to the police.

If the plaintiff is a minor, the parents/care takers will be informed, providing the plaintiff is informed about this, unless the counsellor is of the opinion that it is not in the best interest of the minor.

Article 3, seventh section

The confidentiality obligation is not valid in relation to the complaints commission, the competent authority and the police/justice department.

Article 4

The complaints commission acts for all schools of the competent authority. The commission will ensure a timely and adequate information transfer to the competent authority regarding the progress of the submitted complaint.

Article 5

The plaintiff will initially submit the complaint to the involved party/parties and secondly to the competent authority (a complaint cannot always be submitted to the counsellor). The complaint is not always submitted to the complaints commission, for example when the plaintiff is of the opinion that it involves a minor complaint. This however does not revoke the rights of the plaintiff to submit the complaint to the complaints commission, if he/she sees fit. On the other hand, the position of the defendant should be taken into account and should not be experiencing any disadvantages if the complaints commission is not involved. In complicated situations or if the competent authority is considering significant measures, it is inadvisable that advice is gained from the complaints commission.

The competent authority can decide on preliminary measures. A suspension of staff, suspension of students or determining that the plaintiff and defendant are not allowed to have contact. The competent authority is required to determine until when the preliminary measures are valid.. Normally this is until the moment that the competent authority has made a final decision.

An anonymous complaint cannot be processed unless the complaints commission or the competent authority decides otherwise.

Article 6

The competent authority will notify the plaintiff and the defendant regarding the advice given by the complaints commission, unless the advice of the competent authority, in some cases based upon the comments of the commission, stringent interest require otherwise. The competent authority will send the plaintiff and the defendant the entire advice in writing. Sections of the advice can be exceptionally omitted if motivated. For example: a student has submitted a complaint regarding sexual intimidation and the complaints commission has taken notice from experts that something similar has happened in the student's private life. This type of information is not relevant to the plaintiff. Out of privacy reasons, it can be determined to leave this information from the written advice reports to the plaintiff.

If the complaint is considered ungrounded by the competent authority, rehabilitation can be offered based upon on a request of the competent authority and in conjunction with the defendant, if needed after the advice of the complaints commission.

School management is obliged to contact the inspector if there is a suspicion that a member of staff has sexually abused a minor. If after consultation with the inspector there is a reasonable suspicion that a criminal offence has been committed than the competent authority is obliged to report this to the police.

When it concerns a criminal offence, it is not recommended to wait until the outcome of the legal trial before the competent authority measures are taken against the defendant. The competent authority has an own responsibility.

Article 7

Information regarding this procedure will be embedded in the school guide and on the website of the school. The names and telephone numbers of the counsellor and the contact person can be written in the school guide.