



Model - Education disputes complaints procedure

COMPLAINTS PROCEDURE

The competent authority of Stichting Het Rijnlands Lyceum having heard the participation council/joint participation council/staff council/members' council; establishes the following Complaints Procedure.

Article 1

This procedure uses the following terms and definitions:

- a. school: a school under the jurisdiction of the Stichting Het Rijnlands Lyceum;
- b. institution; Stichting Het Rijnlands Lyceum
- c. competent authority: (Stichting Het Rijnlands Lyceum)
- d. LKC: the committee as referred to in Article 8;
- e. complainant: a (former) pupil/participant/student, a parent/guardian/carer of a minor (former) pupil/participant/student, (a member of) staff, (a member of) the executive board or person or body that otherwise has a function at the school or institution;
- f. defendant: (a member of) the staff, (a member of) the executive board, the competent authority or a person or body that otherwise has a function at the school or institution, against whom a complaint has been filed;
- g. complaint: complaint about (neglected) behaviour and decisions of the defendant.

Article 2: Initial phase of complaint submission

1. A complainant who experiences a problem with or at the school or institution contacts the person who caused the problem, unless the nature of the problem precludes this.
2. If that contact does not lead to a solution, the complainant submits the problem to the executive board to find a solution.
3. The complainant can discuss the problem with the contact person or the counsellor.
4. If the problem is not or will be resolved, a complaint can be submitted as referred to in Article 6.

Article 3: The contact person

1. The competent authority of the school or institution, after consultation with the representative body at each location, designates a contact person.
2. The contact person informs the complainant of the possibilities offered by the complaints procedure. If the complainant wishes to file a complaint, the contact person refers the complainant to the counsellor.

Article 4: The counsellor

1. The competent authority of the school or institution, after consultation with the representative body, designates at least one external counsellor.
2. The counsellor determines whether the complaint can be resolved through mediation.
3. The counsellor can assist the complainant with the filing of the complaint if requested by the complainant.

4. The counsellor informs the complainant about bodies or institutions that may be helpful to the complainant to solve problems associated with the complaint and assists the complainant, if necessary, to establish contact.
5. The counsellor may advise the competent authority on request and of its own accord if he receives signals that warrant such.
6. The counsellor reports his activities annually to the competent authority in writing.

Article 5: Information about the complaints procedure

The competent authority ensures that the complaints procedure, the address of the complaints committee and the names and contact details of the contact person and the counsellor are sufficiently known by at least publishing these in the school or institution guide and on the websites of the school or institution and on the website of the competent authority.

Article 6: Submitting a complaint

1. The complainant can file a complaint with the LKC or the competent authority.
2. The complaint contains at least:
 - a. the name and address of the complainant;
 - b. the name of the defendant and the name and address of the school or institution to which the complaint relates;
 - c. a description of the complaint and the date/time to which the complaint relates;
 - d. copy of the documents relating to the complaint;
 - e. the date.
3. The complaint must be submitted within a year of the behaviour or decision, unless the complaints committee decides otherwise.
4. When submitting and during the handling of the complaint, the complainant may be assisted by an authorised representative.
5. The competent authority or the LKC acknowledges receipt of the complaint in writing.
6. If the school or institution is not affiliated with the LKC, the secretariat of the LKC sends the complaint to the appropriate complaints committee after consultation with the complainant.

Article 7: Handling of the complaint by the competent authority

1. If the complainant files his complaint with the competent authority, it may handle the complaint itself.
2. In that case the competent authority reports to the complainant and the defendant what steps it will take to handle the complaint.
3. If the handling of the complaint by the competent authority has not led to a resolution in the opinion of the complainant, the complainant may file the complaint with the LKC.
4. If the competent authority does not handle the complaint itself, the competent authority refers the complainant to the LKC.

Article 8 The complaints committee

1. The competent authority has affiliated its schools with the independent National Education Complaints Committee (LKC), Postal address: Stichting Onderwijsgeschillen, P.O. Box 85191, 3508 AD Utrecht, T: 030 - 280 95 90 E: info@onderwijsgeschillen.nl, W: www.onderwijsgeschillen.nl

The handling of complaints submitted to the LKC is subject to the Regulations of the Commission. These regulations can be found on:

<https://onderwijsgeschillen.nl/commissie/landelijke-klachtencommissie-onderwijs-lkc/reglement>

Article 9 Providing information to the LKC

Staff members in employment of the competent authority are obliged to supply the information requested by the LKC and to observe confidentiality regarding the request and information supply. These obligations also apply to the competent authority.

Article 10: Decision on advice

1. Within four weeks after the LKC has issued its advice, the competent authority will notify the complainant, the director of the school involved and the LKC in writing whether it shares the verdict on the soundness of the complaint, and whether it will take measures on the basis of that verdict, and if so, which measures, at all time stating reasons for its position.

2. This period can be extended by a maximum of four weeks. The competent authority will notify the complainant, the defendant and the LKC of this extension, stating its reasons.

Article 11: Informing the representative body

The competent authority informs the representative bodies of each verdict of the LKC where the complaint is found to be justified and about the possible measures that it will take in response to this verdict.

Article 12: Confidentiality

1. Everyone involved in the filing and handling of the complaint is obliged to observe confidentiality.
2. The obligation of confidentiality continues, even if the person concerned is no longer subject to the operation of the complaints procedure.

Article 13: Amendment of the procedure

This procedure may be amended by the competent authority after consultation with the counsellor with account being taken of the provisions in the field of employee participation that apply to the school or institution.

Article 14: Other provisions

1. In cases that are not covered by the procedure, the competent authority will decide.
2. This procedure can be cited as 'Stichting Het Rijnlands Lyceum complaints procedure'.
3. This procedure comes into force on 23 July 2016.

The procedure was adopted on 22 June 2016.

General explanatory notes

In primary and secondary (special) education, the school management (competent authority) is required to establish a complaints procedure.

In secondary and higher vocational education, a complaints procedure is compulsory by virtue of the applicable collective labour agreements.

This model complaints procedure is applicable to all sectors of education.

By far the most complaints about the day-to-day affairs of the school/institution can be handled in mutual consultation between parents, pupils/participants/students, staff and school management. If, however, that is not possible given the nature of the complaint, or if it was not satisfactorily resolved, then a complaint can be filed on the basis of this procedure.

The complaints procedure does not replace the procedure that someone can follow against a decision of the competent authority of a state school in the sense of the General Administrative Law Act (AWB). Nevertheless, someone can choose to file a complaint instead of following the AWB procedures. The committee may provide a verdict on the complaint, but, contrary to the courts, cannot annul the decision of the competent authority.

Furthermore, complaints for which there is a separate procedure and procedural options with a committee must be handled in that way. For example, a complaint that must be filed with the Board of Appeals for Examinations cannot be handled by means of this education complaints procedure.

Explanation of the individual articles

Article 1e

A former student can also file a complaint. As the interval between the facts that are complained about and the filing of the complaint increases, it becomes more difficult for the complaints committee and the competent authority to reach a verdict. Article 6(3) therefore stipulates that a complaint must be filed within one year of the behaviour or decision, unless the complaints committee decides otherwise. Examples include serious complaints about sexual harassment, aggression, violence and discrimination.

Examples of persons or bodies that otherwise have a function within the school community are volunteers, trainees and student teachers.

Article 1f

Complaints may be made about individuals and bodies that have a function within the school. This means that a complaint cannot in principle be filed against a parent or student. A parent or a student cannot be regarded as a defendant insofar as the relevant behaviour or decisions ensue from their functional involvement in the school (in the capacity of, for example, after-school supervisor, or a member of the parent council or participation council).

Article 2

By far the most complaints about the day-to-day affairs in the school can be handled in mutual consultation between parents, pupils/participants/students, staff and school management. It is preferable to discuss problems at the level at which they occur and with the person who has caused or causes the problem. If, however, that is not possible given the nature of the complaint, or if it was not satisfactorily resolved, then a formal complaint can be filed.

Article 3

The contact person is accessible to all those involved at the school. It is important that this person has the confidence of all parties involved at the school. The duties of the contact person are performed independently. The contact person should not be disadvantaged by virtue of the exercise of their duties.

Article 4

Although the function of confidential counsellor involves a high degree of confidentiality by virtue of its nature, the counsellor cannot be required to observe confidentiality in all cases.

The counsellor has no legal duty of confidentiality. If the counsellor believes that the complainant is in such a serious situation that it is necessary to notify other persons/bodies, the decision may be taken not to maintain confidentiality.

If the confidential counsellor is internal rather than external, there is a notification and reporting obligation in the case of a suspected sexual offense (Section 4a of the Primary Education Act (WPO) and Section 3 of the Secondary Education Act (WVO)). In addition, the 'domestic violence and child abuse reporting code' applies to both the internal and external counsellor.

A counsellor will never promise confidentiality to a complainant in advance. He may, however, make clear that he will exercise restraint and confidentiality with respect to the information given. If the counsellor nevertheless decides to share the information obtained with others, he must discuss this in advance with the complainant.

It is recommended to appoint an independent, preferably external counsellor for each management body and an internal contact person per school.

The counsellor must have insight into the education and the participants within it and must be proficient in the field of reception and referral. When appointing the counsellor, the competent authority takes account of the diversity of the school population. The counsellor is accessible to all those involved at the school. It is important that he has the confidence of all parties involved at the school. The counsellor possesses skills to conduct counselling interviews.

Consideration could be given to choosing two counsellors: a woman and a man. In some situations, there may be a barrier to making a complaint to a person of the opposite sex. Consideration can also be given to appointing several counsellors so that, where applicable, a defendant may be assisted by a counsellor.

Article 4(1)

The counsellor is solely accountable to the competent authority when performing his duties. An internal counsellor must not be disadvantaged by virtue of the exercise of their duties.

Article 4(2)

The counsellor will first determine whether the complainant has tried to solve the problems with the defendant or with the director of the school concerned. If that is not the case, this can still be done. The counsellor may suggest that a complainant, having regard to the seriousness of the case, does not file a complaint, files the complaint with the complaints committee, files the complaint to the competent authority, or reports it to the police/judiciary. The counsellor refrains from investigating the complaint and giving an opinion. That goes beyond his duties and is reserved for the competent authority and the complaints committee. In addition, giving an opinion may weaken support for him within the school community.

Although the counsellor determines whether a solution can be achieved through mediation, it is not recommended that the counsellor himself mediates. Unsuccessful mediation can lead to a loss of trust and even to the counsellor himself becoming the subject of a complaint.

Whatever role the counsellor chooses, he will in all cases first have to reach agreement with the complainant about the role he will play as counsellor, so there is absolutely no uncertainty about this. Supervision of the complainant also means that the counsellor determines whether the filing of the complaint does not lead to repercussions for the complainant. Finally, he must ensure that the reason for the complaint has actually been removed.

If the complainant so wishes, the counsellor will assist him with the filing of a complaint to the complaints committee or to the competent authority and, if desired, provides assistance with the reporting to the police or judiciary.

If the complainant is an underage student, the parents/guardians, with the knowledge of the complainant, are notified of this by the counsellor, unless this is not in the interest of the underage student in the opinion of the counsellor.

Article 4(5)

The counsellor may advise the competent authority on policy issues, but refrains from giving advice about the taking of (disciplinary) measures as a result of a complaint being filed.

Article 6(1)

A complainant has the option of filing his complaint with the competent authority or directly with the LKC. If the complainant is not satisfied after a complaint has been handled by the competent authority, he can still refer the complaint to the LKC.

If the complaint is filed directly with the LKC, it may decide to forward the complaint to the competent authority as this provides the possibility of resolving the complaint at the level of the school, the institution or the competent authority (Article 4a LKC Regulations).

Article 10(1)

This deadline has been set for primary and secondary education in Section 14(7) of the WPO, Section 24b(7) of the WVO and Section 23(7) of the Act on Expertise Centres (WEC).

Should the verdict give reason to do so, the competent authority may, in consultation with the defendant, provide suitable rehabilitation.

Article 11

See also Section 8(2)(e) of the Education Participation Act (WMS).

Article 12

The handling of complaints is confidential. It concerns a complaint by an individual complainant. It is not desirable for persons or entities that are familiar with the complaint to inform others about the complaint. Publicity can harm parties and also make it more difficult to find a solution for the complaint.

Article 13

By virtue of Section 10g of the WMS, the (joint) participation council has approval authority with respect to the adoption or amendment of the complaints procedure.