

Sounding Board

A publication of Osprey Wilds Environmental Learning Center Charter School Division



Suggestions for the Creation, Adoption, and Implementation of a Complaint Policy

December 2023

In charter schools, as in other public entities and businesses, complaints arise from time to time from both external and internal sources. In other words, complaints come from those who are outside of the organization and from those within the organization. In the school setting, that means complaints can be lodged either by parents / families, vendors, community members, or students and staff members. Complaints can be the result of concerns about organizational behavior (e.g. a school's policies and procedures), about the conduct of an individual (e.g. a staff member, school leader, or a board member), or a myriad of other issues.

A wise board will be one that has considered all of these possibilities, and proactively determined a process by which complaints of various types from various sources will be fairly processed and adjudicated in a timely manner. The board does this through the creation and adoption of a Complaint Policy. In creating and adopting the policy the board should be transparent to and hear from interested stakeholders as it is developed and implemented as there can be many nuances when it comes to this topic.

Note: This document is provided as information only and is not intended to serve as legal advice. For any legal questions on this topic, please consult with the board's attorney.

What do Minnesota Statutes and the charter contracts say about Complaint Policies?

Minnesota Statute 124E, the charter school law, and Minnesota Statute 317A, the nonprofit law, are silent on the topic of complaints, complaint policies, and related subjects. However, some schools may include a reference to complaints in their bylaws, employee handbooks, or other policies. Check those sources for relevant guidance prior to taking on the process of developing a Complaint Policy.

The Minnesota legislature has also adopted statutory protections under [Minnesota Statutes, section 181.932](#) that prohibit employer retaliation against employee whistleblowers. Prohibited retaliation includes discharge, discipline, threats, or other discrimination, including penalizing employees regarding compensation, terms, conditions, location or privileges of employment. Several other Minnesota statutes contain anti-retaliation provisions. Employees who report violations or suspected violations and engage in other protected activities under laws in the following subject areas are protected from retaliation:

- Discrimination ([Minn. Stat. § 363A.15](#))
- Labor relations ([Minn. Stat. § 179.12\(4\)](#))
- Maltreatment of minors ([Minn. Stat. § 626.556 Subd. 4a](#))
- Minimum wage ([Minn. Stat. § 177.32](#))

- Occupational safety and health ([Minn. Stat. § 182.654\(9\),\(11\)](#))
- Vulnerable adults ([Minn. Stat. § 626.557](#))
- Wage discrimination (equal pay for equal work) ([Minn. Stat. § 181.67](#))
- Workers' compensation ([Minn. Stat. § 176.82](#))

In addition, the school's contract with Osprey Wilds also includes some requirements related to complaints:

Section 6.18. Notification of Claim. The School agrees to provide notice to Osprey Wilds within five (5) business days of the School's receipt of any significant claim, including any allegation of illegality or impropriety by the School or its employees, and any adverse notice received from the Department of Education.

This means that the school (either the school leader, board chair, or another appropriate party) must notify the Director of Charter School Authorizing at Osprey Wilds any time there is an *allegation* of illegality or impropriety by the school OR one or more of its employees. You should not wait until the matter has been settled to notify Osprey Wilds.

Further, the school must notify Osprey Wilds regarding the, "...receipt of any significant claim..." The school must provide this notice irrespective of whether the school's insurance company has accepted the claim. In addition, the school must also forward any "adverse notice" received from the Minnesota Department of Education. This could include corrective action, findings, investigations, audits, revenue adjustments due to errors on the school's behalf, or other adverse action.

In any of the above instances, you must notify Osprey Wilds within five days. Notification can be via phone call or email.

Adoption, Implementation, and Evaluation of a Complaint Policy

The board should develop a Complaint Policy with care through its normal process of policy development that involves or, at a minimum, informs students, staff, and families about the existence of the policy, its purpose, and its availability. A final review of the Complaint Policy, prior to adoption, should include the school board's attorney.

The Complaint Policy should:

1. Include a preamble briefly explaining its purpose and stating the board's commitment to the establishment of a fair and responsive policy to constructively handle complaints in an efficient and timely manner.
2. Specify to whom complaints should be directed. In most cases, complaints should be directed to the school leader, or their designee, unless the complaint is about the school leader, or their designee. In such cases, the complaint should be directed to the board chair. If the complaint is about the board chair, then the board must determine to whom the complaint should be directed (or if it should go to the entire board).
3. Specify the form in which complaints should be submitted (e.g. in writing, using a school provided complaint form, or other method).

4. Specify the information complainants should provide such as date, time and location of the action about which the complaint is being filed, a narrative description of the incident(s) causing the complaint, potential witnesses to the incident(s), and any other information that would assist the designated school person processing the complaint. Complaints should be filed in a timely manner in order to be promptly resolved; however, no specific timeline should be required for the submission of a complaint(s).
5. Identify the person(s), by name and position, to whom complaints are to be submitted. This should be kept up to date as personnel and board members change over time.
6. Ask the complainant to state what remedy s/he feels would be appropriate to satisfy their complaint or concern.
7. Contain wording that provides assurances that no retaliation or negative consequences will accrue to anyone who files a complaint under the school's Complaint Policy.
8. Provide information as to how a person who files a complaint will be informed of the outcome of the school's processing of the complaint.
9. Provide information about possible next steps should the complainant be unsatisfied with the outcome of the complaint process.

Annually, the Complaint Policy should be reviewed by the board as a part of its standard policy review process. The board should determine the degree to which the policy has been used and its effectiveness in order to make any changes to improve either the process for handling complaints or the outcomes of it.

The Complaint Policy itself and any documents or forms associated with it should be readily available to students, staff, and families. This can be done through the Family Handbook, Employee Handbook, and the school website.

When possible, school personnel designated to process complaints should participate in any complaint resolution related training that may be available either through professional organizations, the school attorney or Human Resources provider, or online. Such training can be invaluable in successfully handling complaints that can be sensitive in nature or complicated in some way.

Note: Any complaint(s) received by the school that allege or appear to allege violations of criminal statutes should not solely be handled by the school; rather, the complainant should be encouraged to take the complaint to the appropriate law enforcement agency.

Avoid Becoming a Complaint Processing Center

The most efficient and effective way of dealing with stakeholder concerns or complaints in a charter school is for the complainant to take them to the school leader before the board allows itself or any of its members to get involved. Many of the complaints that are brought to charter school boards are actually the responsibility of school leadership to respond to. The board should be very clear about what complaints fall under its purview versus those that are the responsibility of school leadership. For example, complaints about a teacher should be directed to the school leader, whereas complaints about the school leader should be directed to the board. With a clear policy that funnels complaints to the school leader, other than complaints about said school leader, the board can avoid becoming a complaint processing center.

Brian L. Carpenter, Ph.D., calls this a "No Action Until Policy" and recommends the following language on his [website](#):

With the exception of concerns pertaining to school safety or matters covered under the board's whistleblower protections policy, neither the board, its officers or members, or its committees will take any action on any stakeholder concern or complaint until the school's chief executive has first had the opportunity to address it, except to inform the person(s) stating the complaint or concern of this policy. If, in the chief executive's opinion, the board, or any of its officers or members, or committees violates this policy to the detriment of a good working relationship with the board, the chief executive is required to report the violation to the whole board.

It is not the responsibility of the board to overturn the decisions of the school leader just because the complainant did not like how the issue was addressed. If the school leader addressed the policy in accordance with school policy, statute, regulations, and any other relevant considerations, then the matter is settled. It is not up to the board to interfere with management responsibilities by overturning decisions that the governing board does not oversee.

Further, all board members must be very clear about how complaints are handled. When complainants are upset, angry, frustrated, or afraid, they often email one or more board members—and sometimes repeatedly. It should be clear which board member will manage and respond to complaints, and what board members should do if they receive one. Again, in all instances other than if the complaint is about the school leader, the complaint should first and foremost be referred to school administration for resolution, if the complainant has not already tried to resolve the issue with the school leader, before it comes to the board.

Final Thoughts

This document has addressed policy considerations about complaints addressed to charter school personnel or to the charter school board of directors. However, there are other entities to which complaints can be lodged, such as the Minnesota Department of Human Rights, Minnesota OSHA Compliance, the Minnesota Office of Administrative Hearings, and the Minnesota Department of Labor & Industry. Each of these have their own processes and timelines for resolution that must be followed. Should any complaints against a charter school be made to one of these organizations/agencies, the board should contact its attorney for legal advice.