

# Complaints regulations

Onderwijsstichting Esprit

for Primary and Secondary education

The competent authority of the Esprit Education Foundation, having regard to the provisions of the Primary Education Act, the Expertise Centres Act and the Secondary Education Act;

having heard the participation council/common participation council;

adopts the following primary and secondary education complaints procedure.

## Chapter 1 Definitions

### Article 1

1. In these regulations, the following definitions apply:

(a) school: a school pursuant to the Primary Education Act, Expertise Centres Act and the Secondary Education Act;

b) Complaints Committee: the external National Education Complaints Committee of Educational Disputes ([www.onderwijsgeschillen.nl](http://www.onderwijsgeschillen.nl)) ([info@onderwijsgeschillen.nl](mailto:info@onderwijsgeschillen.nl)) pursuant to Article 4;

c) complainant: a pupil or former pupil, a parent/legal guardian of a minor (former) pupil, the staff or a member of the staff, the management or a management team member, the responsible authority or a representative of the competent authority, or a volunteer who carries out work for the school, as well as a person who is otherwise part of the school community, who has filed a complaint;

d) complaint: complaint relating to conduct and decisions or failure to conduct and take decisions by the accused;

e) the internal confidential advisor: the person pursuant to Article 2;

f) the external confidential advisor: the person pursuant to Article 3;

g) accused: the staff or a member of the staff, the leadership team or a leadership team member, the competent authority or a representative of the competent authority, or a volunteer who carries out work for the school, as well as a person who is otherwise part of the school community, against whom a complaint has been filed;

## Chapter 2 Complaints handling: internal procedure

### Article 2: School in-house complaint handling

1. A complainant who experiences a problem at or with the school shall contact the person who caused the problem, unless the nature of the problem prevents it or the trust between the complainant and accused is damaged.

2. If contact between those involved does not lead to the desired solution, mediation is a potential avenue to address a conflict between complainant and accused and enable them to seek a solution.

3. If mutual contact or mediation does not lead to a solution, the complainant may refer the problem to the management for resolution.

4. If management is unable to resolve the problem or if the complainant is not satisfied with the solution put forward, the problem can be referred to the competent authority as specified in Article 5.

5. If the competent authority is unable to resolve the problem or if the complainant is not satisfied with the solution put forward, a complaint can be submitted to the external complaints committee and the external complaint procedure will take effect as specified in Article 6.

6. At all stages of school in-house complaint handling, the complainant can discuss the problem with the confidential advisor and make use of his advice and guidance.

### **Article 3 Appointment and role of the internal confidential advisor**

1. There is at least one internal confidential advisor at each school. The internal confidential advisor is a school employee but has no managerial or policy duties.

2. Pupils and parents contact the school's internal confidential advisor. The internal confidential advisor refers staff members to the external confidential advisor, who functions exclusively on behalf of staff members.

3. The competent authority shall appoint, suspend and dismiss the internal confidential advisor.

4. The internal confidential advisor is the first point of contact for complaints and assists the complainant.

5. The internal confidential advisor supports the complainant and represents the complainant's interests.

6. The internal confidential advisor examines the complainant's options and wishes for further action.

7. The internal confidential advisor informs the complainant of the possibilities offered by the complaints procedure and guides the complainant through the complaint procedure.

8. If the complaint has no relationship with the school, the internal confidential advisor shall refer the complainant to the appropriate official.

9. Depending on the nature of the complaint and the complainant's options, the internal confidential advisor shall refer the complainant to the accused, school management or competent authority, or shall refer the complainant to the external confidential advisor.

10. The internal confidential advisor will check whether mediation between the complainant and the accused is among the possibilities. If possible, the internal confidential advisor will organise mediation. The internal confidential advisor will never conduct the mediation themselves.

11. Following referral, the internal confidential advisor shall provide follow-up care to the complainant if required.

12. The internal confidential advisor shall exercise the utmost care in their work. The internal confidential advisor must treat all matters as confidential of which they become aware in that capacity. This duty does not lapse after the person concerned terminates their position as internal confidential advisor.

13. The internal confidential advisor provides education and information at their school.

14. The internal confidential advisor offers solicited and unsolicited advice to the management and competent authority if signals reaching them warrant it.

15. The internal confidential advisor shall report in writing to the competent authority annually on their activities. This report can be prepared together with the external confidential advisor.

## **Article 4 Appointment and duties of the external confidential advisor**

1. The competent authority currently has two external confidential advisors. The external confidential advisor is independent and is not or has not been part of staff or management of schools under the competent authority.
2. The external confidential advisors function exclusively for staff members; in case of complaints, the complainant(s) are free to address one external confidential advisor and the accused(s) to address the other external confidential advisor.
3. The competent authority shall appoint, suspend and dismiss the external confidential advisor.
4. The external confidential advisor can serve as the first point of contact for complaints and assist the complainant.
5. The external confidential advisor supports the complainant and represents the complainant's interests.
6. The external confidential advisor examines the complainant's options and wishes for further action.
7. The external confidential advisor will check whether mediation between the complainant and the accused is among the possibilities. If possible, the external confidential advisor will organise mediation. The external confidential advisor will never conduct the mediation themselves.
8. The external confidential advisor guides the complainant through the complaints procedure.
9. The external confidential advisor refers the complainant – if and to the extent necessary or appropriate – to other bodies specialised in support and aftercare.
10. If the external confidential advisor finds only indications, but no concrete complaints, they may bring them indications to the attention of the competent authority.
11. The external confidential advisor offers solicited or unsolicited advice if signals reaching them give cause to do so.
12. The external confidential advisor shall take the utmost care in their work. The external confidential advisor must treat all matters as confidential of which they become aware in that capacity. This duty does not lapse after the person concerned terminates their position as external confidential advisor.
13. The external confidential advisor shall report in writing to the competent authority annually on their activities. This report can be prepared together with the internal confidential advisor(s).

## **Article 5 The competent authority**

1. If a complaint is not resolved at the school level, the complainant can turn to the competent authority with the complaint.
2. The competent authority will discuss the complaint and the desired solution with the complainant. During this meeting, the confidential counsellor can offer support to the complainant.
3. The competent authority shall consider what solution is possible and notify the complainant within four weeks at the latest.
4. If the complainant is satisfied with the solution offered, the internal complaint procedure is closed.
5. If no solution can be offered or the complainant is not satisfied with the solution offered, the competent authority will alert the complainant to the possibility of submitting the complaint to the

external complaints committee. The internal complaints procedure will then be concluded and the external complaints procedure will be started.

6. If the complaint will be referred to the external complaints committee, the competent authority shall inform the director of the school concerned in writing.

## Chapter 3: Handling of complaints: external procedure

### Article 6 The complaints committee

1. There is a complaints committee for all schools under the competent authority. That is the National Education Complaints Committee for Educational Disputes [in Dutch: *Landelijke Klachtencommissie Onderwijs van Onderwijsgeschillen*, LKC] ([www.onderwijsgeschillen.nl](http://www.onderwijsgeschillen.nl))

2. The LKC has its own regulations which describe the composition, method of filing a complaint and the complaint handling by the complaints committee.

3. The regulations of the LKC are binding.

## Chapter 4 Final provisions

### Article 7 Publicity

The competent authority shall ensure that the complaints procedure, the address of the complaints committee and the names and accessibility of the internal and external confidential advisers are sufficiently known by publishing them at least in the school guide and on the schools' website and the website of the competent authority.

### Article 8 Evaluation

The regulations will be evaluated by the competent authority, the internal and external confidential advisers, the complaints committee and the (joint) participation council within four years of its entry into force.

### Article 9 Amendment of the regulations

These regulations may be amended or repealed by the competent authority, after consultation with the confidential advisor and the complaints committee, subject to the provisions in force.

### Article 10 Miscellaneous provisions

1. In cases not covered in these regulations, the competent authority will decide.

2. The explanatory note forms part of the regulation.

3. This regulation may be cited as "Esprit complaints regulations."

4. These regulations came into force on 1 August 1998. The regulations were renewed following GMR approval in April 2008, 23 October 2014, 23 May 2016 and 7 January 2021.

### General notes

Pursuant to the Quality Act, school boards have been required since 1 August 1998 to adopt and implement complaints regulations. Under the proposed legislation, parents and pupils can file complaints concerning behaviour and decisions or failure to do so by the competent authority and staff. The right to submit a complaint has an important signalling function with regard to the quality

of education. Through the complaints mechanism, the competent authority and the school receive signals in a simple way that can support them in improving education and the smooth running of the school.

The complaints procedure is intended to ensure that complaints are handled carefully, serving the interests of those involved, but also the interests of the school (a safe school climate).

Along with parents and pupils, anyone who is part of the school community can file complaints. These complaints can relate to conduct and decisions of the competent authority and staff, or their failure to do so, as well as to the conduct of others who are part of the school community. The vast majority of complaints with regard to the day-to-day running of the school will be handled properly by mutual agreement between parents, pupils, staff and school management. However, if that is not possible given the nature of the complaint, or if the handling has not been satisfactory, a complaint can be submitted to the external complaints committee. As regards the nature of the complaints for which these regulations are intended, please refer to the article-by-article explanation of Article 1(d). Moreover, complaints for which a separate scheme and procedure option before a committee is in place must be handled using that avenue. For example, a complaint to be filed with the examination appeals board cannot be filed through the educational complaints regulation. The same applies to a complaint that can be filed through a disputes committee. In these regulations, reference is made to a competent authority. Depending on the division of tasks and powers between the director and the competent authority as laid down in the management statute, this should be read instead as "the director" where appropriate. The legislator grants the (G)MR the right of consent with regard to the creation of the complaints regulations. In addition, the (G)MR is given the right of consent regarding the procedure to be established by the board for the appointment of an internal confidential advisor and an external confidential advisor and the procedure for joining or establishing a complaints committee, respectively. The internal confidential advisor and the external confidential advisors are appointed by the competent authority on the proposal of the appointment advisory committee. The competent authority may deviate from this proposal. However, this possibility will have to be used very cautiously. The committee's opinion should be considered a weighty opinion. The scheme includes maximum time limits. It goes without saying that it benefits everyone if a complaint is handled as carefully as possible, but also as quickly as possible.