

# Complaints regulations

***BOOR (governing body of the public-authority schools in Rotterdam)***



*Version 1.3, June 2020*

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# 1. Definitions

## Article 1 Definitions used in these regulations

1. The following definitions will apply for the purposes of these regulations:
  - a. *competent authority*: BOOR (governing body of the public-authority schools in Rotterdam) or the head or principal of a school insofar as the complaint relates to their own school, and including their deputy, acting for them in their absence or incapacity, or the head of BOOR Services, hereafter referred to as 'the head'.
  - b. *Executive Board*: the body responsible for the day-to-day management of BOOR;
  - c. *school*: a school as referred to in the Primary Education Act (*Wet op het primair onderwijs*), the Expertise Centres Act (*Wet op de expertisecentra*) or Secondary Education Act (*Wet op het voortgezet onderwijs*), which falls under the competent authority;
  - d. *complainant*: the person who has submitted a complaint as described in article 2;
  - e. *complaint*: complaint about the actions or decisions of the complainee or their failure to act or take decisions, as described in article 3;
  - f. *liaison officer*: the school official who acts as the first point of contact for potential complaints and who, on request, provides the necessary information and, where necessary, refers the parties involved to the official to whom the complaint may be submitted;
  - g. *confidential advisor*: the official to whom complaints may be submitted about unacceptable behaviour, including abuse of power, sexual harassment, discrimination, aggression, use of violence and bullying';
  - h. *complaints officer*: the official to whom complaints may be submitted about the content and organisation of teaching, the organisation of the school, facilitation and general school-related matters;.
  - i. *complaints committee*: the National Complaints Committee for Education;
  - j. *confidential inspector*: the Education Inspectorate confidential inspector as referred to in section 4a of the Primary Education Act, section 4a of the Expertise Centres Act and article 3 of the Secondary Education Act;



- k. *sexual offence*: an offence against public morals as referred to in Book Two, Part XIV of the Criminal Code;
- l. *complainee*: the person about whom a complaint has been submitted and who is a staff member of a school, a member of the multi-school or school management team, the head of a school or a member of the governing body or a person responsible in other ways for performing tasks for one or more schools.
2. Not applicable to the English translation. [TRANSLATOR'S NOTE: this provision deals with use of masculine and feminine forms to denote persons. The English translation uses gender-neutral forms only].

## Article 2 The complainant

1. The following persons are entitled to submit a complaint:
  - a. pupils and former pupils of a school for special education as referred to in section 1 of the Expertise Centres Act who have reached the age of 13;
  - b. students and former students of a school for special secondary education as referred to in section 1 of the Expertise Centres Act who have reached the age of 13;
  - c. students and former students of a school for special secondary education, regardless of their age;
  - d. students and former students of a school for secondary education, as referred to in section 1 of the Secondary Education Act, regardless of their age;
  - e. the parent, guardian or carer of a pupil/student or former pupil/student;
  - f. multi-school principals or school heads;
  - g. other staff members of a school;
  - h. members of the Executive Board;
  - i. persons responsible in other ways for performing tasks for one or more schools;
  - j. members of the governing body;
2. Pupils of schools for primary education or special primary education are not entitled to submit complaints themselves; in submitting and dealing with a complaint they will be represented by their parents, guardians or carers.
3. Students of schools for secondary education who have reached the age of 16 are entitled to submit a complaint themselves. In such cases, their parents, guardians or carers need not be informed of the complaint.

4. The persons referred to in paragraph 1 above may at all times be represented by counsel of their own choice.

### Article 3 The complaint

1. The regulations identify two specific types of complaint, i.e.
  - a. complaints about the content and organisation of teaching, the organisation of the school, facilitation and general school-related affairs;
  - b. complaints about unacceptable behaviour, including abuse of power, sexual harassment, discrimination, aggression, use of violence and bullying.
2. Pupils/students, parents and staff members with a complaint of the type referred to in paragraph 1a of this article, may first submit this to the person directly involved, and then to parties further up the hierarchy up to and including the multischool principal/head of school. If this does not result in a satisfactory solution, the complainant may submit their complaint to the competent authority and/or complaints officer. The school's liaison officer or confidential advisor plays a practical role in relation to complaints of this nature, i.e. they provide information and refer the complainant to the person or body competent to address their complaint.
3. In relation to complaints of the type referred in paragraph 1b of this article, the confidential advisor is the complainant's first point of contact. If the school liaison officer is approached with a suspicion of or complaint about unacceptable behaviour, they will refer the complainant to the confidential advisor.
4. The term *sexual harassment* will be understood to mean: all intentionally or unintentionally sexually-tinged attention,
  - a. expressed as verbal, physical and/or non-verbal behaviour, and
  - b. experienced as undesirable by the person experiencing that behaviour, regardless of their age, gender and/or sexual preferences.If the person experiencing that behaviour is a minor, the term 'sexual harassment' will also be understood to mean behaviour regarded as undesirable by the parent(s) guardian(s) or carer(s) of the pupil/student in question, regardless of how the pupil/student experiences it. The same applies to pupils/students with learning difficulties, regardless of their age.
5. *Discrimination* will be understood to mean: any form of intentional or unintentional but unjust distinction, as referred to in section 2 of the Equal Treatment Act (*Algemene wet gelijke behandeling*), or any form of exclusion, restriction or preferential treatment that has as its objective or may possibly result in curtailment or infringement of recognition, enjoyment or exercise of human rights and fundamental political, economic, social or cultural freedoms, or freedoms in other fields of public life.
6. *Aggression, use of violence or bullying* will be understood to mean: behaviours or decisions or failure to behave or take decisions,

entailing intentional or unintentional mental or physical abuse of a person or group of persons.

7. Complaints within the meaning of these regulations do not include complaints for which statutory procedures or other remedies are in place. These include:
  - a. complaints relating to decisions of the competent authority, or refusal on the part of the competent authority to take decisions, for which the General Administrative Law Act (*Algemene Wet Bestuursrecht*) or the Central and Local Government Personnel Act (*Ambtenarenwet*) provide possible remedies, such as lodging an objection with the competent authority, lodging an appeal with or requesting a provisional measure from the Administrative Law division of the District Court (*sectie Bestuursrecht van de Arrondissementsrechtbank*) or lodging an appeal with the Central Appeals Court for Public Service and Social Security Matters (*Centrale Raad van Beroep*);
  - b. complaints which may be submitted to the examinations appeals committee (*commissie van beroep examens*), the participation in schools disputes committee (*geschillencommissie medezeggenschap*), the job rating disputes committee (*geschillencommissie functiewaardering*) and the appropriate education disputes committee (*geschillencommissie passend onderwijs*);
  - c. complaints relating to the suspension or exclusion of a pupil/student or refusal to admit a candidate pupil/student. The General Administrative Law Act provides remedies for complaints of this nature.

## 2. The liaison officer, confidential advisor and complaints officer

### Article 4 The liaison officer; requirements and procedural aspects

1. Each school has at least one liaison officer.
2. The liaison officer is a member of staff of the school in question.
3. The above provisions notwithstanding, in the exceptional situation in which none of the staff members in question is prepared to act as liaison officer, another person, preferably a staff member of the school group in question, may act as liaison officer.
4. The head appoints a liaison officer on a fixed-term or open-ended basis. The participation council has rights of approval in relation to the appointment. The explicit written agreement of the appointee is also required.
5. The head may temporarily withdraw an appointment as liaison officer if there are well-founded reasons for doing so.
6. The head will withdraw the appointment:



- a. at the request of the liaison officer;
  - b. If, having heard the liaison officer, they feel that there are well-founded reasons for doing so.
7. The appointment will lapse automatically:
- a. at the end of the fixed term, where the appointment was on a fixed-term basis;
  - b. from the moment that the liaison officer, being a staff member, no longer works at the school in question.

### **Article 5 The liaison officer; tasks and their fulfilment**

1. The liaison officer acts as the first point of contact within the school for complaints or potential complaints. On request, they provide the necessary information in this context and refer the person or persons involved to the multischool principal or head of school, confidential advisor, complaints officer, complaints committee or other relevant person or body. The persons involved in the school in question each have access to the liaison officer. Liaison officers perform their duties with the utmost care.
2. The liaison officer must exercise discretion and due care in sharing information disclosed to them in their capacity as liaison officer. This requirement does not apply:
  - a. if and insofar as they need in all reasonableness to share certain information with another person or body in order to carry out their tasks;
  - b. in respect of the confidential advisor, in relation to both solicited and unsolicited information;
  - c. in respect of the complaints committee, within the framework of a procedure brought before the committee;
  - d. in respect of the competent authority, the confidential inspector, police officers, public prosecutors and the court in the event of a sexual offence, including allegations or a reasonable suspicion of such an offence.
3. In respect of the situation referred to at 2d, the liaison officer is also required by law to disclose information to the competent authority.
4. In all cases in which the liaison officer is not required to exercise the discretion and due care described in paragraph 2 of this article, they are required to inform the person who has sought contact with them of this, saying which information they will supply and to whom.

### **Article 6 The confidential advisor; requirements and procedural aspects**

1. There are at least two confidential advisors for the schools, preferably a man and a woman.

2. Members of staff working for the competent authority may not act as confidential advisors. The same applies to members of the Board.
3. The Executive Board decides how many (two or more) confidential advisors will be appointed and outlines the job profile, deciding whether the same job description will apply to both or every confidential advisor and, if not, what job description will apply to each. If several job descriptions apply, these will vary by type of school and/or type of complaint.
4. The Executive Board appoints the confidential advisors on a fixed-term or open-ended basis. In respect of the appointment, the joint participation council or, if no such council exists, the participation councils have rights of approval in relation to the job profile. Appointees must give their explicit written agreement to the appointment.
5. The Executive Board ensures that in proposing candidates for the job of confidential advisor or in appointing them, the appointees or prospective appointees have an understanding of education and (1) are skilled in the field of assistance and referrals (2) where possible, have the trust of all the parties involved in the school (3) have the skills needed to conduct counselling interviews.
6. The Executive Board may temporarily withdraw an appointment as confidential advisor, if there are well-founded reasons for doing so.
7. The Executive Board will withdraw the appointment
  - I at the request of the confidential advisor themselves;
  - II if, having heard the confidential advisor, the Executive Board believes that there are well-founded reasons for doing so.
8. An appointment on a fixed-term basis will lapse automatically at the end of the fixed term.

## **Article 7 The confidential advisor; tasks and their fulfilment**

1. Confidential advisors on unacceptable behaviour have the following four tasks:
  - I To provide assistance and support to the complainant in seeking a solution within the school to a problem/conflict relating to unacceptable behaviour.
  - II To provide assistance to the complainant in following the complaints procedure.
  - III To provide Information and organise preventive activities .
  - IV To provide the school management team/competent authority with both solicited and unsolicited advice. **Annexe 1** to these regulations provides further elaboration of these tasks, and is an integral part of it.
2. Confidential advisors are obliged by law to report to the competent authority any suspicions of or information on a possible sexual offence involving a minor

pupil/student and a staff member of the school. External confidential advisors are not employed by the school and are thus not obliged to report a possible sexual offence.

3. Confidential advisors have no duty of confidentiality. However, they must exercise discretion and due care in sharing information disclosed to them in their capacity as confidential advisor.
4. Confidential advisors must exercise discretion and due care in sharing information disclosed to them in their capacity as confidential advisor. They need not exercise discretion
  - a. if and insofar as they need in all reasonableness to share certain information with another person or body in order to carry out their tasks;
  - b. in respect of a colleague who is also a confidential advisor, in relation to both solicited and unsolicited information;
  - c. in respect of the complaints committee, within the framework of a procedure brought before the committee;
  - d. in respect of the competent authority, the confidential inspector, police officers, public prosecutors and the court in the event of a sexual offence, including allegations or a reasonable suspicion of such an offence.
5. In the case referred to at 4d, the confidential advisor is also required by law to notify the competent authority.
6. In all cases in which the liaison officer is not required to exercise the discretion and due care described in paragraph 2 and paragraph 4 of this article, they are required to inform the person who has sought contact with them of this, saying which information they will supply and to whom.

### **Article 8 Possible tasks of the confidential advisor if a sexual offence is alleged or suspected**

1. The Executive Board may decide to designate one or more of the following tasks to the confidential advisor:
  - a. taking receipt on behalf of the competent authority of reports of allegations or reasonable suspicions of a sexual offence as referred to in Chapter 4 of these regulations;
  - b. on behalf of the competent authority, entering into consultations with the confidential inspector;
  - c. on behalf of the competent authority, informing the parent(s), guardian(s) or carer(s) of the suspected victim and suspected perpetrator that charges will be brought;
  - d. on behalf of the competent authority, informing the confidential inspector in accordance with the relevant statutory provisions.

2. If the Executive Board has taken a decision as referred to in paragraph 1, the confidential advisor is obliged to give immediate notification of each step they have taken in this context.
3. The Executive Board decides when and how the head in question will be informed.

### **Article 9 The complaints officer; requirements and procedural aspects**

1. The Executive Board decides how many complaints officers will be active and outlines the job profile, deciding whether the same job description will apply to every complaints officer and, if not, what job description will apply to each. If several job descriptions apply, these will vary by type of school and/or type of complaint. The joint participation councils have rights of approval in relation to the job profile or profiles.
2. Members of staff working at one or more of the schools operating under the Board are not eligible for the job of complaints officer. The same applies to members of the Board. A complaints officer may be employed by BOOR.

### **Article 10 The complaints officer; tasks and their fulfilment**

1. Complaints officers act as the point of contact for complaints or possible complaints, usually in response to a referral or mediation by a liaison officer. They perform their duties with the greatest possible care, and make every effort to take an objective approach to both the complainant and the complainee.
2. Complaints officers first explore whether individuals who have approached them because they are considering submitting a complaint, have first attempted to solve their problems in collaboration with the complainee or with the multischool principal or head of school. If this is not the case, the complaints officer should establish whether this is still realistically possible. If so, they should refer the person concerned to the complainee and/or the multischool principal or head of school in question, mediating where necessary. The complaints officer may also refer them to the confidential advisor.
3. If re-referral as referred to in paragraph 2 is not feasible, the complaints officer may suggest that, given the gravity of the case, the person involved should consider submitting a complaint to the relevant officer of the competent authority (i.e. the complaints officer themselves), the competent authority or the complaints committee, or contacting the confidential inspector, or lodging a criminal complaint with the police or criminal justice authorities.

4. If a procedure other than the procedure set out in these regulations is available to address the complainant's objections, the complaints officer explicitly refers them to this other procedure.
5. In reporting their findings in response to a complaint, the complaints officer makes every effort to ensure that the person involved will suffer no repercussions from following up on them. If the complaints officer concludes that there is a genuine risk of this happening, they will draw the person's attention to this.
6. If the complainant or the person who has told the complaints officer about their objections is a minor and has not yet reached the age of 16, the complaints officer will inform their parent(s), guardian(s) or carer(s), unless they believe that this is not in the interests of the pupil/student. The complaints officer will give the pupil/student prior notification that their parent(s), guardian(s) or carer(s) are to be informed.
7. If indications but no actual complaints come to the attention of the complaints officer, they may inform the Executive Board and/or the head or head of BOOR Services of them, where necessary giving further recommendations.
8. The complaints officer gives both solicited and unsolicited advice on measures and decisions to be taken by the competent authority.
9. Complaints officers have no duty of confidentiality. However, they must exercise discretion and due care in sharing information disclosed to them in their capacity as complaints officer.
10. In these regulations, confidentiality relates to the fact that complaints officers must act with discretion in the event of complaints, and should not share information disclosed to them in their capacity as complaints officer.
11. Complaints officers must exercise discretion and due care in sharing information disclosed to them in their capacity as complaints officer. They need not exercise discretion
  - a. if and insofar as they need in all reasonableness to share certain information with another person or body in order to carry out their tasks;
  - b. in respect of the complaints committee, within the framework of a procedure brought before the committee;
  - c. in respect of the competent authority, the confidential inspector, police officers, public prosecutors and the court in the event of a sexual offence, including allegations or reasonable suspicion of such an offence;
  - d. In respect of a BOOR data protection officer in the event of a complaint about a violation of privacy within the meaning of the General Data Protection Regulation.
12. In the case referred to in paragraph 11c, the complaints officer is also required by law to notify the competent authority.
13. In all cases in which the complaints officer is not required to exercise the discretion and due care described in paragraph 11 of this article, they are required to inform the person who has sought contact with them of this, saying which information they will supply and to whom.
14. The complaints officer monitors every complaint reported to them and each

year submits a report of their activities to the Executive Board.

### **Article 11 Affiliation to complaints committee**

The competent authority is affiliated on behalf of the schools to the complaints committee for public-authority and non-denominational education. The complaints committee regulations and brochure are part of these regulations and may be consulted at

<https://onderwijsgeschillen.nl/commissie/landelijke-klachtencommissie-onderwijs-lkc>  
[in Dutch]

### **Article 12 Tasks of the complaints committee**

The complaints committee gives the competent authority solicited and unsolicited advice on:

- a. whether a complaint is well-founded or not;
- b. measures to be taken;
- c. other decisions to be taken by the competent authority.

## **3. The complaints procedure**

### **Article 13 Submitting a complaint**

1. A complaint should only be submitted once the complainant has made every reasonable effort to find a solution to the complaint or objection with the complainee or their multischool principal or head of school.
2. The complainant may choose to submit a complaint to one of the following bodies or individuals:
  - a. the competent authority, or
  - b. the confidential advisor (one of the two confidential advisors), or
  - c. the complaints officer, or
  - b. the complaints committee.
3. If a complaint is submitted to the Executive Board, the latter will refer the complainant to the multischool principal or head of school, the confidential advisor, the complaints officer or the complaints committee, unless:
  - (a) the Executive Board decides to deal with the complaint itself, in the manner and with the safeguards specified in article 15 of these regulations;
  - (b) the procedure with the multischool principal or head of school has been completed without a satisfactory outcome for the complainant or complainants, or there are serious reasons for not bringing the complaint before the line manager concerned, including that the complaint involves them;
  - (c) the procedure with the confidential advisor and/or complaints officer has been completed without a satisfactory outcome for the complainant or complainants, or this procedure is not the preferred option, the latter to be decided by the Executive Board;

- (d) the complaints committee or other body is competent only to take cognizance of the complaint.
4. If the complaint is submitted to a different body than the bodies referred to in paragraph 2, the recipient will immediately refer the complainant to the competent authority or complaints committee. The recipient is obliged to maintain confidentiality.
  5. In principle, a complaint should be submitted within a year of the occurrence of the incident or incidents leading to it.
  6. On expiry of the period referred to in paragraph 5, a complaint may only be submitted to the complaints committee. The complaints committee may also deal with a complaint submitted at a later date, if in its explicit opinion there are well-founded reasons for doing so.

#### **Article 14 Substance of a complaint**

1. Complaints should be submitted in writing and signed by the complainant, their legal representative or their counsel or authorised representative. If the complainant is unable to submit a complaint in writing, they may do so in person. In that case, the recipient will put the complaint in writing and send it to the complainant for their approval before taking further action.
2. A complaint must include:
  - a. the name and address of the complainant;
  - b. date of submission;
  - c. a description of the complaint (including the name of the official to which the complaint applies, the name of the school and the nature of the complaint).
3. If the complainant fails to provide any of the information required under paragraph 2, they will have two weeks in which to remedy this. If after two weeks they fail to provide this information, the complaint will be declared inadmissible, unless explicit, well-founded reasons can be given not to declare the complaint inadmissible.

#### **Article 15 Treatment of a complaint by the competent authority or complaints officer**

1. If a complaint is submitted to the competent authority or complaints officer, the competent authority may decide to deal with the complaint itself if, in its opinion, the matter is fairly straightforward.
2. The competent authority or complaints officer is not required to deal with complaints that have already been submitted and dealt with.
3. As soon as the competent authority or complaints officer has dealt with the complaint to the satisfaction of the complainant, they are no longer required to apply the further provisions of this article.
4. The competent authority or complaints officer confirms receipt of the complaint in writing.

5. The competent authority or complaints officer issues a copy of the complaint and accompanying documents to the complainee or complainees.
6. The competent authority or complaints officer hears the complainant and the complainee or complainees. The hearing may take place in person or, if the circumstances allow, with the assistance of digital means of communication.
7. The complainant need not be heard if they have stated that they do not wish to exercise their right to be heard.
8. If a hearing is held, minutes will be taken.
9. With due regard for the provisions of paragraph 7, the competent authority or complaints officer should deal with the complaint within 6 weeks. They may postpone the proceedings for no more than 4 weeks. The complainant and complainee or complainees will be informed in writing of the delay.
10. The competent authority may take a provisional measure, specifying the period to which it will apply.
11. The competent authority or complaints officer gives the multischool principal or head of school written notification of the results of the inquiry into the complaint and of any conclusions to be drawn from them.
12. In the written notification the competent authority or complaints officer will state whether a subsequent complaint or request may be submitted to a person or body designated to deal with complaints by the competent authority.
13. If the complainant is not satisfied at how the competent authority or complaints officer has dealt with their complaint, they are at all times entitled to put it before the complaints committee.
14. In dealing with the complaint, the competent authority or complaints officer exercises the utmost care.

### **Article 16 National Complaints Committee for Education regulations**

Every complaint brought before the complaints committee will be treated in accordance with the National Complaints Committee for Education regulations. These are to be found at....

### **Article 17 Action and decision-making by the competent authority on receipt of the complaints committee's recommendations**

1. The competent authority notifies the complainant, the complainee, the head and the complaints officer of the complaints committee's recommendations, and of any consequences attached to them, within four weeks of their receipt. Notification will be accompanied by a copy of the recommendations and the minutes of the hearing, unless this will seriously compromise the interests of the complainant or complainee.
2. The period of four weeks referred to in paragraph 1 may be prolonged by no



more than four weeks. The competent authority will notify the complainant, the complainee, the complaints officer and the relevant head of its decision to prolong the period, giving reasons.

3. If the complaints committee has declared the complaint well-founded and the complaint relates to a school falling under the authority of the competent authority, the competent authority is required to notify the joint participation council or the participation council of the school in question of the complaints committee's conclusions and its recommendations.

### **Article 18 The (joint) participation council**

The competent authority immediately supplies the (joint) participation council with information on each of the findings of the complaints committee referred to in section 14 of the Primary Education Act, section 23 of the Expertise Centres Act and section 24b of the Secondary Education Act, in which the committee has concluded that a complaint is well-founded, and on any possible measures that the competent authority plans to take in response to these findings, acting with due regard for the regulations referred to in section 12, paragraph 1m, section 13i and section 14, paragraphs 2f and 3d of the Participation (Schools) Act (*Wet medezeggenschap op scholen*).

### **Article 19 Rehabilitation**

1. If a claim has wrongly been submitted to the confidential advisor, the complaints officer, the complaints committee or the competent authority, the competent authority may, where necessary, take appropriate rehabilitation measures.
2. Within the framework of rehabilitation measures, no information may be supplied to third parties without consultation with and where necessary agreement of the complainee..
3. Where a complaint also entails a false accusation, the competent authority will take measures against the complainant who has made the false accusation and to rehabilitate the staff member who has been wrongly accused, while making clear to all pupils/students and staff members of the school or combined school attended by the complainant that false accusations will not be tolerated.
4. Measures that may be taken within the framework of this article are listed in **Annexe 2** to these regulations.

## **4. Duty to report, duty to consult and obligation to lodge a criminal complaint in the event of sexual offences**

### **Article 20 Duty to report**

If it has in any way come to the notice of a staff member of a school that a staff member or other person responsible for performing tasks for the school, may be committing or may have committed a sexual offence in relation to a minor pupil/student of the school, they are obliged by law to inform, without delay, the competent authority or the confidential advisor to whom the provisions of article 8 paragraph 1a apply.

### **Article 21 Duty to consult**

If it has in any way come to the notice of the competent authority that a person responsible for performing tasks for their school may be committing or may have committed a sexual offence in relation to a minor pupil/student of a school, they or the confidential advisor to whom the provisions of article 8 paragraph 1b apply, are obliged by law to enter without delay into consultations with the confidential inspector.

### **Article 22 Obligation to lodge a criminal complaint**

1. If from the consultations referred to in article 21 parties conclude that there is a reasonable suspicion that the person in question has committed a sexual offence in relation to a minor pupil/student of a school, the competent authority or the confidential advisor to whom the provisions of article 8 paragraph 1d apply is obliged by law to lodge a criminal complaint with the police or the criminal justice authorities.
2. The competent authority or the confidential advisor to whom the provisions of article 8 paragraph 1e apply is obliged by law to notify the confidential inspector without delay that they have lodged a criminal complaint.
3. Before lodging a criminal complaint, the competent authority or the confidential advisor to whom article 8 paragraph 1c applies, is obliged by law to inform the parents of the pupil/student concerned and the person against whom the criminal complaint will be lodged of their intention to file a criminal complaint.

## **5. The confidential inspector**

### **Article 23 The confidential inspector**

1. Pursuant to the relevant statutory provisions, the confidential inspector works on behalf of:
  - a. pupils/ students who are the victims of sexual abuse or sexual harassment on the part of a person responsible for performing tasks for a school or a pupil/student of the school;
  - b. persons responsible for performing tasks for a school who are the victims of sexual abuse or sexual harassment on the part of a person responsible for performing tasks for the school or a pupil/student of the school;
  - c. pupils and students, persons responsible for performing tasks for a school, agencies of the competent authority, parents, complaints committees appointed by the school, confidential advisors and liaison officers confronted with an incidence of sexual abuse or sexual harassment as referred to at a or b.

2. Apart from the tasks ensuing from the provisions of article 21, the confidential inspector is responsible for performing the following tasks on behalf of the persons and agencies referred to in paragraph 1:
  - c. acting as a point of contact;
  - d. advising on possible steps to be taken;
  - e. providing assistance in taking steps aimed at seeking a solution;
  - f. on request, providing assistance in submitting a complaint or lodging a criminal complaint.
3. The confidential inspector is exempt from the statutory obligation to lodge a criminal complaint in respect of a sexual offence committed against a student who has reached the age of majority or a person responsible for performing tasks for a school.
4. The confidential inspector is obliged to keep confidential any information disclosed to them in the performance of their duties by a pupil or student, the parents, guardians or carers of a pupil or student or a person responsible for performing tasks for a school.

## 6. Information provision

### Article 24 Publication of these regulations

1. The competent authority will publish these regulations on the BOOR website, where they are accessible to the general public. The competent authority is responsible for ensuring that these regulations are available for inspection at every school and at the BOOR Services offices. If these regulations may, on request, be accessed on a computer at the school/BOOR Services offices, they are available for inspection within the meaning of these regulations.
2. A reference will be made to these complaints regulations in every secondary school prospectus and in each school's student or pupil charter. Where applicable, schools for special secondary education are required to include a reference to the complaints regulations in their voluntary student charter.
3. The competent authority ensures that, in principle, stakeholders may, be supplied, on request, with a digital version of these regulations and further information in digital form.

### Article 25 Provision of further information

The competent authority is responsible for ensuring that every stakeholder is notified of:

- a. the names, telephone numbers, addresses and email addresses of the confidential advisors;
- b. the names, telephone numbers, addresses and email addresses of the complaints officer;
- c. the address of the competent authority;
- d. the names and addresses of any other parties

responsible for dealing with complaints.

The schools falling under the competent authority ensures that every stakeholder is notified of the names and contact details (e.g. email address or telephone number) of the liaison officers.

## **7. Final provisions**

### **Article 26 Unforeseen**

The competent authority will decide in all cases not provided for in these regulations.

### **Article 27 Annexes**

The following annexes are part of the complaints regulations:

- Annexe 1: further information on the tasks of the confidential advisor.
- Annexe 2: annexe to Article 19 on Rehabilitation.

### **Article 28 Withdrawal of the former regulations**

BOOR's complaints regulations as approved on 1 October 2018 will lapse on the entry into force of these regulations.

### **Article 29 Title**

These regulations will be known as 'the Rotterdam public-authority schools' complaints regulations and regulations on duty to disclose, duty to consult, and obligation to lodge a criminal complaint in the event of sexual offences'.

### **Article 30 Entry into force**

These regulations will enter into force on the day following the day on which they were approved.

# Annexe 1 Further information on the tasks of the confidential advisor

## I. Assistance and support to the complainant

I-1. The confidential advisor, or where the school has a liaison officer, the liaison officer, is the complainant's first point of contact in the event of a complaint about unacceptable behaviour, including abuse of power, sexual harassment, discrimination, aggressive or violent behaviour or bullying, and should act with the utmost care and discretion.

I-1a. If a confidential advisor is present in the school, the complainant may approach them directly with a complaint about unacceptable behaviour.

I-2. In respect of complaints other than those referred to at I-1, the confidential advisor will refer the complainant to the competent authority<sup>1</sup> and will supply information on the formal complaints procedure.

I-3. The confidential advisor listens carefully, asks questions to clarify the problem, and defines and registers the complaint.

I-3a. The confidential advisor asks the complainant how they want to deal with the complaint, and what follow-up steps they wish to take.

I-3b. The confidential advisor informs the complainant of possible follow-up steps in the complaints procedure.

I-3c. The confidential advisor provides information on the consequences of taking follow-up steps so that the complainant can take a conscious, well-considered decision. At the request of the complainant, the confidential advisor may advise on the decision to take.

I-4. If the complaint allows, the confidential advisor first advises the complainant to seek possible solutions within the school, if possible.

I-5. At the request of the complainant, the confidential advisor may organise talks between the parties involved and assist the complainant in these talks.

I-6. The confidential advisor will refer the complainant – where necessary or desirable – to other counsellors/agencies.

I-7. If the complainant's complaint allows, the confidential advisor will investigate whether mediation may lead to a solution.

I-8. If neither mediation nor talks between the parties involved help or prove feasible, the preferred option before submitting a formal complaint is to involve the relevant representative of the competent authority, i.e. the head of school or head of BOOR Services in seeking a solution. (If the head of school or head of BOOR Services is given no opportunity to seek a solution to the complaint, it will be difficult for the complainant to cite 'shortcomings of the school' as evidence in the complaints procedure, unless the complaint relates to the head of school/head of BOOR services, or the complainant feels insecure with or has insufficient confidence in the head of school/head of BOOR Services).

I-9. The confidential advisor monitors whether the complaint has been redressed and provides the complainant with appropriate aftercare.

I-10. The confidential advisor registers as objectively as possible every complaint received, with follow-up appointments and follow-up steps. They ensure that all data, files and digital information carriers containing data relating to the complaint are stored safely.

I-11. In performing their duties, the confidential advisor takes the greatest possible care. Before other persons are consulted, the confidential advisor informs the complainant of the information to be supplied, and with what objective.

## **II. Support to the complainant during complaints procedures**

II-1. If required, the confidential advisor will support the complainant in following the complaints procedure, and will assist them in lodging a criminal complaint with the police or criminal justice authorities.

## **III. Active contribution to a safe school climate by providing information and organising preventive activities**

III-1. The confidential advisor provides pupils/students, parents and staff members with information on the nature of their work.

III-2. The confidential advisor provides pupils/student, parents and staff members with information on unacceptable behaviour and the school's commitment to preventing it.

III-3. The confidential advisor advises the team and, where necessary, organises meetings for the team focusing on preventing complaints. Topics include recognising the signs of bullying, attention to group dynamics, communication with parents, pupils/students and colleagues and so on.

III-4. The confidential advisor organises other preventive activities to safeguard and improve the quality and safety of the school. They may put together and distribute information materials, organise meetings on relevant legislation and invite third

parties to provide courses or training, for example.

#### **IV. Providing the competent authority with solicited and unsolicited advice on preventing and dealing with unacceptable behaviour.**

IV-1. The confidential advisor is able to learn from each complaint, and to translate what they have learned into positive action to make the school a safer place.

IV-2. In response to signs, rumours and indications, the confidential advisor draws the competent authority's attention to possibly unsafe situations.

IV-3. If complainants report an incident to the confidential advisor, but are unwilling to put their name to a complaint, the confidential advisor should not wait until the complaint has been submitted, but should draw the attention of the competent authority to their suspicions of an unsafe situation, without referring to the complainants by name. The confidential advisor will inform the complainant of the follow-up steps they plan to take, and of how the complainant's anonymity can be guaranteed.

IV-4. Each year, the confidential advisor will submit a written, anonymised report of their work to the competent authority.

IV-5. The confidential advisor will present this annual report to the competent authority in person, providing recommendations, based on the complaints, on ways of making the school even safer.

## Annexe 2: annexe to article 19 on rehabilitation

The following rehabilitation measures may be taken, depending on the specific situation.

### a. interviews

The competent authority<sup>ii</sup> conducts an interview or several interviews with the wrongly accused staff member in which:

- both reflect on what has happened;
- the competent authority shows their understanding for the position of the staff member;
- the competent authority asks the wrongly accused staff member what they would regard as adequate compensation;
- the competent authority presents the measures they plan to take to ensure the staff member's rehabilitation;
- where necessary, the competent authority proposes a plan for the reintegration of the staff member in the work process;
- the competent authority decides whether anything will be entered in the staff member's personnel records;
- the parties discuss the need for personal support for the wrongly accused staff member.

In joint consultation, the wrongly accused staff member and the competent authority draw up a rehabilitation plan, which may include the following measures:

- the competent authority expresses in person or in writing their confidence in the wrongly accused staff member;
- a team meeting in which the wrongly accused staff member may share their experiences with the other team members;
- a letter from the competent authority to the parents expressing confidence in the wrongly accused staff member;
- a meeting for pupils/students in which confidence in the wrongly accused staff member is expressed, possibly in the presence of said staff member;
- reimbursement of the costs incurred before, during and after the inquiry into the complaint, including costs of telephone calls, postage and legal aid as well as compensation for lost income;
- other measures agreed by the competent authority and the wrongly accused staff member.



A wrongly accused staff member may not be ready for rehabilitation, but may first need some form of professional help in coming to terms with their experiences.

In that case, the staff member may seek the help of:

- Victim Support Netherlands (*Landelijk Orgaan Slachtofferhulp*);
- *MIND Korrelatie* (organisation providing psychological and psycho-social assistance)
- their trade union;
- another form of assistance agreed between the competent authority and the staff member.

The competent authority will pay the costs involved in providing personal assistance for the wrongly accused staff member.

b. informing the team

The competent authority will convene a team or staff meeting in which they:

- inform the staff of the complaints committee's or competent authority's decision;
- inform the staff of the measures the competent authority will take or has taken to ensure the reintegration of the wrongly accused staff member;
- where applicable, inform the staff about how and when the wrongly accused staff member will resume work, if this is known;
- if the wrongly accused staff member is not present at the meeting, pass on their wishes with regard to personal contact with colleagues;
- take the time to field staff members' questions;
- hand out a letter which will be sent to all parents;
- instruct the staff members that parents who have questions should be referred to the competent authority;
- inform staff members of the meeting with the pupils/students directly involved.

The competent authority informs the wrongly accused staff member of the proposed agenda of the meeting. The staff member will have the opportunity to comment on the agenda, and to attend the meeting. Responsibility for the meeting will remain with the competent authority.

c. informing parents

The competent authority will draft a letter to pupils'/students' parents/carers in which:

- parents are informed about the accusations and the results of the complaints committee's/competent authority's inquiry;
- parents are informed of the measures to be taken by the competent authority/school management team in relation to the reintegration of the staff member.
- parents are informed of how and when the staff member will resume work.

The competent authority will inform the staff member of the draft contents of the letter, and give them the opportunity to comment. Responsibility for the letter remains with the competent authority.

d. meetings with the pupils/students directly involved

The pupils/students taught by the staff member will be informed in class. In secondary schools, the mentor will be responsible for providing the information.

The pupils/students will be informed of:

- the measures taken or to be taken by the competent authority to ensure the reintegration of the staff member;
- how and when the staff member will resume work.

Pupils/students will have the opportunity to ask questions.

The competent authority informs the staff member of the proposed agenda of the meetings, and is given the opportunity to comment. Responsibility for the meeting remains with the competent authority. The staff member may attend.

e. informing all pupils/students

The competent authority will draft a letter to all pupils/students informing them of:

- the measures to be taken by the competent authority/school management team in relation to the reintegration of the staff member.
- how and when the staff member will resume work.

The competent authority will inform the staff member of the draft contents of the letter, and give them the opportunity to comment. Responsibility for the letter remains with the competent authority.

g. in addition to the possible rehabilitation measures listed above, the following measures may be taken in the event of a complaint submitted on the basis of a false accusation.

Measures against the complainant will depend on the seriousness of the accusation and the harm caused.

Possible measures against the party making a false accusation:

- require them to apologise in person in a private setting;
- require them to apologise in writing;
- require them to apologise in person in a meeting open to all pupils/students and staff;
- suspend them for between one and three days;
- exclude them from the school, provided an agreement has been reached with another school in the region;
- take disciplinary measures, with due regard for statutory procedures.

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<sup>i</sup> This may be any representative of the competent authority as defined in article 1.1a of the Complaints Regulations

<sup>ii</sup> This may be any representative of the competent authority as defined in article 1.1a of the Complaints Regulations