

Historical Note

New Section made by final rulemaking at 23 A.A.R. 693, effective May 6, 2017 (Supp. 17-1).
Amended by final exempt rulemaking at 25 A.A.R. 1926, effective July 8, 2019 (Supp. 19-3).

R7-5-507. Complaints

- A. To make a complaint regarding a charter holder, a person shall submit to the Board a document ~~through ASBCS Online~~ that:
1. Alleges, with ~~specificity~~ particularity that the charter holder is not in compliance with its charter, other contractual obligations ~~agreements~~ with the Board, ~~federal or state or federal~~ law, or other applicable authority ~~this Chapter~~;
 2. Includes a statement of ~~the~~ facts on which the allegation(s) of noncompliance ~~violation~~ is (are) based; and
 3. Includes supporting evidence, if available.
- B. Board staff shall review and process all the ~~complaints in accordance to determine whether the complaint is within the~~ with the Board's jurisdiction, its oversight responsibilities, and the procedures set forth herein.
1. ~~Board staff shall determine whether a complaint is within the Board's jurisdiction. A complaint is within the Board's jurisdiction if the complaint alleges the charter holder is not in compliance with its charter, other contractual obligations with the Board, state or federal law, or other applicable authority.~~
 - a. ~~If Board staff determines the complaint is within the Board's jurisdiction or that additional information is needed for a jurisdictional determination, Board staff shall, within 10 business days after receiving the complaint, send a copy of the complaint to the charter holder complained against. Board staff may request that additional information be submitted to the Board, if needed.~~
 - b. ~~If Board staff determines the complaint is not within the Board's jurisdiction or that it is more appropriately within the jurisdiction of an agency with expertise in the matter, within 10 business days after receiving the complaint, Board staff:~~
 - i. ~~Shall notify the complainant that the Board does not have jurisdiction or that the Board is not the appropriate agency to address the complaint.~~
 - ii. ~~May inform the complainant of the appropriate agency that may have jurisdiction over and/or expertise in the matter.~~
 - iii. ~~May inform the complainant that he/she may file a complaint with the appropriate agency.~~
 - iv. ~~Shall provide the charter holder with a copy of the complaint, and~~
 - v. ~~Shall inform the charter holder and complainant that the charter holder is not required to file a response with the Board.~~
 - c. ~~Notwithstanding the Board's jurisdiction, if Board staff determines the complaint raises a concern that requires further explanation from the charter holder, Board staff may, within 10 business days after receiving the complaint, send a copy to the charter holder complained against.~~
 - ~~If Board staff determines the complaint is not within the Board's jurisdiction but may be within the jurisdiction of another agency, Board staff shall inform the complainant of the agency that has jurisdiction and that the complainant may file the complaint with the appropriate agency; or~~
 2. Except as provided in Section 3, if a complaint is filed that is within the Board's jurisdiction or for which the Board requests additional information, the charter holder complained against shall provide the Board with a written response within 10 business days after receiving a copy of the complaint and/or the Board's request for additional information. The response shall address the allegation(s) and facts stated in the complaint and provide the information, if any, requested by the Board. The charter holder may address the supporting evidence included in the complaint and include any relevant evidence in its response. ~~If Board staff determines the complaint is within the Board's jurisdiction, Board staff shall, within five days after receiving the complaint, send a copy to the charter holder complained against.~~
 - a. ~~If the charter holder fails to submit its response within the timeline stated in Section 2, Board staff shall record the charter holder's untimely response on the charter holder's operational performance dashboard. The operational performance dashboard contains information from a variety of sources, including complaints, and is used by Board staff to evaluate a charter holder's operational performance. The Board shall consider the charter holder's operational performance throughout the term of the charter contract including, but not limited to, renewals, interval reviews, transfers replications, and amendment requests.~~
 - b. ~~If the charter holder does not respond within the timeline stated in Section 2, Board staff shall send notification to the charter holder stating the necessity of a timely response and requiring the charter holder to respond within seven (7) days of receipt of the notification.~~
 - c. ~~If the charter holder fails to submit its response within the timeline stated in Section 2(a), Board staff may place the charter holder on the agenda for a subsequent Board meeting for the Board's determination of whether the charter holder is in compliance with its charter, other contractual obligations with the Board, state or federal law, or other applicable authority.~~
 3. If Board staff has basis upon which to determine that the allegations alleged in the complaint do not violate the charter holder's charter, its obligations to the Board, federal or state law, or any other applicable authority, Board staff may deem the complaint unsubstantiated, send a copy to the charter holder complained against and notify the charter holder that it is not required to file a response.
 4. Board staff may, for good cause, grant the charter holder an extension of time to submit its written response. Charter holders must submit requests for extensions of time in writing or in a manner as directed by staff and include the reason(s) for the request. Charter holders shall submit requests for extensions at least 2 days prior to the date on which the response is due to the Board.
 - a. If a charter is required to respond to a complaint within 24 hours pursuant to section 4.e. then the charter holder shall submit a request for extension within a reasonable amount of time prior to the deadline.

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5. ~~Board staff shall review the complaint, the charter holder's response and any other relevant information gathered or received in connection with the complaint to determine whether a violation of the charter, other contractual obligations with the Board, state or federal law, or other applicable authority can be substantiated. In its review of the complaint, Board staff may take, but is not limited to, the following actions:~~
- ~~a. Conduct further investigation, including a site visit, if additional information is needed;~~
 - ~~b. Notwithstanding the Board's jurisdiction, consult with another agency with expertise related to a complaint;~~
 - ~~c. Place the charter holder on the agenda for a subsequent Board meeting for the Board's determination whether the charter holder is in compliance with its charter, other contractual obligations with the Board, state or federal law, or other applicable authority. In deciding whether to place the charter holder on the Board's agenda, the Board's Executive Director, in consultation with the President of the Board, as appropriate, may consider the seriousness of the allegations, the information presented by the complainant and the charter holder, and the charter holder's willingness to resolve any alleged noncompliance.~~
 - ~~d. If Board staff determines that the matter is more appropriately within the jurisdiction of an agency with expertise and notifies the complainant in accordance with Section 1(b), Board staff may rely on the determination and action taken by the agency with expertise in determining whether to substantiate the complaint and is not obligated to conduct its own investigation or termination.~~
 - ~~e. If a complaint identifies or an issue is raised that indicates, a potential threat to the health or safety of student(s) or an issue is raised that may cause harm to a student, Board staff may require the charter holder to respond within 24 hours of its receipt of the complaint and/or Board's request for additional information. Board staff may alert any necessary authorities including law enforcement, Child Family Services Agency, and/or the Arizona Department of Education, and may visit the school.~~
6. ~~A claim is substantiated when, based on the documentation received by the Board, it is more likely than not that a violation of the charter, an obligation to the Board, applicable law or other authority has occurred.~~
- ~~a. If the complaint is deemed substantiated by Board staff or by another agency, Board staff shall mark the complaint substantiated, make it publicly available, and record the noncompliance issue on the charter holder's operational performance dashboard under the appropriate measure.~~
7. ~~The Board considers a complaint "closed" when:~~
- ~~a. Board staff has deemed the complaint as substantiated, the charter holder has had an opportunity to respond, and the charter holder has documented that it has made a good faith effort to address the concern;~~
 - ~~b. Board staff has deemed the complaint unsubstantiated; or~~
 - ~~c. The Board has made a final determination as to the complaint.~~
8. ~~If, at a later date, the complainant or charter holder has additional information to provide to a closed complaint, Board staff shall accept the information and conduct a review, as appropriate.~~
9. ~~Once a complaint is closed, Board staff shall send the complainant and charter holder notice of the final action to be taken.~~
10. ~~After the complaint has been reviewed and closed, the complaint, response and all related documents are retained in accordance with the Board's retention policy and are subject to public records law.~~
11. ~~If Board staff has reason to believe it is more likely than not that the charter holder may have violated the law, Board staff may provide the complaint to the Office of the Arizona Attorney General for further investigation, as appropriate.~~
- ~~C. A charter holder complained against shall, within 10 days after receiving a copy of the complaint provided under subsection (B)(2), provide a written response to the Board that addresses each allegation, the statement of facts, and supporting evidence in the complaint. The charter holder may include evidence of compliance with the response. Board staff may grant the charter holder an extension to submit the written response.~~
- ~~D. Board staff shall review the complaint and the charter holder's response to determine whether a violation of the charter, other contractual agreements with the Board, federal or state law, or this Chapter can be substantiated. Board staff shall conduct further investigation if additional information is needed. Board staff may place the charter holder on an agenda for the Board to determine whether the charter holder is in compliance with the charter, other contractual agreements with the Board, federal and state law, and this Chapter.~~
- ~~E. Within 10 days after receiving the charter holder's response under subsection (C), Board staff shall send:~~
- ~~1. The complainant a copy of the response, and~~
 - ~~2. The complainant and charter holder notice of the final action to be taken.~~