

School – An integrity system

Section 4 –Mechanisms for administrative complaints

Schools' teaching, auxiliary, advising, control, and administrative personnel are subject to disciplinary responsibility for violations of their duties according to their work contracts, as well as for violations of behavioral norms which damage the interests of education and the prestige of the institution. (Article 115 of Law nr. 128/1997 concerning the Statute on education personnel)

[The idea behind this section, as presented in the debates, was to encourage students to go to someone such as an administrator and speak out if there is a problem. This gives students a voice when they are victims or witnesses of corruption, because they lack credibility with the normal authorities because of their age. However, when school personnel and students understand they are part of an integrity system, then school personnel will be prepared to take students seriously and students can have the security of knowing they will be listened to.]

You may address complaints to:

A. The Director of the education institution

[provides the complete legal framework ensuring this right to complain to the director, and obligating the director to take the appropriate actions]

B. Administrative council

[provides the complete legal framework ensuring this right to complain to the administrative council, and obligating the council to take the appropriate actions]

C. Teachers' Council

[provides the complete legal framework ensuring this right to complain to the teachers' council, and obligating the council to take the appropriate actions]

Attention! The teachers' council meets: when the director considers it necessary, at the request of two thirds of the members of the student council, at the request of one half plus one of the members of the council/representative association of the parents, or at the request of two thirds of the members of the administrative council. (by Romanian law)

D. School inspector

E. The hierarchical superior organ

F. The Ministry of Education and Research

[sections D-F also describe the Romanian legislative framework in respect to those institutions and their responsibilities to the complainant students who complain of acts of corruption. The respective procedures for lodging a formal complaint or request is described in each section. These institutions are then obligated by law to receive complaints and act on them as appropriate according to their competences.]

Section 6 – Means of Judicial Complaint

A. The court of administrative contentions

If you are not happy with the response received from the administrative complaint process, or if you have not received an response within the legal term, then you may address, according to article 8, paragraph 1 of Law 554/2004, the administrative-fiscal tribunal in district in which you have your legal residence, soliciting the annulling of the act, in whole or in part, and restitution of moral losses and damages. In the same way, you may also address the court in the case that your case is not resolved within the legal timeframe or for an unjustified refusal to resolve your case.

Attention!

- You may only address the judicial court after you have followed the preliminary procedure
- The legal term for addressing the court is within six months (or one year in exceptional cases) from the date:
 - Of the reception of the response to the preliminary complaint;
 - Of the expiration of the legal term for solution of the request;
 - Of the communication of the unjustified refusal to resolve the request.

Action in the case of administrative contentions proceeds on the basis of art. 52 of the Constitution, which guarantees the right of a person denied their rights under the law, by a public authority, through an administrative action, or through non-resolution within the legal period of a request, to obtain recognition of their rights, annulment of the administrative action, and reparation of their losses.

In the same way, article 1, paragraph 1 of Law 554/2001 on administrative contentions provides that any person who considers themselves denied their rights or a legitimate interest, by a public authority, through an administrative act or through non-solution within the legal term of a request, may address the competent court of administrative contentions for annulment of the respective action, recognition of their rights or legitimate interest, and reparation of the losses caused to them.

Important!

Article 2, paragraph 2 of Law 554/2004 assimilates administrative actions and unjustified refusal to resolve a request referring to a right or legitimate interest, as well as the non-response to a request within the legal term.

Attention!

A request is considered “unresolved within the legal term” if you have not received a response within 30 days of registering the respective request, if the law does not provide for another term (article 2, paragraph 1, letter g of Law 554/2004).

The decision pronounced by the administrative-fiscal tribunal may be attacked by recourse to the section on administrative contentions at the court of appeals in the district in which the public institution is located.

[sample complaint forms are provided here with instructions for the sending]

[from hear, section seven deals with criminal court cases, including the laws on the basis of which complaints may be made and details of the rights of the citizen in these situations. Again, sample complaint forms are included to be copied freely.]

Section 7 – The role of parents

In order to be able to formulate a complaint, regardless of whether it is directed to an administrative organ or to a judicial court, the person making the complaint must have the right to do so, that is to qualify under one of the following situations according to Romanian law:

- a. the person is a legal adult (18 years old or older);
- b. the person is under 18 years of age, but is a married woman;
- c. the person is between 14 and 18 years old, and the complaint is signed along with this person by their legal guardians;
- d. if the person is under 14 years old, or is not deemed legally capable of making decisions, the complaint is signed by their legal representatives: i.e. parents, guardians or caretakers.

Attention!

In the case of a complaint made before a court of administrative contentions, if this does not fulfill the conditions listed above, it will be annulled at the end of the legal term if the legal guardians have not signed the complaint by that time.

Exception

A denunciation, being a form of criminal complaint by a witness, may be made, and is valid, even if it is signed only by a person between 14 and 18 years of age, with also being accompanied by the signature of the legal guardians.

Important

If a person between 14 and 18 years of age, who has filed a complaint, later desires to renounce the complaint, the approval of the legal guardians alone is no longer sufficient, but also that of the appropriate authority for child protection is needed.

Considering that, in the pre-university environment, the overwhelming majority of students are under 18 years of age, the role of the parents in the prevention and the combating of unethical behavior is essential.

Their major role is not absolutely only to give their consent to their minors' complaints, but also to encourage their children to contribute actively in order to ensure a climate of integrity in their school.

Although it seems that the isolated reactions of one individual is insignificant, the accumulation of those efforts will certainly lead to the change of old attitudes and mentalities

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and to the considerable improvement of the act of learning, through the reduction of situations which generate unethical behavior.