



## COMPLAINTS

### Purpose

To provide a clear process for dealing with complaints regarding all Board of Trustee personnel and complaints of non-compliance at the Hostel.

### Guidelines

- All complaints are dealt with in an open, transparent and timely manner.
- Natural Justice underpins all actions. See Appendix 1.
- Ensure all parties have clarity as to the process.
- Provide clear expectations of how people will operate, once a complaint has been made.
- Anonymous complaints will not be accepted in terms of the process. However it is acknowledged they may need to be explored.
- All external complaints about staff will be dealt with by the Deputy Principal/Principal or by the Director of Boarding for Enwood Staff.
- Staff must not deal with complaints about other staff without the Principal's permission.
- **The complaint procedure will be available to all parents on the website.**

### Procedures

**General Complaints:** *This could be relating to systems and processes, not personnel*

1. The matter would be referred to the Deputy Principal who is in charge of the day to day running of the school. The Deputy Principal will inform the Principal. Enwood House matters would be referred to the Director of Boarding.
2. The person in charge of the specific area would then be consulted.
3. An agreed next step would be made by those concerned.
4. The complainant is informed of the outcome of the next steps.
5. The complainant may bring a support person to any interview.
6. Complaints by staff about staff may be reported to:
  - Principal or Deputy Principal
  - Health and Safety Officer
  - Guidance Counsellors
  - Senior Leadership Team members
  - HOFs/ HODs
  - Enwood House: Director of Boarding, Deputy Director. If the complainant is not satisfied then they have the right to contact the Board of Trustees Chair, or for the Hostel, the school Principal.
7. The Board of Trustees Chair would assess the situation and make a final decision.

**Complaints about all Staff:** *Teaching, Support, Hostel and Canteen*

1. Complaints about staff are referred to the Deputy Principal / Principal, who will deal with the complaint. Complaints about Enwood staff are referred to the Director of Boarding who will deal with the complaint in consultation with the Principal.
2. Complaints from students and/or parents and whanau will be accepted verbally or in writing. If the complaint is verbal the recipient of the complaint will take notes of the conversation for future reference.
3. In terms of natural justice, the staff member will be informed of the complaint and shown a copy of the complaints procedures.
4. The staff will have a right of reply.



5. The Principal/Deputy Principal/Director of Boarding will devise next steps in consultation with staff and inform the complainant. If the matter is resolved, all investigation will cease.
6. If the matter of the complaint warrants further action, the Board of Trustees Chair will be informed and action taken in line with the various Collective Agreements: PPTA Section 3.4 for Teaching staff (*Appendix 2*)  
NZEI Section 7.13 for Support Staff (*Appendix 3*)  
SFWU Section 6.8 for Canteen and Hostel Staff (*Appendix 4*)
7. As is practicable, the staff member will be kept informed and their confidentiality protected and their integrity upheld.
8. The staff member will be offered counselling.
9. The complaints procedure will be located on the Staff Hub.
10. If staff receive complaints, it is expected that these will be referred to the Principal or Deputy Principal for them to decide the next course of action.
11. All complaints will be recorded in the Complaints file which is kept in the Board Secretary's Office. The Principal and Board Chair have access to this file.
12. All parties will be notified as to the outcome once a conclusion is reached.
13. The process of complaint also relates to non-compliance of Hostel property in relation to Education (Hostel) Act 2005. \*

### **Complaints about the Director of Boarding**

1. Any complaints about the Director of Boarding are to be given to the Principal, in writing or in person.
2. Natural Justice will allow the Director of Boarding to have the right of reply.
3. Principal will seek a satisfactory conclusion based on evidence.
4. The Board Chair will be informed and may be a part of the resolution process if necessary,

### **Complaints about the Principal**

5. Any complaints about the Principal are to be given to the Chair of the Board of Trustees, preferably in writing.
6. Natural Justice will allow the Principal to have the right of reply.
7. The Board Chair will seek a satisfactory conclusion based on evidence.
8. If the Board Chair deems the matter to be serious then section 6.1 of the Principal's Collective Agreement will be followed. (*Appendix 5*)

### **Complaints about the Board of Trustees**

1. Any complaints about a Board member will be made in writing to the Board Chair.
2. If the written complaint is about the Board Chair, then it will be referred to the Principal.
3. The procedure will be as follows:
  - a) The Board Chair/Board members will be shown such complaint and have the right and opportunity to respond.
  - b) The Principal/Board Chair will seek a satisfactory conclusion.
4. Rules of natural justice will be observed.
5. In the event of a sustained dispute of a serious nature, mediation will be used.

**Last Reviewed: March 2021**

**Board Chair**

**Review Date: March 2023**

**Principal**



\* Further advice may be sought from the Hostel Licensing Office available on line through the Ministry of Education [www.minedu.govt.nz/hostels](http://www.minedu.govt.nz/hostels)

## Appendix 1

# Principles of natural justice

The board, the principal and delegated staff need to follow a fair process when making decisions that impact on the rights, obligations and interests of staff, students and, at times, parents. This involves applying the principles of natural justice. In New Zealand these principles are protected in the Bill of Rights Act 1990, [section 27](#).

If a person is not happy with a decision of the principal about a staff or student matter they can complain to the board. If they are not happy with a decision of the board they can:

- ask the board to review the decision
- contact the Office of the Ombudsman
- apply to the High Court to review the board's decision-making process

It is definitely worth getting the fairness processes right in the first place, as fixing them up later can be time consuming, stressful and financially damaging!

In many cases the board and school already has a policy or procedure or there is some other process or rule to follow that make it easier to get things right, e.g:

- Concerns and complaints procedure / policy, like the ones in the [NZSTA governance framework](#), C4 and C4.1
- The Education Act, and the rules, regulations and guidelines that form part of the legal framework for schools, including the Ministry of Education's Guidelines for Principals and boards of trustees on standdowns, suspensions, exclusions and expulsions
- Processes in staff collective employment agreements

Sometimes, however, the board / principal has to go back to basics and "follow the principles of natural justice." NZSTA Advisory and Support Centre on 0800 782 435 is available for advice and support. At the same time, and whatever issues your board is facing, it is always useful to understand a bit more about these principles of natural justice.

The key principle is the person's right to a fair and impartial determination of their issue. This means:

- None of the decision-makers has a financial or any other kind of conflict of interest, such as a relational conflict of interest. Applying this principle reduces the risk of actual or perceived bias or predetermination.

For the board, this principle is spelt out for parent, staff and student representative trustees in the Education Act 1989, schedule 6, [clause \(40\) 8-10](#).

- Decision makers keep an open mind until they have heard from everyone, looked at all relevant information, and not taken account of irrelevant information

The person's "right to a fair and impartial determination" also means all of the following:

- the person needs to know what the allegation or complaint is, and who is making it
- the person needs a chance to respond fully to any allegations. For instance, this includes being given a chance:
- to ask questions about any allegations
- to respond to an adverse finding about the matter, before a final decision is made
- the person has a right both to legal representation and to have an advocate or support person
- the person has a right to reasons for the decision e.g. the board's notification to a complainant that it has "considered your complaint and has decided to dismiss it" does not amount to a reason
- A right to complain, ask for a review or appeal



## Appendix 2

### **PPTA Collective Section 3.4**

#### **3.4 Teacher Conduct and Discipline**

*Note: Refer to 3.5 of this agreement for additional guidance on the application of these provisions.*

**3.4.1** Where a breach of discipline appears to have occurred, the employer shall determine whether disciplinary procedures should be initiated. Where the employer considers it appropriate it shall make initial enquiries to establish whether the disciplinary procedures should be initiated.

In some cases, where the facts are clear and acknowledged, resolution may be achieved informally by discussion between the parties without the need for initiating the disciplinary procedures. Questions of conduct or discipline should be handled in a manner which as far as possible protects the mana and dignity of the teacher concerned. Teachers may seek whanau, family, professional and/or Association support in relation to such matters.

**3.4.2** The teacher shall be informed of any allegation of breach of discipline and of her/his right to consult the Association and of the right to be represented by it at any stage.

**3.4.3** Where an employer decides to initiate formal disciplinary procedures against a teacher, the following principles are to be observed:

(a) The employer or its agent shall advise the teacher in writing of the reason for the disciplinary procedures being initiated, invite the teacher to respond in writing, and advise the teacher of her/his right to request Association assistance and/or representation at any stage.

(b) Before any substantive disciplinary action is taken, an investigation must be undertaken by the employer. The teacher shall be invited to attend any such investigation and to make a statement concerning the matter either personally or through a representative.

(c) Notwithstanding 3.4.3(b) above if the employer is satisfied that the welfare and interests of any student attending the school or of any employee at the school so requires the employer may at any time before the matter has finally been disposed of either:

(i) Suspend the teacher

*(Note: suspension would normally be on pay except in exceptional circumstances); or (ii)*  
Transfer the teacher to other duties.

(d) Where a breach of discipline is held to have occurred, the employer shall not impose any penalty on the teacher without first:

(i) Giving the teacher the opportunity to make representations to it; and (ii)

Taking into account any period of suspension already imposed.

(e) In the case of a finding of serious misconduct the employer may dismiss the teacher without notice.

**3.4.4** Where a teacher has been suspended, and subsequently a breach of discipline is held not to have been proved, the teacher shall, unless the teacher has already resigned, be entitled forthwith to resume teaching duties.



**3.4.5** The following are examples of matters that may warrant disciplinary action. This is not an exhaustive list nor is it intended that every such matter listed here must always be treated as a disciplinary matter. Each case must be assessed on its individual merits.

- (a) Disobedience of lawful orders or instructions.
- (b) Negligence, carelessness or indolence in carrying out her/his duties as a teacher.
- (c) Gross inefficiency as a teacher.
- (d) Misuse or failure to take proper care of school property or equipment in her/his custody or charge.
- (e) Absence from duty without valid excuse.
- (f) Conduct in her/his capacity as a teacher or otherwise which is unbecoming to a member of the teaching service.



## Appendix 3 NZEI Collective Section 7.13

### 7.13 Complaints and Discipline

#### 7.13.1 General

The following principles shall be used in addressing complaints against employees and matters of discipline to ensure that such matters can in the interests of the parties be fully and fairly addressed. Many complaints will be able to be resolved by discussion between the principal and the employee concerned without the need to take the matter any further. Boards should, wherever appropriate, seek to resolve complaints in this manner in the first instance. Questions of conduct and/or discipline should be handled in a manner which as far as possible protects the mana and dignity of the employee concerned. Employees may seek whanau, family, professional and/or NZEI Te Riu Roa or Service and Food Workers Union support in relation to such matters.

#### 7.13.2 Ngā Kōrero Me Ngā Tikanga

- a. Me tuku reta atu ki te kaimahi hei whakamārama atu i nga raruraru kua puta noa. Mehemea he pai ki te kaimahi rāua tahi ko tona tumuaki, e āhei ana ki te whakahaere tonutia ngā whakaritenga i raro i ngā tikanga Māori.
- b. Anei ra ētahi momo tikanga hei kōwhiringa mā rātou:
  - he huihuinga kei te marae;
  - he whakawhiti kōrero kanohi ki te kanohi;
  - ka hui mai te whānau hei tuarā mō te katoa; ā
  - ka hui mai ngā kaumātua kuia hei arahi hei tohutohu i ā rātou katoa.
- c. Mēnā ka whakaaetia te kaimahi rāua ko tōna tumuaki ō rāua kaihautū rānei, kia oti pai ai te kaupapa, mā rāua mā ngā kaihautu rānei e hainatia ngā whakaaetanga i tūhia. Makaia atu tētahi kape o ngā whakaetanga nei ki te kōnae o te kaimahi.
- d. He māmā noa iho ēnei whakawhiringa mehemea hiahia ana tētahi taha kia waiho tārewa ake ngā tikanga Māori kia huri ke ia ki ētahi (te katoa rānei) o nga whakaritenga, arā 7.13.3(a) me 7.13.3(b) e whai ake nei. Engari, mehemea ka huri kē atu i ngā tikanga Māori, ehara tērā i te tino raruraru kia oti hē rawa ngā whakaritenga katoa. Ina hoki ka tahuri mai tētahi taha ki ēnei ki 7.13.3(a) me 7.13.3(b) i raro nei, me tuhituhi hei whakamārama ki tērā atu taha.

#### 7.13.2 Discussions in a Maori Context

- a. The employee must be advised in writing of the specific matter(s) causing concern. The employee and employer may, depending on the nature of the complaint, agree to attempt to deal with a complaint by it being heard in a Maori context and manner.
- b. A Maori context and manner relates to the following:
  - meetings can be held on marae;
  - there is face to face engagement;
  - there can be whanau support for all involved; and
  - guidance and advice is often provided by kaumatua and kuia for all involved.
- c. Should the employee and employer, or their representatives on their behalf, agree to a resolution of the matter then this shall be recorded in writing and signed by both parties and/or their representatives on their behalf. A copy of the agreement will be placed on the employee's personal file.
- d. This is a discretionary option and either party may withdraw at any time, and



nothing in this section prevents the employer or the employee deciding at any time that any or all of the procedures in 7.13.3(a) and/or 7.13.3(b) will be used. Where either party decides to withdraw from this process such a decision will not of itself give rise to any claim of procedural deficiency or unfairness. The decision to withdraw from this process and/or for the employer to use any or all the procedures in 7.13.3(a) and/or 7.13.3(b) will be notified in writing to the other party.

### 7.13.3 Discipline and Dismissal

- a. The following principles are to be followed when dealing with disciplinary matters:
  - i. The employee must be advised of the right to request representation at any stage.
  - ii. The employee must be advised in writing of the specific matter(s) causing concern and be given a reasonable opportunity to provide an explanation. Before making a final decision the employer may need to make further inquiries in order to be satisfied as to the facts of the specific matter(s) causing concern.
  - iii. The employee must be advised of any corrective action required to amend their conduct and given a reasonable opportunity to do so.
  - iv. If the offence is sufficiently serious an employee is to be placed on suspension with or without pay pending further inquiry under (b).
  - v. The process and any disciplinary action are to be recorded, sighted and signed by the employee, and placed on their personal file.
  - vi. The provisions in Part 8 explain the processes available under the Employment Relations Act 2000 to any employee aggrieved by any action of their employer taken under these provisions.
- b. Nothing in 7.13.3(a) prevents instant dismissal without notice in the case of serious misconduct.



## **Appendix 4 SFWU Collective Section 6.8**

### Discipline and Dismissal

6.8.1 The following principles are to be followed when dealing with disciplinary matters:

- (a) The employee must be advised in writing of the specific matter(s) causing concern and be given a reasonable time and opportunity to provide an explanation. Before making a final decision the employer may need to make further inquiries in order to be satisfied as to the facts of the specific matter(s) causing concern.
- (b) The employee must be advised of the right to request representation at any stage.
- (c) Where relevant the employee must be advised of any corrective action required to amend their conduct and given a reasonable opportunity to do so.
- (d) If the alleged offence is sufficiently serious an employee may be placed on suspension pending further inquiry under (a). In most situations the suspension will be on pay. In exceptional cases where the circumstances warrant, following discussion with the employee and their representative, leave without pay may be considered.
- (e) The disciplinary findings and any disciplinary action will be recorded in writing and a copy provided to the employee, and placed on their personal file.
- (f) The provisions in Part 7 explain the processes available under the Employment Relations Act 2000 to any employee aggrieved by any action of their employer taken under these provisions.

6.8.2 Nothing in 6.8.1 prevents summary dismissal without notice in the case of serious misconduct.

## **Appendix 5 Principals Collective Section 6.8**

Secondary Principals' Collective Agreement Effective:  
8 April 2013 to 31 March 2016

### **6.1 General Provisions / Process**

6.1.1 The following principles shall be used in addressing complaints, discipline, and concerns regarding competence, to ensure that such matters are, in the interests of all parties, fully and fairly addressed:

- a. Where issues or concerns arise the board shall initiate informal discussions with the principal in an attempt to resolve the matter in an informal manner. This applies following receipt of a complaint and /or concern(s) being raised. This occurs prior to formally commencing a disciplinary or competency process, unless the nature of the complaint or concern(s) is such that this would be inappropriate;
- b. Questions of competence, conduct and discipline should be handled in a manner which, as far as possible, protects the mana and dignity of the principal concerned. Principals may seek whanau, family, professional and / or other support in relation to such matters (refer Part Eleven).