

Al-Faisal College Procedural Fairness Policy

General Policies

1. Students are required to abide by the College's rules and to follow the directions of teachers and other people with authority delegated by the College.
2. Where a student disregards rules, disobeys instructions or otherwise engages in conduct which causes or may cause harm, inconvenience or embarrassment to the school, staff members or other students, the student may be subject to disciplinary action.
3. The disciplinary procedures undertaken by the school will vary according to the seriousness of the offence. When advised of the allegation the student and parents will be informed of the steps to be followed in dealing with the matter. In relation to all matters to be investigated, students will be informed of the nature of the allegation and given an opportunity to respond to the allegations.
4. The penalties imposed will vary according to the behaviour and the prior record of the student. At the lower end of the scale, a detention may be appropriate. At the upper end of the scale, the behaviour could result in suspension or expulsion. Corporal punishment is prohibited.
5. Where the offending behaviour is of such a nature that it may result in suspension or expulsion, the student also will be:
 - informed of the alleged infringement;
 - informed as to who will make the decision on the penalty;
 - informed of the procedures to be followed which will include an opportunity to have a parent or guardian present when responding to the allegations; and
 - afforded a right of review or appeal.

Procedures for dealing with complaints against students

- Outline the alleged behaviour.
- Allow the student to respond.
- Consider the response.
- Indicate Al-Faisal College's view and likely action to the student/parents.
- Allow student/parents the right to be heard.

- Consider any further comment or appeal particularly in relation to suspension, expulsion or exclusion.
- Make a final decision.

Procedures for Dealing with Complaints Against Staff

Upon receipt of an allegation of child abuse against an employee, the Principal should determine whether or not it is an allegation about child abuse or misconduct that may involve child abuse.

All allegations against employees that involve child abuse or misconduct that may involve child abuse must be reported within 30 days of receipt of the allegation to the Ombudsman. The allegations should also be reported to the Department of Community services (DOCS) if there is a current concern for the safety, welfare and well-being of the child.

The Principal will undertake the following actions:

- conduct or cause to be conducted, an investigation of the allegation;
- decide as to whether on the balance of probabilities the allegation has been sustained or not sustained;
- decide on the disciplinary action, if any, to be taken against the employee.

At the conclusion of the investigation and the decision regarding disciplinary action, a complete report including findings, disciplinary action decided upon and any other recommendations must be forwarded to the Ombudsman together with any information which the accused person requires to be included.

Completed relevant disciplinary proceedings should be reported to the Commission for Children and Young People unless the allegation was found to be false, vexatious or misconceived.

Risk Assessment

Upon receiving an allegation of child abuse against an employee, the Principal is responsible for carrying out an initial risk assessment prior to the

investigation of the allegation. The purpose of the risk assessment is to identify and minimise the risk:

- to a child or children who are alleged to have been victims of the abuse;
- to the employee against whom the allegation has been made;
- to other children with whom the employee may have contact;
- to the proper investigation of the allegation.

This may result in the employee being temporarily relieved of some duties, being required to avoid certain pupils or, in some special cases, being suspended from duty.

Any decision to take action as a result of a risk assessment is in no way an indication of the guilt of the employee concerned.

The following factors will be considered during the risk assessment:

- the nature of the allegation;
- vulnerability of children;
- nature of the position occupied by the employee;
- the level of supervision of the employee;
- disciplinary history of the employee;
- safety of the employee;
- any comments made by the employee.

Risk will be continually monitored throughout the investigation.

The Investigation

In conducting an investigation into allegations of child abuse, the Principal will be guided by the following principles:

1. Conflict of Interest and Appointment of Investigator: All investigations must be conducted in an impartial, independent and objective manner and be open and transparent. The investigator must not show bias or favour to the alleged victim(s), the person the subject of the allegation, nor in outcomes which might affect the reputations of the school.
2. Confidentiality: School executive and persons conducting investigations should maintain a high level of confidentiality

throughout the investigation phase. The person making the allegation also has a right to protection, and if appropriate, confidentiality.

Steps in the Investigation Process

A proper investigation usually requires that an employee against whom an allegation has been made be told promptly the substance of the allegation and be given the right to reply to the allegation.

If DOCS or police are investigating the allegation, advice should be received from them about when to inform the employee about details of the allegation.

Where possible employees should be given advance notice of an interview with the Principal or appointed investigator. While it is desirable for an employee to be given reasonable notice before being required to respond to an allegation, what constitutes reasonable notice will depend on the circumstances of the situation.

Employees may wish to have someone support them during the interview process. The support person may be a friend on staff or a Union representative. However, such a person is there for support only and as a witness to the proceedings, and not as an advocate or to take an active role in the proceedings.

A record of the meeting will be kept. The form of record may be dependent on the seriousness of the allegation.

The following steps provide guidelines for the investigative process and may be varied on occasions to meet particular circumstances. The employer should normally:

- clarify the allegation and determine that it is an allegation of child abuse;
- make appropriate notifications to DOCS, police, Ombudsman;
- carry out a risk assessment;
- collect all available relevant information;
- interview all relevant witnesses;
- make the employee fully aware of the allegations;

- possibly give the employee access to relevant documents on which the employer is relying, unless such documentation needs to be kept confidential;
- interview the person the subject of the allegations
- consider all the evidence and make a preliminary finding as to whether the allegation is sustained or not sustained.

Findings

At the conclusion of the investigation, the investigator will make a preliminary finding on the balance of probabilities that:

- the allegation was false; or
- the allegation was vexatious, that is, made without substance and with the intent of being malicious or cause distress to the person against whom the allegation was made; or
- the allegation was misconceived, that is, whilst the allegation was made in good faith it was either without substance or a misunderstanding on behalf of the person making the allegation occurred or the incident would not reasonably be considered as child abuse, sexual misconduct or an act of violence; or
- the allegation was not sustained; or
- the allegation was not one of child abuse, but might constitute a breach of professional behaviour or judgement which requires further professional disciplinary action; or
- the allegation was sustained and the matter required disciplinary action.

A finding of ‘not sustained’ means that the investigator considers that there is insufficient evidence to determine that the alleged event occurred.

The employee should be told of the preliminary finding and given an opportunity to respond including, if they wish, in writing.

Disciplinary Proceedings

For the purpose of this recommended protocol disciplinary proceedings are defined as the action taken as a consequence of the findings arising out of

the investigation. When conducting disciplinary proceedings the employer should have regard to procedural fairness. This will usually involve:

- giving the employee details of the finding;
- informing the employee of the possible action the employer may take; and
- giving the employee a right to respond, including, if they wish, in writing.

When the Investigation has been Completed

The employee is entitled to ask the Ombudsman to review the investigation and the findings if the employee believes the investigation was unfair, biased, incomplete or suffered some other deficiency giving rise to an incorrect finding.

If the Completed disciplinary proceedings are notified to the Commission for Children and Young People, the employee is entitled to inspect the employer file in accordance with Freedom of Information Principles, subject to any exemptions which may apply under that Act.

Notification to the Commission for Children and Young People (CCYP)

The Commission for Children and Young People Act requires all completed investigations into allegations of child abuse to be reported to it. It is an offence under the Act to fail to report unless the allegation is found to be either:

- false;
- vexatious; or
- misconceived.

Only if claims are found to be upheld, the Commission for Children and Young People records the name of the employee on its register. This may affect future employment.