



# PROCEDURAL FAIRNESS GUIDELINES

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## 1. INTRODUCTION AND PURPOSE

Catholic Education Diocese of Parramatta (CEDP) is committed to developing an educational and organisational culture based on mutual trust and respect that assists young people to recognise and develop their personal capabilities. This is based on the inherent dignity of the human person as the foundation of all Catholic social teaching and central to the ministry of Catholic education.

Decision making in CEDP and its schools is based on the principles of Catholic Social Teaching, natural justice and processes that are fair and equitable.

When decisions about a person are made within CEDP, it is expected that:

- the dignity of all parties in the decision making process is respected;
  - the process is conducted in an orderly manner;
  - decisions are based on evidence;
  - the alleged facts are clearly stated to the person who is the subject of any allegations;
  - the person about whom a decision is to be made is given an opportunity to respond, before the decision is made, and
  - it is expected that evidence will be given appropriate weight according to the circumstances of each case.
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## 2. SCOPE

These Guidelines apply to all staff and students.

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### 3. DEFINITIONS

**CEDP** means the Catholic Education Diocese of Parramatta and includes the CEO and schools.

**CEO** means the Catholic Education Office at CEDP. It applies to the central office and office-based staff.

**Complaint** means an issue or concern about the conduct of a CEDP school, CEO service or member of Staff that is raised by any member of the community.

**Staff** includes employees (casual, maximum term and ongoing employees), contractors, religious, volunteers and any other person appointed or engaged by CEDP to perform work or functions for CEDP.

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### 4. WHAT IS PROCEDURAL FAIRNESS?

- 4.1. The principle of natural justice requires that a person be given the opportunity to respond to concerns, complaints or allegations which may negatively impact that person.
  - 4.2. CEDP's commitment to natural justice should be implemented by following procedural fairness in situations when decisions may be taken which could have a detrimental effect on the rights, interests or legitimate expectations of a person.
  - 4.3. Procedural fairness is integral to the management of processes affecting people (students and staff) under CEDP policies, procedures and guidelines.
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## 5. WHAT NEEDS TO BE DONE TO ENSURE A PROCEDURE IS FAIR?

- 5.1. Procedural fairness requires that when informing a person of concerns, complaints or allegations about him or her, the person is:
    - 5.1.1. informed of the concern, complaint or allegations being made. This means that the person will be informed of the content of the concern at a point in time when it is clear what the issues are, and who needs to respond to them;
    - 5.1.2. given the opportunity to respond. This means that where a concern is raised which may have a detrimental effect on the person the person will normally be given an opportunity to respond which includes allowing sufficient time for them to do so, and
    - 5.1.3. informed of the complaints process and the review process which may be followed (as detailed in these Guidelines).
  - 5.2. Other key aspects of procedural fairness are:
    - 5.2.1. timeliness. This means the issue must be raised with the person within a reasonable time and outcomes reached as soon as reasonably practicable, and
    - 5.2.2. records of the process must be maintained.
  - 5.3. A person who is required to respond to a concern, complaint or allegations should always be treated impartially and be given an opportunity to respond with sufficient time for them to do so. If a decision-maker has any concerns about competing obligations or conflicts of interest, advice should be sought from their supervisor as soon as reasonably possible.
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## 6. INVESTIGATIONS

- 6.1. In matters requiring investigation, where possible, the person carrying out the investigation will not be the same as the person making the decision.
- 6.2. Investigations will be conducted promptly once a concern, complaint or allegation has been raised.

- 6.3. When seeking information from a person involved in a concern, complaint or allegation, coercion must not be used. Participants in the investigation should be free to give their version of events in their own words and within the limits of their personal knowledge of the concern, complaint or allegation.
  - 6.4. A record must be made of all steps of the investigation process. This record belongs to CEDP and is not automatically available to the subject of the concern, complaint or allegation.
  - 6.5. Principals and their delegates have the authority to interview students without a parent or carer present or being notified in advance. This allows for the timely management of wellbeing, learning and behaviour matters.
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## 7. DECISION MAKING

- 7.1. Allegations made about a Staff member that may constitute an allegation of reportable conduct as defined in the Safeguarding Procedures will be referred by the principal or head to the Safeguarding Team .
- 7.2. For school-based student matters:
  - 7.2.1. the Principal has the delegated authority to make decisions about student behaviour and consequences that may be required;
  - 7.2.2. the Principal has the delegated authority to manage other complaints about the management of wellbeing and learning in the school and will direct suitable members of the leadership team to undertake enquiries to support the management of the complaint;
  - 7.2.3. the Principal will make decisions based on the balance of evidence available combined with her/his judgement about the reliability of the evidence;
  - 7.2.4. the Principal will seek the support of CEDP specialist teams or CEDP Directors in complex matters, and
  - 7.2.5. decisions about transferring a student to another school or excluding a student from all CEDP schools can only be made by CEDP Director Wellbeing or the

Executive Director in the case of exclusion, as per the Suspension, Transfer and Exclusion Procedures.

7.3. For concerns, complaints or allegations about Staff:

- 7.3.1. for child protection matters, the principal will immediately refer the concern, complaint or allegation to the Safeguarding Team;
  - 7.3.2. in the first instance for other matters, concerns will be managed by the Principal with support from the People and Culture team;
  - 7.3.3. for serious concerns, complaints or allegations about a Staff member that is outside of the jurisdiction of the Safeguarding Team, the matter will be managed by the People and Culture team with the cooperation of the Principal or Team Leader, Manager or Head, and;
  - 7.3.4. decisions in such matters will be made by the Director Strategic Delivery.
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## 8. APPEAL PROCESS

8.1. There may be circumstances where a person the subject of an investigation about a concern, complaint or allegation believes that the process:

- 8.1.1. did not follow CEDP policy and procedures, and/or
- 8.1.2. did not adhere to the principles of procedural fairness.

Under these circumstances it is appropriate for the person to seek to appeal the decision based on the administration of the process.

8.2. For appeals of decisions relating to students:

- 8.2.1. the student and his/her parent/carer should raise a query with the Principal and seek a review based on the specific procedural or policy concern;
- 8.2.2. if the student/parent/carer believes the matter remains unresolved they may seek support by contacting the Community Liaison team at CEDP either by phone or by completing the online form, and

- 8.2.3. the Community Liaison team will triage the query and, in complex matters, refer the query to the relevant Manager, Head or Director.
  - 8.3. For appeals of decisions relating to Staff:
    - 8.3.1. the Staff member should raise a query with the Head People and Culture and seek a review based on the specific procedural or policy concern;
    - 8.3.2. Head People and Culture will determine if further investigation is required and will instruct CEDP's employment relations specialists to conduct a review;
    - 8.3.3. in more complex matters, Head People and Culture may engage an external investigator to conduct a review and make a recommendation to the Director Strategic Delivery;
    - 8.3.4. the Director Strategic Delivery will make a decision based on the recommendation of the Head People and Culture.
  - 8.4. If a student, parent/carer or Staff member believes a matter remains unresolved after the above steps have been taken, they can seek a review with the Executive Director.
  - 8.5. The Executive Director is the final decision maker.
  - 8.6. In reaching a decision, the Executive Director at his/her discretion, may constitute an appeals panel composed of three (3) independent suitably qualified, professionals to provide a recommendation to the Executive Director. The Executive Director will consider the report from the appeals panel and make a final decision.
  - 8.7. There is no avenue for further appeal within CEDP once this process has been followed.
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## 9. COMMUNICATION OF DECISIONS

- 9.1. Decisions will be communicated in writing to the person / people raising the concern. This can be in the form of email or a formal letter.
  - 9.2. Material gathered during an investigation and decision making process remains the sole property of CEDP and will usually not be shared with individuals involved in the investigation. In some instances, a summary may be made available.
  - 9.3. Material gathered during the investigation and decision making process and any correspondence about the decision will be stored securely and confidentially by CEDP.
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## 10. RELATED DOCUMENTS

- Student Wellbeing Policy
  - Complaints Management Policy
  - Suspension, Transfer and Exclusion Guidelines
  - Code of Conduct
  - Code of Conduct when Working with Children and Students
  - Safeguarding Procedures
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## 11. FURTHER INFORMATION

Further information on this policy can be directed to the Enterprise Service Desk on (02) 9840 5620 or via email [esd@parra.catholic.edu.au](mailto:esd@parra.catholic.edu.au) (internal) or the Community Liaison Unit on (02) 9840 5796 (external).

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