

FORDELL SCHOOL

Formal Complaints Policy

Introduction

Fordell School responds to complaints in a fair and consistent manner and provides members of the school community with procedures to follow. The Fordell Board, as the employer, has the responsibility to ensure that complaints and disciplinary action are handled correctly. Outside agencies will be asked for advice in any situation where the Board is unsure how to resolve the issue, e.g., NZSTA, NZEI, NZPF, Employment Advisors, Collective Contract.

For day to day issues please refer to our Concerns Policy.

Purpose

To make a genuine effort to ensure that all complaints are investigated fairly at the earliest opportunity and in a manner that respects all parties involved.

Guidelines

If your concerns have not been resolved, or for more serious matters, you can make a formal complaint.

Making a Formal Complaint:

In the interests of fairness, any formal complaint or serious allegation *must be made in writing* and resolved as quickly as possible given the details and the steps that need to be considered. To ensure that the complaint is properly investigated it must be as clear as possible. If necessary, clarification will be sought from the complainant about any complaint which is unclear. All parties should respect confidentiality. The Principal (in consultation with the Chairperson) needs to formally receive a complaint in order to act on it.

Complainant

1. Your specific complaint(s) should be *put in writing* with as many facts and details as possible, including:
 - the names of people involved
 - dates of events
 - include any steps you have taken to resolve the matter
 - your preferred contact details.
2. The letter or email should be marked "confidential" and sent to:
 - The Principal, if the complaint is about a staff member, student, parent/caregiver, or other member of the school community.
 - The Fordell Board Chairperson, if it is about the Principal.
 - The Principal, if it is about the Fordell Board Chairperson.

When your complaint is received:

The Principal or Fordell Board Chairperson will check that your complaint has come to the correct person and then send you an acknowledgement of receipt, usually within a week. You may be asked for further details about the complaint, to assist in determining the appropriate investigation process.

The Principal (if the complaint is about staff members, students, parents/caregivers, or other members of the school community) will:

1. Inform the Fordell Board Chairperson of any complaints about staff members, parents/caregivers, or other members of the school community.
2. Take steps to resolve the complaint in accordance with their delegated authority and the relevant school policies, including undertaking a preliminary assessment of the complaint.
 - More general complaints or those which are unlikely to lead to disciplinary action against a staff member will be resolved informally.
 - Potentially sensitive matters or more serious complaints which could lead to disciplinary action against a staff member may be referred to the Fordell Board for consideration at an in-committee, with a view to determining the required level of Board or Chairperson involvement.
3. Follow the general guidelines for Investigate a Formal Complaint or Serious Allegation (listed below).
4. Take appropriate advice from advisors such as NZSTA, NZEI, NZPF, Employment Advisors, Collective Contract.
5. Report to the Fordell Board in accordance with school policy.

The Principal (if the complaint is about the Fordell Board Chairperson) will:

1. Call an in-committee Fordell Board meeting to discuss any complaints about the Chairperson and determine an appropriate process for resolution.
2. Take appropriate advice from advisors such as NZSTA.

The Board Chairperson (if the complaint is about the Principal) will:

1. Undertake a preliminary assessment of any complaints about the Principal.
 - More general complaints or those which are unlikely to lead to the Board taking action against the Principal will be promptly discussed with the Principal at an informal meeting, usually held within a week of receipt of the complaint, where the potential resolution can be considered.
 - The process for managing complaints which appear more serious and could lead to the Board taking action against the Principal will be determined by the Board at an in-committee meeting usually held within a week of receipt of the complaint. The complaint will then be promptly disclosed to the Principal together with an indication of the proposed process for managing the complaint.
2. Follow the general guidelines for Investigate a Formal Complaint or Serious Allegation (listed below).
3. Take appropriate advice from advisors such as NZSTA, NZEI, NZPF, Employment Advisors, Collective Contract.

Subject to the privacy of the person or people concerned, the complainant will be kept informed about the process and the expected time frame for any investigation, and will be provided with written confirmation when the matter is concluded.

Relevant collective employment agreement provisions for dealing with complaints about staff members must be observed, including protecting the staff members' dignity, advising them of their right to seek support and representation before responding to complaints, and giving them a reasonable opportunity to take that advice.

Investigation Process

All views are important to us, and all complaints are taken seriously. However not all complaints will require a formal investigation. In determining whether a formal investigation may be required, the Principal, Board Chairperson, and/or Board may consider any preliminary response from the person the complaint is about, and any action the school has taken previously, including meetings and correspondence. There may be other processes which can more constructively address general concerns, opinions, and views about the school.

See **Investigate a Formal Complaint or Serious Allegation**.

A full documentary record of any formal complaint is completed and stored confidentially in a secure location.

Conclusion

It is intended that with clear communications and procedures, an emphasis on objectivity, mutual resolution and conciliation that good relations between parents, families, whānau and school will be maintained.

Supporting Policies and Documentation

- Concerns Policy
- Concerns and Complaints Process Flowchart
- Investigate a Formal Complaint or Serious Allegation
- Discipline of Staff Policy
- [Mandatory Report Form Teaching Council](#)
- Protected Disclosures Policy
- Child Protection Policy
- Privacy Policy
- Collective Agreements/Contracts

Last Internal Review:		Term 3 2021	
Signed by Chairperson			
<i>Approval: When the Board approved this Policy, it agreed that no variations of this Policy or amendments to it could be made, except with the majority approval of the Fordell School Board of Trustees.</i>			
Policy Type	Nag 3: Personnel	Next Scheduled Review:	Term 3 2023

Investigate a Formal Complaint or Serious Allegation

The Principal or Board Chairperson will check that your complaint has come to the correct person and then send you an acknowledgement of receipt, usually within a week. You may be asked for further details about your complaint, to assist in determining the appropriate investigation process.

Depending on the nature of the complaint, the preliminary steps may include:

- Asking you for more details about your concerns so that they can be properly investigated.
- Referring you back to the person or people you have complained about to explore options for informal resolution.
- Referring the matter to the board for consideration at an in-committee meeting, so that the board can determine the next steps.
- Taking appropriate advice from advisors such as NZSTA, NZEI, NZPF, Employment Advisors, Collective Contract.

Not all complaints require an investigation but all written complaints will be disclosed to the person concerned at the earliest opportunity, either as part of a preliminary or informal process or together with an explanation of the process for investigation and resolution of the complaint.

- If your formal complaint **does not** justify a formal investigation, the Principal or Board of Trustees will consider the issues raised and all of the relevant information, and provide you with a written response.
- If your formal complaint **does** justify a formal investigation, then subject to the privacy of the person or people concerned, we will keep you informed about the investigation process and the expected timeframes, and will provide you with written confirmation when the matter is concluded.

Relevant collective employment agreement provisions for dealing with complaints about staff members must be observed, including protecting the staff member's dignity and mana, advising them of their right to seek support and representation before responding to complaints, and giving them a reasonable opportunity to take that advice.

The New Zealand School Trustees Association (NZSTA) or legal counsel should be contacted for advice before proceeding to investigate. The school's insurer should be notified early in the process and kept informed of progress. Consult with external agencies as appropriate (e.g. Oranga Tamariki - Ministry for Children, and/or police) to ensure any actions do not undermine other investigations.

The Employment Relations Act provides for confidential resolution of employment disputes in certain circumstances, the terms of which are usually recorded in a settlement agreement. For example, some schools may sign an exit agreement which allows a staff member to resign on the condition that no disciplinary action is taken (however if it is serious and requires the mandatory reporting to the Teaching Council this will still occur), and a future reference is agreed.

Where the conduct at issue concerns the safety or well-being of a child the use of such agreements is contrary to a culture of child protection.

The school will not include in any settlement agreements any terms which would be inconsistent with the school's statutory obligations, including the Teaching Council's mandatory reporting requirements, or when they would be contrary to a culture of child protection, such as when the conduct at issue concerns the safety or well-being of a child.

Board members with a potential conflict of interest will not take part in the investigation. If the complaint is against the Principal or the Principal has had significant involvement in the alleged events giving rise to the complaint, the Principal will not take part in the investigation process.

The following general guidelines will assist in conducting an investigation. They are directed at complaints made against staff members, but can be adapted as appropriate to apply to any complaints about students, parents, the Principal, Board member, or any other person, and to reflect the nature of the matters under investigation.

Responsibility	Action
Principal and/or Chairperson of the Board	<ol style="list-style-type: none"> <li data-bbox="475 188 1548 1187"> <p>1. Conduct a preliminary assessment of the complaint, which may include hearing from the party complained of, and determining whether a formal and/or informal investigation is appropriate.</p> <p>If the complaint is serious and relates to matters which could justify the staff member's suspension, take advice from NZSTA or the school's lawyer and follow the contractual suspension process.</p> <p>Determine the scope of the investigation, and level of board involvement (if any).</p> <p>If the Principal will not be responsible for investigating the complaint, consider appointing a Board member or Board subcommittee to investigate the complaint and determine the facts; and whether to delegate (by board resolution) the responsibility to make decisions as to the outcome to that Board member or subcommittee.</p> <p>Consider, depending on the seriousness of the issue or any potential conflicts of interest, whether an independent or specialist investigator should be appointed to make preliminary fact findings for the Board consideration.</p> <p>Consider carefully if any investigator or other person involved in the investigation or decision making (including any staff member or student representative) has a potential conflict of interest or potential for bias. Consider and decide how to best manage or mitigate that conflict or potential for bias, including where necessary removal from the investigation or decision-making process.</p> <p>Note that the Board cannot delegate decision-making responsibility to non-board members. It is prudent to provide the investigator with clear terms of reference including that you are not looking for any recommendations on what you have to do next, just fact-finding, including, on the balance of probabilities, the investigator's view of disputed factual issues. Be aware of school policy and legislative requirements, including that if the complaint involves a child, permission to interview the child must be obtained and consideration should be given to appointing an investigator with some expertise in interviewing children and young people.</p> <li data-bbox="475 1187 1548 1388"> <p>2. Inform the school's insurance company of the complaint and steps taken to resolve it. This is a strict insurance policy requirement to maintain cover in any matter that might involve a claim on the school's insurance. The school's insurers will usually require Board to follow advice from NZSTA or the school's lawyer in dealing with any matters which could lead to disciplinary action against a staff member.</p> <li data-bbox="475 1388 1548 1702"> <p>3. Inform the staff member involved that an investigation is planned, and the scope of the investigation. Include, if applicable, the identity of any independent investigator, and confirm (in writing) that they are entitled to seek union or legal advice and representation. Remind them that they may also bring a support person or whānau member to any meeting. Consider the vulnerability of a person subject to a complaint and offer them practical support.</p> <p>Continue to ensure the complainant is kept informed of progress in the process, without disclosing any details or findings.</p> <li data-bbox="475 1702 1548 1897"> <p>4. Provide the staff member complained about with a letter explaining the specific concerns, attaching all of the relevant information, and outlining any potential disciplinary outcome. Give the staff member a reasonable opportunity to consider the allegations and take independent advice before they provide their written and/or oral response to the complaint.</p>

Seek NZSTA or legal advice in preparing your correspondence with the staff member and about running any meetings.

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| Investigator/investigating committee | <p>5. Complete and take comprehensive notes on relevant inquiries and interviews. Meeting and interview notes should be provided to the interviewee for their comment and confirmation. Note that taping of meetings and interviews is permitted, provided you advise the other party of your intention to do so and make a copy available to them.</p> <p>Be aware that employees are entitled to copies of all information relating to them personally. Seek legal advice if unsure about the disclosure of information, or contact the Privacy Commission or Ombudsman's Office.</p> <p>6. Make detailed notes of all discussions, interviews, questions, and answers. The notes should record the facts related to the investigation rather than opinions or comments which could be taken to suggest the outcome had been predetermined. Disclose the notes to the other party.</p> <p>7. Consider the staff member's responses and all other relevant information, reach a determination on the balance of probabilities about any disputed facts, and decide whether or not the complaint has been substantiated.</p> <p>Prepare a draft report for the staff member's comment if required to do so by the terms of reference, and then finalise the investigation report.</p> |
| Investigator
(if they do not have delegated authority to make the decision as to outcome) | <p>8. Brief the Board at an in-committee on the scope and outcome of the investigation and its findings.</p> |
| Decision maker (board investigator or sub-committee, the full Board, or the Principal) | <p>9. Determine any next steps including whether any disciplinary action may be appropriate.</p> <p>Provide the staff member with a copy of the investigation report and a letter either concluding the process or explaining the next steps, including identifying the specific concerns, and the options being considered with regard to any proposed disciplinary action together with the reasons those options may be appropriate in the circumstances. Invite the staff member (through their representative if applicable) to respond at a meeting and/or in writing to the report's findings and to the specific concerns, and to comment on any disciplinary options being considered.</p> <p>If a meeting is held, ask any relevant questions but confine them to issues already identified. This is not an opportunity for either party to raise any new matters. Appoint a good note taker.</p> <p>10. Following the meeting, or on receipt of the staff member's written response, consider whether any further investigation may be required, then make your decision as to factual matters (recording how you arrived at the decision) and the reasons for any disciplinary consequences.</p> <p>Depending upon the seriousness of the situation you may need to take a day or two to consider all of the relevant information before making a final decision.</p> <p>Inform the staff member of the decision. If this is done at a meeting, rather than by letter, it must be confirmed in writing.</p> |

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| Investigator (if they have the delegated authority to make the decision as to outcome) | 11. Report to the Board at an in-committee. |
| Principal and/or Chairperson of the Board | <p>12. Report back to the complainant(s), reassuring them as far as possible while considering confidentiality and any requirements of collective agreements, of the steps undertaken to resolve their concern, and facilitate any further steps which may be required to provide satisfactory closure.</p> <p>Ensure ongoing support for the complainant and the person being complained about during and after the investigation. If the complainant is not satisfied, the Board Chairperson should advise the complainant of further avenues, e.g. Human Rights Commission, Ombudsman, Ministry of Education, ERO, Privacy Commissioner.</p> <p>13. File in a register of complaints and concerns about in and out of school behaviour and keep for 'in-committee'. Hold all recorded minutes securely.</p> <p>14. Determine whether a report needs to be made to the Teaching Council, in compliance with the mandatory reporting requirements.</p> |