



## PROCEDURAL FAIRNESS POLICY

(Reviewed August 2023)

In keeping with the best practices guidelines established by the Federation of Independent School Associations, Alcuin College has an appeals process in place to allow for the impartial review of school decisions.

Whenever the legal rights of an individual may be affected by officials exercising legal decision-making authority, there is an expectation that the decision will be made in accordance with the principles of “procedural fairness” and “natural justice”. These principles encompass the following elements:

- if a decision-maker (e.g., Head of School) is intending to consider a matter which may affect a person’s rights, that person should be informed of the matter;
- the person should be given a reasonable opportunity to make oral or written submissions to the decision-maker on the matter being considered;
- the person is entitled to know and answer the case against them, that is to say, be informed of and be given the opportunity to respond to all information submitted which might influence a decision, prior to the decision being made;
- the person should be told the reasons for the decision;
- the decision-maker should act in a manner which is unbiased, fair and open-minded.

Basic elements of procedural fairness when dealing with student discipline include:

- Students need to be treated with respect and dignity and to know what is expected of them. The Alcuin College Code of Conduct is clearly explained in the Parent/Student Handbook.
- In accordance with school policy, a student who is accused of breaching a rule should be notified of that of which he/she is accused, with the essential facts of what he/she is alleged to have done. *[NOTE: In more serious cases, notification is also given to a student’s parents.]*
- An accused student has an opportunity to tell his/her side of the story. The right to be heard is a fundamental element of procedural fairness. The Head of School or teacher may ask the student to explain her/his actions. More serious matters require more formal investigation.
- The student and parent should be informed of the appeal or review procedure.
- There is no retribution for pursuing an appeal or review.

The Alcuin College Code of Conduct is clearly explained in the Parent/Student Handbook, as are the school’s disciplinary policies. Parents agree to the Code of Conduct when they enrol with the school. In the event of disciplinary action, parents and students are provided with the essential facts of the misbehaviour and there is opportunity for discussion between parties.

Families are provided with clear reasons for the decision made, and the relevant information that led to that decision. If students or parents disagree with major discipline decisions or actions of the school, particularly in cases of suspension or expulsion, they should arrange a meeting with the Head to discuss these issues. If their concerns are not resolved, they may request the initiation of a mediation process or appeal hearing. In an appeal, parents can present their objections to an impartial Discipline Committee, appointed by the Chair of the Board. This appeal request must be made in a formal letter to the Head within ten working days

following the official discipline decision. The Discipline Committee's decision on the appeal is binding on all parties.

### **Associate Member Society Schools' Ombudsperson**

The Ombudsperson is appointed by AMS to assist those persons who, having exhausted all avenues of redress, appeal or review provided by an independent school or school authority, wish to make a complaint pursuant to this Policy.

The Ombudsperson is authorized, in response to a Complaint, to undertake an Investigation, and make a Recommendation to a School or school authority, in an attempt to resolve a Complaint. If the Recommendation of the Ombudsperson does not result in a resolution of the Complaint, the Ombudsperson may deliver a Written Report to the School. The School may comply with or respond to the Written Report. If the School does not comply with the Written Report, or if the Ombudsperson is not satisfied with the School's response to the Written Report, the Ombudsperson may issue a further report setting out the circumstances to AMS and to FISA.

The Ombudsperson is not an arbitrator and does not have the ability to make a binding decision with respect to a Complaint. It is intended that the Ombudsperson provide an objective opportunity for investigation of a decision, procedure, act or omission of a School.

#### **Definitions**

- "Complaint" means a complaint made in writing pursuant to this Policy;
- "Complainant" means a person or persons who make a Complaint pursuant to this Policy;
- "Investigation" means an investigation undertaken by the Ombudsperson pursuant to this Policy;
- "Recommendation" means a recommendation made by the Ombudsperson to a School pursuant to this Policy;
- "Written Report" means a written report delivered by the Ombudsperson to a School and Complainant pursuant to this Policy

#### **Appointment of the Ombudsperson**

The School Ombudsperson for AMS is a person appointed by the AMS and approved by the Board of Directors who is qualified through training and experience to act as an impartial investigator of complaints pursuant to this policy.

The current AMS Ombudspersons are:

**Robert G. Kuhn:** [bkuhn@kuhnco.net](mailto:bkuhn@kuhnco.net) and (604) 864-8877

**Heres Snijder:** [Hopehelphealing2015@gmail.com](mailto:Hopehelphealing2015@gmail.com) and 778-680-4977

#### **Making a complaint**

Any student, parent or legal guardian of a student affected by a decision, recommendation, act or omission of an independent school or school authority may ask the Ombudsperson to conduct an Investigation of a complaint. A Complaint must be in writing setting out the basis for the Complaint in reasonable detail. The Complaint must set out the disputed decisions, procedures and actions of a School on the basis of one or more of the following:

- a. the Complainant was treated in a manner contrary to the principles of natural justice, or related to the application of arbitrary, unreasonable or unfair procedure;
- b. that the School applied a policy incorrectly or inconsistently;
- c. that the decision, procedure or action was contrary to the philosophy and mission of the School;
- d. acted for an improper purpose;

- e. failed to give adequate and appropriate reasons in relation to the nature of the matter;
- f. was negligent or acted improperly;
- g. there was unreasonable delay in dealing with the subject matter of the Investigation

The Complainant must agree at the time of making the complaint to accept the Ombudsperson as an unbiased party in the complaint and not to compel the Ombudsperson to give evidence in a court or in other proceedings of a judicial nature in respect of anything coming to the Ombudsperson's attention in the course of investigating of the Complaint. If the Complainant does not accept the Ombudsperson as an unbiased person in the matter in dispute, the Complainant may ask the AMS to designate another ombudsperson for that matter.

### **Powers of the Ombudsperson**

- The Ombudsperson has the power to investigate a complaint despite any provision in \_\_\_\_\_ the independent school's policy or procedures that a decision, recommendation, or act \_\_\_\_\_ is final or that no appeal lies in respect of it.
- The Ombudsperson cannot investigate a matter related directly or primarily to the employment, dismissal, reprimand or punishment of a person employed by the school.
- The Ombudsperson is not authorized to investigate a decision, recommendation, act or omission in respect of which (a) litigation has been commenced and is outstanding; or (b) there is a right of appeal, objection, or review until after that right has been exercised.
- The Ombudsperson may refuse to investigate or cease to investigate a complaint if, in the sole discretion of the Ombudsperson, it is reasonable to do so.
- The Ombudsperson may receive or obtain information from a person in the manner the Ombudsperson considers appropriate and at the Ombudsperson's discretion may conduct a hearing.

### **Procedures**

- A Complaint referred to the Ombudsperson must be in writing.
- If the Ombudsperson commences an Investigation, the Ombudsperson must notify the independent school or school authority affected and any other person as determined by the Ombudsperson, the Ombudsperson considers appropriate to notify in the circumstances of the name of the Complainant and the nature of the Complaint.
- If, during an Investigation, the Ombudsperson decides to hold a hearing, the Complainant, the school, and any other affected persons must be given notice of the hearing and given the opportunity to make representations.
- A person is not entitled as a right to a hearing before the Ombudsperson. The Ombudsperson may determine the scope, procedures, location and limitations applicable to a hearing.
- If the Ombudsperson decides not to conduct an Investigation or further investigate a Complaint, or, if at the conclusion of the Investigation, decides that the Complaint has not been substantiated, the Ombudsperson must record the decision in writing and notify both the Complainant and the school as soon as is reasonable of the decision and the reasons for it.
- Upon completion of an Investigation the Ombudsperson shall provide a Written Report of Recommendations to the school and Complainant.
- The Ombudsperson may request the school or school authority to notify the Ombudsperson of any steps which have been taken to give effect to the Recommendation or, if no steps have been or are proposed to be taken, the reasons for not giving effect to the Recommendation.

- If the school or school authority does not act on the Ombudsperson's Recommendation within a reasonable period of time, the Ombudsperson shall report the Ombudsperson's original Recommendations and the school's response, if any, to the AMS and to the FISA.
- An Investigation under this Policy must be conducted in private unless the Ombudsperson considers that there are special circumstances in which public knowledge is essential in order to further the Investigation.

### **Confidentiality**

Unless the person who provides the information to the Ombudsperson authorizes its disclosure, the Ombudsperson will hold in confidence all information that comes to his or her attention in performing his or her duties, provided that such information is designated, or is reasonably intended to be, confidential.

### **Fees**

All costs associated with the Ombudsperson process set out in this policy will be paid by the school. Should the process reach ten hours of arbitration the Ombudsperson will consult with the school authority to determine continuation options.

### *Acknowledgement*

- *Associate Member Society Schools' Ombudsperson Policy (August 2019)*