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## *Carmel College Operational Policy 09: Concerns and Complaints*

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### Special Character statement

*Our college is the Catholic Church in action, an authentic expression of the Church's mission. Therefore, our role as a Catholic college, is, above all, to be a place where every member of this learning community can encounter the living God and our focus is on helping to form Christ in the lives of others. We do this through the Catholic and Mercy traditions.*

### Outcome statement

All complaints, concerns and incidents are attended to promptly, respectfully and professionally and seek to bring effective resolution to all parties concerned.

### Scoping

In order to maintain a safe and comfortable environment for all students, staff and visitors, an accessible procedure for handling concerns and complaints and ~~grievances~~ will be implemented and maintained to provide an open and fair way of resolving issues and will comply with all relevant legislation.

#### **The principles of natural justice must be followed in dealing with all concerns and complaints:**

In simple terms, natural justice in the **relationship of employer and employee** requires the employer to:

1. adequately inform the employee of the allegations, and of possible consequences if proven
2. provide the employee with an adequate opportunity to respond
3. investigate with an open mind
4. give due consideration to the employee's response
5. weigh the allegation against the explanation in an objective way.

Each case must be determined on its own particular facts. In all cases, the burden of proof that the decision was appropriate will fall on the employer.

In simple terms, natural justice in the **relationship with students and the college staff** requires the college staff to:

1. adequately inform the student of the allegations, and of possible consequences if proven
2. provide the student with an adequate opportunity to respond
3. investigate with an open mind
4. give due consideration to the student's response
5. weigh the allegation against the explanation in an objective way.

Each case must be determined on its own particular facts. In all cases, the burden of proof that the decision was appropriate will fall on the college staff.

Other principles and procedures applying to the concept of natural justice include that:

1. the employee/student must know what is expected of them
2. allegations should be specific and in enough detail for the employee/student to

- attempt to address them
3. employee/student should be advised of their right to representation
  4. the opportunity to respond must be "real" rather than nominal
  5. any investigation must be fair and objective
  6. the entire process should be free of bias or any preconceived ideas or outcomes (Boards must be careful that the principal, college staff, Board members, or Board itself do not act as prosecutor, judge, jury, and hangman)
  7. any disciplinary action must be appropriate to the misconduct (and take into account the past service and work record of the employee/student, mitigating circumstances, and the likelihood of re-offending)
  8. the response is timely: positive action to inform of concerns, ask for explanation, and so on must be taken as soon as possible after concerns are known (since non-action can imply that the conduct is acceptable).

## Delegations

The Board delegates to the principal full responsibility of ensuring processes are in place and operating effectively and adequately. In the event of a concern or complaint concerning the principal, responsibility lies with the Board.

## Expectations and limitations

In complying with the policy, the principal shall not fail to:

1. implement and maintain robust procedures to meet the policy requirements
2. ensure that the process for concerns and complaints is clearly communicated
3. report to the Board as follows:
  - a. When receiving a complaint, the Board must ensure that the complainant has previously followed the school's concerns and complaints procedure and that the complaint has been escalated to Board level correctly and is still unresolved<sup>1</sup>.
  - b. Should the Board receive a complaint regarding the principal or determine that any policy violation may have occurred, the Board in the first instance will consider whether this may be dealt with in an informal manner (as per the employment agreement provisions that apply to the principal).
  - c. Where the Board considers the degree and seriousness<sup>2</sup> of the concern or complaint sufficient to warrant initiating a disciplinary or competency process, the Board shall seek the support and advice, in the first instance, from an NZSTA adviser to ensure due process is followed.

## Procedures/supporting documentation

09OpProd01 - Concerns and Complaints Process Procedure

09OpProd02 - Board Complaints Checklist Procedure

09OpProd03 - Board Complaints Investigation Procedure

09OpProd04 - Board Complaints - reference material in relation to complaints

09OpProd05 - Board Complaints - Student Complaint Procedure

09OpProd06 - Protected Disclosure Procedure

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<sup>1</sup> 'Unresolved' means that there is no agreement on the outcomes relating to the complaint that has followed the correct Concerns and Complaints Procedures.

<sup>2</sup> 'serious' means that it is highly likely that the nature of the complaint would result in mandatory reporting to the Teachers' Council if a member of the teaching staff is involved, the incident may result in disciplinary action if it involves a non-teaching staff member or disciplinary action of suspension and/or exclusion where a student is involved.

## Monitoring

The principal shall maintain a register of formal, written complaints to the principal and resolutions and report to the Board annually outlining numbers of complaints, resolution success figures and any areas of concern for Board deliberation.

## Legislative compliance

1. Privacy Act 1993
2. Education Act 1989
3. Employment Relations Act 2000 - Collective Employment Agreements (teaching and non-teaching staff)
4. Human Rights Act 1993
5. Protected Disclosures Act 2000
6. State Sector Act 1988
7. New Zealand Teachers Council (Making Reports and Complaints) Rules 2016.
8. Be a good employer as defined by the State Sector Act 1988 and comply with the conditions contained in employment contracts applying to teaching and non-teaching staff.

Date reviewed:	March, 2021	Next Review:	March, 2024
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