

PROCEDURAL FAIRNESS

Purpose:

To ensure that a fair and unbiased process is followed when decisions are made that may affect an individual's legal rights.

Scope:

All employees, students and parents

Policy:

The following guidelines are based on the "PROCEDURAL FAIRNESS BEST PRACTICE GUIDELINES FOR INDEPENDENT SCHOOLS" developed by FISA in consultation with the Inspector of Independent Schools http://www.fisabc.ca/sites/default/files/procedural_fair.pdf

Fair procedures reassure students, parents and staff by providing integrity and consistency in respect to decisions made in the school setting which in turn will help to avoid misunderstandings and disputes.

These guidelines explain in general terms the principles which are the basis of "procedural fairness" and provide guidance as to how Khalsa School can effectively address the requirements of "procedural fairness" governing day to day operations.

Requirements of "Procedural Fairness"

Khalsa School has established fair procedures to provide integrity and consistency in respect to decisions made. Student discipline cases are to be dealt with in a spirit of providing guidance to the student so that he/she is able to learn from the situation.

Whenever the legal rights of an individual may be affected there is an expectation that any decision related to those rights will be made in accordance with the principles of "procedural fairness" and "natural justice". Khalsa School personnel are expected to uphold principles that encompass the following elements:

- if a decision-maker (e.g. a teacher, principal, or authority) is intending to consider a matter which may affect a person's rights, that person will be informed of the matter;
- the person will 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 and is to 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 will be told the reasons for the decision; and
- the decision-maker will act in a manner which is unbiased, fair and open-minded.

Note: When a discipline case may involve the possibility of suspensions or expulsion the student's parents or guardians will also be informed and at least two administrators will be involved in the decision making process.

Procedural Fairness and Students

The following paragraphs A and B are adapted from Keeping Students Safe: A Practical Guide for Principals and Vice-Principals (June 1999).

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.
- Rules of student conduct are included in each student's Agenda. Upon admission, students and parents or guardians must acknowledge that they agree to comply with all Khalsa School rules, procedures, and expectations.
- Students who are accused of breaching a rule will be notified, with the essential facts of what he/she is alleged to have done. In more serious cases, notification will also be given to the student's parents.
- An accused student will be given an opportunity to tell his/her side of the story. The right to be heard is a fundamental element of procedural fairness. Where the stakes are minor, this can be satisfied by the teacher or administrator asking the student to explain her/his actions. More serious matters require more formal investigation and documentation.
- The student and his/her parents or guardians will be informed of the appeal or review procedures in accordance with Policy 14.11 PARENT APPEAL PROCESS.
- No retribution will be taken against a student or his/her parent or guardian for pursuing an appeal or review.

How can school authorities/boards ensure that they are unbiased?

"Bias" may occur when the mind of the decision-maker is in some way pre-disposed to a particular result, or is closed with respect to particular issues and as a result the decision-maker lacks impartiality or neutrality.

Teachers, administrators, and trustees will follow these guidelines to avoid bias or the appearance of bias.

- They will not prejudge the evidence of the particular circumstances of the student's case.
- Persons hearing a case or an appeal of a decision will not be involved in the incident nor will they have any conflict of interest in the case.
- Persons involved in a previous case will only participate in the appeal for the purpose of providing testimony. Such a person will not participate in decision-making at the appeals level.
- Appeals, including evidence, will be shared with all parties in the dispute.

To ensure appropriate procedural protections

The requirements of procedural fairness will depend on the seriousness of the matter being decided. At the low end of the scale, a minor infraction may be appropriately dealt with by an informal meeting between the teacher or principal and the student.

A decision respecting the possible suspension or expulsion of a student would be at the high end of the scale because of the serious implications for the student. These cases call for careful observance of all elements of procedural fairness and a full investigation involving the following:

- impartial (unbiased) decision-maker (at least two administrators will be involved in any disciplinary case which may result in suspension or expulsion);
- reasonable notice of the proposed suspension or expulsion which clearly sets out the grounds being relied on to give the student and his/her parents or guardians an opportunity to prepare a response;
- a meeting at which the student and his/her parents or guardians have an opportunity to present reasons why the proposed action should not be taken;
- the opportunity for the student to present witnesses;
- a fair and unbiased decision based upon the evidence presented; and
- a timely decision with written reasons.

Summary of Key Points

- Everyone at Khalsa School – students, parents/guardians, teachers, staff, administrators, and trustees will treat each other with respect and dignity.
- Proper rules and procedures help promote fairness and consistency.
- Khalsa School has established rules of conduct and behavioural expectations for the students.
- Students and parents/guardians receive the rules of conduct as part of the student Agenda and agree to follow Khalsa School rules, procedures, and expectations as part of the admission process.

- The principles of procedural fairness and natural justice will be followed when decisions are made affecting the rights of a student relating to a matter of discipline, e.g., suspension or expulsion from school, or to an important facet of the student's educational program, e.g., admission into a class or a mark assigned by a teacher.
- In more serious matters an appeal process gives the student and/or parent/guardian the opportunity for a fair and unbiased review of the original decision.
- The level of procedural protections will depend on the seriousness of the matter. Minor matters may only require an informal and summary process. Serious matters such as student suspension or expulsion will justify a full investigation.