



Te Kura o Te Pāroa

Next review: Term 3 2024

Investigating a Formal Complaint or Serious Allegation

The following general guidelines will help investigate a formal complaint or serious allegation. 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.

Guidelines for investigating a formal complaint or serious allegation

Principal, and/or the board chair, and/or nominated board member

1. Preparing for investigation and decision-making

- a. **Acknowledge receipt** – Acknowledge receipt of the complaint within five working days.
- b. **Preliminary assessment** – Conduct a preliminary assessment of the complaint to determine the scope of the investigation and level of board involvement (if any). This may include seeking further information from the complainant and the subject of the complaint. If a formal investigation is deemed to be unnecessary (e.g. for more general complaints or those that are unlikely to lead to disciplinary action against a staff member), consider returning to the **Raising Concerns** process to resolve the issue informally, or deem the issue resolved.
- c. **Refer to board** – Potentially sensitive matters and/or more serious complaints that could lead to disciplinary action against a staff member may be referred to the board for consideration in-committee, with a view to determining the required level of board involvement.
- d. **Legal consultation** – If the complaint is serious and relates to matters that could justify a staff member's suspension or subsequent dismissal, consult NZSTA and/or the school's lawyer. Relevant collective 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.
- e. **External agencies** – 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.
- f. **Appoint investigator** – Consider who will be appointed to investigate the complaint. This may be the principal, a board member, board committee, or an independent or specialist investigator, depending on the seriousness of the issue or any potential conflicts of interest or potential for bias.
- g. **Awareness** – Be aware of school policy and legislative requirements. If the complaint involves a child, you must get permission to interview the child. Also consider appointing an

investigator with expertise in interviewing young people.

- h. **Conflict of interest** – Consider 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. Decide how to manage or mitigate that potential, including removal from the investigation or decision-making process.

Terms of reference – The board may resolve to delegate a decision about the outcome of the complaint to a board member or board committee. However, the board cannot delegate decision-making responsibility to non-board members. Provide an appointed investigator with clear **terms of reference**, including the boundaries and expectations of their **role**. You may choose to specify that you only want fact-finding, including the investigator's conclusions on the balance of probabilities regarding disputed facts.

2. Insurance requirements

- a. Inform the school's insurer of the complaint and keep them informed of progress and resolution. This is an insurance policy requirement to maintain cover when a matter might result in an insurance claim. Insurers usually require boards to follow advice from NZSTA and/or the school's lawyer in dealing with any matters that could lead to disciplinary action against a staff member.
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3. Contact with respondent (person complained about)

- a. Inform the respondent that an investigation is required, and the scope of the investigation. Include, if relevant, 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 ongoing support during and after the investigation (e.g. if a staff member, NZEI, EAP).
 - b. In most cases you should provide the respondent with a letter explaining the specific concerns, attaching all relevant information, and outlining any potential disciplinary outcome. Set a time frame that allows the respondent a reasonable opportunity to consider the complaint and seek independent advice before providing their written and/or oral response.
 - c. Seek NZSTA and/or legal advice regarding your correspondence and meetings with the respondent.
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4. Contact with complainant

- a. Where necessary and appropriate, keep the complainant informed of the expected time frame for resolution. Offer the complainant ongoing support during and after the investigation.
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Investigator/Investigating committee

5. Seeking information

- a. In accordance with the terms of reference, complete relevant inquiries and interviews.
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6. Note-taking

- a. Note-taking and interview recording should be addressed in the **terms of reference**. (Recording meetings is allowed if you tell the participants and make a copy available to them.) 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 that could be taken to suggest the outcome is predetermined.

- b. Be aware that employees are entitled to access their personal information, which will generally include interview notes about their own conduct. Seek legal advice if unsure about the disclosure of information, or contact the Office of the Privacy Commissioner or the Ombudsman.
 - c. Disclose notes from a person's own interview to them for confirmation.
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7. Summarise and conclude

- a. Consider all relevant information, reach a **conclusion regarding disputed facts**, and conclude whether the complaint has been substantiated.
 - b. Prepare a draft investigation report. If required by the terms of reference, share the report with the subject of the complaint, seeking their comments.
 - c. Finalise the report.
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Investigator

8. Present investigation findings to board

- a. Brief the board in-committee on the scope and outcome of the investigation and its findings.
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Decision-maker (board investigator or committee, the full board, or the principal)

9. Present investigation findings and next steps to subject of complaint

- a. Determine any next steps, including whether disciplinary action is appropriate.
 - b. Provide the subject of the complaint with a copy of the final investigation report and a letter that explains any next steps. Any next steps should identify specific concerns and proposed disciplinary actions, and why these may be appropriate.
 - c. Before any decision is made, invite the subject of the complaint (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.
 - d. If a meeting is held, ensure notes are taken and confine discussion to issues already identified. This is not an opportunity for either party to raise new matters.
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10. Resolve the complaint and inform the subject of the complaint

- a. Following the meeting, or on receipt of the written response, consider whether any further investigation may be required.
 - b. Before making a decision, ensure you have carefully considered any feedback, comments, and explanations from the subject of the complaint. Any mitigating circumstances should be also explicitly be considered.
 - c. Make your decision, recording how you arrived at the decision, and the reasons for any disciplinary consequences.
 - d. Depending upon the seriousness of the situation, you may need to take a day or two to consider all relevant information before making a final decision.
 - e. Inform the subject of the complaint of the decision. If this is done at a meeting rather than by letter it must be confirmed in writing.
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Principal and/or the board chair


11. Contact the complainant

- a. Where appropriate, report on the resolution of the complaint to the complainant while maintaining confidentiality and any collective agreement requirements. Outline the steps taken to resolve their complaint, and discuss any further steps that may be required for closure.
 - b. If the complainant is not satisfied, advise them of further courses of action, e.g. contacting the Human Rights Commission, Ombudsman, Ministry of Education, ERO, Office of the Privacy Commissioner.
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12. File documentation

- a. Store all documentation confidentially and securely, in keeping with the requirements of the school's privacy policy and the Privacy Act.
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13. Make any further necessary reports

- a. Determine whether a report needs to be made to the [Teaching Council](#) , in compliance with the mandatory reporting requirements.
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