

# PROCEDURAL FAIRNESS

Procedural fairness is a basic right of all when dealing with authorities. Procedural fairness refers to what is sometimes described as the 'hearing rule' and the 'right to an unbiased decision'.

**The 'hearing rule' includes the right of the person against whom an allegation has been made to:**

- know the allegations related to a specific matter and any other information which will be taken into account in considering the matter.
- know the process by which the matter will be considered.
- respond to the allegations.
- know how to seek a review of the decision made in response to the allegations.

**The 'right to an unbiased decision' includes the right to:**

- impartiality in an investigation and decision-making.
- an absence of bias by a decision-maker.

Procedural fairness includes making available to students and parents or caregivers policies and procedures under which disciplinary action is taken. It also includes providing details of an allegation relating to a specific matter or incident. This will usually involve providing an outline of the allegations made in witness statements and consideration of witness protection. As part of ensuring the right to be heard, schools could establish any need for parents/caregivers to be provided with interpreter services and, if required, make arrangements for such services to be available.

While it is generally preferable that different people carry out the investigation and decision-making, in the school setting this may not always be possible. If the Principal is conducting both the investigative and decision-making stages, he or she must be reasonable and objective. To be procedurally fair, the Principal must act justly and be seen to act justly. While it is difficult to combine the roles of investigator and adjudicator, it is acceptable to do so given the nature of the Principal's responsibilities. Nevertheless, it may be preferable to have another appropriate officer, such as a Deputy Principal or Head of Junior School, carry out the investigation where possible. The review mechanism adds to the fairness of the process.

In matters where a long suspension or expulsion is contemplated, the gravity of the circumstances requires particular emphasis to be given to procedural fairness. This includes the offer of having a support person/observer attend formal interviews. The key points of the interview/discussion are to be taken down in writing.