

Governance support resources

Principles of natural justice

The board, the principal and delegated staff need to follow a fair process when making decisions that impact on the rights, obligations and interests of staff, students and, at times, parents. This involves applying the principles of natural justice. In New Zealand these principles are protected in the Bill of Rights Act 1990, [section 27](#).

If a person is not happy with a decision of the principal about a staff or student matter they can complain to the board. If they are not happy with a decision of the board they can:

- ask the board to review the decision
- contact the Office of the Ombudsman
- apply to the High Court to review the board's decision-making process

It is definitely worth getting the fairness processes right in the first place, as fixing them up later can be time consuming, stressful and financially damaging!

In many cases the board and school already has a policy or procedure or there is some other process or rule to follow that make it easier to get things right, e.g:

- Concerns and complaints procedure / policy, like the ones in the [NZSTA governance framework](#), C4 and C4.1
- The Education Act, and the rules, regulations and guidelines that form part of the legal framework for schools, including the Ministry of Education's Guidelines for Principals and boards of trustees on stand-downs, suspensions, exclusions and expulsions
- Processes in staff collective employment agreements

Sometimes, however, the board / principal has to go back to basics and "follow the principles of natural justice." NZSTA Advisory and Support Centre on 0800 782 435 is available for advice and support. At the same time, and whatever issues your board is facing, it is always useful to understand a bit more about these principles of natural justice.

The key principle is the person's right to a fair and impartial determination of their issue. This means:

- None of the decision-makers has a financial or any other kind of conflict of interest, such as a relational conflict of interest. Applying this principle reduces the risk of actual or perceived bias or predetermination. For the board, this principle is spelt out for parent, staff and student representative trustees in the Education Act 1989, schedule 6, [clause \(40\) 8-10](#).
- Decision makers keep an open mind until they have heard from everyone, looked at all relevant information, and not taken account of irrelevant information

The person's "right to a fair and impartial determination" also means all of the following:

- the person needs to know what the allegation or complaint is, and who is making it
- the person needs a chance to respond fully to any allegations. For instance, this includes being given a chance:
 - to ask questions about any allegations
 - to respond to an adverse finding about the matter, before a final decision is made
- the person has a right both to legal representation and to have an advocate or support person
- the person has a right to reasons for the decision e.g. the board's notification to a complainant that it has "considered your complaint and has decided to dismiss it" does not amount to a reason
- A right to complain, ask for a review or appeal



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Where do I get advice?

The *Governance advisory and support centre* advisers can also assist and are contacted on 0800 782 435, option 1 or govadvice@nzsta.org.nz