

NOVEMBER 2019
COMPLAINTS AND INVESTIGATIONS
COMPLAINTS AND INVESTIGATIONS POLICY
BOARD POLICY

Complaints and Investigations Policy

PREAMBLE

Who this Policy applies to

Every employee of NT Christian Schools.

1. Summary

- 1.1. This policy outlines the position of NT Christian Schools on complaints and investigations. It creates a framework for conducting workplace investigations to ascertain any complaints made against an employee.
- 1.2. This policy relates to a variety of complaints. Due to the specific sensitivities around complaints involving employees, this Policy will focus primarily on this matter.
- 1.3. Nothing in this policy limits the rights of an employee to make a Protected Disclosure in accordance with the NT Christian Schools Protected Disclosures Policy.

2. Related Documents

- a) NT Christian Schools Code of conduct
- b) NT Christian Schools Protected Disclosures (Whistleblowers) Policy
- c) NT Christian Schools Performance and Misconduct Policy
- d) NT Christian Schools Bullying and Harassment Prevention Policy
- e) NT Christian Schools Mandatory Reporting Policy
- f) NT Christian Schools Guidelines for Staff and Student Interaction
- g) NT Christian Schools Child Protection Policy
- h) NT Christian Schools Work Health and Safety Policy
- i) NT Christian Schools Conflict Resolution Policy
- j) NT Christian Schools Investigations Summary Report *(available to Principals and Line Managers. Copies are available from Human Resources)*
- k) NT Christian Schools Checklists –Complainant, Accused and Witness [where necessary] *(available to Principals and Line Managers. Copies are available from Human Resources)*

3. Commencement of Policy

- 3.1. This Policy will commence from November 2019. It replaces all other Complaints and Investigations Policies of NT Christian Schools (whether written or not).

4. Guiding Principles

- 4.1. While the procedural requirements of managing the complaint may vary, NT Christian Schools aims to ensure that:

- 4.1.1. Complainants and accused persons are entitled to make a protected disclosure in accordance with the Protected Disclosures policy, provided that the disclosure is of the type that is identified as 'Reportable Conduct' under the Protected Disclosures policy.
- 4.1.2. Complaints are addressed sensitively, promptly and in accordance with relevant policy and principles of natural justice;
- 4.1.3. All reasonable steps are taken to respect the confidentiality of the people involved in a complaint process;
- 4.1.4. Fairness and impartiality prevail throughout the appropriate resolution process - until a complaint is investigated and a decision made on it, a complaint remains to be an allegation and not a proven fact;
- 4.1.5. Appropriate records are maintained throughout the resolution process;
- 4.1.6. Persons who notify complaints are protected from victimisation or reprisal; and
- 4.1.7. Persons who notify complaints are regularly informed of the progress of the matter, including the consequences of any finding that the complaint is substantiated or not substantiated.

POLICY

5. Application

- 5.1. This Policy may be varied from time to time by NT Christian Schools. This Policy does not form part of any employee's contract of employment.
- 5.2. NT Christian Schools code of conduct is a framework developed to guide employees on workplace conduct and interaction at various levels. Every employee of the organisation is expected to be familiar with the Code of Conduct, as fulfilment of the provisions forms part of their conditions of employment.
- 5.3. Where an employee displays behaviour not in line with the Code of Conduct, appropriate action will be taken by NT Christian Schools in response to the employee's behaviour.

6. Complaints

- 6.1. A complaint concerning the behaviour of an employee may be:
 - a) Information received by a third party that indicates a student or another employee has been treated in an unacceptable or unlawful way by an employee;
 - b) An employee's observation of a student or fellow employee suggesting that inappropriate conduct or misconduct may have occurred towards that student or employee;
 - c) An employee's unwillingness to comply with *Guidelines for Staff – Student Interaction* after repeated discussions with the Principal in relation to this;
 - d) An employee witnessing inappropriate conduct, misconduct or a series of actions that suggest unacceptable treatment of a student or fellow employee;
 - e) Direct disclosure from a student or employee that inappropriate conduct or misconduct has occurred toward him/her or another student/ employee.

7. Definitions

- 7.1. **Inappropriate conduct** is defined as conduct by an employee towards a student that is inappropriate within the circumstances of normal duties and the normal interaction between students and adults employed in NT Christian Schools. Such conduct will warrant appropriate action by the Principal to discipline or counsel the employee, though

it may not of itself be serious enough to warrant the initiation of employment proceedings or summary dismissal.

- a) Any breach of the Code of Conduct will be automatically considered inappropriate conduct and may amount to misconduct.
- b) There may be other conduct by a staff member that will amount to inappropriate conduct.

7.2. **Misconduct** is defined as behavior that is not in accord with acceptable moral or professional standards. Such conduct may warrant the initiation of employment proceedings or a summary dismissal.

- a) Examples of behaviour that may constitute misconduct include, but are not limited to:
 - i. Leaving a class unattended without good reason.
 - ii. Leaving the school without permission.
 - iii. Failure to carry out reasonable instruction.
 - iv. Breach of workplace health and safety rules.
 - v. Acting in an irresponsible manner.
 - vi. Making inappropriate reference to a teacher or a students' sex life, sexual comments, inappropriate use of sexualised language, sexually suggestive comments.
 - vii. Electronic communication of obscene pictures, posters, cartoons, messages or jokes.

7.3. **Serious misconduct** is defined at law as:

- a) Willful or deliberate behavior by an employee that is inconsistent with the continuation of the contract of employment; and
- b) Conduct that causes serious and imminent risk to:
 - i. the health or safety of a person; or
 - ii. the reputation, viability or profitability of the employer's business.
- c) The Fair Work Regulations also list the following conduct as being deemed serious misconduct:
 - i. the employee, in the course of his/ her employment, engages in theft, fraud or assault;
 - ii. the employee being intoxicated at work;
 - iii. the employee refusing to carry out a lawful and reasonable instruction that is consistent with the employee's contract of employment.

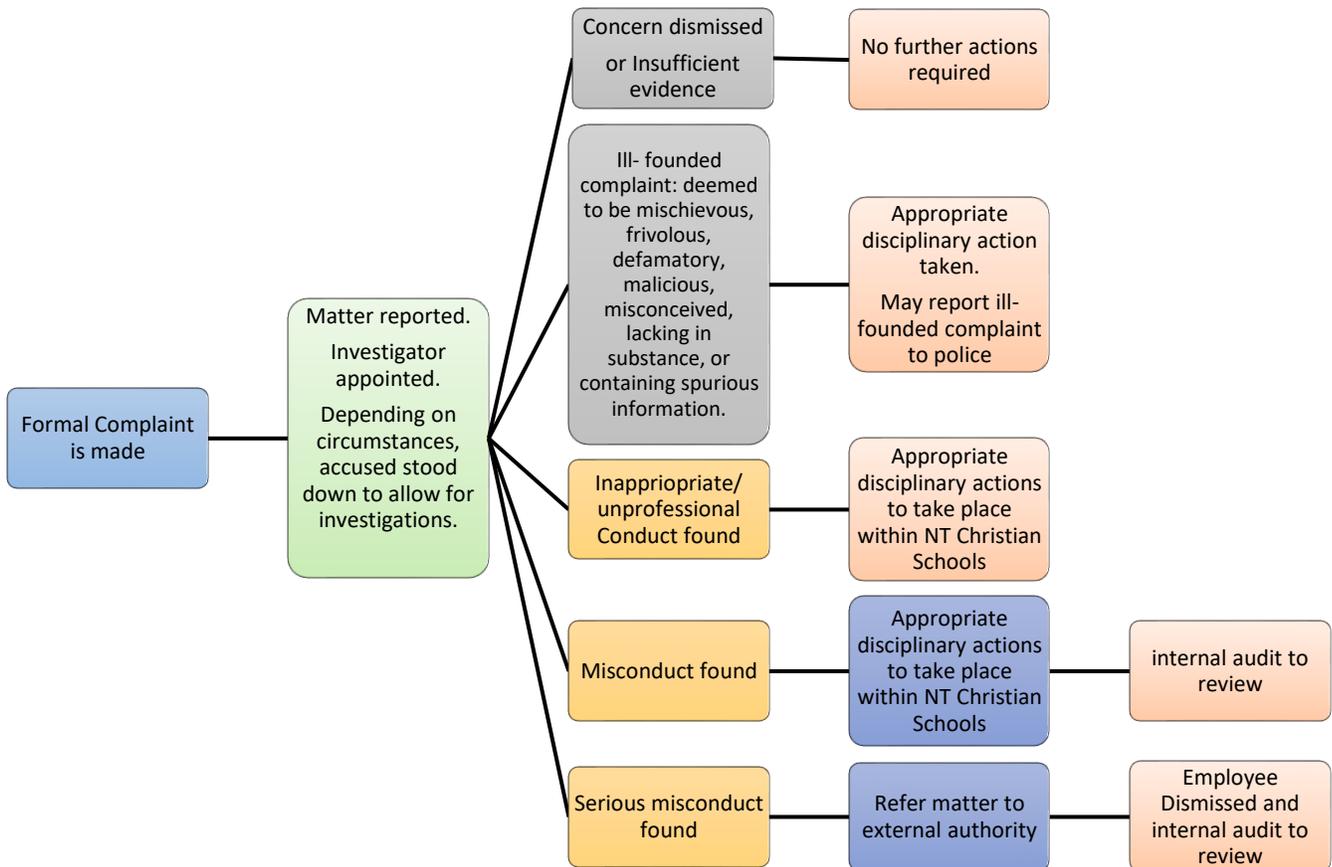
7.4. Examples of serious misconduct may include, but are not limited to: serious assault – actual, attempted or threatened; abusive language, bullying, harassment, refusal to follow reasonable directions of the employer, theft, fraudulent misappropriation, drunkenness or illegal drug taking associated with the work environment, willful breach of school safety rules, sleeping on the job, obscenity and sexual harassment.

8. Important Considerations

8.1. The duty of care to students will be considered paramount in responding to any complaint of misconduct, therefore in all decisions made in response to a complaint, the safety of the child in question, and all students at the school, will be of highest concern.

- 8.2. The reputation of an employee is also of enormous concern. Being subject to a complaint **in no way proves that misconduct has occurred** and we recognise how stressful such a time is for an employee.
- 8.3. In order to protect the student or the employee, confidentiality must be emphasised and maintained throughout the whole process. This does not preclude transparency; it simply concerns using every effort to also protect the integrity and reputation of a student or employee.
- 8.4. All employees have a right to use the procedures in this policy if they believe they have a legitimate complaint that can be dealt with under these procedures.

9. PROCEDURE



- 9.1. All employees have the responsibility to immediately report any complaints either to the Principal or Line Manager. It is preferable that complaints are written however in certain circumstances, oral complaints will be allowed.
 - a) Where the alleged behaviour is mandatorily reportable, employees must follow their legislated responsibilities and the *NT Christian Schools Mandatory Reporting Policy*;
 - b) Where the complaint or concern involves the Principal or Line Manager, employees must report directly to the CEO of NT Christian Schools.
- 9.2. Upon receiving a complaint, Principals or Line Managers must act in a timely, sensitive, unbiased and supportive manner. Where the Principal or Line Manager receives a complaint against an employee they will:

- a) Where a complaint is verbal, document the details of the complaint as received by taking a statement which includes information such as dates, times, sequence of events and witnesses that were present (if any) and ensure that the complainant signs the statement confirming that it is a true and accurate reflection of the complaint (Refer to NT Christian Schools verbal statement of complaint).
- b) Assure the person who has notified a complaint that their complaint has been received and shall be acted upon.
- c) Inform the person making the complaint that they may need to be contacted at a later date in relation to the information they have provided, and that any such contact will be made discreetly and confidentially;
- d) Remind the person making the complaint that it must be kept confidential, and assist them to be aware of the appropriate pathways of receiving support themselves where required.
- e) Refer the matter to the CEO/ Executives based on gravity of the matter.

10. Investigation

- 10.1. Depending on the circumstances, it may be necessary to conduct an investigation into certain complaints that have been raised. This may involve collecting relevant data and interviewing the relevant employee as well as material witnesses (such as the employees, co-workers or supervisors, or even customers and suppliers with whom the employee has had contact). The CEO/ Delegate shall appoint an investigator.
- 10.2. The reputation of any staff member/ person involved is important. Being involved in an investigation in no way proves that misconduct has occurred and we recognise how stressful this can be for a staff member/ person involved.
- 10.3. An employee may be suspended from duty on ordinary pay pending the completion of an investigation.
- 10.4. Investigations will be completed in accordance with principles of natural justice and procedural fairness. As a part of this confidentiality must be emphasised and maintained throughout the whole process. This does not preclude transparency; it simply concerns using every effort to also protect the integrity and reputation of any individual involved.

11. Investigation Procedure

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| STEP 1 | 11.1 | The Principal/ Line Manager shall be informed of the complaint. |
| | 11.2 | On receipt of a formal complaint, the complainant is interviewed and the investigation process is initiated. The investigation process must be carried out as soon as possible as it is critical to ascertain all the available relevant facts and circumstances and determine what action is to be taken in the shortest practicable period of time. |
| STEP 2 | 11.3 | The accused will be informed of the complaint and notified of the investigation process in writing. Depending on the nature of the complaint the accused shall be directed not to attend work (with pay) whilst a full investigation is carried out. |
| | 11.4 | A formal interview is conducted in which event the accused is invited to bring a support person to any meetings. This will afford the accused procedural fairness. Where two or more accused have the same complaint made against them, each shall be interviewed separately. |
| STEP 3 | 11.5 | Adequate opportunity shall be given for the accused to respond. The accused will ordinarily be given at least three working days (from the date |
| STEP 4 | | |
| STEP 5 | | |

of reasonable receipt of formal complaint or verbal discussions) in which to respond in writing to any complaints put to them.

STEP 6

- 11.6 The response will be confirmed to the accused in writing.
- 11.7 The interviewer will interview relevant people and witnesses and/or gather and assess relevant documents/evidence.

STEP 7

- 11.8 A written investigation summary report will be produced upon completion of investigation outlining the following:
 - a) Complaint/s;
 - b) Investigation process;
 - c) Findings based on the complaint/s made;
 - d) Any written response received from the accused; and
 - e) A suggested course of action.

STEP 8

- 11.9 The accused will be provided with a copy of the report and invited to submit a written response within 3 working days.

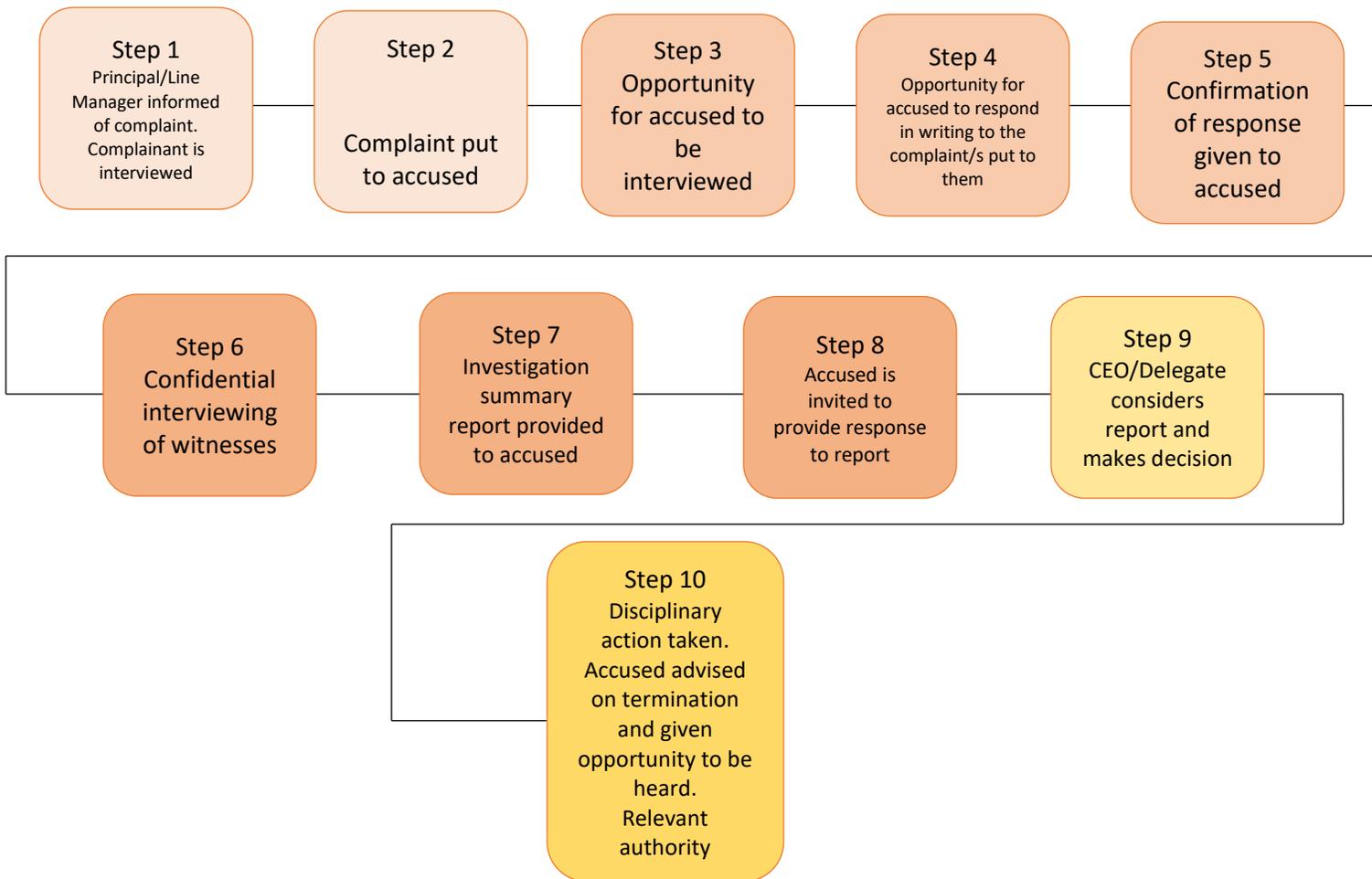
STEP 9

- 11.10 The CEO/ Delegate will consider the report, the accused's response and, in addition, will also consider the following in making a decision:
 - a) Any mitigating circumstances associated with the complaint against the accused;
 - b) The accused's work record; and
 - c) The seriousness of the complaint/s.

STEP 10

- 11.11 If it is decided that disciplinary action is warranted, the accused will be advised of the decision in writing and a copy placed on the relevant file. If the determination is for a written warning, the warning must outline the elements of the misconduct, the required improvement and the consequences if misconduct is repeated.
- 11.12 Where the decision is to terminate, the accused will be given a final opportunity to be heard.
- 11.13 NT Christian Schools shall notify the Teacher Registration Board of the outcome of an investigation process where the accused is a teacher.

Investigation Flow Chart



12. Records

Records must be kept of all meetings. The employee being interviewed will be asked to sign the notes of all interviews as a true and accurate record. If the employee refuses to sign the notes, the reasons for such refusal will be recorded.

13. Variations

NT Christian Schools reserves the right to vary, replace or terminate this Policy from time to time.

14. Sources informing this policy

Fair Work Act, 2009
Fair Work Regulations 2009

Issued by:	NT Christian Schools
Approved by:	Board - 2019
Version:	V 1.0 November 2019
Review date:	November 2022

NT Christian Schools is committed to achieving and maintaining workable solutions for your school. We may make changes to this policy from time to time to improve the effectiveness of its operation. In this regard, any NT Christian Schools member or employee who wishes to make any comment about this policy may forward their suggestions to us.