# Appeals Protocols

(The Policy has been reviewed and updated March 2024)

(Adapted from the Federation of Independent School Association in Consultation with the Inspector of Independent Schools)

## I. PREAMBLE

Guru Angad Dev School will outline policies and procedures to deal with a variety of situations. It is recommended that schools formulate written policies, particularly for situations where the potential for disagreement in human relationships is high. This document enacts as the policies that govern the relationships within Guru Angad Dev School.

## II. INTRODUCTION

It is in the best interests of independent school authorities ("authorities") and school officials in their employ (e.g., principals and administrative teaching staff) that procedures followed in making decisions affecting students or staff are fair and are seen to be fair. This principle applies equally to any process for appeal involving decisions of authorities' school officials.

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.

Increasingly, parents who feel they and their children have been unfairly treated as a result of a decision of a school official or authority are seeking recourse to the court system or a statutory tribunal, e.g., the Human Rights Commission. To assist authorities and school officials, the Federation of Independent School Associations (FISA), in consultation with the Office of the Inspector of Independent Schools, has developed these best practice guidelines in the hope that their use will help independent school communities resolve matters internally and reduce the likelihood of judicial proceedings.

Guru Angad Dev School in turn, has adopted the following policies in relation to procedural fairness.

## III. PURPOSE OF THESE GUIDELINES

These guidelines explain in general terms the principles which are the basis of "procedural fairness" and provide guidance as to how Guru Angad Dev School can effectively address the requirements of "procedural fairness" when developing policies governing their day-to-day operations.

When developing rules and procedures that go beyond the scope of regular day-to-day operations, Guru Angad Dev School holds the right to refer any legal issues or concerns to its lawyers for advice.

## IV. REQUIREMENTS OF "PROCEDURAL FAIRNESS"

Whenever the legal rights of an individual may be affected by officials at Guru Angad Dev School exercising legal decision - making authority, there is an expectation that the decision will be made in accordance with the principles of "procedural fairness" and "natural justice". These principles encompass the following elements:

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

## V. 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) and will be in effect at Guru Angad Dev School.

### A. Basic elements of procedural fairness when dealing with student discipline at Guru Angad Dev School include:

1. Students need to be treated with respect and dignity and to know what is expected of them. The school authority/board and the school have enacted codes of conduct and rules that are clear and well communicated.

   [NOTE: Guru Angad Dev School's Code of Conduct is published on the School Website, the Student Agenda, and reviewed in the classrooms, in addition to classroom rules at the beginning of the year.]

2. In accordance with school policy, a student who is accused of breaching a rule should be notified of that, of which he/she is accused, with the essential facts of what he/she is alleged to have done. [NOTE: In more serious cases, notification is also given to a student's parents by Guru Angad Dev School.]

3. An accused student should 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 principal or teacher asking the student to explain her/his actions. More serious matters require more formal investigation and documentation by Guru Angad Dev School.

4. The student and parent will be informed of any appeal or review procedure in accordance with school policy. Some forms of appeal may include the teacher, principal, or the board of directors, or the Federation of Independent Schools, depending on the severity of the discipline. If the case cannot be resolved, there is always the option of seeking further input and guidance from an ombudsman appointed by FISA.

   (**Role of the Ombudsperson**
   The Ombudsperson is not an arbitrator and does not have the ability to make a binding decision in a matter. The Ombudsperson, however, does provide an opportunity for an external review of a decision or action of a school. The Ombudsperson, having completed an investigation, can make a recommendation to the school or school authority in an attempt to resolve the complaint. If the Ombudsperson is not satisfied with the school's response to the written report, the Ombudsperson may issue a report of the circumstances to the Association and to the FISA).

5. Guru Angad Dev School provides an assurance of no retribution for pursuing an appeal or review.

**B. 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. The British Columbia Court of Appeal in a case commented as follows:

> "to charge such persons with bias is not merely to say that they would be likely to decide a particular matter in a particular way, but to say that they would do so improperly. The charge implies that the (decision-maker) would not decide the case independently, and on the basis of the evidence, but would do so under improper influence, and with a view to achieving an extraneous or otherwise improper purpose."

**Guru Angad Dev School will follow the following guidelines to avoid bias or the appearance of bias:**

1. Staff will not prejudge the evidence of the particular circumstances of the student's case, or give the appearance (e.g., in public statements) of having done so, even if you have strong convictions on such matters.

2. When selecting persons to deal with discipline, hear a case or an appeal of a decision, Guru Angad Dev School will avoid those who have a close out-of-school relationship, family ties or adversarial relationship with the student or student's family, or a staff member who is closely involved in the incident.

   [NOTE: In situations where it may be difficult to find persons who do not have an appearance of bias regarding a particular case or an appeal of a decision, Guru Angad Dev School may appoint a person(s) from outside the school community to handle the case or appeal.]

3. If a person (e.g., principal, staff member or committee member of Guru Angad Dev School) has made a previous decision or has been a member of a committee that has made a previous decision that now is under appeal, such a person should only participate in the appeal for the purpose of providing testimony. Such a person should not participate in decision-making at appeal levels.

4. An appeal-hearing committee should not hear or receive evidence that will not be shared with the other party in the dispute. Guru Angad Dev School will not receive evidence or representations from administrators or staff in the absence of the person appealing and avoid the appearance of doing so.

## C. What are 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 principal or teacher 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 hearing involving the following:

- an impartial (unbiased) decision-maker;
- reasonable notice of the proposed suspension or expulsion which clearly sets out the grounds being relied on; this gives the student and his/her parents an opportunity to prepare a response;
- a meeting at which the student has an opportunity to present reasons why the proposed action should not be taken. Oral and/or written submissions will usually be appropriate with respect to expulsions or lengthy suspensions;
- the opportunity for the student to present witnesses;
- a fair and unbiased decision based upon the evidence presented;
- a timely decision with written reasons.

**D. Mediation**

For some types of disputes a mediation process may be a more appropriate and less confrontational way of resolving a dispute. Guru Angad Dev School may consider if it wishes to adopt a mediation process and the types of cases to which mediation would apply, depending on the severity of the case.

The Dispute Resolution Office of the Ministry of Attorney General maintains a roster of BC mediators, and as a public service, will provide applicants with information respecting suitable, qualified mediators (250-356-8147 or toll -free 1-800-713-0433).

**E. Summary of Key Points**

1. Authorities at Guru Angad Dev School have:

    a) established rules of conduct for students attending educational programs at Guru Angad Dev School;
    b) ensured students and parents are aware of the rules of conduct and agree to abide by them;
    c) ensured that the principles of procedural fairness and natural justice are followed when
    decisions are made affecting the rights of a student whether the decision relates 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;
    d) at least in more serious matters provided an appeal process which gives the student and/or parent an opportunity for a fair and unbiased review of the original decision, through a meeting to review the issue.

2. Guru Angad Dev School understands that establishing proper rules and procedures helps promote fairness and consistency in dealing with students and in the decision-making process.

3. Guru Angad Dev School suggests that 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 meeting with parents to review the issue and punishment.

4. Guru Angad Dev School has established appeal or review procedures to the principal, discipline committee and the board of the authority, depending on the seriousness of the matter.

5. A mediation process may be an appropriate option in resolving certain matters that are very serious in nature.

## VI. PROCEDURAL FAIRNESS AND TEACHERS/EMPLOYEES

The terms and conditions of employment of teachers and other employees at Guru Angad Dev School will be governed by the contract of employment between the employee and the school authority.

### A. Individual Agreements

If an employee is not covered by a collective agreement, terms of employment will be governed by the individual contract of employment between the employee and the school authority.

Guru Angad Dev School's employment contract clearly sets out the duties and responsibilities of the teacher or other employee as well as those of the school authority.

The employment contract outlines procedurally fair provisions dealing with discipline, appeals and grievances.

### B. Employment Standards Act

The Provincial Employment Standards Act contains important basic requirements respecting the conditions of employment of employees. In dealings with its employees, authorities and independent school officials should ensure compliance with the statutory requirements. Guru Angad Dev School holds the right to modify this policy at any time in relation to the needs of the organization