

# Ombudsperson Policy

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## Policy Statement

The Seminary of Christ the King expects students and staff to be treated fairly and respectfully. This Policy will outline the necessary steps to involve the Ombudsperson if the issue at hand cannot be resolved within the school by Administration or by the Seminary Appeals Policy protocols.

When a matter cannot be resolved fairly or agreed upon by the appellant or the Seminary Authority; and only when all other prerequisite avenues are exhausted (Refer to the Appeals Policy), the appellant may approach the Ombudsperson for further mediation.

## Policy Rational

Following procedure for fairness develops integrity and continuity in decision-making.

Procedural fairness can assist members of the Seminary to resolve disagreements internally and reduces the likelihood of escalation to the Human Rights Tribunal or the court system.

At the Seminary of Christ the King we respect and value one another. This allows seminarians, staff, and parents to feel secure, safe and to develop a sense of belonging.

If the issue cannot be remedied within the Appeals policy and the usual streams to amend conflict have been all been explored and exhausted, the remaining avenue is to approach the ombudsperson with the unresolved matter.

## Background

The Federation of Independent School Associations (FISA), and in consultation with the Independent Schools Branch of the BC Ministry of Education, has established the position of Independent School Ombudsperson (Ombudsperson), to investigate complaints made by persons affected by a decision, procedure, act or omission of an independent school or school authority that is a member of FISA.

The Ombudsperson is appointed by FISA to assist those persons who, having exhausted all avenues of redress, appeal or review provided by an independent school or school authority, wish to make a complaint pursuant to this Policy.

## Jurisdiction

The Ombudsperson is authorized, in response to a Complaint, to undertake an Investigation, and make a Recommendation to a School or school authority, in an attempt to resolve a

Complaint. If the Recommendation of the Ombudsperson does not result in a resolution of the Complaint, the Ombudsperson may deliver a Written Report to the School. The School may comply with or respond to the Written Report. If the School does not comply with the Written Report, or if the Ombudsperson is not satisfied with the School's response to the Written Report, the Ombudsperson may issue a further report setting out the circumstances to FISA.

The Ombudsperson is not an arbitrator and does not have the ability to make a binding decision with respect to a Complaint. It is intended that the Ombudsperson provide an objective opportunity for investigation of a decision, procedure, act, or omission of a School.

## **Definitions**

- "Complaint" means a complaint made in writing pursuant to this Policy.
- "Complainant" means a person or persons who make a Complaint pursuant to this Policy.
- "Investigation" means an investigation undertaken by the Ombudsperson pursuant to this Policy.
- "Recommendation" means a recommendation made by the Ombudsperson to a School pursuant to this Policy.
- "Written Report" means a written report delivered by the Ombudsperson to a School and Complainant pursuant to this Policy

## **Appointment of the Ombudsperson**

The School Ombudspersons for Seminary of Christ the King are those persons appointed by the FISA and approved by CISVA who is qualified through training and experience to act as an impartial investigator of complaints pursuant to this policy.

The current AMS Ombudspersons are:

- Phil Jennings
- Neysa Finnie

## **Making a complaint**

Any student, parent or legal guardian of a student affected by a decision, recommendation, act or omission of an independent school or school authority may ask the Ombudsperson to investigate a complaint.

A Complaint must be in writing setting out the basis for the Complaint in reasonable detail. The Complaint must set out the disputed decisions, procedures, and actions of a School on the basis of one or more of the following:

- the Complainant was treated in a manner contrary to the principles of natural justice, or related to the application of arbitrary, unreasonable, or unfair procedure.
- that the School applied a policy incorrectly or inconsistently.
- that the decision, procedure, or action was contrary to the philosophy and mission of the School.
- acted for an improper purpose.
- failed to give adequate and appropriate reasons in relation to the nature of the matter.
- was negligent or acted improperly.
- there was unreasonable delay in dealing with the subject matter of the Investigation

The Complainant must agree at the time of making the complaint to accept the Ombudsperson as an unbiased party in the complaint and not to compel the Ombudsperson to give evidence in a court or in other proceedings of a judicial nature in respect of anything coming to the Ombudsperson's attention in the course of investigating of the Complaint. If the Complainant does not accept the Ombudsperson as an unbiased person in the matter in dispute, the Complainant may ask CISVA to designate another ombudsperson for that matter.

## **Powers of the Ombudsperson**

The Ombudsperson has the power to investigate a complaint despite any provision in the independent school's policy or procedures that a decision, recommendation, or act is final or that no appeal lies in respect of it.

The Ombudsperson cannot investigate a matter related directly or primarily to the employment, dismissal, reprimand, or punishment of a person employed by the school. The Ombudsperson is not authorized to investigate a decision, recommendation, act or omission in respect of which (a) litigation has been commenced and is outstanding; or (b) there is a right of appeal, objection, or review until after that right has been exercised.

The Ombudsperson may refuse to investigate or cease to investigate a complaint if, in the sole discretion of the Ombudsperson, it is reasonable to do so.

The Ombudsperson may receive or obtain information from a person in the manner the Ombudsperson considers appropriate and at the Ombudsperson's discretion may conduct a hearing.

## **Procedures**

- A Complaint referred to the Ombudsperson must be in writing.
- If the Ombudsperson commences an Investigation, the Ombudsperson must notify the Seminary and any other person as determined by the Ombudsperson, the Ombudsperson considers appropriate to notify in the circumstances of the name of the Complainant and the nature of the Complaint.
- If, during an Investigation, the Ombudsperson decides to hold a hearing, the Complainant, the Seminary, and any other affected persons must be given notice of

the hearing and given the opportunity to make representations.

- A person is not entitled as a right to a hearing before the Ombudsperson. The Ombudsperson may determine the scope, procedures, location, and limitations applicable to a hearing.
- If the Ombudsperson decides not to conduct an Investigation or further investigate a Complaint, or, if at the conclusion of the Investigation, decides that the Complaint has not been substantiated, the Ombudsperson must record the decision in writing and notify both the Complainant and the school as soon as is reasonable of the decision and the reasons for it.
- Upon completion of an Investigation the Ombudsperson shall provide a Written Report of Recommendations to the school and Complainant.
- The Ombudsperson may request the school or school authority to notify the Ombudsperson of any steps which have been taken to give effect to the Recommendation or, if no steps have been or are proposed to be taken, the reasons for not giving effect to the Recommendation.
- If the school or school authority does not act on the Ombudsperson's Recommendation within a reasonable period of time, the Ombudsperson shall report the Ombudsperson's original Recommendations and the school's response, if any, to the AMS and to the FISA.
- An Investigation under this Policy must be conducted in private unless the Ombudsperson considers that there are special circumstances in which public knowledge is essential in order to further the Investigation.

## **Confidentiality**

Unless the person who provides the information to the Ombudsperson authorizes its disclosure, the Ombudsperson will hold in confidence all information that comes to his or her attention in performing his or her duties, provided that such information is designated, or is reasonably intended to be, confidential.

## **Fees**

All costs associated with the Ombudsperson process set out in this policy will be paid by the school.

They have been agreed upon to be \$200-\$250 per hour. Should the process reach ten hours of arbitration the Ombudsperson will consult with the school authority to determine continuation options.