



# **St Nathy's College**

## ***Suspension and Expulsion Policy***

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This policy document sets out procedures to be applied when the Suspension or Expulsion of a pupil is being considered. The following policy must be read in conjunction with the school's **Code of Behaviour**. These sanctions affect a pupil's access to education and must be applied with due regard for fair procedure and natural justice, to the rights of the individual student.

### ***Fair Procedures and Natural Justice.***

Procedural fairness is a basic right of all individuals dealing with authorities. All individuals have a legitimate expectation that schools (Board, Principal and teaching staff) will follow these principles in all circumstances, particularly when dealing with suspensions and expulsions.

Procedural fairness is generally recognised as having two essential elements.

1. The right to be heard, which includes:
  - The right to know why the action is happening
  - The right to know the manner in which the issues will be determined
  - The right to know the allegations in the matter and any other information which will be taken into account
  - The right of the person against whom the allegations have been made to respond to the allegations, and
  - The right to appeal
  
2. The right of a person to an impartial decision, which includes:
  - The right to impartiality in the investigation and decision making phases
  - The right to an absence of bias in the decision maker

As part of ensuring the right to be heard, Principals should establish if parents/guardians **require an interpreter** and, if so, make arrangements for one to be available. Principals should also ensure that students and parents/guardians have access to policies and procedures under which action is being taken. The functions of investigating and deciding is to be carried out by different people where possible. It is preferable to have an appropriate person, such as a deputy or assistant principal, carry out the investigation if possible.

It is the Principal's responsibility or that of a person acting in the Principals' position to suspend a student. To ensure the elements of procedural fairness are met, it is appropriate to provide students and their parents/guardians with details of all allegations relating to the incident.

### ***For the purposes of this policy:***

- **Suspension** is considered to be the withdrawal of permission from a pupil to attend school for a specified period of time while,
- **Expulsion** is considered to be the permanent exclusion of a student from this school.

## ***Scope***

This policy applies to all our students:

- during the school day
- while on school-related activities

## ***Relationship to Mission Statement /School's Philosophy***

This policy derives from our Mission Statement and our School's Philosophy. Our school's mission statement is .... 'to act as a centre of learning within a Christian environment which provides for the personal, physical, intellectual, moral and faith development of each student'. In effect, the spiritual, emotional and psychological well-being of every student is paramount so that their academic and social potential is fully realised. Our philosophy is based on respect for the human person. To guarantee justice and fairness for all so that "each student can benefit fully from the school environment and, in the process, develop knowledge and self-discipline" We, therefore, strive to uphold each student's right to an education. Instrumental in achieving this is the school's *Code of Behaviour*.

## ***Rationale***

Our rationale for this policy is as follows:

1. To satisfy the legislative requirements associated with:
  - *The Constitution*, in particular, *Article 42 (Education)*.
  - *Sections 15(2)(d) and 28(1) of the Education Act 1998*.
  - *Sections 23 and 24 of the Education (Welfare) Act 2000*.
  - *Section 7(2)(d) of the Equal Status Act 2000*
2. To provide a transparent framework for the fair application of the sanctions of suspension and expulsion.

### ***1. Suspension:***

**1.1.** Collaboration between the Board of Management, school staff, students and parents is an important feature of behaviour management in schools. All should be fully aware of the suspension procedure and its place in the context of this school's Code of Behaviour. In this regard, all concerned should be aware that a suspension can only be imposed for a breach of the school's Code of Behaviour.

**1.2** Suspension is only one strategy within a school's Code of Behaviour. St. Nathy's College

will work with parents with a view to assisting a suspended student to re-join the school community as quickly as possible.

**1.3** When all other strategies have been exhausted, suspension can allow students time to reflect on their behaviour, to acknowledge and accept responsibility for the behaviour which led to the suspension in the first instance and to accept responsibility for changing their behaviour to meet the school's expectations in the future. It can also allow time for school personnel to plan appropriate support for the student to assist with successful re-entry.

**1.4** Suspensions may occur after the Principal has:

- a) ensured all discipline options under the Code of Behaviour have been applied and documented.
- b) ensured that all appropriate support personnel have been involved.
- c) ensured that the opportunity for discussion has been afforded the student and parent(s) regarding specific misbehaviour which the school considered unacceptable, and which may lead to suspension.
- d) provided a warning (if appropriate) detailing these misbehaviours, as well as clear expectations of what is required of the student in the future and the consequences of non-compliance.
- e) recorded all actions taken.

### ***Procedure for Suspension***

- Principal makes decision (or, in the Principal's absence, the acting or Deputy Principal) on the basis of the reasons set out in the Code of Behaviour, and the parameters set out by the B.O.M.
- Student is informed of the precise grounds which gave rise to possible suspension, and be given an opportunity to respond, before a decision to suspend is reached and formalised.
- Parents/Guardians informed by phone call and post.
- If the suspension is to be immediate (e.g. in the interests of health and safety) parents/guardians may be informed by phone, with a written follow up.
- Students to be supervised / in class until suspension takes place.
- A student will never be sent home during the school day, unless collected by a parent/legal guardian (or other suitable arrangement).

**1.5** Suspension is a serious sanction and may be considered in the following circumstances:

This list is not exhaustive:

- a) For serious misbehaviour.
- b) For an unacceptable level of repeated misdemeanours.
- c) For bullying, insulting, aggressive, threatening or violent behaviour towards others in the school, or when identifiable with the school.
- d) For the supply/possession/use of alcohol and or illegal drugs.
- e) For the supply/possession/use of weapons/dangerous materials/ substances.
- f) For behaviour that may be a danger to self or others, under the terms of the *Health and Safety Act 1989*.
- g) For refusal to take direction from members of staff which may result in the student being a danger to self or others.
- h) For racist behaviour and/or the supply/possession/use of racist material.

- i) For behaviour that is contrary to the terms of the Equal Status Act 2000.
- j) For sexual harassment and/or the possession/supply/use of pornographic material.

**1.6** Pursuant to subsection 1.1 above St. Nathy's College, through its Board of Management, affirms the right of the Principal to suspend a student or students with immediate effect.

**1.7** The Principal has the right to suspend a student or students for breaches of the school's Code of Behaviour for a maximum of five consecutive school days without recourse to the Board of Management.

**1.8** All suspensions will be notified to the Board of Management at the earliest opportunity.

**1.9** Where there are repeated instances of misbehaviour, the parents shall be requested to attend the school, or other suitable location, for discussion. If the parents and/or the students do not give an undertaking that the student will behave in an acceptable way in the future, the student may be suspended for a period to be determined by the Principal or by the Board of Management, as appropriate.

**1.10** Parents of students enrolled at the school shall be informed of their right to appeal suspensions to the Board of Management.

*The Principles of Natural Justice demand that there should be a right of appeal to a higher authority. The practicalities of school life mean that having a formal appeal to the Board of Management on short suspensions imposed by the Principal may be inappropriate and time consuming and render the suspensions meaningless. An appeal may be made to the B.O.M. from a parent/guardian or a student over 18 years of age in the case of*

- *A suspension of six or more consecutive days*
- *A suspension which brings the cumulative suspension to twenty or more days.*

*It is possible that the suspension may be served before the appeal is actually heard. If the appeal is successful, the only remedy will be to have the suspension removed from the student's record. The student will remain at home while any such appeal is in process.*

**1.11** The formal letter of notification of suspension to parents should be understandable to the student and to the parent(s) and should include:

- a) Notice of suspension
- b) Effective date of suspension
- c) Duration of suspension
- d) Reasons for suspension
- e) Expectations of student while on suspension (study programme may be attached)
- f) Importance of parental assistance in resolving the matter
- g) A statement that the student is under the care and responsibility of the parent(s) while on suspension.
- h) A statement that the Educational Welfare Board has been informed (if the suspension is of six days or more duration, or if the student has been suspended for more than 20 days during the school year to date).
- i) Information on appeal rights.
- j) Requirements which need to be in place when the student returns.

- *Undertakings of good behaviour may be requested in writing*
  - *Agreed conditions (e.g. Counselling, referral to NEPS, other pastoral supports) may be requested in writing from the parent/guardian or the student if over 18 years old*
- k) If consideration is being given to proceeding to expulsion.

**1.12** The Educational Welfare Officer will be informed of suspensions as follows:-

- a) Where the period of suspension is for 6 or more consecutive school days.
- b) Where the aggregate number of days on which a student has been suspended/absent in any school year is 20 or more days.

**1.13** St. Nathy's College will comply with Section 23(2) d of the Education Act 1998 by informing parents and students of the grounds for removing a suspension.

Such grounds include:

- a) Successful appeal.
- b) The Principal/Board of Management may agree that another sanction may be applied after discussion with the parents(s).
- c) When, and if, new circumstances come to light.
- d) Other relevant factors.

## **2. *Expulsion:***

**2.1** Expulsion will be considered only in the gravest of circumstances and only after every reasonable effort at rehabilitation has failed and every other sanction has been exhausted, except as outlined in subsection 2.2 below.

**2.2** When an act of gross misconduct occurs, expulsion may be necessary to protect the safety and rights of others in the school without recourse to the provisions outlined at 2.1 above. The principles of natural justice and fair procedure must continue to apply.

**2.3** The procedure outlined hereunder should be followed prior to a student being expelled from school:

- a) Where expulsion may be the outcome of a breach of the Code of Behaviour of the school, the Principal, Deputy Principal and/or other appropriate person may conduct an investigation into any reported misbehaviour or breach of school rules.
- b) A student/students may be suspended *pro tempore* pending a full hearing of the case, provided this does not interfere with the said students' statutory rights or with the principles of natural justice
- c) During the course of any investigation, all relevant persons shall be interviewed and notes shall be taken of any such interviews.
- d) The Principal shall write to the parents of the student concerned (or to the student if s/he has reached the age of 18 years) informing them of the allegations and inviting them to the school, or other suitable location, for discussion.
- e) The Principal may, at his/her discretion, call an emergency meeting of the Board of Management and recommend that the student be suspended pending a full hearing if this is considered to be in the best interests of the student and/or of others in the school.

**f)** The Principal may make a decision to recommend expulsion and s/he shall then notify, in writing, the parents of the student concerned (or the student if s/he has reached the age of 18 years) and the Educational Welfare Officer, where appropriate, of the decision and that this decision is subject to the approval of the Board of Management. Copies of notes taken and statements made in the course of the investigation should be forwarded to the parents and/or the Educational Welfare Officer. Where there may be a breach of confidentiality, a summary of notes taken and statements made shall be forwarded instead.

**g)** The Principal shall notify the parents of the student concerned (or the student if s/he has reached the age of 18 years) and the Educational Welfare Officer, where appropriate, of their right to be heard before the Board of Management.

**h)** A meeting of the Board of Management shall, normally, be convened within 10 working days of the notification as outlined at 2.3 above.

**2.4** The procedure outlined hereunder should be followed in the course of a Board of Management hearing at which it is proposed to expel a student from the school:

**a)** The Principal shall present the case on behalf of the school and shall propose expulsion.

**b)** The parents of the student concerned (or the student if s/he has reached the age of 18 years), or their appropriate representative and/or the Educational Welfare Officer, where appropriate, shall be afforded the opportunity to respond.

**c)** Members of the Board of Management shall have the right to question the principal and/or the parents of the student concerned (or the student if s/he has reached the age of 18 years) or the Educational Welfare Officer as appropriate.

**d)** Each side shall be afforded the opportunity to sum up, by way of final comment.

**e)** The Principal, the parents of a student/s under the age of 18 years, the student, if he/she has reached the age of 18 years, the Educational Welfare Officer and their appropriate representatives shall withdraw to enable the Board to make a decision, but shall remain available for clarification purposes if required.

**f)** In the absence of the Principal, the members of Board shall elect a recording secretary from among their members.

**g)** The Board may make the following decisions:

**i.** That the student/s be expelled.

**ii.** To suspend for a period to be decided by the Board.

**iii.** To refer the matter back to the Principal for further investigation.

**iv.** To reinstate the student in the school.

**2.5** The Board shall not decide to recommend the expulsion of a student without first having considered the following:

**a)** The age of the student.

**b)** The student's previous record at the school.

**c)** Any particular aspect of the social, cultural and/or environmental contact of the student, which should be taken into account.

**d)** The extent to which parental, peer or other pressure may have contributed to the behaviour.

- e) The seriousness and/or frequency of the behaviour and the likelihood of it recurring.
- f) Whether or not the behaviour impaired or will impair the normal functioning of other students in the school.
- g) Whether or not the behaviour occurred on school premises or when the student was otherwise in the charge of school staff or when the student was identifiable with the school.
- h) The degree to which the behaviour was a violation of one or more rules contained in the school's Code of Behaviour and the relative importance of these rule(s).
- i) Whether the incident was perpetrated by the student on his/her own or as a part of a group.
- j) Whether consideration has been given to seeking the support of other agencies.
- k) The consequences of the student's behaviour / actions on the wider school community.

**2.6** The procedure outlined hereunder should be followed at the conclusion of a hearing before the Board of Management at which it is decided to recommend that the student/s be expelled or suspended:

**a)** Where the Board decides to recommend expulsion or suspension, parents of students who have not yet reached the age of 18 years (and students who have reached the age of 18 years) and the Educational Welfare Officer, where appropriate, shall be informed in writing by the Principal of the decision of the Board of Management (in his / her capacity as Secretary to that Board) and of their right to appeal this decision to the Trustee and to the Department of Education and Science, under the terms of the Education Act 1998 Section 29. The appeal to the Department of Education and Science shall follow the procedures as laid down in Circular Letter M48/01. This appeal must be made within **42** calendar days of the decision being handed down and addressed to the Secretary General of the Department of Education and Science.

**b)** When the Board of Management is of the opinion that a student who is of compulsory school going age (or where a student has not completed 3 years of second level education) should be expelled from a school, it shall notify the Educational Welfare Officer in writing of its opinion and the reasons therefore and it shall co-operate, in as far as it practicable, with the Educational Welfare Officer in this regard.

**c)** A student of compulsory school going age (or a student who has not completed 3 years of second level education as appropriate) shall not be expelled from a school before the passing of 20 school days following receipt of the notification by the Educational Welfare Officer. *(The student is under the care and responsibility of the parents/guardians for the 20 days required by the Education Welfare Officer to examine alternative provisions for the education of the student.)* This is without prejudice to the right of the Board of Management to take such other reasonable measures, as it considers appropriate, to ensure that good order and discipline are maintained in the school and that the safety of students is secured.

**Signed: *Kevin Hennigan***

***For and on behalf of the Board of Management***

**Date: 28<sup>th</sup> May 2019**

## ***RELEVANT LEGISLATION***

### ***Education Act 1998***

The Board of Management shall - Section 15(2):

- (c) Consult with and keep the patron informed of decisions and proposals of the Board
- (d) Publish, in such manner as the Board with the agreement of the patron considers appropriate, the policy of the school concerning admission to and participation in the school, including the policy of the school relating to expulsion and suspension of students and admission to and participation by students with disabilities or who have other educational needs, and ensure that as regards policy principles of equality and the right of parents to send their children to a school of the parents' choice are respected and such directions as may be made from time to time by the Minister, having regard to the characteristic spirit of the school and the constitutional rights of all persons concerned, are complied with.

### ***Education Welfare Act 2000***

#### **Section 23 - Code of Behaviour**

- (1) The Board of Management shall after consultation with (principal, teachers, parents, educational welfare officer) prepare a Code of Behaviour in respect of the students registered at the school.
- (2) A Code of Behaviour to specify -
  - a. The standards of behaviour that shall be observed by each student attending the school
  - b. The measures that may be taken when a student fails or refuses to observe those standards
  - c. the procedures to be followed before a student may be suspended or expelled from the school concerned
  - d. the grounds for removing a suspension imposed in relation to a student;
  - e. the procedures to be followed relating to notification of a child's absence from school

#### **Section 23 – Parents & the Code of Behaviour**

- (4) The principal of a recognised school shall, before registering a child as a student at that school ...provide the parents of such child with a copy of the code of behaviour in respect of the school and may, as a condition of so registering such child, require his or her parents to confirm in writing that the Code of Behaviour

so provided is acceptable to them and that they shall make all reasonable efforts to ensure compliance with such code by the child.

#### **Section 24 – Parents & the Code of Behaviour**

- (1) Where a Board of Management or a "person acting on its behalf" believes that a student should be expelled it must before doing so inform the Educational Welfare Officer of this belief and the reasons for so believing.
- (3) The welfare officer must consult with the principal (or his / her nominee), the student and his/her parents and other appropriate persons, and convene a meeting of those willing to attend.
- (4) A student may not be expelled for twenty school days after the Educational Welfare Officer receives this notification
- (5) A Board has the right to take such reasonable measures as it considers appropriate "to ensure that good order and discipline are maintained... and the safety of students is secured" during this twenty-day period.

#### ***Equal Status Act 2000***

**Section 3** – "...discrimination shall be taken to occur" where a person is treated less favourably than another on any of the grounds set out in Section 5.

#### **Section 5 – Grounds of discrimination**

The prohibited grounds of discrimination are:

Gender, Marital Status, Family Status, Sexual Orientation, Religion, Age, Disability, Race, Membership of the Travelling Community, Victimisation.

#### **Section 7 (2) – Educational establishments**

An educational establishment shall not discriminate in relation to:

- (a) Admission            the admission or the terms or conditions of admission of a person as a student to the establishment,
- (b) Access                the access of a student to any course, facility or benefit provided by the establishment,
- (c) Participation        any other term or condition of participation in the establishment by a student, or
- (d) Expulsion            the expulsion of a student from the establishment or any other sanction against the student.