Plean Scoile

St Fiacc's NS

Suspension & Expulsion Policy

St. Fiacc's N.S.
Fírinne le Misneach

Formulated/Ratified/Reviewed	By
Reviewed 31/08/2016	Staff
Ratified 27/9/2016	BOM

Signed Chairperson BOM

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Suspensions and Expulsions

Legal and Procedural requirements

a) The Legal Context

The entitlement to education is protected in a range of constitutional and legal provisions in human rights Conventions. These legal protections for the individual pupil's right to education mean that decisions to suspend or expel a pupil are open to appeal and may be subject to judicial review by the High Court. Schools are required under section 23 (2) of the Education (Welfare) Act 2000, to include their procedures for suspension and expulsion in their Code of Behaviour.

b) The responsibility of the Board of Management.

The Board of Management should:

- Ensure that the school has a policy on, and procedures for, the use of suspension and expulsion that are in line with these Guidelines.
- Ensure that all pupils and parents are advised about, and aware of, the school's policy for suspension and expulsion.
- Ensure that fair procedures are used for suspension and expulsion and that all staff are aware of these procedures.
- Take special care to ensure that fair procedures are accessible to people with disabilities or those from different language or cultural backgrounds.
- Ensure that the Board of Management and the Principal are equipped for their roles in relation to the use of suspension and expulsion.

The Board and Principal of St. Fiacc's has a duty to ensure that there are no undue delays in an investigation and in making decisions about the imposition of suspension or expulsion. Great care should be taken to ensure that all matters to do with an investigation of alleged behaviour are dealt with in confidence.

c) Applying fair procedures in school.

In a school, fair procedures apply to:

- The investigation of alleged misbehaviour that may lead to suspension or expulsion.
- The process of decision-making as to a) whether the pupil did engage in misbehaviour and b) what sanction to impose.

The way in which fair procedures are applied will take account of the seriousness of alleged misbehaviour and will have regard to what is reasonable in the context of a particular school. The principles of fair procedures always apply, but the degree of formality required in implementing fair procedures will depend on the gravity of the alleged misbehaviour and on the seriousness of the possible sanction. The level of formality required, for example for a suspension of fewer than three days, would be less than that required in the case of a longer suspension or in circumstances that might lead to an expulsion.

Even informal processes, however, must be fair and be seen to be fair. The principles of ensuring the right to be heard and the right to impartiality apply in all cases.

The right to be heard means that a pupil and their parents are fully informed about an allegation and the processes that will be used to investigate and decide the matter, and they must be given an opportunity to respond to an allegation before a decision is made and before a serious sanction is imposed.

Absence of bias in the decision-maker would mean, for example that if the child of the Principal was accused of misconduct that night warrant suspension or expulsion, the Principal would not be involved in the decision.

The principle of impartiality in decision-making means it is preferable that, where possible, the Principal arranges for another member of staff to conduct the investigation and to present a full report on the facts of the case and any other relevant information to the Principal. The Principal is then free to take a view about whether the pupil did engage in the behaviour and about the sanction based on the report of the investigation.

Where circumstances require the Principal to conduct the investigation as well as make a finding and propose the sanction, he or she must not only act fairly but be seen to act fairly.

It is incumbent on the Principal to review the investigation to ensure that it has been fully and fairly conducted. It should be evident to the pupil, parents, staff and other pupils that the Principal, as decision-maker, is basing their decision, in an objective way, on the findings of the investigation. The person alleging the misbehaviour, or who is a victim, or a witness should not usually conduct the investigation. Thoughtful application of professional judgement and knowledge of the requirements of fair procedures will generally guide decision-making about suspension and expulsion. However, in circumstances of particular complexity, school authorities may need to seek legal advice to support their decision-making.

d) Involving the Gardai.

Where allegations of criminal behaviour are made about a pupil, these will usually be referred to the Gardai who have responsibility for investigating criminal matters.

SUSPENSIONS

a) Authority to suspend.

The Board of Management of St Fiacc's has the authority to suspend a pupil. The board has delegated the authority to suspend a pupil for up to three days to the Principal.

b) The grounds for suspension.

Suspension should be a proportionate response to the behaviour that is causing concern. Normally other interventions will have been tried before suspension, and school staff will have reviewed the reasons why they have not worked. The decision to suspend a pupil requires serious grounds such as:

- The pupil's behaviour has had a seriously detrimental effect on the education of the other pupils.
- The pupil's continued presence in the school at this time constitutes a threat to safety.
- The pupil is responsible for serious damage to property.

A single incident of serious misconduct may be grounds for suspension.

c) Forms of suspension

Immediate suspension – in exceptional circumstances, the Principal may consider an immediate suspension to be necessary where the continued presence of the pupil in the school at the time would represent a serious threat to the safety of pupils or staff of the school, or any other person. Fair procedures must still be applied.

"Automatic" suspension – a Board of Management may decide, as part of the school's policy on sanctions, and following the consultation process, that particular named behaviours incur suspension as a sanction.

Rolling suspension – A pupil may be suspended again shortly after they return to school if

- They engage in serious misbehaviour that warrants suspension.
- The standard applied to judging the behaviour is the same as the standard applied to the behaviour of any other pupil.

Exclusion of a pupil for part of the school day as a sanction, or asking parents to keep a child from school, as a sanction, is a suspension and will follow guidelines relating to suspension.

d) Procedures in relation to immediate suspension.

Where an immediate suspension is considered by the Principal to be warranted for reasons of the safety of the pupil, other pupils, staff or others, a preliminary investigation should be conducted to establish the case for the imposition of the suspension. The formal investigation should immediately follow the imposition of the suspension. All the conditions of suspension apply to immediate suspension. Parents must be notified and arrangements made with them for the pupil to be collected.

e) The period of suspension.

A pupil should not be suspended for more than three days, except in exceptional circumstances where the Principal considers that a period of suspension longer than three days is needed in order to achieve a particular objective. If a suspension for longer than three days is being proposed by the Principal, the matter should be referred to the Board of Management for consideration and approval giving the circumstances and the expected outcomes. However, the Board may wish to authorize the Principal, with the approval of the Chairperson of the Board, to impose a suspension of up to five days in circumstances where a meeting of the Board cannot be convened in a timely fashion, subject to the guidance concerning such suspensions. The Board should normally place a ceiling of ten days on any one period of suspension imposed by it.

The Board should formally review any proposal to suspend a pupil, where the suspension would bring the number of days for which the pupil has been suspended in the current year to twenty days or more. Any such suspension is subject to appeal under section 29 of the Education Act.

f) Section 29 Appeals.

Where the total number of days for which the pupil has been suspended in the current school year reaches twenty days, the parents may appeal the suspension under Section 29 of the Education Act. At the time when parents are being formally notified of such a suspension, they and the pupil should be told about their right to appeal to the Secretary General of the Department of Education and Science and should be given information about how to appeal.

g) Implementing the suspension

Written notification

The Principal should notify the parents and the pupil in writing of the decision to suspend. The letter should confirm:

- The period of the suspension and the dates on which the suspension will begin and end.
- The reason for the suspension.
- Any study programme to be followed.
- The arrangements for returning to school, including any commitments to be entered into by the pupil and the parents (parents may be asked to sign a behaviour plan or reaffirm their commitment to the Code of Behaviour).
- The provision for an appeal to the Board of Management.
- The right to appeal to the Secretary General of the Department of Education and Science (Education Act 1998, section 29).

The letter should be clear and easy to understand. Particular care should be taken in communicating with parents who may have reading difficulties, or whose first language is not the language of the school.

h) Records and reports.

Formal written records will be kept of:

- The investigation (including notes of all interviews held)
- The decision-making process.
- The decision and rationale for the decision.
- The duration of the suspension and any conditions attached to the suspension.
- The Principal should report all suspensions to the Board of Management, with the reasons for and the duration of each suspension. The Principal is required to report suspensions in accordance with the NEWB reporting guidelines if a pupil is suspended for six days or more.
- Meetings with parents and the pupil to try to find ways of helping the pupil to change their behavior.
- Making sure that the pupil understands the possible consequences of their behavior, if it should persist.
- Ensuring that all other possible options have been tried.
- Seeking the help of support agencies i.e. National Educational Psychological Service (NEPS); Health Service Executive (HSE); National Council for Special Education (NCSE); National Behavioural Support Service (NBSS); Special Education Support Service (SESS).

Expulsion

The sanction of expulsion will only be considered in exceptional circumstances when all other avenues have been exhausted. However, St Fiacc's has a duty of care to all its pupils and employees. The Health and Safety at Work Act 2005 requires that Boards of Management conduct their business, as far as reasonably practicable, in ways that prevent improper conduct or behaviour likely to put the safety, health or welfare at work of employees or the health and safety of pupils, parents or visitors at risk. Provisions relating to expulsion of a student are contained in section 24 of The Educational Welfare Act 2000.

The authority to expel is reserved for the Board of Management. Expulsion will be a proportionate response to the student's behaviour.

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The following steps will be undertaken to address misbehaviour and to avoid expulsion:

a) Meeting with parents and pupils to try to help the student change the behaviour.
b) Making sure the pupil and parents understand the possible consequences of the behaviour.
c) Exhausting all other possible options.
d) Seeking the help of support agencies i.e. National Educational Psychological Service (NEPS); Health Service Executive (HSE); National Council for Special Education (NCSE); National Behavioural Support Service (NBSS); Special Education Support Service (SESS).

Grounds for Expulsion

a) The pupil's behaviour is a persistent cause of significant disruption to the learning of others or to the teaching process.
b) The pupil's continued presence in the school constitutes a real and significant threat to safety.
c) The pupil is responsible for serious damage to property.

Difference between Suspension/Expulsion.

a) The degree, seriousness and persistence of the behaviour.
b) Where expulsion is considered a series of interventions have been tried by the school.
c) All possibilities of changing the pupil's behaviour have been exhausted.

Expulsion for a First Offence.

The Board of St Fiacc's can impose automatic expulsion for certain prescribed behaviours or in exceptional cases for a first offence. These behaviours, in accordance with the National Welfare Board (NEWB) may include:

a) Sexual Assault
b) Supplying illegal drugs to other pupils in the school.
c) Actual violence or physical assault.
d) Serious threat of violence against another pupil or member of staff.

Procedures in Respect of Expulsion

a) Detailed investigation carried out under the direction of the Principal.
b) Recommendations by the Principal to the Board.
c) Board considers Principal's recommendation and holds hearing.
d) Board deliberates and proposes action following the hearing. If BOM is of the opinion that the student will be expelled, the Board must notify the Educational Welfare Officer (EWO) in writing, of its opinion and the reasons for this opinion. The intention to expel a student does not take effect until 20 school days have elapsed after NEWB have received written notification. The NEWB will be notified using a Notice of Intention to Expel form.
e) Consultations arranged by the Educational Welfare Officer.
f) Confirmation of the decision to expel.

Appeals
A parent may appeal a decision to expel to the Secretary General of the Department of Education and Skills (Education Act 1998 section 29)

Fairness of Procedures

The constitution of Ireland gives rights to parents and pupils in the matter of education and these must be respected as fundamental in the school code of behaviour. The requirement of fairness of procedures also derives from the constitution. There are two basic rules of fairness of procedures:

1. The right to be heard i.e. the right to respond, the right to know what alleged misbehaviour is being investigated, the right to know how the issue is decided. If there is a possibility of a serious sanction, the right to be heard by the Board of Management. If the dispute is about facts, the right to ask questions of the other party or witnesses.
2. The right to impartiality i.e. the right to an absence of bias in the decision-maker. Generally, impartiality requires that the investigation is separated from the process of making a decision so that the decision maker comes to the task with an open mind.