



STUDENT DISCIPLINARY GUIDANCE FOR INVESTIGATORS

1. BASIC PRINCIPLES

These procedures should be followed in all cases involving suspension from or expulsion from the College on Disciplinary grounds (other than on academic grounds). Such disciplinary grounds for expulsion are set out in the Student Disciplinary Guidance and Procedure which is provided to each student at enrolment, and which forms part of the terms and conditions of their acceptance of a place.

This guidance can never deal with all possible situations, and is not intended to be exhaustive, nor should it be slavishly followed in circumstances where it is clear that injustice will be done. The person excluding or suspending the student, the Principal and the Discipline Committee of the Governors should ensure that they exercise their own independent judgement and ensure that they do not fetter their discretion at any time. Greater or lesser levels of procedural fairness will be required depending on the circumstances of the case.

2. FAIRNESS

The following are the touchstones of fair procedure, and so, in varying situations, the individuals concerned should look at these when determining whether or not procedure is fair:

- (a) An individual has the right to know the nature of the allegation made against him and the basis of the allegation in adequate form.
- (b) A decision maker should not have access to damaging material where an individual has no access to it.
- (c) An individual should be given an opportunity to make representations about his or her suspension or expulsion.
- (d) An individual should have an opportunity to be heard by a body who are not biased and who act in good faith.

3. EXPULSION AND SUSPENSION

- a) Expulsion is defined in the student guidance as having registration withdrawn and no longer being a member of the College community. Registration will be withdrawn immediately upon a decision taken to expel a student. The student will not be permitted onto college premises unless the

express permission of the Principal has been obtained. Also, he or she must return all relevant College property including their ID card.

- b) Suspension is defined in the student guidance as being in a state where the individual will not be permitted onto College premises or undertake a course of study at the college for a prescribed period of time. The express permission of the Principal must be obtained for entry onto college premises during the period of suspension. The Senior Management Team and Dean/Director/Assistant Dean of Faculty, Security Manager and Site Managers are entitled to suspend a student for such period as they see fit, as long as such suspension is proportionate to the misconduct committed and its length is defined at the outset.
- c) A student who has been accused of bad behaviour of a kind which might lead to suspension or expulsion may be suspended for a matter of days while an investigation is carried out. As well as Senior management and Deans/Directors, Assistant Deans, the Security Manager, Site Manager, Director of Student Entitlement and Marketing also has the power to exclude a student pending an investigation.
- d) Following an investigation, the Principal, Deputy Principal, Vice Principal or Deans of Faculty/Director of Division may expel or suspend a student if evidence is presented which demonstrates, on the balance of probabilities, that the student has committed an act listed in the Guidance to Students as one for which suspension and/or expulsion can be imposed.
- e) The decision whether to suspend or to expel will depend on the nature of the incident(s) reported to the Investigator. In general, a decision to expel will follow an incident clearly involving one or more of the behaviours listed in the *Student Disciplinary Guidance and Procedure*. A decision to suspend will, in general, follow reports of bad behaviour which fall short of those listed in the *Guidance* but which may disrupt learning and teaching, threaten the wellbeing of others, or reflect badly on the College.
- f) In determining whether or not to suspend a student, the Investigator should ask him or herself the following:
- was the bad behaviour characteristic of the student involved or was it an isolated incident?
 - does the student recognise that his/her behaviour was unacceptable?
 - does he/she show any remorse for what they have done?
 - is he/she able to apologise to those they have upset?
 - what will be the effect of excluding the student temporarily from the College? Will it have the desired effect?
 - are there more effective ways to deal with this particular incident?
 - are there any equality or disability issues to take into account?
- g) Having interviewed the student (with a parent or guardian if under 18) and any witnesses involved, and having decided that suspension is appropriate, the Investigator must determine the length of time the student is to be excluded from the College community. This may range from a few days to

several weeks depending upon the incident. However, an individual should not be suspended indefinitely. A suspension should always be for a fixed period of time.

- h) If a student is suspended for 3 weeks or more, he or she must be informed that they have the right to appeal against the decision to the Principal.
- i) Should the period of suspension overlap with public examinations, arrangements should be made for the student to be allowed into the College, under supervision, to sit examinations and to be escorted off the premises immediately afterwards.
- j) The College has the power to suspend a student while they investigate allegations made against them. The length such suspension should be kept to a minimum.

4. PROCEDURE TO BE CARRIED OUT BEFORE EXPULSION

Before deciding to expel a student, the relevant member of staff should usually do as follows:

- a) Carry out an appropriate investigation as swiftly as is reasonable, by, for example, taking witness statements from complainants/individuals who witnessed the alleged incident, viewing CCTV footage, looking at the property allegedly damaged. If an investigation is carried out, the investigator should make brief notes of any discussion with witnesses/complainants even if they do not make formal witness statements. Another member of staff (for example, the Head of Security) can carry out or assist in the investigations, but the decision to expel must be taken by the persons set out above at paragraph 3 (c).
- b) Consider all the evidence available to support the allegations, taking account of the College's code of conduct, and equal opportunities policy and, where applicable, the Race, Sex and Disability Discrimination Acts as amended. The investigator should also look at whether or not the incident may have been provoked by bullying or racial and sexual harassment in any way.
- c) Allow the student to give his or her version of events. This will usually take the form of an interview with either the investigator or a senior member of staff. If deemed appropriate, the pupil should be given copies of the witness evidence and/or shown the appropriate footage in advance of, or during the interview, and should certainly be informed of what allegations have been made against him, and the reason for considering expulsion. If the student is under the age of 18, it would be reasonable practice for him to be accompanied by a parent/guardian and/or other responsible adult. If a parent consents, the child may be interviewed unaccompanied. A student may still be expelled even if the investigator has not carried out an interview in circumstances where either the pupil refuses to attend such an interview, or one cannot be arranged within a reasonably practicable timescale and/or it is clear that the student has been given, during the course of the

investigation, an opportunity to put his version of events to the investigator or make them known to him.

- d) Consult others if appropriate, but not those who may be involved in reviewing the decision of the investigator.
- e) If the investigator is satisfied on the balance of probabilities that the student did what he or she is alleged to have done, then expulsion or suspension can occur. The more serious the allegations, the more convincing or cogent the evidence substantiating the allegation needs to be. This is not the same as requiring that something is proven beyond a reasonable doubt, but does mean that when investigating more serious allegations (which are tantamount to or could be considered a criminal offence), then the investigator will need to gather and take account of a wider range of evidence (extending, in some instances to evidence of the pupil's past behaviour) in determining whether it is more probably than not that the pupil has committed the offence.
- f) When investigating a matter where the informants may be genuinely in fear, the information given by them should be reduced in writing in one or more statements. In taking the statements, the investigator should ask whether the informant has suffered at the hands of the accused or has any other reason to fabricate matters, whether from personal grudge or any other reason or principle.
- g) If the informant is prepared to attend a hearing, no problem will arise, but if the informant refused to attend such a hearing the investigator should be satisfied that the fear is genuine and then decide whether or not to continue with the expulsion process.
- h) The written statement of the informant – if necessary with omissions to avoid identification - should be made available to the accused and his representatives.
- i) Where the police have become involved, and there are possible criminal proceedings or such proceedings have been initiated, the College may not be able to gather much evidence or take part in the investigation itself. They may not, for example, be able to hear relevant witnesses or to consider relevant procedure, or the outcome of any court proceedings may be uncertain. The investigator should not postpone his decision to expel a pupil simply because of the possibility that criminal proceedings might be brought in respect of the same incident. A judgement must be made on the basis of the evidence available, looking at all relevant circumstances but looking in particular at whether or not the student's continued presence in the college would have a significant adverse effect on the complainant (if the allegation has been made by another student or member of the college) or other potential witnesses, and on the promotion of good order at the college generally.

- j) Where an investigator decides to expel or suspend a student in those circumstances, the student must be notified of his right to appeal which must be lodged in line with the guidance.
- k) The Principal and/or the panel when meeting to discuss the expulsion/suspension must take into consideration representations made by all parties and any legal representative as to whether or not they can proceed to determine the appeal, or adjourn the hearing pending the outcome of any proceedings that can be brought. The mere fact that there are parallel criminal proceedings will not necessarily preclude the hearing taking place, but the panel should look at:
- whether or not they know or can find out what charge may be brought against the student (and if there is no charge this may help the student's case and if there is a charge this may prevent the student adequately presenting their case).
 - whether relevant witnesses and documents are available.
 - the likelihood of delay if the hearing were adjourned and the effect it may have on the complainant, the student or the college itself.
 - whether or not adjourning, or declining to adjourn, might result in an injustice.

If the Principal and panel decide to adjourn, they should monitor the progress of the criminal proceedings and reconvene at the earliest possible opportunity when the hearing can proceed to final determination.

5. NOTIFICATION

- a) The investigator has the power to suspend a student pending investigation into the alleged breaches of the rules, but must, as soon as reasonably practicable, make a decision whether or not to suspend or expel the student.
- b) When the investigation is complete, a letter should be sent by the investigator to the student (and if the student is under 18 to his parent or guardian or appropriate adult as well), ideally within one working day of the decision to expel, setting out:
- The period of the suspension.
 - The decision to expel.
 - The reasons for expulsion: this should include what, in brief terms, the individual is alleged to have done, and what particular rule of the College has been broken. If the investigator has taken into account the individual's previous history, this should also be stated.
 - The procedure for appeal. A copy of the appeal procedure should be sent with the letter.
 - The person who should be contacted if the student wishes to appeal.

- The right of the student to see or have a copy of his or her educational record upon written request to their Course Tutor and upon payment of a fixed sum to cover photocopying and other administration costs.
- In the case of suspension, the date and time when the student should return to the college, and the fact that the Principal or the Deputy Principal or the Dean or Director should have a meeting with the student prior to his reinstatement to discuss the future.
- If there is an expulsion, the date it takes effect and any relevant previous history.
- The fact that expulsion means that registration will be withdrawn from the date of expulsion and the student will not be allowed on College premises thereafter without the express permission of the Principal.
- The requirement to return all College property including ID cards.
- Details of the Students' Union Officer who can provide advice and support, is provided in the Student Handbook and Diary.

6. PUBLIC EXAMINATIONS

If the student has been entered for public examinations, and the appeal procedure cannot be completed before such examinations are to be sat and/or it is not possible for the examinations to be sat at an alternative centre, then the student should make a written application to the Principal to be permitted to sit such examinations. If such an application is granted (which will only be the case if the individual does not pose a threat to the health and safety of other students and/or staff) then the individual will be permitted to do the following:

- (a) Attend at the front entrance and ask for the Security Manager approximately 30 minutes before the start of the examination.
- (b) The individual will then be escorted to a room where he can study quietly. He is not permitted to discuss matters with other students.
- (c) Depending on the alleged offence and the examination, the individual will then either be accompanied into the examination room by a member of security staff and then supervised by invigilation staff, or supervised in this separate room.
- (e) The pupil should leave the premises immediately after completing the examination escorted by a member of security staff.

7. SUSPENSION INTO EXPULSION

In exceptional cases – usually where further evidence has come to light – a suspension may be turned into an expulsion. In such cases, the investigator should write again to the parents and/or the student explaining the reasons for the change and the appeal procedure.