

## **STUDENT DISCIPLINARY**

### **PROCEDURE FOR APPEAL TO THE PRINCIPAL FOR REINSTATEMENT**

#### Definitions:

**'The Investigator':**

the person who, on behalf of the College, was responsible for investigation of the incident leading to suspension or expulsion, and the decision to suspend or expel; or, in the absence of that person, such other person as may be appointed.

**'The Appellant':**

the student appealing against suspension or expulsion.

**'The Legal Advisor':**

an advisor who may be present at the appeal meeting to advise the Principal and to be an independent source of legal advice.

#### **1. BEFORE THE MEETING**

- a) On receiving notice of the appeal, the Principal will appoint the Vice Principal, or a suitable member of his administrative team, to act as Clerk.
- b) The Clerk should write to the Investigator, the Principal and the Appellant inviting them to a meeting at a time and place which is convenient to all parties. The meeting should be held within a reasonable time-scale, but at least 7 (seven) weekdays after the date of the letter.
- c) The Clerk will ask for any written statements and written evidence to be used in the appeal by either party, along with details of who will be attending on behalf of the parties, to be provided at least 5 (five) working days before the hearing. He or she will also circulate the letter of expulsion, and any written representations made by the Investigator or by the Appellant.
- d) When writing to the Appellant the Clerk should remind him or her of their right to see their College record by writing to their Course Tutor and paying a reasonable photocopying charge.
- e) The Clerk will circulate a list of those who will be present at the meeting on both sides, identifying their role and the order of the hearing.
- f) At the meeting, no party should have information or evidence which is not available to all other parties.

- g) If any of the parties intend to raise matters, or produce or rely upon documentation not provided in advance or not covered by the expulsion decision or in the notice of appeal, they should be asked to submit these to the Clerk in good time before the meeting.
- h) If the student or his parent does not have an appropriate standard of comprehension of English to be able to understand the proceedings and to make representations, an interpreter should be permitted to attend the meeting.

## **2. AT THE MEETING**

The following are entitled to attend the hearing and present their case:

- a) The Appellant and, if under 18, his or her parent must be permitted to make oral representations at the meeting. If the student is under 18, he or she should normally be allowed to attend the meeting and speak on his or her own behalf if he or she wishes to do so and the parent agrees.
- b) If he chooses, the student may be represented or accompanied by a friend or advisor.
- c) It should not be necessary for more than one friend or representative to attend the hearing. If, however, the student or parent wishes to bring along more than one, this should be discussed in advance with the Clerk who should obtain the Principal's agreement to any reasonable request. In this event, the other parties should be informed in advance of the hearing.
- d) The Investigator or, if he or she is not available, a suitable substitute from among the senior staff who should be entitled to make oral representations and be represented, if so desired.
- e) A legal advisor who should take no part in the meeting save to give advice where it is deemed appropriate.
- f) If the student is alleged to have done something where there is a 'victim', the Clerk will send a letter to this person or persons in advance inviting them to attend the hearing in person or with a friend/advisor, or to submit a written statement. This should be circulated by the Clerk in advance along with the rest of the material.
- g) The Principal cannot compel witnesses to attend the meeting but he can invite them to attend if he deems it appropriate. The Investigator and/or the Appellant may also choose to bring witnesses, depending on the circumstances of the case.
- i) If more than one student has appealed the decision and/or has been involved in an incident which has led to suspension or expulsion, or if the issues raised by two or more appeals are the same or connected, the Principal can decide, to combine the hearings. In such cases the Clerk should check that no-one objects. If there is no objection, the Principal should try to hear the matters at separate hearings held on the same day.

- j) Sufficient time should be given for each party to put their case. The Principal should ensure that the Appellant and his or her friend/parent/advisor are given the opportunity to comment upon the relevant information obtained from the Investigator and the witnesses.
- k) The Principal must ensure that written material has been seen by all parties. If a new issue arises during the proceedings, parties should be given an opportunity to consider and comment upon it.
- l) Both parties have a right to ask for an adjournment (either a short break to consider new evidence or to another date, depending on the new evidence produced).
- m) The Principal has the power to adjourn the meeting if necessary.
- n) Once the Principal has begun to hear the appeal, he cannot be substituted for the Deputy Principal at a further hearing. In the case of illness, death or the resignation of the Principal, a new meeting must be arranged with the acting or substitute Principal.

### 3. CONDUCT OF THE MEETING

- a) Should the Principal be absent from the College his place will be taken by the Deputy Principal.
- b) It is for the Principal to decide how to conduct the proceedings which should be reasonably informal but enable all parties to represent their case effectively. The hearing should not be tape recorded unless there is good reason and all parties agree to it.
- c) The Principal, will introduce those present and make it clear that the Clerk will be taking notes of the proceedings, the attendance and the decision made.
- d) The Principal should outline the procedure to be followed and the decision he will be making.
- e) Following the introductions, the Clerk should explain the order in which the parties entitled to be heard will state their case (as previously notified to them) and there will be an opportunity for questioning by the other parties after each representation. The Principal should try and establish the relevant facts, and is entitled to ask questions to both clarify an issue and elicit more information. These questions from the Principal should generally be taken at the end of each party's statement and following questioning by the other parties.
- f) The Investigator will be asked to outline the grounds on which the Appellant was suspended or expelled. He or she will also be asked to call any witnesses who are in attendance.
- g) The Appellant and/or his/her friend will be invited to ask questions of the Investigator and/or the witnesses relating to the grounds for suspension or expulsion.
- h) The Principal will question the Investigator and/or the witnesses.
- i) The Appellant or his/her friend will be asked to present their case and explain any special circumstances which may exist and the precise nature of the remedy sought (eg re-instatement, a reduced punishment, or a neutral reference).
- j) The Investigator will be invited to ask questions of the Appellant or his/her friend relating to the case made in i) above.
- k) The Principal will question the Appellant and /or his/her friend.
- l) The Investigator will summarise the case for suspension or expulsion. (N.B. No new factors to be introduced.)
- m) The Appellant or his/her friend will summarise the appeal. (N.B. No new factors to be introduced.)

- n) The Principal will ask all present to leave the hearing in order that he can consider the evidence.

NB At no point in the proceedings should any party be alone with the Principal in the absence of any other party, and no party should discuss the case with the Principal in advance of the hearing. The Principal has power to adjourn the case if necessary. Both parties have a right to ask for an adjournment (either briefly to consider the evidence or to another date to consider any new evidence produced.)

#### 4. REACHING A DECISION

- a) In considering the appeal, the Principal should decide, on the balance of probabilities (but taking into account the cogency of evidence required and the guidance on suspension and expulsion), whether the student did what he or she was alleged to have done. If more than one incident of misconduct or breach of the Rules is alleged which is the basis of the decision to suspend or exclude, the Principal should decide in relation to each other.
- b) The Principal should look at the decision made by the Investigator and the procedures followed by having regard to the following:
- whether or not the misconduct alleged is in breach of the Student Guidance
  - whether or not the Investigator has followed the correct procedure in deciding that the student should be suspended or expelled. The Principal should not reinstate or overturn a decision on a mere technicality of procedure prior to the meeting (for example, failing to circulate a letter on time) but if the process were so flawed that important factors were not considered or justice was clearly not done then procedural issues would be relevant.
  - the Appellant's previous record if relevant.
  - the College's code of conduct and equality and diversity policies.
  - the fairness of the suspension or expulsion in relation to the treatment of other students involved in the same incident.
  - these factors are not exhaustive.
- c) Having satisfied himself as to these issues, the Principal should consider whether or not the Appellant should be reinstated, taking into account all the circumstances.
- d) In deciding whether or not to endorse the decision to suspend or expel, the Principal should balance the interests of the Appellant against the interests of all other members of the College community.
- e) If a student appeals and raises issues concerning race or disability discrimination, then the Principal should consider if there has been discrimination looking at the Race Relations Act 1976, the Disability Discrimination Act 1995 and the relevant codes of practice issued by their respective bodies.

## **5. THE DECISION**

- a) The Principal may:
  - uphold the decision to expel or suspend,
  - direct reinstatement immediately or at some future date, or
  - not reinstate the student because of exceptional circumstances but rule that he or she should not have been suspended or expelled.
- b) If the appeal is successful but the student does not wish to return to the College, or can no longer participate in the relevant course, then there is no need for the principal to direct reinstatement but he can still uphold the appeal and amend the student's record accordingly.

## **6. AFTER THE MEETING**

- a) The Principal should set out, within 3 (three) working days of the meeting, his reasons for upholding the suspension or expulsion, or directing reinstatement. The reasons given should be detailed enough to explain why the decision was made.
- b) If the suspension or expulsion is upheld, the Principal should also set out the procedures for an appeal to the Governing Body with the relevant addresses and contact numbers, indicating that a written appeal must be lodged within 10 (ten) working days of receipt of this letter and explaining that the grounds of appeal must be made in writing.