

## **DISCIPLINARY PROCEDURES - STUDENTS (Consolidating Appeals Procedure)**

**Approved by Governing Body September 2019  
To be reviewed 2023**

### **1. PREAMBLE**

- 1.1 The Sixth Form College, Colchester is committed to providing an environment which gives maximum opportunities for all students to develop their full academic potential. The College provides: a broad curriculum; committed and professional teaching and support staff; suitable accommodation; a wide range of equipment and resources; and other support services and facilities which enable successful achievement of student goals.
- 1.2 In return, students are expected to take responsibility for their own learning as well as to acknowledge and meet responsibilities to other students. Students are expected to conduct themselves in such a way as to ensure that both they and their fellow students gain maximum benefits from their programme of study and from the wider learning and development opportunities available to students at the College.
- 1.3 The College would normally communicate with parents/carers, often through a direct meeting, when a student is involved in formal disciplinary procedure.
- 1.4 The expectations and requirements relating to student conduct are to be found in the College prospectus and student handbook/charter. Conditions relating specifically to the learning process are also laid down in the Learning Agreement which is signed by all full-time students at the commencement of their course. Expectations and requirements are made clear at interview, induction and enrolment and are reinforced throughout the programme of study.
- 1.5 Students have access to advice from specialist staff in matters relating to academic, financial, health and other problems.

*The College continues to reserve the right to terminate the programme of study of a student where it is decided that there is no academic benefit in the continuation of their course.*

### **2. INFORMAL DISCIPLINARY MEASURES**

- 2.1 Disciplinary, behavioural or conduct issues will normally be dealt with informally and all staff have authority to take appropriate informal action in cases of minor breaches of regulations. This includes informing/reminding students that their behaviour is a breach of College regulations, is unacceptable and should not be repeated. If staff judge it appropriate, they should inform the student's Personal Tutor of the occurrence and of the informal action taken. In more serious cases the Senior Tutor should be informed.
- 2.2 Issues which could initially be dealt with informally may include:
  - poor punctuality
  - poor attendance
  - lack of commitment
  - failure to submit set work on time
  - unsatisfactory behaviour or attitude

Informal disciplinary action could include: a conversation with the Personal Tutor; a meeting between the student and the Senior Tutor; a phone call or email home to parents/carers; a letter home from an academic department or from the Personal Tutor or the Senior Tutor. Records are kept of communications between College and parents/carers. Personal Tutors and Senior Tutors will keep sufficient notes to be able to track students' progress, following GDPR guidelines. Informal disciplinary action will not normally be referred to in a reference.

### **3. THE FORMAL DISCIPLINARY PROCEDURE**

- 3.1 Formal disciplinary measures will be taken to address a student's continuing failure to engage with College. The Senior Tutor is authorised to progress from Informal to Formal Disciplinary procedures, up to and including termination of the student's programme of study, if there is no academic benefit in their continuing. (See 1.5). The decision to terminate a student's programme of study in these circumstances will be taken after continuing attempts to engage the student have failed. Attempts to engage the student will have included informal disciplinary action (see 2.2), followed by at least one Formal Warning, which will normally be addressed to parents/carers. (It should be noted that students have the right to withdraw their permission for College to communicate with parents/carers. In such cases, the College will not involve parents/carers.) The decision to terminate a student's programme of study will always be taken in conjunction with a second senior member of staff. Students and their parents/carers have a right of appeal to the Assistant Principal (Pastoral). Thereafter, there is a right of appeal to the College Governing Body (see 3.5)

Formal disciplinary measures will also be used in cases of inappropriate behaviour or misconduct, if the student's conduct still continues to be unsatisfactory after informal procedures have been followed, or if the misconduct is considered to be sufficiently serious to move straight to formal disciplinary action.

The following are examples of misconduct that may result in formal disciplinary action being taken, but it is emphasised this is not an exhaustive list:

- Any of the matters set out in paragraph 2.2 above, if informal disciplinary action does not result in substantial improvement
- Any breach of health and safety or other regulations of the College.
- Any noisy or unruly behaviour or the use of foul or abusive language.
- Any vandalism or damage to College buildings, equipment, books or furnishings, or the property of any fellow student or any member of staff.
- Any theft of property or any other dishonesty, including cheating.
- Any drunkenness or breach of College policy regarding alcohol, or the possession or supply of any illegal drug.
- Possession of an offensive weapon.
- Any illegal act which may have an adverse effect on the work of the College or on other students.
- The use or threat of any violence or intimidation towards any person.
- Any behaviour which is a serious breach of the College's Equality, Diversity and Opportunity Policy e.g. behaviour which is racially or sexually offensive or which is offensive to those with disabilities.
- Any serious breach of the College's Protection from Bullying and Harassment Policy.
- Any unauthorised interference with I.T. systems, Internet and computer configurations.
- Any use of social media which is likely to cause offence or distress to others (eg filming, posting, re-tweeting materials without permission)
- Any behaviour, in or out of College, which may bring the College into disrepute.

#### **3.2 Suspension**

In the case of an incident of serious misconduct, the student or students involved are likely to be immediately suspended from College pending investigations. Investigations will be carried out by two senior members of staff, usually Senior Tutors and/or Assistant Principals.

- 3.2.1 The initial period of suspension would usually be three working days, but may be extended, depending on the complexity of the investigation.
- 3.2.2 If the student is under 18 years of age, or living at a parent's/carer's address, the parent/carer should be informed as soon as is practically possible, usually by telephone.
- 3.2.3 The suspension should be confirmed in writing, via letter or email.

3.2.4 At the end of the initial period of suspension, the College will contact the student and/or the parent/carer to invite them to a Disciplinary Meeting, the purpose of which is to conclude the investigation, hearing any further evidence. It may be possible to resolve the issue at the Disciplinary Meeting, including issuing a sanction. (See 3.3) However, some cases will require referral to a Disciplinary Panel, which will consider expulsion from College. (See 3.3.2)

3.2.5 A student may be suspended indefinitely if facing a serious criminal charge i.e. one which would result in a custodial sentence if the student was found guilty. The decision to suspend pending the outcome of police investigations or of criminal proceedings should be made by the Principal or designated deputy and should be reviewed regularly, usually on a monthly basis. The student should be informed that he or she may present fresh evidence for each review to contest the decision if they wish.

3.3 The options available to the Principal's designated deputies are as follows and will usually be communicated at the Disciplinary Meeting:

- (i) to take no further action;
- (ii) to deal with the matter through the informal disciplinary procedure;
- (iii) to issue a First Formal Warning;
- (iv) to issue a Final Formal Warning;
- (v) to refer the matter to a Disciplinary Panel (which has the authority to decide on expulsion);
- (vi) to extend any period of suspension while a fuller investigation is carried out;
- (vii) to refer the matter to the police.

3.3.1 The procedures relating to the above outcomes are:

3.3.1.a The decision to take no further action or to treat the matter through the informal disciplinary procedure. See section 2.

3.3.1.b The decision to issue a First Formal Warning. The student and where appropriate their parents/guardians will be informed of the decision in writing. The letter will include:

- the reason for the warning and the nature of the misconduct
- the fact that it is a First Formal Warning under the Formal Student Disciplinary Procedure.
- the standard that is to be achieved and maintained
- the time period in which that standard is expected to be achieved
- the consequences of failing to achieve and maintain the standard or of further misconduct

**A copy of the Formal Warning will be placed on the student file indefinitely and may be referred to in a College reference.**

3.3.1.c The decision to issue a Final Warning. This might apply where the conduct is considered to be sufficiently serious or the standard laid down in the First Formal Warning has not been achieved or maintained.

The Final Warning will be given and confirmed in writing in the same manner as for a first formal warning and will specify:

- the nature of the misconduct
- the fact that it is a Final Formal Warning under the Formal Student Disciplinary Procedure
- the standard of behaviour that is to be achieved and maintained

- the time period for that standard to be achieved and maintained that if the student fails to achieve and maintain that standard he/she will face expulsion from College

**A copy of the Final Formal Warning will be placed on the student file and may be referred to in a College reference.**

- 3.3.1.d The decision to consider Expulsion of the student from College. This sanction might be applied if the alleged conduct is considered to amount to Gross Misconduct or if the standard stated in a Final Formal Warning has not been achieved or maintained. Any particularly serious cases of misconduct may be treated as gross misconduct. Any behaviour likely to bring the College into disrepute constitutes gross misconduct.
- 3.3.2.a Where the initial investigation finds there has been gross misconduct and the decision to expel is possible, the Principal will convene a Disciplinary Panel. The Panel should comprise at least 2 senior members of the College staff, not previously involved with the investigation, as nominated by the Principal. The Disciplinary Panel will review all of the evidence collected during the investigation, including the student's account. The student and their parent/carer will be invited to contribute any further relevant information. The Disciplinary Panel has the authority to expel the student.
- 3.3.2.b Following any decision by the Panel to expel a student, a letter will be sent to inform all parties involved. There is a right of Appeal to the Governing Body of the College. Any such notice of appeal should be received by either the Chair or the Clerk to the Corporation within 10 working days of the letter of expulsion. (A 'working day' for the purposes of this procedure will mean a day on which the College is open generally for the purposes of teaching and study.)
- 3.4 Re-admission of an expelled student in a subsequent academic year would be at the College's discretion.

## **3.5 APPEAL**

- 3.5.1 The Governing Body will hear appeals from students who have been suspended for longer than 10 days or expelled and who feel there are grounds for appeal. On receipt of an appeal, the Chair of Governors will convene an Appeals Committee which will comprise 3 governors all of whom have not been involved previously with the making of the decision against which the appeal is lodged. They will not be student or staff governors. One member will be appointed chair. 3.5.2 Notice of appeal must be lodged in writing with the Chair of the Governing Body (usually via the Clerk) within 10 days of the date of expulsion.
- 3.5.3 Appeals will normally be considered on one or more of the following grounds:
- that the recommendation was based on invalid evidence or invalid conclusions;
  - that new evidence has come to light since the disciplinary interview which was not considered;
  - that the penalty recommended was entirely disproportionate to the misconduct which was found to have taken place;
  - that the procedure was operated unfairly to the substantial disadvantage of the student.
- 3.5.4 The Appeals Committee will meet to consider the appeal within 15 working days of receipt of a valid notice of appeal. It will consider the merits of the decision as well as any issues regarding the procedure.
- 3.5.5 The student and the parent(s)/guardian(s) with whom the student is resident will be informed in writing of the date, time and place fixed for the appeal hearing at least 10 working days before the hearing. The letter should also state that the student can call witnesses and present documentary evidence and that he/she can be accompanied by a friend (generally not

a person who is legally qualified or in legal practice), relative or parent/carer. Documentary evidence should be received by the Chair of the Appeals Committee at least five working days before the appeal hearing. Documentary evidence submitted after this, or tabled at the appeal hearing, will not be accepted.

- 3.5.6 Any documentary evidence that the Chair of the Appeals Committee may decide upon shall be distributed to members of the Appeals Committee, the appellant and anyone speaking on his/her behalf and any member of staff who will be presenting the case for the College.
- 3.5.7 The appeal should be open to all College students and staff unless the student waives this right or there are particular exceptional circumstances, for example to protect the identity of a complainant.
- 3.5.8 The recommendation of the Appeals Committee will be communicated to the Principal and a written recommendation sent to the student within 5 working days of the appeal hearing. In addition, if the student is living at his/her parent/carer's address, the parent/carer(s) will be sent a copy of the recommendation.
- 3.5.9 There shall be no further right of formal appeal for the student but a further stage of appeal may be available from the relevant Government Agency.

### **3.6 CONDUCT OF APPEAL PROCEEDINGS**

- 3.6.1 The parent(s)/guardian(s), and student, will have the opportunity to appear in person to make oral representations or to make written representation if they elect not to attend the appeal. Such written documentation should be received by the Chair of the Appeal Committee at least 5 working days before the appeal hearing.
- 3.6.2 The order of representation will be conveyed by the Chair of the Committee and will be:
- the case for the College including any witness evidence
  - questioning by parent/guardian(s) and the student
  - the case for the student including any witness evidence
  - questioning by the College
  - summing up by the college
  - summing up by parent, guardian or student
- 3.6.3 The committee may ask questions at any time if they require clarification of what is being said or if they need more information in order to reach their decision.
- 3.6.4 In the case of written representation, the committee will consider the written evidence and will take such evidence from the College as it thinks fit.
- 3.6.5 The Clerk to the Governing Body will make formal notes of the proceedings.
- 3.6.6 The Chair will close the Appeal Hearing following which the Committee will determine the outcome of the appeal in private. The decision of the Committee is final and will be communicated to the Principal formally and a written decision sent to the student within 5 working days of the appeal hearing. In addition if the student is living at the parent(s)/guardian(s)' address, the parent(s)/guardian(s) will be sent a copy of the recommendation. A note of the decision, together with the reasons for the decision, should be posted on the College noticeboard unless the student has requested a private hearing. Any notices of Appeal hearing or of any decision should be made anonymous before being displayed.
- 3.6.7 Outcomes may be:
- (a) The original decision is upheld
  - (b) The decision is upheld but a lesser sanction is appropriate
  - (c) The Appeal is allowed.

In the case of (b) a recommendation should be made as to what the lesser sanction may be. In the case of (c) a recommendation should be made to the Principal as to what action should be taken following the decision to allow the appeal, and where possible the criteria that should be followed.