

Chanel College Board of Trustees Student Discipline

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Student Stand Down, Suspension, Exclusion and Expulsion

The Chanel College Board is required to:

1. provide a safe physical and emotional environment for students.
2. comply in full with any legislation currently in force or that may be developed to ensure the safety of students and employees.

To meet the objectives and requirements of *National Administration Guidelines 5* and the *Education (Stand-down, Suspension, Exclusion, and Expulsion) Rules 1999* the Board will:

1. follow procedures as defined by the criteria and flow charts provided by the Ministry of Education in *Education Circular 1999/22*:

Terms of Reference - Discipline Committee

The Board's Discipline Committee is delegated the full powers of the Board to hear and decide on student stand-downs, suspensions, exclusions and expulsions.

MEMBERSHIP

Two to four members of the Board (on needs basis).

Notes

1. In forming the committee consideration must be given to ensure:
 - 1.1. a gender balance;
 - 1.2. cultural sensitivity.

COMMITTEE CHAIRPERSON

The Board Chair will / may invite a member of the Board to assume the role of Chairperson for a hearing.

COMMITTEE MEETING DATE

The committee will meet on a needs basis.

Procedure to be followed:

The Board will decide on the process by which the Committee arrives at its decision (see below).

The criteria as specified in the Education (Stand-down, Suspension, Exclusion, and Expulsion) Rules 1999 will be followed.

The principles of natural justice will apply.

Each matter will be heard on its merits.

To meet the principle of natural justice the person "bringing the charge" shall not also be the final arbiter. The Board shall make its decision without the recommendation or vote of the Principal.

Before the start of any meeting trustees should determine if there are any potential conflicts of interest.

All meetings of the Discipline Committee are held "in committee".

1. All reports and written material to be considered by the committee will be made available to the student and his / her parents, guardians or caregivers at least 48 hours prior to the hearing.
2. The Chairperson shall introduce all those present and explain the format and procedures to be followed at the meeting.
3. The Principal and or his / her delegate shall report the alleged circumstances of the incident.

4. An opportunity shall be given to the student and those accompanying him / her to be heard as to the alleged circumstances of the incident and any background circumstances concerning the matter. If new material is tabled, the Committee may need to adjourn so that it can be considered.
5. The Committee shall then adjourn for a decision. Before reaching that decision the Committee must consider each of the four options available to it. The decision shall be communicated to the parents, guardians or caregivers of the student as soon as possible. The decision shall be confirmed in writing.
6. The Committee will table at the next Board meeting a full written report of its meeting including all decisions which were made.

Student's Rights Defined

Note Students should be informed of their 'rights'.

If a student's actions come within the criteria of Section 14(1) of the *Education Act 1989*, natural justice means that the student has the right to:

1. have the stand-down / suspension / exclusion / expulsion procedures consistently applied;
2. be given notice of possible outcomes (as this could help determine the nature of presentation);
3. know the reason(s) for the stand-down / suspension / exclusion / expulsion (know the case or charge);
4. know the information (evidence) on which the decision is based;
5. be able to comment on / challenge that information (be heard);
6. be able to correct adverse or biased material and challenge irrelevant material (defend oneself);
7. have time to prepare a response to the information – therefore the information and Principal's report is to be in the hands of the student, parent, guardian or caregiver 48 hours before the Board meeting;
8. be represented at any meeting about the stand-down / suspension / exclusion / expulsion.

Natural Justice

Section 13(c) of the *Education Act 1989* Act states that the purpose of the provisions is in part to ensure that individual cases of the stand-down, suspension, exclusion or expulsion of a student from a state College are dealt with *in accordance with the principles of natural justice*.

These principles are recognised in many statutes to which Boards of Trustees and Principals are subjected. The most important of these is the New Zealand Bill of Rights Act 1990. Section 27, which applies to Boards of Trustees and states:

- i. *Every person has the right to the observance of the principles of natural justice by any tribunal or other public authority, which has the power to make a determination in respect of that person's, rights, obligations and interests protected or recognised by law.*
- ii. *Every person whose rights, obligations or interests protected or recognised by law have been affected by a determination of any tribunal or other public authority has the right to apply, in accordance with law, for judicial review of that determination.*

Acting Fairly and Reasonably

Natural justice can be defined as the obligation to act fairly and reasonably in the circumstances. What is required will vary according to the situation. The principles of natural justice must guide the making of any decision that will affect a person's rights, obligations or interests.

THE PRINCIPAL'S DECISION

From the time the Principal begins considering if a student should be stood-down or suspended, the principles of natural justice apply. In other words, the Principal must act fairly and reasonably in the circumstances.

Acting fairly and reasonably applies before the Principal decides that an individual's education is to be interrupted through either stand-down or suspension. The Principal has to consider the circumstances of each situation and be satisfied that it warrants standing-down or suspending the student.

This means that the Principal cannot stand-down or suspend a student automatically just because that student has broken a College rule. The Principal must carefully consider the evidence and all the circumstances prevailing at the time.

The Deputy Principal will be responsible for ensuring guidance and discipline structures and personnel deal sensitively, appropriately and equitably with all students and staff. Where necessary, educational programmes or counselling will be employed to help students and staff with equity issues.

Terms of Reference – Privacy Officer

The Privacy Officer's prime role is to ensure that the requirements of the Privacy Act 1993 are met in full (in particular Section 23).

MATTERS TO BE ADDRESSED

The Privacy Officer will ...

1. Encourage compliance by the Board with the Information Privacy Principles by:
 - 1.1. noting of all breaches of the principles to the Board.
 - 1.2. suggesting ways to avoid future or possible breaches of the principles.
2. Work with the Privacy Commissioner in relation to investigations conducted regarding complaints made under part VII of the Act in relation to the Board of Trustees.
3. Ensuring compliance by the Board with the provisions of the Act by ...
 - 3.1. dealing with employees' requests for information pursuant to the Act in a timely manner.
 - 3.2. ensuring that employee's requests for the correction of information held on themselves is handled in a timely manner.
 - 3.3. ensuring that all personal information and student records held by the Board of Trustees are ...
 - 3.3.1. correct;
 - 3.3.2. up to date;
 - 3.3.3. relevant;
 - 3.3.4. not misleading.
 - 3.4. ensuring that the Board only keeps information as long as it is necessary for which it may lawfully be used.
 - 3.5. ensuring that the Board clearly establishes the basis on which information is being collected at the time the information is being collected
 - 3.6. ensuring that the Board uses of information collected only for the purpose for which it was collected.
Note - The Act specifies some specific exceptions.
 - 3.7. as required seek the appropriate advice and support (0800 STA HELP).
2. REPORTING

The Privacy Officer will report to the Board at least once a term providing the Board with a written report of their activities.

Summary of Privacy Principles

Source: STA LINK 1993/25

PRINCIPLE 1 - PURPOSE OF COLLECTION OF PERSONAL INFORMATION

1. Personal information may only be collected for a purpose connected with a function of the College.
2. Collection must be necessary for that purpose.

PRINCIPLE 2 - SOURCE OF PERSONAL INFORMATION

1. Personal information may only be collected directly from the person concerned; not from a third party.
2. It is not necessary for the Board to comply with this principle if the Board believes on reasonable grounds that:
 - 2.1. information is publicly available; or
 - 2.2. the individual concerned authorises collection of the information from someone else; or
 - 2.3. the non-compliance would not prejudice the interests of the individual concerned; or
 - 2.4. non-compliance is necessary to avoid prejudice to the maintenance of the law by any public sector agency, or for enforcement of a law imposing a pecuniary penalty or for the protection of the public revenue or for the conduct of proceedings before any court or Tribunal (being proceedings that have been commenced or reasonably in contemplation); or
 - 2.5. compliance would prejudice the purposes of the collection; or
 - 2.6. compliance is not reasonably practicable in the circumstances of the particular case; or
 - 2.7. the information will not be used in a form in which the individual is identified or will be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned or the collection of the information is in accordance with an authority granted.
 - 2.8. the collection of the information is authorised by the Privacy Commissioner.
3. If the Board wishes to rely on an exception it bears the burden of proving the exception applies, should it be challenged on the matter.

PRINCIPLE 3 - COLLECTION OF INFORMATION FROM SUBJECT

1. Personal information may only be collected directly from the person.
2. The Board must take all reasonable steps after the information is collected to ensure that the person knows:
 - 2.1. that the information is being collected;
 - 2.2. the purpose for which the information is being collected;
 - 2.3. who will receive the information;
 - 2.4. the name and address of the agency collecting the information and the agency holding the information; and
 - 2.5. the consequence for the individual if they do not provide all or part of that information.
3. The Board must take all reasonable steps to make the person aware of their right to find out what personal information is held and to request that it be corrected.
4. When the Board is required by law to collect information, reasonable steps must be taken to tell the person:
 - 4.1. the particular law that gives the Board the authority to collect the information; and
 - 4.2. whether the person *must* provide the information or is able to *choose* to provide it.

Note There are exceptions to this principle which are detailed in the Act.

PRINCIPLE 4 - MANNER OF COLLECTION OF PERSONAL INFORMATION

1. Personal information cannot be collected using unlawful means or means which are unfair or unreasonably intrusive.

PRINCIPLE 5 - STORAGE AND SECURITY OF PERSONAL INFORMATION

1. The Board has an obligation to ensure that reasonable safeguards are put in place to ensure that personal information held is:
 - 1.1. protected from loss;
 - 1.2. protected from unauthorised access and use;
 - 1.3. protected from unauthorised modification or disclosure.
2. "Reasonable" will be dependent on a variety of factors including the circumstances, nature and sensitivity of the personal information. The Board should consider the following factors:
 - 2.1. who needs to have access to the information;
 - 2.2. how to ensure that unauthorised people cannot have access to the information;
 - 2.3. how information will be disposed of.

PRINCIPLE 6 - ACCESS TO PERSONAL INFORMATION

1. Individuals about whom information is held can have access to that information and may request the correction of that information.

PRINCIPLE 7 - CORRECTION OF PERSONAL INFORMATION

1. Individuals may request correction of information held.
2. If a correction is not made the individual may require that there be attached to the information a statement of the correction sought.

PRINCIPLE 8 - ACCURACY, ETC., OF PERSONAL INFORMATION TO BE CHECKED BEFORE USE

1. The Board must take reasonable steps to ensure that before use, personal information is:
 - 1.1. correct;
 - 1.2. up to date;
 - 1.3. relevant and not misleading.

PRINCIPLE 9 - BOARD NOT TO KEEP PERSONAL INFORMATION FOR LONGER THAN NECESSARY

1. The Board has an obligation to keep information only for as long as it is necessary for the purposes for which it may be lawfully used.

PRINCIPLE 10 - LIMITS ON USE OF PERSONAL INFORMATION

1. Information may not be used for a purpose other than it was collected for, except under conditions contained in the Act.

PRINCIPLE 11 - LIMITS ON DISCLOSURE OF PERSONAL INFORMATION

1. The Board may not pass on or disclose personal information to other people or agencies except under the conditions contained in the Act.

PRINCIPLE 12 - UNIQUE IDENTIFIERS

1. Unique identifiers may not be used unless it is necessary for the Board to be able to carry out its functions.
2. The same unique identifier may not be used by more than one agency.
3. Where a unique identifier is used, the Board must take all reasonable steps to make sure that they are only given to people whose identity is clearly established.
4. A unique identifier may be:
 - 4.1. I R D number;
 - 4.2. bank number;
 - 4.3. customer number;
 - 4.4. etc.
5. The Board cannot ask people to disclose any unique identifier given to them by another agency unless that was one of reasons the unique identifier was given or is directly related to the purpose for the which the unique identifier was given (eg: I R D number).