



KERRY COLLEGE
UNDER THE AUSPICES OF
KERRY EDUCATION AND TRAINING BOARD
BORD OIDEACHAIS AGUS OILIÚNA CHIARRAÍ

SUSPENSION AND EXPULSION POLICY AND PROCEDURES

1. Policy Statement

- 1.1. Kerry College and its constituent campuses are committed to providing education and training of the highest quality.
- 1.2. Colleges providing FET programmes are deemed to be second-level schools in law and are bound by all relevant legislation.
- 1.3. The suspensions and expulsions policy applies to all Kerry College campuses established and maintained by Kerry Education and Training Board.

2. Legal framework

- 2.1. Kerry ETB acknowledges the duty of Kerry College under its control to publish their policy concerning admission and participation, including the policy of the Kerry College relating to the expulsion and suspension of Learners pursuant to Section 15 (d) of the Education Act 1998, as amended by Section 7 of the Education (Admission to Schools) Act 2018 and Section 23 of the Education Welfare Act 2000. The Code of Behaviour/Learner contract in Kerry College specifies:
 - The standards of behaviour that shall be observed by each learner attending the Kerry college
 - The measures that may be taken when a learner fails or refuses to observe those standards

- The procedures to be followed before a learner may be suspended or expelled from Kerry college
- The grounds for removing a suspension imposed in relation to a learner

2.2. Kerry College affirms that its Code of Behaviour (**Kerry College of Further Education & Training Guidelines for Learners**) is prepared in accordance with the Guidelines issued by the Education Welfare Board 2008. The Code of Behaviour addresses:

- The standards of behaviour expected in Kerry college
- The plan for promoting good behaviour
- The ways in which Kerry College responds to unacceptable behaviour
- The plan for implementing the code of behaviour
- Kerry College procedures for the use of suspension and expulsion

2.3 Kerry College recognises the Right to Appeal pursuant to Section 29 of the Education Act, as amended by the Education (Admission to School/FE colleges) Act 2018.

2.4 Kerry College affirms that data collected in relation to learners and parents (if learner is under 18 yrs.) is in compliance with the Data Protection Acts 1988 to 2018 and the GDPR.

3 Suspensions

3.1 The Board of Governance of Kerry College holds the authority to suspend a learner. This authority is devolved under Section 44 (11(a)) of the Education and Training Boards Act 2013 by Kerry ETB to the Board of Governance of Kerry College under its control.

3.2 Kerry ETB recognises that the Board of Governance of Kerry College may delegate this authority to the Principal/Manager of Kerry College. The Board of Governance should make a formal delegation arrangement taking due account of the provisions of the Education and Training Boards Act 2013.

3.3 Kerry College recognises that suspension is only one strategy within the Kerry College Code of Behaviour/Learner contract in response to inappropriate behaviour.

3.4. Kerry College recognises that when all other strategies have been exhausted, suspension affords a learner time to reflect on their behaviour, to acknowledge and accept responsibility for their behaviour and to accept the need for the behaviour to change. Kerry College works closely with the learner (and their parent(s) if the learner is under 18 yrs.)

to assist a suspended learner to re-join the FE college community successfully.

3.5. Kerry College acknowledges that suspension should be a proportionate response to the behaviour that is causing concern. The decision to suspend a learner requires serious grounds such as that:

- The learner's behaviour has had a seriously detrimental effect on the education of other learners.
- The learners continued presence in the college at this time constitutes a threat to safety.
- The learner is responsible for serious damage to property.
- The learner breaches the Code of Behaviour/Learner Contract

3.6 Kerry College affirms that all suspensions must be notified to the Board of Governance of Kerry College.

3.7 Kerry College affirms that suspension may occur after the following factors have been considered:

- The nature and seriousness of the behaviour
- The impact and context of the behaviour
- The interventions tried to date
- That all discipline options under the Kerry College Code of Behaviour have been applied and documented
- That all actions /decisions taken are recorded and all correspondence copied.
- Discussion has occurred with the learner (and their parent(s), if the learner is under 18yrs), regarding the specific behaviour which Kerry College considers unacceptable, and which may lead to suspension.

3.8. The Board of Governance of Kerry College affirms that learners attending Kerry College may be suspended as follows, pending investigation and /or discussion with the learner (and their parent(s), if the learner is under 18yrs.) The following list is not exhaustive:

- For serious misbehaviour
- For an unacceptable level of repeated misbehaviour
- For bullying, insulting, aggressive or violent behaviour towards others whether in person, by mobile phone or via social media or other electronic means; in Kerry college, For the supply/possession /use of alcohol and /or illegal drugs
- For the supply /possession /use of weapons/ hazardous materials
- For behaviour that may be a danger to self or others
- For racist behaviour /supply of racist material/use of racist material
- For behaviour that is contrary to the terms of the Equal Status Act 2000
- For sexual harassment and/or the possession/supply /use of pornographic material.

- 3.9. Kerry College acknowledges that a single incident of serious misconduct may be grounds for suspension. Such grounds may include where the continued presence of the learner in the college at the time would represent a serious threat to the safety or welfare of learners, staff of the college or any other person.
- 3.10. A learner may be suspended during an examination period and such suspension should normally be approved by the Board of Governance of Kerry College. This type of suspension should only be used where there is:
- A threat to good order in the conduct of the examination/s
 - A threat to the safety or welfare of other learners and personnel
 - A threat to the right of the other learners to do their exam/s in a calm atmosphere.
- 3.11. Kerry ETB recognises that the Board of Governance of Kerry College may decide as part of the college's policy on sanctions and following consultation process with the Principal/Manager, teachers/instructors, learners and parents (of learners under 18yrs.), that particular named behaviour incur suspension as a sanction. This does not remove the duty to follow due process and fair procedures in each case.

4 Inappropriate use of Suspension

- **Rolling suspension.** A learner should not be suspended again shortly after they return to Kerry College unless they engage in serious misbehaviour that warrants suspension, that fair procedures are observed in full and the standard applied to judging the behaviour is the same as that standard applied to the behaviour of any other learner.
- **Informal / unacknowledged suspension.** Exclusion of a learner for part of the college day as a sanction is a suspension.
- **Open-ended suspension.** Learners should not be suspended for an indefinite period. Any such suspension would be regarded as a de facto expulsion.

5 Procedures in respect of Suspension.

- 5.1 Kerry ETB affirms that Kerry College is required to follow fair procedures when proposing to suspend a learner. The college should observe the following procedures
- The learner (and parent(s) if learner is under 18yrs) should be informed about the complaint
 - The learner (and parent(s) if learner is under 18yrs) should be given the opportunity to respond
 - In the case of 'immediate' suspension, a preliminary investigation should be conducted to establish the case for the imposition of the suspension. Parents of a learner under 18yrs must be notified, and arrangement made for the learner to be collected from the college. The college must have due regard for its duty of care for the learner.
- 5.2 A learner should not be suspended for more than 3 days except in exceptional circumstances. Kerry ETB recognises that the Board of Governance of Kerry College should provide guidance to the Principal/Manager concerning the kinds of circumstances under which suspensions of longer than 3 days might be approved. If a suspension of longer than 3 days is being proposed the matter should be referred to the Board of Governance for consideration and approval. However, Kerry ETB recognises that **the Board of Governance of Kerry College may wish to authorise the Principal/Manager, with the approval of the Chairperson of the Board of Governance, to impose a suspension of up to 5 days in circumstances where a meeting of the Board cannot be convened in a timely fashion.** Such authorisation must be recorded in the minutes of meeting of the Board of Governance and reviewed on an annual basis.
- 5.3 Kerry ETB affirms the Boards of Governance of Kerry College should formally review any proposal to suspend a learner where the suspension would bring the number of days for which the learner has been suspended in the current college year to 20 days for more. Any such suspension is subject to appeal under section 29 of the Education Act 1998.

6 Implementing the suspension

6.1 The Principal of Kerry College should notify the learner (and their Parent(s) if the learner is under 18yrs) in writing of the decision to suspend. The letter will confirm:

- The period of the suspension and the dates on which the suspension will begin and end.
- The reasons for the suspension.
- Any study programme to be followed.
- The arrangements for returning to the college, including any commitments to be entered into by the learner (and their parent(s), if learner is under 18yrs).
- The provision for an appeal to the Department of Education, in the case of a suspension which would bring the days suspended in one academic over 20 days.

6.2 In the case where the learner (or their Parent(s), if the learner is under 18yrs) do not agree to meet with the Principal/Manager, Kerry ETB confirms that written notice will serve as notice to impose a suspension.

6.3 A suspension may be removed if the Board of Governance of Kerry College decides to remove the suspension for any reason.

7 Section 29 Appeal against Suspension

7.1 Where the total number of days for which the learner has been suspended in the current college year reaches 20 days, the learner (or their parent(s), if learner is under 18yrs), may appeal the suspension under Section 29 of the Education Act 1998 to the Minister for Education.

7.2 An appeal may be made by the learner concerned (or by their parent(s), if the learner is under 18 years).

7.3 An appeal must be made within **42 calendar days** from the date of the decision of the board of Governance or a person acting on behalf of the board of Governance.

7.4 Appeals must be made in writing on the Section 29 Appeal Form and submitted to the Section 29 Appeals Administration Unit which has been established within the Department of Education to provide administrative support to enable appeals committees perform their functions. The Section 29 Appeal Form may be downloaded from the Department's website or obtained directly from the Section 29 Appeals Administration

Unit. Contact details for the Unit are available on the Department's website www.education.ie.

8 Expulsion

8.1 Kerry ETB has the authority to expel a learner. This authority may be delegated under Section 44 (11(a)) of the Education and Training Boards Act 2013 by Kerry ETB to the Board of Governance of Kerry College.

8.2 Expulsion should be a proportionate response to the learner's behaviour. Kerry College acknowledges that expulsion of a learner is a very serious step and one that should only be taken by the Board of Governance of Kerry College in extreme cases of unacceptable behaviour.

8.3 The Board of Governance of Kerry College affirms that Kerry College needs to have taken significant steps to address the misbehaviour and to avoid expulsion.

Such measures may include:

- Meeting with the learner (or with their parent(s) if the learner is under 18yrs) to try and find ways of helping the learner to change their behaviour.
- Making sure that the learner understands the possible consequences of their behaviour should it persist
- Ensuring that all possible options have been tried.
- Seeking the assistance of relevant support agencies e.g. HSE.

8.4 A proposal to expel a learner requires serious grounds such as that:

- The learner's behaviour is a persistent cause of significant disruption to the learning of others or to the teaching process
- The learner's continued presence in the college constitutes a real and significant threat to the safety and welfare of others.
- The learner is responsible for serious damage to property.

8.5 Before expulsion is considered, Kerry college authorities must satisfy themselves that all possibilities have been exhausted for changing the learner's behaviour.

8.6 'Automatic Expulsion'

The Board of Governance of Kerry College may decide in consultation with the Principal/Manager, teachers/Instructors, learners or parents (of learners under 18yrs), that particular named behaviours would result in 'Automatic' expulsion. This does not remove the duty to follow due process and fair procedure.

8.7 Expulsion for first or once-off offence

There may be exceptional circumstances where the Board of Governance of Kerry College decides that a learner should be expelled for a first offence. The kinds of behaviour that might result in a proposal to expel on the basis of a single breach of the Code of Behaviour could include:

- A serious threat of violence against another learner or member of staff
- Actual violence or physical assault
- Supplying illegal drugs to learners in the college campus
- Sexual assault

9 Factors to Consider before proposing to expel a learner

9.1 The Board of Governance of Kerry College should take the following factors into consideration before considering expelling a learner:

- The nature and seriousness of the behaviour
- The context of the behaviour
- The impact of the behaviour
- The interventions already tried to change the learner's behaviour
- Whether expulsion is a proportionate response
- The possible impact of expulsion

9.2 Expulsion would not be appropriate for the following:

- Poor academic performance
- Poor attendance or lateness
- Minor breaches of the Code of Behaviour /Learner contract

However, any behaviour that is persistently disruptive to learning or dangerous can be a serious matter. Behaviour must be examined in context to understand both the behaviour itself and the response or sanction that is most appropriate.

10 Procedures in respect of expulsion

10.1 A detailed investigation will be carried out under the direction of the Principal/Manager. The Principal/Manager should ensure that no party who has had any involvement with the circumstances of the case is part of the investigation.

10.2 The Principal/ Manager should inform the learner (and their parent(s), if the learner is under 18yrs) about the specific details of the alleged breach of behaviour, how it will be investigated and that it could result in expulsion. The Principal/ Manager must ensure that the learner (and their parent(s), if the learner is under 18yrs) are given every opportunity to respond to the complaint of serious misbehaviour. The Principal/ Manager should communicate this in writing to ensure that the learner (and their parent(s), if the learner is under 18yrs) have a permanent record of having been informed.

10.3 A meeting should be arranged between the learner (and their parent(s), if the learner is under 18yrs) and the Principal/ Manager of Kerry College, before a sanction is imposed.

10.4 Should a learner (and their parent(s), if learner is under 18yrs) fail to attend a meeting, the Principal/ Manager should write advising:

- the seriousness of the matter
- the importance of attending a re-scheduled meeting
- Failing that, the duty of the college authorities to make a decision to respond to the inappropriate behaviour
- Record all correspondence

10.5.1 Where the Principal/ Manager of Kerry College forms a view, based on the investigation of the alleged misbehaviour, that expulsion may be warranted, the Principal/ Manager shall make a recommendation to the Board to consider expulsion.

10.6 The Principal/ Manager should:

- Inform the learner (and their parent(s), if the learner is under 18yrs) in writing that the Board of Governance is being asked to consider expulsion.
- Ensure that the learner (and their parent(s), if the learner is under 18yrs) have written records of (a) the allegation, (b) the investigation, (c) written notice of the grounds on which the Board of Governance is being asked to consider expulsion.
- Provide the Board with the same comprehensive records as are given to the learner (and their parent(s), if the learner is under 18yrs).
- Notify the learners (and their parent(s), if the learner is under 18yrs) in good time of the date of the hearing with the Board of Governance and invite them to that hearing.
- Advise the learner (and their parent(s), if the learner is under 18yrs) that they can make a written and oral submission to the Board of Governance.
- Ensure the learner (and their parent(s), if the learner is under 18yrs) is/are given enough notice to allow them to prepare for the meeting.

- 10.7.1 It is the responsibility of the Board of Governance of Kerry College to review the initial investigation and satisfy itself that the investigation was properly conducted in line with fair procedures.
- 10.8 The Board of Governance should undertake its own review of documentation and all circumstances of the case.
- 10.9 The Board of Governance should ensure that no party who has had any involvement with the circumstances of the case is part of the Board's deliberations.
- 10.10 Where the Board of Governance of Kerry College decides to expel a learner it must hold a hearing and this meeting should be properly conducted in accordance with Board procedures.
- 10.11 The learner (or their parent(s), if the learner is under 18yrs) may be accompanied at the Board hearing but, as this is a lay forum legal representation is not the normal practice, however it may be allowed due to the potentially serious consequences for the learner. The Board Secretary should be informed in writing who shall be attending this meeting at least two days prior to the meeting taking place.
- 10.12 A note taker will be present and provide a written record of the meeting. This record will be shared with all parties. Audio or video recording of the meeting is at the sole discretion of the Board.
- 10.13 At the start of the meeting the Chairperson shall enquire whether any member has an objective bias in respect of the matter being considered by the Board. Where the Board is satisfied that an objective bias exists, the member(s) involved shall withdraw from the meeting.
- 10.14 At the hearing the Principal/ Manager and the learner (or their parent(s), if the learner is under 18yrs), put their case to the Board in each other's presence and will be available to answer questions from Board Members. Each party should be allowed question the evidence of the other party. Questions should be directed through the Chairperson at the end of each presentation.
- 10.15 Once the Principal/ Manager and the learner (or their parent(s), if the learner is under 18yrs) have made their cases, they will withdraw from the meeting.
- 10.16 Should the Board require the professional advice of the Principal/ Manager, the Principal/ Manager may be invited to return to the meeting briefly for that purpose. While the Director is present, there will be no discussion on the merits of the particular case being considered.

- 10.17 In the conduct of the hearing the Board must take care to ensure they are and are seen to be impartial as between the Principal/ Manager and the learner. The learner (or their parent(s), if the learner is under 18yrs) may wish to be accompanied at hearings and the Board should facilitate this in line with good practice and Board procedures.
- 10.18 When both sides have been heard the Board should ensure that the Principal/ Manager and the learner (or their parent(s), if the learner is under 18yrs) are not present for the Board's deliberations.
- 10.19 In hearing and considering a proposed expulsion the Board shall have regard to:
- (a) the nature, scale and persistence of any behaviour alleged to have given rise to, or contributed to, the decision made by or on behalf of the Board,
 - (b) the reasonableness of any efforts made by the college to enable the learner to whom the appeal relates (the 'learner concerned') to participate in and benefit from education,
 - (c) the educational interests of the learner concerned and the desirability of enabling the learner as far as practicable to participate in and benefit from education with his or her peers,
 - (d) the educational interests of, and the effective provision of education for, other learners of the college and the maintenance of a classroom and college environment which is supportive of learning among the learners of the college and ensures continuity of instruction provided to learners in any classroom concerned and the college,
 - (e) the safety, health and welfare of teachers, learners and staff of the college,
 - (f) the code of behaviour
 - (g) the duties on Kerry colleges or their boards imposed by or under any enactment, and
 - (h) such other matters as the Board considers relevant.

11 Board of Governance deliberations and actions following the hearing

- 11.1 Having heard from all the parties involved it is the responsibility of the Board to decide whether or not the allegation is substantiated and if expulsion is the appropriate sanction.
- 11.2 When the Board of Governance having considered all the facts of the case, is of the opinion that the learner should be expelled, the Board must notify the learner (or their parent(s), if the learner is under 18 yrs.) in writing about its conclusions and that expulsion is proposed.

- 11.3 The learner cannot be expelled before the passage of 20 FE college days from the date on which they receive this written notification. The Board of Governance may consider it appropriate to suspend a learner during this time (20-day period). This should only be considered where the continued presence of the learner during this time would seriously disrupt the learning of others or represent a risk to the safety and health of learners or staff.

12 Confirmation of the decision to expel

- 12.1 When the 20-day period has elapsed and the Board of Governance remains of the view that the learner should be expelled, the Board of Governance should formally confirm the decision to expel. The Board of Governance may delegate authority to the Chairperson and Secretary to review this decision of expulsion after the twenty days has expired.
- 12.2 The Learner (or their parent(s), if the learner is under 18yrs), should be notified immediately that the expulsion will now proceed. The Learner (or their parent(s), if the learner is under 18yrs) must be informed of their right to appeal to the Minister for Education

13 Section 29 Appeal against Expulsion

- 13.1 The Learner (or their Parent(s), if the learner is under 18yrs), may appeal the expulsion under Section 29 of the Education Act 1998.
- 13.2 An appeal must be made within **42 calendar days** from the date of the decision of the board of Governance or a person acting on behalf of the board of Governance.
- 13.3 Appeals must be made in writing on the **Section 29 Appeal Form** and submitted to the Section 29 Appeals Administration Unit which has been established within the Department of Education to provide administrative support to enable appeals committees perform their functions. The Section 29 Appeal Form may be downloaded from the Department's website or obtained directly from the Section 29 Appeals Administration Unit. Contact details for the Unit are available on the Department's website www.education.ie .

14 Review of use of Expulsion

14.1 The Board of Governance of Kerry College should review the use of expulsion in the college at regular intervals.

15 Implementation and Review of Policy

15.1 The Principal/Manager and Board of Governance of Kerry College will responsible for the implementation of this policy.

15.2 This policy shall be reviewed periodically, in light of emerging legislation and circulated Guidelines from the Department of Education from its official approval by Kerry Education and Training Board and Kerry College Board of Governance.

This policy was adopted by Kerry Education and Training Board on 24th April 2023

This policy was ratified by the Kerry College Board of Governance on 24th April 2023

Signed: S. Goulding
Co – Secretary: Stephen Goulding

Date: 24-04-23

Signed: Con O Sullivan
Co – Secretary: Con O Sullivan

Date: 24/4/2023

Signed: Jim Finucane
Chairperson, Cllr. Jim Finucane

Date: 26/04/2023

