



SPRINGFIELD CONVENT SCHOOL

POLICY ON DISCIPLINARY PROCEDURES AND APPEALS

1. **DEFINITIONS**

In this Policy –

- 1.1. “Appeals Adjudicator” means an independent practising attorney or advocate who is a member in good standing of either the Cape Law Society or the Cape Bar, or its successor bodies, and is not a member of the Board;
- 1.2. “Board” means the members of the School’s board of governors from time to time;
- 1.3. “the Children’s Act” means the Children’s Act 38 of 2005, as amended;
- 1.4. “the Code of Conduct” means the Code of Conduct of the School as amended from time to time;
- 1.5. “Disciplinary Committee” means a disciplinary committee established in terms of this Policy;
- 1.6. “expulsion” means the permanent prohibition of a learner from attending the School and the termination of his or her enrolment, provided that any outstanding school fees and other amounts due to the School will become immediately payable on the date of expulsion;
- 1.7. “parent” means the parent or legal guardian of a Pupil;
- 1.8. “Parties” means the relevant parties to any proceedings contemplated in this Policy;
- 1.9. “this Policy” means this Policy on Disciplinary Procedures and Appeals, including all annexures thereto, as amended from time to time;
- 1.10. “Policies” means the rules and principles adopted by the School, as published by the School from time to time, which are used to regulate the day-to-day running of the School and are available on request free of charge, or on the School’s website;
- 1.11. “the Principal” means the relevant principal of the School from time to time, depending on whether the Pupil is enrolled at the primary or secondary school level;
- 1.12. “Pupil” means a learner who is enrolled at the School;
- 1.13. “the School” means Springfield Convent School;
- 1.14. “school day” means any day of the week, excluding Saturdays, Sundays, official South African public holidays; days falling within the official school holidays as determined by the School; or a day on which a Pupil is required to write or undergo a formal examination which cannot reasonably be rescheduled. When a number of school days is required to be determined in accordance with this policy, such number shall be reckoned by excluding the first day and including the last day of the relevant period;

- 1.15. "suspension" means the temporary prohibition of a Pupil from attending the School.

2. APPLICATION OF THIS POLICY

- 2.1. This Policy applies to all disciplinary and appeal procedures of the School, as may be required in terms of the Code of Conduct from time to time.
- 2.2. This Policy is binding on the School, the Board, the Principal, and on all Pupils and their parents.

3. VERY SERIOUS INFRINGEMENTS

- 3.1. In accordance with the Code of Conduct, disciplinary hearings may be convened in cases of very serious infringements, after other appropriate disciplinary actions, if applicable, have been taken.
- 3.2. If it is alleged that a Pupil has committed a very serious infringement in respect of a matter contemplated in the Code of Conduct, the Principal will be required to investigate such allegation, or cause it to be investigated, in order to determine whether such infringement has been committed at face value.
- 3.3. Should the Principal determine that a very serious offence has been committed at face value, as contemplated in clause 3.2, the Principal shall be required to notify the Board, who must convene a disciplinary hearing into the matter in accordance with the further provisions of this Policy.

4. NOTICE OF DISCIPLINARY HEARING

- 4.1. Should the Board be required to convene a disciplinary hearing into a matter in terms of this Policy, it will give notice in writing to the affected Pupil and her parents that such hearing will be held. Only one notice will need to be sent and may be addressed to the Pupil and her parents jointly, provided that the Board may, in its sole discretion, decide to send separate notices to the Pupil and to her parents. The said notice shall:
- 4.1.1. be hand delivered to the last known residential address of the Pupil and her parents; or sent via e-mail to the Pupil and her parents; or be hand delivered to the Pupil at the School's premises provided that the Pupil's parents will in such event be contacted telephonically to confirm that such notice has been given to the Pupil by hand; and in all such instances the said notice shall be deemed to have been received by the Pupil and her parents on the date of dispatch;
 - 4.1.2. provide not less than 10 (Ten) school days before the hearing is to be held;
 - 4.1.3. contain sufficient detail surrounding the alleged infringement in order to allow the Pupil to reasonably identify the infringement and respond to the allegations made against her;
 - 4.1.4. set out the date, time and venue for the hearing;

4.1.5. advise the Pupil that her rights and obligations in respect of the hearing are contained in this Policy, a copy of which must be annexed to the notice;

4.1.6. where applicable, notify the Pupil of the Board's decision to suspend her pending the hearing, subject to the provisions of clause 7 below.

5. APPOINTMENT OF DISCIPLINARY COMMITTEE

- 5.1. The Board must appoint a committee consisting of no more than 5 (Five) persons and no less than 3 (Three) persons, of whom at least more than half must be Board members, to attend to any disciplinary hearing to be held in terms of this Policy. The said committee may be a standing committee or may be constituted on an *ad hoc* basis, in the sole discretion of the Board, who may at any time replace any person on such committee by way of written notice to such person and the remaining committee members.
- 5.2. The Board must notify the Disciplinary Committee of any disciplinary hearing to be held and must furnish the members of the Disciplinary Committee with a copy of the notice contemplated in clause 4 on the same date that it is dispatched to the Pupil and her parents.
- 5.3. No Pupil; member of the School's teaching staff who is a regular teacher of the accused Pupil; or the Principal may be a member of the Disciplinary Committee, but such persons may testify as witnesses at any disciplinary hearing.
- 5.4. The members of the Disciplinary Committee will elect one of their number to be the chairperson of a specific disciplinary hearing by way of an ordinary majority vote on a show of hands, to be taken before the hearing commences.
- 5.5. Any member of the Disciplinary Committee who has a conflict of interest in respect of a specific hearing must recuse him or herself from the Disciplinary Committee as soon as he or she reasonably becomes aware of such conflict. For the avoidance of doubt, any member of the Disciplinary Committee who has brought the allegations against the Pupil in respect of whom the hearing is to be held; or who is a family member of the Pupil against whom allegations have been brought; or is a family member of the person who has brought the allegations or of any witness in the proceedings; shall be deemed to have a conflict of interest and must recuse themselves.
- 5.6. Should any members of the Disciplinary Committee recuse themselves in terms of clause 5.5, the Board must appoint alternative members to the Disciplinary Committee, who must be vetted in advance so as to avoid the likelihood of further conflicts of interest. Recusals must as far as reasonably possible take place before the date of the hearing but, should a conflict of interest only become evident on the date of the hearing, the hearing must be postponed by no more than 5 (Five) school days in order to allow the Board to appoint alternative members to the Disciplinary Committee.

6. CONDUCT OF HEARINGS

- 6.1. Every Pupil will have the following rights and obligations and be subject to the following procedural requirements in respect of any disciplinary hearing relating to allegations made against her:
 - 6.1.1 she will be entitled to be present at a disciplinary hearing and to be accompanied by her parents and / or an adult representative;
 - 6.1.2 she may represent herself, or be represented by one or more of her parents or by a single adult representative chosen by herself or her parents.
 - 6.1.3 copies of all documents or information that will be used in evidence against her must be provided to the Pupil by no later than 5 (Five) school days before the date of the hearing, in any manner contemplated in clause 4.1.1;
 - 6.1.4 she has the right to be provided with witness statements summarising verbal testimony that will be given in evidence against her by no later than 5 (Five) school days before the date of the hearing, provided that, where a proposed witness is another Pupil or a minor, their identity shall be withheld from such statement. Such statements shall be provided in any manner contemplated in clause 4.1.1;
 - 6.1.5 the Pupil may lead written or verbal evidence (either directly, or by calling witnesses) and make representations at the hearing in response to the allegations against her, provided that written heads of argument, copies of written evidence, as well as witness statements in respect of verbal testimony that the Pupil wishes to use at the hearing shall be provided to the Board by no later than 2 (Two) school days before the date of the hearing;
 - 6.1.6 she may cross-examine any witness who has testified against her, provided that the Disciplinary Committee may, in its sole discretion, determine that witnesses who are Pupils or minors may lead evidence and may be cross-examined away from the presence of the Pupil in respect of whom the hearing is being held, provided that in such instances a representative shall be present on her behalf;
 - 6.1.7 the Pupil and the Board may agree to shorten or extend the time periods relating to the exchange of evidence contemplated in clause 6.1.3 to 6.1.5.
- 6.2 If a Pupil and / or her parents or representative fail to attend a disciplinary hearing without providing reasonable justification to the Board before the date of the hearing, the Disciplinary Committee must postpone the hearing for no more than 5 (Five) school days and provide notice of such postponement to the Pupil and her parents in the manner contemplated in clause 4.1.1. If the Pupil and / or her parents or representative fail to attend the reconvened hearing, the Disciplinary Committee may, in its sole discretion, proceed with the hearing in her absence make findings against her which will be as effective as if she had been at the hearing.

- 6.3 At the start of a disciplinary hearing, the chairperson of the Disciplinary Committee must explain the reasons for the hearing, read the charges made against the Pupil and ask her to plead to such charges. The Pupil may plead guilty or not guilty to the charges. If the Pupil refuses to plead, or a hearing proceeds in her absence as contemplated in clause 6.2, she will be deemed to have pleaded not guilty.

6.4 **Guilty pleas**

If a Pupil pleads guilty to a charge made against her:

- 6.4.1 the chairperson of the Disciplinary Committee must ensure that she knows and understands what she is pleading guilty to by explaining the nature of a guilty plea to her, summarising the charges against her, as well as explaining the potential consequences that may result from a guilty plea;
- 6.4.2 if it is evident, after following the procedure in clause 6.4.1, that the Pupil does not want to plead guilty, or does not reasonably understand the consequences of doing so, or what she is pleading guilty to, the chairperson must enter a plea of not guilty on her behalf;
- 6.4.3 she must be allowed the opportunity to make representations and to lead evidence, whether by way of written document, personal testimony, or witnesses, in mitigation of any sanction to be imposed before the Disciplinary Committee may make a decision as to such sanction;
- 6.4.4 the Disciplinary Committee may allow representations and written or verbal evidence to be led in aggravation of any sanction to be imposed before it makes a decision relating to such sanction, subject to the Pupil's right of cross-examination as contemplated in clause 6.1.6;
- 6.4.5 once evidence has been led, the Disciplinary Committee must ask all persons present, save members of the Disciplinary Committee to leave the hearing venue and the Disciplinary Committee must decide on a suitable sanction to be imposed. Such decision must as far as is reasonably possible be unanimous but, should the members of the Disciplinary Committee fail to reach a unanimous decision after due consideration of the matter, the chairperson may call for a vote on a show of hands. In such circumstances an ordinary majority of votes shall be required in order for the Disciplinary Committee to reach a decision. In the case of a draw, the chairperson shall have a second, casting vote;
- 6.4.6 once the Disciplinary Committee has reached a decision on an appropriate sanction, the Pupil, her parents and / or her representative must be called back to the hearing venue and be informed of the Disciplinary Committee's decision on the sanction to be imposed and such sanction will be final and binding, subject to the Pupil's right of appeal as contemplated in clause 8.

6.5 **Not guilty pleas**

Should the Pupil plead not guilty to a charge against her:

- 6.5.1 the chairperson must request that representations be made relating to the charges against the Pupil and that all applicable evidence be led. Evidence will relate both to any potential verdict, as well as the potential sanction to be imposed;
- 6.5.2 the Pupil must be allowed to cross-examine the evidence led in respect of clause 6.5.1, subject to the provisions of clause 6.1.6;
- 6.5.3 after cross-examination in terms of clause 6.5.2 has concluded, the Pupil must be afforded the opportunity to make representations to the Disciplinary Committee and to lead evidence in her defence, as well as in mitigation of any potential sanction;
- 6.5.4 once the Pupil has stated her case and led appropriate evidence, the Disciplinary Committee must ask all persons present, save members of the Disciplinary Committee, to leave the hearing venue and the Disciplinary Committee must decide on a suitable verdict. In doing so, the provisions of clause 6.4.5 shall apply;
- 6.5.5 once the Disciplinary Committee has reached a decision relating to the verdict, the Pupil, her parents and / or her representative must be called back to the hearing venue and the verdict must be read out to her by the chairperson. The hearing will proceed only in respect of charges against the Pupil in respect of which a guilty finding has been made. Should no guilty finding be made in respect of any charge against the Pupil, the hearing will terminate;
- 6.5.6 if a guilty finding has been made, the Pupil shall be afforded an opportunity to make representations before the Disciplinary Committee considers such sanction. Once such representations have been made, the Disciplinary Committee must consider the sanction in accordance with the provisions of clause 6.4.5 and confirm its sanction in accordance with the provisions of clause 6.4.6.

6.6 **General provisions**

The following rules will apply to all hearings of the Disciplinary Committee:

- 6.6.1 hearings will be conducted in an informal and non-threatening manner;
- 6.6.2 the style will be inquisitorial, as opposed to adversarial, and members of the Disciplinary Committee will be entitled to interject and ask questions for purposes of clarification of the Pupil; her parents or representative; any witness; or any person making representations to the Disciplinary Committee;
- 6.6.3 all persons appearing at a disciplinary hearing will be treated with respect and dignity and the chairperson shall be responsible to ensure that all attendees, including members of the Disciplinary Committee, comply with this clause 6.6.3;
- 6.6.4 the Disciplinary Committee will as far as reasonably possible attempt to reach a decision, whether in respect of a verdict and sanction, or just a sanction, on the date that the hearing is held, provided that the

chairperson may adjourn the hearing to a future date in order to afford the Disciplinary Committee additional time to deliberate before making a decision. Such adjournment may not be for a period of more than 5 (Five) school days;

- 6.6.5 the chairperson may on application of the Pupil, any witness, or any member of the Disciplinary Committee, adjourn the hearing to a future date if, in the chairperson's sole discretion, reasonable grounds are provided by the applicant for doing so, provided that such adjournment may not be for a period of more than 5 (Five) school days;
- 6.6.6 a written record must be prepared and kept in respect of all disciplinary hearings and the chairperson may determine that an audio recording device be used to record proceedings in order assist with the preparation of such written record, provided that if such device is used, all persons present must be notified before it is turned on and any recordings generated by such device must be kept secure and confidential. No person shall be entitled to make a private recording of the proceedings;
- 6.6.7 the Disciplinary Committee will not be empowered to make any finding relating to the costs of representation of any person who appears before it in disciplinary proceedings and all parties appearing before the Disciplinary Committee will be liable for their own representation costs as well as any financial loss suffered by them as a result of their having to appear before the Disciplinary Committee;
- 6.6.8 the chairperson will have the discretion to allow or disallow any evidence that a party before the Disciplinary Committee wishes to lead should any other party object to the leading of such evidence;
- 6.8.9 the chairperson may, in his or her sole discretion, and on good cause shown, condone any non-compliance with any procedural rule relating to the proceedings stipulated in this clause 6;
- 6.8.10 the burden of proof in disciplinary proceedings will be that of a balance of probabilities.

7 SANCTIONS

- 7.1 The Disciplinary Committee must, where required to impose a sanction on a Pupil who has been found guilty of committing a very serious infringement, decide on a sanction that is, in the view of the committee, fair and reasonable in the circumstances after giving consideration to all the applicable facts that have been brought before the committee.
- 7.2 In determining what would constitute a fair and reasonable sanction, the Disciplinary Committee must apply the best interest of the child standard as contemplated in section 7 of the Children's Act both to the accused Pupil and to other pupils at the School.

7.3 Suspension

A Pupil may be suspended either on an interim basis pending the finalisation of a disciplinary hearing, or as a sanction imposed by the Disciplinary Committee, provided that:

7.3.1 in the case of an interim suspension, the decision to suspend the Pupil shall be a decision by the Board and notice of such decision will be given to the Pupil in the same notice as the notice of the disciplinary hearing, as contemplated in clause 4.1. Such suspension will remain in effect only until such time as the disciplinary hearing has been concluded. The Board may only order an interim suspension if the allegations made against a Pupil relate to:

7.3.1.1 inappropriate behaviour towards any person;

7.3.1.2 bullying, victimisation or intimidation of any person;

7.3.1.3 the possession, distribution or use of illegal substances;

7.3.1.4 any other conduct of the Pupil that could in the Board's view be harmful to any Pupil, member of the staff, or to the School as a whole, or where there is a possibility of the Pupil interfering with potential witnesses to the hearing prior to it being held;

7.3.2 the Disciplinary Committee may impose suspension as a sanction against a Pupil who has been found to have committed a very serious infringement, provided that the maximum period of such suspension shall be 10 (Ten) school days, starting on the school day immediately following the date on which such sanction is imposed. If the Pupil had already been suspended on an interim basis in terms of clause 7.3.1, she will be deemed to have carried out the full term of the sanction of suspension and may not be suspended for any further period.

7.4 Expulsion

7.4.1 The Disciplinary Committee may impose the sanction of expulsion in very serious cases and may determine that such sanction become effective immediately, or suspend the sanction for a stipulated period.

7.4.2 If the Disciplinary Committee imposes a sanction of immediate expulsion on a Pupil, such decision will automatically be referred to the Board, together with the written record and, where applicable, audio recordings of the proceedings, and all documentary evidence that was introduced. The Board must either confirm such sanction, or impose an alternative sanction within 10 (Ten) school days of the sanction of expulsion being imposed.

7.4.3 During the 10 (Ten) day period referred to in clause 7.4.1, the Pupil will be deemed to have been suspended.

7.4.4 If the sanction of expulsion has been suspended and the Pupil commits a further infringement related to the matter in respect of which the

sanction was imposed, the Principal will inform the Board of such further infringement and the provisions of clauses 7.4.2 and 7.4.3 will apply.

- 7.4.5 If the Board upholds the sanction of expulsion, it must notify the Pupil and her parents in writing of such decision in the manner contemplated in clause 4.1 and the Pupil will be deemed to have been expelled on the day school day immediately subsequent to the day on which the notice is dispatched.
- 7.4.6 If the Board imposes an alternative sentence to expulsion, it must notify the Pupil and her parents in writing of such alternative sanction in the manner contemplated in clause 4.1, provided that if the alternative sanction is suspension, the Pupil's deemed suspension as contemplated in clause 7.4.3 will constitute the complete service of the sanction imposed against her and she may not be suspended for a further period.

8 APPEALS

8.1 Appeals in disciplinary matters

- 8.1.1 A Pupil may appeal against a sanction of immediate expulsion by way of notice in writing to the Board by no later than 5 (Five) school days of the date of the notice contemplated in clause 7.4.5. The said notice must:
- 8.1.1.1 state the fact that the Pupil appeals against the sanction of immediate expulsion;
 - 8.1.1.2 provide reasonable grounds as to why the appeal should be upheld; and
 - 8.1.2.3 propose an alternative sentence that the Pupil believes would be reasonable in the circumstances.
- 8.1.2 If the Board receives a notice of appeal within the period stipulated in clause 8.1.1, it must appoint an Appeals Adjudicator within 5 (Five) school days of receipt of such notice and provide the said Appeals Adjudicator with the full record of the disciplinary proceedings, including all documentary evidence and notices between the Board and the Pupil and any audio recordings.
- 8.1.3 The Appeals Adjudicator must assess all of the information provided by the Board and must issue a written ruling on the matter to the Board and to the Pupil by no later than 10 (Ten) school days of his appointment. The said ruling must:
- 8.1.3.1 dismiss the appeal; or
 - 8.1.3.2 uphold the appeal and impose an alternative sanction, being either the sanction asked for in the Pupil's notice of appeal, or

an alternative sanction determined by the Appeals Adjudicator in his sole discretion; and

8.1.3.3 in either event, provide detailed reasons for the decision reached in the ruling.

8.1.4 A Pupil who has submitted a notice of appeal within the stipulated deadline will be deemed to have been suspended pending the outcome of the appeal, notwithstanding the provisions of clauses 7.3.2 and 7.4.6.

8.1.5 The ruling of the Appeals Adjudicator will take immediate effect from the date of such ruling and will be final and binding on the Pupil, the Board, the Principal and the School as a whole.

8.2 Appeals relating to the Code of Conduct

8.2.1 In accordance with the Code of Conduct, a Pupil who feels that she is not able to comply with any provision of the Code of Conduct for any reason including (but not limited to) medical, financial or cultural reasons must make a submission to the Principal for an exemption. The Principal will consider each submission on a case by case basis and make a determination after consultation with the Board.

8.2.2 Any pupil who objects to the determination made by the Principal may lodge a written appeal to the Board within 10 (Ten) school days of the Principal's decision. The appeal must highlight the provision of the Code of Conduct that the Pupil wishes to be exempted from and provide reasonable grounds as to why an exemption should be granted.

8.2.3 The Board must consider an appeal submitted to it in terms of clause 8.2.2 and make a decision within 10 (Ten) school days of receipt of the written appeal. Such decision must be communicated to the Pupil, her parents, and the Principal in writing and will be final and binding on them.

8.2.4 The Board will have the right to withdraw any exemption that has been granted in terms of this clause 8.2 at any time by notice in writing to the affected Pupil and her parents, provided that such notice must set out the reasons for the withdrawal of the exemption.