

# St. Mary's College



## Pupil Disciplinary & Rights to Review Policy

**2022/2023**

# **ST. MARY'S COLLEGE**

## **PUPILS' DISCIPLINARY PROCEDURE**

### **1. COLLEGE RULES**

A. The Principal will make the College Rules which are applicable to all pupils. These rules may from time to time be updated or changed and, in that case, the College will endeavour to notify parents/guardians of significant amendments. The Rules are available on request from the Principal's Office and will be displayed upon public notice-boards in the College.

B. When accepting a place in the College, parents/guardians accept that their child will be subject to the Rules.

C. The purpose of the Rules is to maintain good order in the College, to preserve and enhance the reputation of the College and to create a proper working environment for all its pupils. They set out standards of behaviour expected of pupils. They apply both in and outside College. For example, they will apply to behaviour on the journey to and from College. They may also apply where the pupil's behaviour has or could potentially damage the reputation of the College. They apply to all pupils regardless of age. They are intended to be positive in their purpose and to guide and encourage each pupil to act appropriately for the good of all.

D. Any breach of these Rules may lead to the pupil in question being subject to disciplinary measures. Such measures may range from traditional and minor punishments such as detention, extra work and other impositions, to internal, fixed-term or permanent exclusion depending upon the nature of the breach of discipline which has occurred.

### **2. APPLICATION**

(a) All members of the teaching staff have full authority to impose minor punishments and it is desirable that, if these occur frequently, parents/guardians be notified in writing so that they may assist in rectifying the problems giving rise to such punishments and if necessary invited to meetings to discuss these.

The Principal may also impose conditions upon a pupil as a consequence of that pupil's breach of discipline. These should be confirmed in writing and the pupil and a parent or guardian should sign a form of unconditional acceptance of such conditions.

A failure to accept these conditions may lead to the fixed-term or permanent exclusion of the pupil from the College.

A failure to adhere to such conditions will normally lead to further disciplinary action (including fixed-term and permanent exclusion) being taken against the pupil.

(b) The Principal has authority in appropriate circumstances either to exclude a pupil either for a fixed term or permanently.

### **3. INITIAL PROCEDURE – FIXED-TERM AND PERMANENT EXCLUSION Guidance is taken from:**

Exclusion from maintained schools, Academies and pupil referral units in England A guide for those with legal responsibilities in relation to exclusion- September 2017

<https://www.gov.uk/government/publications/school-exclusion>

- (a) When circumstances come to the attention of the Principal which may give rise to serious disciplinary measures being taken against a pupil, he will carry out a preliminary investigation as soon as circumstances permit. He will then form a view as to whether the matter is to be taken further. Should this be the case, he will inform the parents/guardians of the pupil in question as soon as reasonable – by telephone if that is possible.
- (b) There should follow an interview with the pupil at which at least one member of staff responsible for pastoral care should be present. If practicable, a parent or guardian should also be allowed the opportunity to attend this interview. It may also be appropriate for one other member of staff to be present – for example if that member of staff is the person who has personal knowledge of the circumstances giving rise to the interview.
- (c) Such interviews will be conducted as fairly as possible and the pupil concerned will be invited to give his or her version of events.
- (d) At the conclusion of the interview, the Principal may decide:
  - (i) To take no action;
  - (ii) To impose a punishment stopping short of fixed-term or permanent exclusion;
  - (iii) To exclude for a definite period of time;
  - (iv) To suspend for an indefinite period of time until the pupil agrees to comply with the requirements which the Principal shall impose;
  - (v) Permanently to exclude the pupil from the College.

A pupil may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently. A fixed period exclusion does not have to be for a continuous period. In exceptional cases, usually where further evidence has come to light, a fixed period exclusion may be extended or converted to a permanent exclusion.

(e) If the pupil is required to leave College, a parent or guardian will first be informed to ensure that it is possible for that pupil to gain access to his home. The parents/guardians of younger pupils will be asked to collect their children. In cases of doubt, or where it proves impossible for the child to be collected, the pupil will remain at College for the remainder of the day.

(f) The Principal will prepare a written report setting out the reasons for fixed term or permanent exclusion which will be addressed to the Governors and communicated to the parents or guardians of the pupil concerned. Parents/Guardians should be advised of their rights to review a decision to exclude permanently the pupil and sent a "Request for Commencement of Review Procedure" form.

Under the Equality Act 2010 schools must not discriminate against, harass or victimise pupils because of their sex; race; disability; religion or belief; sexual orientation; because of a pregnancy/ maternity; or because of gender reassignment. For disabled children, this includes a duty to make reasonable adjustments to policies and practices.

In carrying out their functions under the Equality Act, the public sector equality duty means schools must also have due regard to the need to:

- eliminate discrimination and other conduct that is prohibited by the Equality Act;
- advance equality of opportunity between people who share a protected characteristic and people who do not share it; and

foster good relations across all characteristics – between people who share a protected characteristic and people who do not share it.

These duties need to be taken into account when deciding whether to exclude a pupil. Schools must also ensure that their policies and practices do not discriminate against pupils by unfairly increasing their risk of exclusion. Provisions within the Equality Act allow schools to take positive action to deal with particular disadvantages affecting one group, where this can be shown to be a proportionate way of dealing with such issues.

Principals and governing bodies must take account of their statutory duties in relation to special educational needs (SEN) when administering the exclusion process. This includes having regard to the SEN Code of Practice although mainstream independent schools are not obliged to follow it unless public funding has been made available for specific pupils and the school has agreed to be named on any Educational Health Care Plan.

A decision to exclude a pupil permanently should only be taken:

- in response to a serious breach, or persistent breaches, of the school's behaviour policy; and
- where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

#### **4. REVIEW**

##### **(a) RIGHT TO REVIEW**

There is a right to review against any decision permanently excluding a pupil from College or requiring a pupil to be removed from the College. This may only be exercised by sending the Request for Commencement of Review Procedure form to the Chair of Governors within seven days of the date of the Principal's report. Any request received after this period will not be accepted. Only the parents/guardians may request a review of the Principal's decision.

The request for a review must set out the matters that the parents/guardians would like to be reviewed together with documents that the parents/guardians wishes the Review Panel to consider.

During the period from exclusion to the date of conclusion of the review procedure, the pupil will be suspended and will be forbidden from entering College premises without the prior permission of the Principal.

##### **(b) REVIEW PANEL**

The Review Panel will consist of at least 3 persons, not directly involved in the matter under review, one of whom shall be independent of the management and running of the College. Each of the Panel members shall be appointed by the Governing Body. Neither Party will make contact with any Panel member. The arrangements for the Panel will be carried out by an officer of the College who has had no part in the precipitating incident nor the decision to exclude.

##### **(c) NOTICE OF AND PREPARATION FOR HEARING**

A notice of the proposed date and time of the review hearing shall be given to the parents/guardians as soon as reasonably practicable. The hearing should be arranged at a mutually convenient time and should normally take place within seven days of receipt of the request for a review or as soon thereafter as reasonably practicable. There may be cases of emergency - for example where a pupil may miss valuable revision time - in which case the Governors will seek to act immediately.

The parents/guardians will be notified of the date, time and venue of the meeting on not less than two days notice.

The parents/guardians may make written submissions to be considered at the hearing and/or may attend the hearing in person.

The Principal may make written submissions to be considered at the hearing and/or may attend the hearing.

The Clerk to the Governors will prepare and send to the parents/guardians and to the Principal, not less than two days before the hearing, a bundle of papers to be used at the hearing, consisting of, where applicable, the Standard Terms and Conditions and parents' Acceptance Form, and any other relevant documents such as previous warnings and relevant correspondence. The Panel Chair may allow any documents not included in the bundle to be adduced at the hearing at his/her discretion. Some documents to be used by the College at the hearing may be withheld from the bundle if the contents are subject to data protection regulations and cannot be released to third parties.

#### **(d) ATTENDANCE AT THE HEARING**

The following will appear before the appeal panel:

- 1 The pupil;
- 2 His or her parent(s) or guardians;
- 3 The Principal.

The parents/guardians and the Principal may be assisted at the hearing by an appropriate third party if they wish but this does not extend to legally qualified representatives. This person must be identified and notified to the panel at least 3 days before the hearing.

#### **(e) PROCEDURE AT THE HEARING**

The procedure to be followed at any hearing will be at the Panel Chair's discretion but will normally be as follows: -

(It is stressed that the aim is to make the hearing as informal as possible.)

- (1) the Principal will present his case with any supporting witnesses;
- (2) the parents/guardians may ask questions of the Principal and/or of the Principal's witnesses;

- (3) the parents/guardians will present their case with any supporting witnesses;
- (4) the Principal may ask questions of the parents/guardians and/or of their witnesses;
- (5) the Principal will sum up his case for exclusion of the pupil;
- (6) the parents/guardians will sum up the case for a review of the Principal's decision;
- (7) at any time, a member or members of the Panel may ask questions of the Principal or of the parents/guardians.

There will be a clerk at the review and minutes are taken.

**The Review Panel shall adjourn the hearing to consider their decision.**

**(f) DECISION**

- 1 Save in exceptional circumstances, the Review Panel shall endeavour to reach a decision upon the occasion of the hearing. Such decision shall, in the case of disagreement between members of the panel, be by majority. The Chair of the Panel shall have the casting vote if the decision is split equally.
- 2 At this stage the Review Panel shall not be entitled to set aside the decision of the Principal to exclude or remove a pupil or to substitute some other penalty or sanction.
- 3 Where the Review Panel upholds the decision of the Principal it shall confirm the decision to exclude or remove.
- 4 Where the Review Panel considers that: -
  - the Principal did not have before him all the relevant evidence
  - the Principal may not have given sufficient weight to any particular evidence or argument
  - not all relevant arguments or submissions were put before the Principal
  - the procedures followed were unfair

the Review Panel may require the Principal to reconsider his decision in the light of the findings of the panel.

The Review Panel will overrule the Principal's decision where it believes that any procedural irregularity has produced a decision which is wrong.

- 5 The decision of the Review Panel shall be communicated orally to the parent(s) or guardians present and to the Principal unless time constraints do not allow this in which case the Panel will consider whether
  - (i) to adjourn its' decision to another date
  - (ii) to give a written rather than oral decision.

**(g) FOLLOWING THE HEARING**

1. The Panel Chair shall, within two days of the hearing or as soon as reasonably practicable thereafter, notify the parents in writing that the Panel: -
  - has confirmed the Principal's decision, or
  - has required the Principal to reconsider his decision.
2. The Panel Chair shall, within two days of the hearing or as soon as reasonably practicable thereafter, notify the Principal in writing that the Panel: -
  - has confirmed his decision, or
    - requires the Principal to reconsider his decision; in which case the Panel Chair shall set out in writing what evidence or further evidence, or what arguments or submissions the Principal should additionally take into account. The Panel may additionally make recommendations to the Principal relating to his decision but these shall not be binding on the Principal.
3. Where the Principal is required by the Review Panel to reconsider his decision he shall reconsider his decision and shall, within three days of being notified in writing of the Panel's decision or as soon as reasonably practicable thereafter, notify the parents/guardians and the Panel Chair in writing of his reconsidered decision. If the Principal decides to withdraw his decision to exclude or remove he may, in its place, impose a different punishment(s) for the offence. This may include a requirement for the pupil and parents/guardians to enter into a contract to guarantee his/her future behaviour or performance. For the avoidance of doubt during this period the pupil shall continue to remain excluded from the College.

## **5. STATUS OF DISCIPLINARY DECISIONS**

The imposition of disciplinary sanctions in accordance with this procedure shall not constitute a breach of contract by the College or St. Mary's College Trust and, in accordance with its terms and conditions, no compensation or refund of fees shall be payable to parents/guardians in respect of periods of fixed-term or permanent exclusion.



## **6. PUPILS OVER THE AGE OF 18**

Pupils over the age of 18 have the rights given to parents/guardians in this procedure. The Principal shall nonetheless inform the parents/guardians of any circumstances relevant to this procedure and they may take part in the procedure if they so wish.

# St Mary's College

## REQUEST FOR COMMENCEMENT OF REVIEW PROCEDURE

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To the Chair of Governors.

Name of Pupil: ..... Form:.....

Date of Birth: .....

Name of Parent/ Guardian: .....

Address: .....

.....

..... Tel No: .....

Name of Parent/Guardian: .....

Address: .....

.....

..... Tel No:.....

(1) Enter date  
of decision

I/We request a review of the Principal's decision on <sup>(1)</sup>..... to  
exclude <sup>(2)</sup>..... from the College

(2) Enter  
Pupil's name

(3) Enter all the  
matters to be  
the subject of  
the appeal such  
as a wrong  
determination  
of facts or  
unfair procedure

I/We would like the Review Panel to consider the following <sup>(3)</sup>

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

(4) List all documents such as witness statements or other documents	I/We attach documents that I/we wish the Review Panel to consider as follows:- <sup>(4)</sup> ..... ..... ..... ..... ..... .....
(5) Enter pupil's name	I/We understand that <sup>(5)</sup> ..... shall be excluded from the College pending the conclusion of the review procedure.
(6) Signed by	Signed <sup>(6)</sup> ..... Dated .....

NOTE

Ensure that the signed completed request is received by the Chair of Governors no later than 7 days after the Principal's decision to exclude. Requests for a review that are neither signed, dated nor fully completed or are received by the Chair after this period shall not be accepted.

Reviewed by MK 230518 Reviewed by MK 310819 Reviewed by MK 10.09.2020  
Reviewed by MK 06/09/21 Reviewed by MK 18/07/22