



CAVAN INSTITUTE

UNDER THE AUSPICES OF

CAVAN AND MONAGHAN EDUCATION AND TRAINING BOARD

BORD OIDEACHAIS AGUS OILIÚNA AN CHABHÁIN AGUS

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SUSPENSION AND EXPULSION POLICY AND PROCEDURES

1. Policy Statement

- 1.1. *Cavan Institute* is a Further Education (FE) College committed to providing education and training of the highest quality.
- 1.2. Schools and 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 schools and FE colleges established and maintained by Cavan and Monaghan Education and Training Board.

2. Legal framework

- 2.1. Cavan and Monaghan ETB acknowledges the duty of schools and FE colleges under its control to publish their policy concerning admission and participation in the school/FE college, including the policy of the school/FE college relating to the expulsion and suspension of students 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 in *Cavan Institute* specifies:

- The standards of behaviour that shall be observed by each student attending the FE college
- The measures that may be taken when a student fails or refuses to observe those standards
- The procedures to be followed before a student may be suspended or expelled from an FE college

- The grounds for removing a suspension imposed in relation to a student
- 2.2. *Cavan Institute* affirms that its Code of Behaviour 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 the FE college
 - The plan for promoting good behaviour
 - The ways in which an FE college responds to unacceptable behaviour
 - The plan for implementing the code of behaviour
 - FE college procedures for the use of suspension and expulsion
- 2.3. *Cavan Institute* 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. *Cavan Institute* affirms that data collected in relation to students and parents (if student 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 Management of *Cavan Institute* holds the authority to suspend a student. This authority is devolved under Section 44 (11(a)) of the Education and Training Boards Act 2013 by Cavan and Monaghan ETB to the Boards of Management of each of the schools/ FE colleges under its control.
- 3.2 Cavan and Monaghan ETB recognises that the Board of Management of *Cavan Institute* may delegate this authority to the Director of *Cavan Institute*. The Board of Management should make a formal delegation arrangement taking due account of the provisions of the Education and Training Boards Act 2013.
- 3.3 *Cavan Institute* recognises that suspension is only one strategy within the *Cavan Institute* Code of Behaviour in response to inappropriate behaviour.
- 3.4. *Cavan Institute* recognises that when all other strategies have been exhausted, suspension affords a student time to reflect on their behaviour, to acknowledge and accept responsibility for their behaviour and to accept the need for the behaviour to change. *Cavan Institute* works closely with the student (and their parent(s) if the student is under 18 yrs.) to assist a suspended student to re-join the FE college community successfully.

- 3.5. *Cavan Institute* acknowledges that suspension should be a proportionate response to the behaviour that is causing concern. The decision to suspend a student requires serious grounds such as that:
- The student's behaviour has had a seriously detrimental effect on the education of other students.
 - The student's continued presence in the FE college at this time constitutes a threat to safety.
 - The student is responsible for serious damage to property.
 - The student breaches the Code of Behaviour. (At the discretion of the Director.)
- 3.6. *Cavan Institute* affirms that all suspensions must be notified to the Board of Management of *Cavan Institute*.
- 3.7. *Cavan Institute* 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 *Cavan Institute* Code of Behaviour have been applied and documented
 - That all actions /decisions taken are recorded and all correspondence copied.
 - Discussion has occurred with the student (and their parent(s), if the student is under 18yrs), regarding the specific behaviour which the FE college considers unacceptable, and which may lead to suspension.
- 3.8. The Board of Management of *Cavan Institute* affirms that students attending *Cavan Institute* may be suspended as follows, pending investigation and/or discussion with the student (and their parent(s), if the student 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 the FE college, or when identifiable with the FE 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. *Cavan Institute* acknowledges that a single incident of serious misconduct may be grounds for suspension. Such grounds may include where the continued presence of the student in the FE college at the time would represent a serious threat to the safety or welfare of students, staff of the FE college or any other person.
- 3.10. A student may be suspended during an examination period and such suspension should normally be approved by the Board of Management of *Cavan Institute*. 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 students and personnel
 - a threat to the right of the other students to do their exam/s in a calm atmosphere.
- 3.11. Cavan and Monaghan ETB recognises that the Board of Management of *Cavan Institute* may decide as part of the FE college's policy on sanctions and following a consultation process with the Director, teachers and students (and parents of students under 18yrs.), that a particular named behaviour incurs 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 student should not be suspended again shortly after they return to *Cavan Institute* 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 student.
- **Informal/unacknowledged suspension.** Exclusion of a student for part of the FE college day as a sanction is a suspension.
- **Open-ended suspension.** Students 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 Cavan and Monaghan ETB affirms that *Cavan Institute* is required to follow fair procedures when proposing to suspend a student. The college should observe the following procedures.

- The student (and parent(s) if student is under 18yrs) should be informed about the complaint.
 - The student (and parent(s) if student 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 student under 18yrs must be notified, and arrangements made for the student to be collected from the FE college. The FE college must have due regard for its duty of care for the student.
- 5.2 A student should not be suspended for more than 3 days except in exceptional circumstances. Cavan and Monaghan ETB recognises that the Board of Management of *Cavan Institute* should provide guidance to the Director 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 Management for consideration and approval. However Cavan and Monaghan ETB recognises that **the Board of Management of *Cavan Institute* may wish to authorise the Director, with the approval of the Chairperson of the Board of Management, 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 a meeting of the Board of Management and reviewed on an annual basis.
- 5.3 Cavan and Monaghan ETB affirms that the Board of Management of *Cavan Institute* should formally review any proposal to suspend a student where the suspension would bring the number of days for which the student has been suspended in the current FE college year to 20 days or more. Any such suspension is subject to appeal under section 29 of the Education Act 1998.

6 Implementing the suspension

- 6.1 The Director of *Cavan Institute* should notify the student (and their parent(s) if the student 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 student (and their parent(s), if student is under 18yrs).

- the provision for an appeal to the Department of Education and Skills, 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 student (or their parent(s), if the student is under 18yrs) does not agree to meet with the Director, Cavan and Monaghan ETB confirms that written notice will serve as notice to impose a suspension.
- 6.3 A suspension may be removed if the Board of Management of *Cavan Institute* 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 student has been suspended in the current FE college year reaches 20 days, the student (or their parent(s), if student is under 18yrs), may appeal the suspension under Section 29 of the Education Act 1998 to the Minister for Education and Skills.
- 7.2 An appeal may be made by the student concerned (or by their parent(s), of the student 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 Management or a person acting on behalf of the Board of Management.
- 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 and Skills 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 Cavan and Monaghan ETB has the authority to expel a student. This authority may be delegated under Section 44 (11(a)) of the Education and Training Boards Act 2013 by Cavan and Monaghan ETB to the Board of Management of *Cavan Institute*.
- 8.2 Expulsion should be a proportionate response to the student's behaviour. *Cavan Institute* acknowledges that expulsion of a student is a very serious step and one that should only be taken by the Board of

Management of *Cavan Institute* in extreme cases of unacceptable behaviour.

- 8.3 The Board of Management of *Cavan Institute* affirms that *Cavan Institute* needs to have taken significant steps to address the misbehaviour and to avoid expulsion.

Such measures may include:

- meeting with the student (or with their parent(s) if the student is under 18yrs) to try and find ways of helping the student to change their behaviour.
- making sure that the student 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 student requires serious grounds such as that:
- the student's behaviour is a persistent cause of significant disruption to the learning of others or to the teaching process
 - the student's continued presence in the FE college constitutes a real and significant threat to the safety and welfare of others.
 - the student is responsible for serious damage to property.

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

- 8.6 'Automatic Expulsion'

The Board of Management of *Cavan Institute* may decide in consultation with the Director, teachers and students (and parents of students 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 a first or once-off offence

There may be exceptional circumstances where the Board of Management of *Cavan Institute* decides that a student 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 student or member of staff
- actual violence or physical assault
- supplying illegal drugs to students in the FE college
- sexual assault

9 Factors to Consider before proposing to expel a student

9.1 The Board of Management of *Cavan Institute* should take the following factors into consideration before considering expelling a student:

- The nature and seriousness of the behaviour
- The context of the behaviour
- The impact of the behaviour
- The interventions already tried to change the student'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

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 Director. The Director should ensure that no party who has had any involvement with the circumstances of the case is part of the investigation.

10.2 The Director should inform the student (and their parent(s), if the student 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 Director must ensure that the student (and their parent(s), if the student is under 18yrs) are given every opportunity to respond to the complaint of serious misbehaviour. The Director should communicate this in writing to ensure that the student (and their parent(s), if the student is under 18yrs) have a permanent record of having been informed.

10.3 A meeting should be arranged between the student (and their parent(s), if the student is under 18yrs) and the Director of *Cavan Institute*, before a sanction is imposed.

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

- the seriousness of the matter

- the importance of attending a re-scheduled meeting
 - Failing that, the duty of the FE college authorities to make a decision to respond to the inappropriate behaviour
 - Record all correspondence
- 10.5 Where the Director of *Cavan Institute* forms a view, based on the investigation of the alleged misbehaviour, that expulsion may be warranted, the Director shall make a recommendation to the Board to consider expulsion.
- 10.6 The Director should:
- inform the student (and their parent(s), if the student is under 18yrs) in writing that the Board of Management is being asked to consider expulsion.
 - ensure that the student (and their parent(s), if the student is under 18yrs) have written records of (a) the allegation, (b) the investigation, (c) written notice of the grounds on which the Board of Management is being asked to consider expulsion.
 - provide the Board with the same comprehensive records as are given to the student (and their parent(s), if the student is under 18yrs).
 - notify the student (and their parent(s), if the student is under 18yrs) in good time of the date of the hearing with the Board of management and invite them to that hearing.
 - advise the student (and their parent(s), if the student is under 18yrs) that they can make a written and oral submission to the Board of Management.
 - ensure the student (and their parent(s), if the student is under 18yrs) is/are given enough notice to allow them to prepare for the meeting.
- 10.7 It is the responsibility of the Board of Management of *Cavan Institute* 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 Management should undertake its own review of documentation and all circumstances of the case.
- 10.9 The Board of Management 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 Management of *Cavan Institute* decides to expel a student, it must hold a hearing and this meeting should be properly conducted in accordance with Board procedures.
- 10.11 The student (or their parent(s), if the student 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 student. 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 notetaker will be present and provide a written record of the meeting. This record will be shared with all parties. The 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 Director and the student (or their parent(s), if the student is under 18yrs) will 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 to question the evidence of the other party. Questions should be directed through the Chairperson at the end of each presentation.
- 10.15 Once the Director and the student (or their parent(s), if the student is under 18yrs) have made their cases, they will withdraw from the meeting.
- 10.16 Should the Board require the professional advice of the Director, the Director 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 Director and the student. The student (and their parent(s), if the student 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 Director and the student (and their parent(s), if the student 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 FE college to enable the student to whom the appeal relates (the 'student concerned') to participate in and benefit from education,
 - (c) the educational interests of the student concerned and the desirability of enabling the student 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 students of the FE college and the maintenance of a classroom and FE college environment which is supportive of learning among the students of the FE college and ensures continuity of instruction provided to students in any classroom concerned and the FE college,
- (e) the safety, health and welfare of teachers, students and staff of the FE college,
- (f) the code of behaviour
- (g) the duties on FE colleges or their boards imposed by or under any enactment, and
- (h) such other matters as the Board considers relevant.

11 Board of Management 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 Management, having considered all the facts of the case, is of the opinion that the student should be expelled, the Board must notify the student (or their parent(s), if the student is under 18 yrs.) in writing about its conclusions and that expulsion is proposed.
- 11.3 The student cannot be expelled before the passage of 20 FE college days from the date on which they receive this written notification. The Board of Management may consider it appropriate to suspend a student during this time (the 20-day period). This should only be considered where the continued presence of the student during this time would seriously disrupt the learning of others or represent a risk to the safety and health of students or staff.

12 Confirmation of the decision to expel

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

13 Section 29 Appeal against Expulsion

- 13.1 The Student (or their Parent(s), if the student 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 Management or a person acting on behalf of the board of management.
- 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 Management of *Cavan Institute* should review the use of expulsion in the FE college at regular intervals.

15 Implementation and Review of Policy

- 15.1 The Director and Board of Management of *Cavan Institute* will be 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 and Skills from its official approval by Cavan and Monaghan Education and Training Board and *Cavan Institute's* Board of Management.

This policy was adopted by Cavan and Monaghan Education and Training Board on 13 November 2013.

This policy was reviewed in May 2015 and adopted by Cavan and Monaghan Education and Training Board for incorporation into school/FE college's Codes of Behaviour on 13 May 2015.

This policy was reviewed in November 2020 in light of commencement of changes to the Section 29 Appeals procedures under the Education (Admission to school/FE colleges) Act 2018 and approved by the Chief Executive and Senior Management Team on 11 January 2021.

This policy was ratified by the *Cavan Institute* Board of Management on 23 March 2021.

Definitions

“parent” includes a foster parent, a guardian appointed under the Guardianship of Children Acts, 1964 to 1997, or other person acting in *loco parentis* who has a child in his or her care subject to any statutory power or order of a court and, in the case of a child who has been adopted under the Adoption Acts, 1952 to 1998, or, where the child has been adopted outside the State, means the adopter or adopters or the surviving adopter;

“Director” means a person appointed under *section 23* and has the same meaning as Principal of a post-primary school;

“school means an establishment which—

(a) provides primary education to its students and which may also provide early childhood education, or

(b) provides post-primary education to its students and which may also provide courses in adult, continuing or vocational education or vocational training, but does not include a school or institution established in accordance with the Children Acts, 1908 to 1989, or a school or institution established or maintained by a health board in accordance with the Health Acts, 1947 to 1996, or the Child Care Act, 1991;

“FE college” means Schools and Colleges providing FET programmes which are deemed to be second-level schools in law and are bound by all relevant legislation;

“Institute” means Cavan Institute, an FE College established and maintained by Cavan and Monaghan ETB;

“student”, in relation to a FE college, means a person enrolled at the FE college and in relation to a centre for education, means a person registered as a student in that centre; the term **“learner”** has the same meaning.