



ST STITHIANS COLLEGE CODE OF CONDUCT: LEARNERS

Introduction

1. This code of conduct shall apply whenever a Learner at St Stithians College is alleged to have committed an act or acts of Serious Misconduct, as defined in this code of conduct.
2. This code of conduct replaces all other disciplinary procedures, rules and regulations previously published in any of the Schools of St Stithians College. The legally enforceable Code is the version that is published on the St Stithians College Website under the section on Policies.
3. This code of conduct may not be amended except in writing, under the hand of the Rector of St Stithians College and duly authorized by the St. Stithians College Council.
4. References in this code of conduct to the terms described below shall, unless clearly inconsistent with or otherwise indicated by the context have the following meanings:
 - 4.1. a School means one or more of the Schools of St Stithians College;
 - 4.2. references to the College means the group of schools comprising St Stithians College;
 - 4.3. references to a Parent means the parents and/or guardians of a Learner;
 - 4.4. the School Rules include:
 - 4.4.1. the policies approved by the St Stithians Council;
 - 4.4.2. all rules published or in any way notified to Learners by a School;
 - 4.4.3. all relevant legislation and regulations in force from time to time;
 - 4.4.4. the standards of behavior and socially acceptable conduct expected of Learners at St Stithians in accordance with the Saints Charter and generally with the values and ethos espoused by the College generally or by any of the Schools.
 - 4.5. Disciplinary Process means the processes and procedures set out in this code of conduct;
 - 4.6. Head or Head of School means the Head of the School attended by the Learner in question.

Explanatory notes

5. During the process of enrolling a Learner at St Stithians at the beginning of each academic year, the Parents confirm in writing that they accept the policies and procedures of St Stithians, and that they subscribe to the philosophies and ethos of St Stithians and *inter alia* agree with, and agree to be bound by, the statements and procedures set out in this code of conduct. The procedures set out herein apply to all College learners whilst at school, on any school outing and whilst wearing the school uniform.
6. The Parents, Staff and the Management of each school accept that a school has a duty to Learners, Parents and society to produce young people who will play a positive and constructive role in society as adults who have a developed sense of responsibility. Consequently, any act of Serious Misconduct must be dealt with by means of fair process, following which an appropriate consequence will be imposed by the Chairperson of the enquiry.
7. All alleged acts of Serious Misconduct must be dealt with through the process described in this code of conduct, and this means that the Parents, Learners, Staff and the Management of each of the schools accept that the final decision as to whether or not an act of Serious Misconduct has occurred, rests with the Chairperson of the enquiry. These procedures make

provision for an appeal and once again, the Parents, Learners, Staff and the Management of each of the schools accept that the outcome of the appeal hearing is final and binding and that no person outside the hearing is in a position to make a judgment of this nature, because they have not heard all the evidence.

8. All Learners, Staff, Learner leaders, Management and Parents are responsible for ensuring that all Learners adhere to School Rules, especially where a Learner's compliance is dependent on support from Parents or Staff or both. All involved parties referred to above are responsible for creating a peaceful, law abiding and happy environment, which is conducive to a culture of learning and excellence. In particular, Learner leaders, Staff and Management have a role to ensure that the School Rules are upheld at St Stithians.
9. When addressing occurrences of bad behaviour, breaches of discipline or Serious Misconduct with a Learner, Staff members, Parents, Council, Teachers and Learner leaders will not threaten any particular punishment and Parents, Learners and Management are all encouraged to refrain from threats, abuse of power or any indication of bias, dislike or interpersonal difficulties, that may compromise the authority of the Disciplinary Process or the atmosphere of equity, of due process, and fairness in which Disciplinary Process should take place.
10. Effective discipline is based on the following principles:
 - 10.1. Learners, Staff, Learner leaders, Management and Parents accept that a full hearing of all the allegations and evidence before an impartial Chairperson is a pre-condition to a fair outcome;
 - 10.2. Following an opportunity to face accusers and respond to complaints in the controlled and even-handed environment of a hearing before an impartial Chairperson, if found guilty the Learner accepts that s/he has breached a School Rule;
 - 10.3. Learners accept that a particular sanction imposed after the disciplinary process is legitimate and fair and is a necessary consequence of the breach of a School Rule;
 - 10.4. Discipline is aimed at reconciling the Learner to the norms of behaviour at the college and restoring a broken relationship between the Learner, the Staff member or fellow Learner or the College;
 - 10.5. Discipline is aimed at creating and maintaining a stable and fair learning environment, in which everyone's right to fairness and an education, is recognised.
11. A single occurrence of any of the following types of misconduct will not be considered Serious Misconduct and will not require the convening of a disciplinary hearing in terms of this Code.

Single acts of misconduct which are not to be considered Serious Misconduct

12. Teachers will use their own procedures to ensure that effective learning takes place in the classroom.
13. Learner leaders will run a program of School Service for minor infractions of the School Rules.
14. The School may also use sanctions such as the Head's, academic or other detention (and this may include weekends), writing exercises and suspension from School activities (internal or external, or both) for not more than 5 school days to reinforce compliance with School Rules.
15. Parents accept that Teachers, Staff members, Learner leaders and Management may be called upon to act in the best interests of the Learner, the School, and other Learners or Parents in situations of "manifest uncertainty" and that certain decisions may or will have to be taken in the exercise of a general discretion exercised in this context.
16. Parents accept that compliance with sanctions may, on occasion, cause disruption and inconvenience to the Learner's family but that this is often a consequence of progressive discipline and Parents agree to support the school in its endeavours in this regard.

Schedule of acts of Serious Misconduct

17. This schedule is not an exhaustive list of types of Serious Misconduct. Learners, Parents and Teachers accept that civil standards of behavior and socially acceptable conduct are

required and the breach of a social or behavioral norm may amount to Serious Misconduct even if it is not listed in this schedule.

18. The following are considered acts of Serious Misconduct:
- 18.1. A repeated and/or deliberate infringement of any of the School Rules;
 - 18.2. Insubordinate behaviour or conduct or any specific act of insubordination;
 - 18.3. Any deliberate or negligent act which, by its consequences, brings the name of the School or College into disrepute;
 - 18.4. Gross insolence and/or cheek to any person in authority in the College, or to employees and/or officials of the school or to adults visiting the school;
 - 18.5. Gross insubordination towards the College, its employees and/or officials;
 - 18.6. Possessing, using and/or distributing any tobacco products, alcohol or products containing alcohol or any other substances prohibited or regulated by law, e.g. Drugs (this includes being under the influence by said alcohol or substances prohibited or regulated by law);
 - 18.7. Theft;
 - 18.8. Fraud, including the forging of any other person's signature;
 - 18.9. Copying or any form of cheating in any test, exam or project;
 - 18.10. Truancy from School or any lesson or College activity at which the Learner's attendance is compulsory (It is noted that in terms of Chapter Two of the South African Schools Act, parents are responsible for ensuring their child(ren) between the ages of 7 and 15 attend school. The sanction for those breaking the law is a fine or term of imprisonment not exceeding six months, or both. The College is committed to upholding the law and in addition to imposing sanctions for Truancy on the learner, the College may also report parents / guardians to the relevant authorities in situations where the absence from school is due to the negligent behavior of parents.);
 - 18.11. Assault, including sexual assault or harassment;
 - 18.12. Any behavior or medical condition which could be considered a threat to the health and safety of anyone else;
 - 18.13. Immoral behaviour;
 - 18.14. Fighting and/or bullying and any form of intimidation;
 - 18.15. Any form of initiation;
 - 18.16. Racism;
 - 18.17. Sexism;
 - 18.18. Possessing and/or using any weapons, dangerous toys or other dangerous items;
 - 18.19. Vandalism or destruction of other peoples' property;
 - 18.20. Any infringements of the College's policy on Computer Usage entitled "Statement on Computer Ethics, Acceptable Use of Technology and the Saints Network" as amended, replaced or updated from time to time;
 - 18.21. Disrupting any lessons and / or stopping or interfering with the learning of other Learners;
 - 18.22. Any other acts prohibited by the laws of the country;
 - 18.23. Lying, dishonesty or any form of duplicity;
 - 18.24. Failure to report, and/or aid in the investigation of an alleged act of Serious Misconduct;

Investigation process

19. A member of staff will be appointed as an Investigator by the Head of School to investigate any allegations of acts of Serious Misconduct.
20. All interviews with possible culprits and witnesses will be conducted confidentially. A second member of staff will be present for any interviews in cases where the alleged breach amounts to serious misconduct.
21. The School may suspend a Learner (internal or external or both) during the course of the investigation.
22. All involved in acts of Serious Misconduct will be expected to tell the truth. Any deceit may be considered an aggravating factor in the determination of punishment, if guilt is established. A

Learner may decline to answer questions on the grounds that the answer may be self-incriminating.

23. Any notes taken by the Investigator and/or a witness present during the investigation will be for the personal use of the Investigator only. They will not form part of an official record of any proceedings.
24. Learners may be asked to make written statements, which will be signed and dated. Such statements may be used later in any procedures that follow the investigation. Any person who makes a statement as provided for in this paragraph shall be entitled to read it before signing it and shall be given a personal copy to keep.
25. Once the matter has been investigated as fully as possible, the Investigator will proceed as follows:
 - 25.1. Refer the matter to the Disciplinary Committee for further investigation and/or a determination of an appropriate sanction; or
 - 25.2. Refer the matter to the Head for discussion of the matter with the Parents.

Disciplinary committee (“DC”)

26. The Investigator will present the School’s case to the DC.
27. The DC is constituted as follows:
 - 27.1. Deputy Head (or senior member of staff) appointed by the School Head as Chairperson;
 - 27.2. A relevant member of staff whose duty it is to assist the Chairperson of the DC;
 - 27.3. A friend, family member or Teacher, chosen by the Learner to be present in a supportive capacity;
 - 27.4. Any other person who may be of assistance to the DC, at the discretion of the Chairperson.
 - 27.5. It is noted that the DC may proceed in the absence of the Learner and/or their supporter chosen in terms of clause 27.3 above, if there is no good reason given for the absence(s).
28. The Investigator is only present to present the case. The Investigator is not involved in the deliberations of the DC.
29. Legal representation on behalf of the Learner is not allowed as of right.
30. The decisions taken are those of the Chairperson of the DC. Other members are present to assist the Chairperson to make a decision both to the guilt and appropriate sanction of the learner
31. The Chairperson may impose any sanction he/she considers appropriate for the purposes of progressive discipline or reform of the Learner concerned.
32. The Chairperson may refer the matter back to the Investigator for further investigation, in which case the DC will reconvene at a later date set by the Chairperson to hear further evidence.
33. The DC will deal with the matter if the guilt of the Learner may be determined without resolving complex issues of fact or law or both, and the punishment contemplated is not likely to be expulsion or suspension from school for more than five days.
34. If the Learner is found guilty, the Chairperson will recommend an appropriate sanction to the Head of School. The Head of School shall consider the proposed sanction and shall hear representations, if requested, from any interested party before confirming, altering or varying any recommendation of the DC.
35. If the DC is of the opinion that the guilt of the Learner cannot be determined without resolving complex issues of fact or law or both, or that expulsion or a suspension from school for longer than five days may be an appropriate sanction, it shall refer the matter to the Head of School, who may then convene a formal disciplinary hearing to deal with the matter.

Head of School’s request to withdraw Learner from the School

36. If the punishment contemplated is expulsion from the School, the Head may request an interview with the Parents. The purpose of the interview is to determine by consensus between the Head and the Parents whether or not the College is the best environment for the Learner, given the incident of alleged Serious Misconduct and considering the rest of the Learner’s record at the College.

37. The Head may ask, or the Parents may request, that the Learner be removed from the School. If the Head and the Parents agree, the Parents will then confirm in writing that they intend to remove the Learner from School. The Head will acknowledge this request in writing to the Parents. In this situation, the School will take all reasonable steps to assist the Learner and Parents to find a place for the Learner at another school.
38. If the Parents do not wish to remove the child as requested above, the School may conclude the disciplinary hearing and outcome to deal with the matter.
39. In any interview discussions with Parents, the Head of School will have another member of staff present, and such member of staff shall keep written minutes of the interview.

Formal disciplinary hearing

40. If the alleged offence is a matter of Serious Misconduct, and/or if the guilt of the Learner cannot be determined without resolving complex issues of fact or law or both, and/or the Learner faces expulsion, or suspension from school for longer than five days, the Investigator may request that a disciplinary hearing be convened to deal with the matter. The procedures for such a hearing are dealt with below.
41. Depending on the seriousness of the alleged offence, considerations of fairness to all concerned and the interests of investigation, the Head of school may suspend the Learner from all School activities pending the outcome of the hearing.
42. Factors that will be considered in the convening and outcome of a disciplinary hearing are:
 - 42.1. The Learner's best interest must be considered at all times. This must be tempered by the responsibility of the Chairperson of the hearing to the rest of the school community;
 - 42.2. The strictest confidentiality must be adhered to, as most hearings will be dealing with minors. In this regard the school undertakes to inform only those College staff and management as is necessary for the continued smooth functioning of the College. The amount of information to be given to other members of the school community is left to the Head of School's discretion.
 - 42.3. The Chairperson of the hearing must be impartial. The Chairperson cannot be involved in any way in the investigation of the alleged offence. If the Chairperson's interests are, or might be seen to be, compromised in any way, this is a ground for recusal or disqualification.
43. As this is an internal matter, legal representation is not a right, but may be allowed at the discretion of the Chairperson of the hearing.

Procedures of a formal disciplinary hearing

44. The hearing will be conducted in English. If the Learner(s) or his/her/their Parents require any translation or interpretation they may provide it at their own expense.
45. Separate hearings may be convened to hear the case of different Learners involved in the same alleged act of Serious Misconduct. This will be the decision of the Investigator. The Chairperson of the Hearing may determine otherwise at the start of and Hearing dealing with the matter.
46. The Investigator will inform the Learner(s) and the Learner's Parents in writing of the complaints against the Learner.
47. Details of the time and venue of the hearing will also be provided. All arrangements will be made on reasonable notice, to allow all parties to prepare for the hearing. It is noted that the hearing may proceed in the absence of the Learner, if there is no good reason given for the absence.
48. The hearing will be convened within seven working days of the alleged offence having been reported to the Head of School or Deputy Head of School, unless there are circumstances that make this impossible, in which case the hearing shall be convened as soon as is practically possible in the circumstances at the discretion of the Head of School.
49. Every Learner has the right to the presence of one or both Parents. If this is impossible, the Parent(s) may request in writing that another adult be present in their place. Their absence, unless with good cause (at the sole discretion of the Chairperson), will not be allowed to delay the hearing unnecessarily.

50. The Head of School will chair the hearing, or a member of Council (designated by the Chair of Council) will chair the hearing if the Head of School recused him/herself or is disqualified by reason of a conflict of interest in the matter or has been involved in any way in the investigation of the alleged offence, or was involved in any previous deliberations on the matter, for example at a Disciplinary Committee (DC) hearing. The Chairperson may request the help of no more than two other college staff members or management to assist him/her during the hearing. The decisions taken are those of the Chairperson. Other members are present to assist the Chairperson to make a decision both to the guilt and appropriate sanction of the learner.
51. At the start of the hearing, the Chairperson will ask the Investigator to present the complaints. This will involve stating what School Rules are alleged to have been broken and specify the act or omission in question. The written notice of the hearing will be tabled.
52. The Learner(s) will then be asked by the Chairperson to plead "guilty" or "not guilty" to the charges.
53. The Learner or the Learner's representative shall then state the defence (if any) and furnish such information as s/he may consider helpful to the hearing in clarification of the Learner's case.
54. If a "guilty" plea is entered, the hearing will proceed as follows:
 - 54.1. The Learner will be asked by the Chairperson to state in his/her/their own words why they are guilty of misconduct;
 - 54.2. The Investigator and/or Chairperson may question the Learner(s) to ensure the full facts of the matter have come to light;
 - 54.3. The Chairperson will then determine whether or not the Learner(s) is guilty of the alleged misconduct;
 - 54.4. If the finding is one of "guilty" the hearing will then proceed to hear evidence in aggravation and mitigation.
55. If a "not guilty" plea is entered, the hearing will proceed as follows:
 - 55.1. The Investigator will present the evidence of the alleged act of misconduct.
 - 55.2. The Investigator may call witnesses and present documentary or other physical evidence to substantiate the allegation against the Learner(s).
 - 55.3. The Learner(s) or Learner's representative (if any) will be given an opportunity to cross-examine each witness. A Parent may assist the Learner(s).
 - 55.4. The Learner(s) will then be given an opportunity to present evidence in person and/or through witnesses and present documentary or other physical evidence in support of the Learner's case
 - 55.5. After each of the Learners and any witnesses have testified they may in turn be cross-examined by the Investigator.
56. The Chairperson of the hearing may question any person giving evidence at any time for the purposes of obtaining clarity on any matter.
57. The Chairperson may also request any other witnesses not called by either party, to give evidence after both the Investigator and the Learner(s) have presented their evidence and witnesses.
58. Once the evidence has been heard, the Chairperson will make a finding as to the guilt or innocence of the Learner(s).
59. The hearing may be adjourned for no more than 3 working days to enable the Chairperson to make a finding.
60. In the case of a "guilty" finding by the Chairperson, evidence in mitigation and aggravation may then be led. The process for leading such evidence will be the same as that outlined above. The hearing may be adjourned to allow a reasonable amount of time for such evidence to be prepared.
61. Factors that could be considered include the level of remorse shown by the Learner(s), whether or not the Learner was co-operative or deceitful in uncovering the truth of the matter, previous record, relevant precedents and/or any other personal, psychological, medical and/or family circumstances.
62. The findings will be reduced to writing by the Chairperson and communicated to the Learner as soon as is practicable.

63. These procedures do not in any way limit the rights a Learner and his/her Parents enjoy under the Constitution of the Republic of South Africa.
64. Any person who is aggrieved at the outcome of a hearing in which her or his rights were affected may appeal to the Rector within 5 days of receipt of a ruling by the hearing.

Appeal process

65. Appeals to the Rector shall be in writing and shall state:
 - 65.1. the full names of all the parties to the hearing;
 - 65.2. the disciplinary complaint;
 - 65.3. the facts and the grounds of the appeal.
66. The appeal shall enclose a copy of the ruling or finding made by the Chairperson of the first instance.
67. The Rector will hear the appeal or a member of Council (designated by the Chair of Council) will hear the appeal if the Rector has any interest in the matter or has been involved in the investigation of the alleged offence, at a time and place to be designated by the Rector or Council member in writing.
68. All appeals shall be decided on the record of the hearing of the first instance.
69. A party wishing to bring new evidence to the appeal shall be required to explain why that evidence was not available at the hearing of the first instance and the Rector or Council member may decide to admit or decline to admit such new evidence.
70. Legal representation may be permitted by the Rector or Council member, with due regard to the complexities of the matter.

Usage Rules: Higher Ground

71. No student is allowed to visit the Higher Ground during school hours unless accompanied by a staff member.
72. No student is allowed into the bar area at any time.
73. Students are reminded that they are still on the school premises and, as such, all school rules apply.
74. Students may not sit in the café area unless they are patrons.
75. Students are not welcome at the Higher Ground, before and after school, unless accompanied by an adult, e.g. parent.
76. Students must be properly dressed at all times when visiting the Higher Ground:
 - 76.1. Weekdays – full school uniform, including track suit
 - 76.2. Weekends (after matches) or evenings with family – smart casual dress or match uniform / tracksuit.

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