



Student Discipline Policy and Procedures

1. Object

- 1.1 Part 3.7 of the NSW Registration Manual requires Newington College to have policies and procedures relating to the discipline of students attending the College that are based on principles of procedural fairness, and that do not permit corporal punishment of students.
- 1.2 The College expects students to demonstrate good behaviour and respect for others in the classroom, at school, at College sport and events, and in public. The College expects the school to be a safe, supportive and inclusive environment for all students, staff and parents.
- 1.3 The College's approach is to focus on positive behaviour, prevent poor behaviour and set a culture that builds positive relationships between students and other members of the College community, based on mutual respect and trust. Accordingly, the College seeks, whenever appropriate, to resolve student behavioural issues and misconduct in accordance with its **Pastoral Care Policy**. However, when a student engages in conduct that may constitute serious misconduct, the College may take disciplinary action in accordance with this policy and procedures.
- 1.4 This object of this policy is to:
- (a) explain the meaning of serious misconduct;
 - (b) prescribe the penalties for serious misconduct;
 - (c) describe the process for investigating serious misconduct;
 - (d) provide for interim measures to be taken against a student accused of serious misconduct, to minimise the potential for harm to them or any other person; and
 - (e) ensure compliance with the NSW Registration Manual.
- 1.5 This policy and procedures should be read in conjunction with the College's **Pastoral Care Policy**.

2. Application

This policy and procedures applies to students, for the welfare and benefit of students, staff, parents, volunteers and other members of the College community.

3. Definitions

3.1 In this policy:

Chair or Chair of the Council means the Chair of the Council or their nominee.

College means Newington College, as represented by the authorised delegates of the Council.



conflict of interests	means a conflict between a person's private or external interests and their duties as a delegate of the College.
Council	means the Council of Newington College, established by section 1 of the <i>Newington College Council Act 1922</i> .
investigator	means the person who investigates an allegation of serious misconduct, being the Deputy, Head of Preparatory Schools, Deputy, Pastoral (K-12), Deputy Headmaster, Headmaster, Chair of the Council, or any of their nominees, as relevant and appropriate.
NSW Registration Manual	means the <i>Registered and Accredited Individual Non-Government Schools (NSW) Manual</i> .
parent	means one or more parents, guardians or carers of a student enrolled at the College.
staff or staff member	means the College's permanent, temporary and casual teaching and non-teaching staff.

3.2 A reference in this policy to a code of conduct, policy or procedures is a reference to the code of conduct, policy or procedures as amended or replaced by the College from time to time.

4. Meaning of 'serious misconduct'

4.1 Serious misconduct includes, but is not limited to:

- (a) a serious breach of the **Student Code of Conduct**;
- (b) a serious breach of the **Student Diversity and Equality of Opportunity Policy**;
- (c) a serious breach of the **Student Social Media Policy**;
- (d) a serious breach of the **Student Use of Information and Communication Technology (ICT) Policy**;
and
- (e) multiple breaches of one or more College policies.

4.2 When determining whether a breach of policy is serious, the College will take into account:

- (a) whether the student's conduct was deliberate;
- (b) whether the student's conduct was potentially unlawful or criminal;
- (c) the impact of the student's conduct on the learning and participation of other students in College life;
- (d) the impact of the student's conduct on other members of the College community or members of the public; and
- (e) the impact of the student's conduct on the reputation of the College.

5. Penalties

- 5.1 The College may impose one or more of the following penalties on a student found guilty of serious misconduct:
- (a) a severe reprimand;
 - (b) suspension from the College; and
 - (c) expulsion from the College.
- 5.2 Subject to sub-clause 6.9, only the Headmaster and Deputy Headmaster may impose the penalty of expulsion.
- 5.3 When a student receives a severe reprimand it will be recorded, and a copy will be sent to the student's parents and placed on their file.
- 5.4 When a student is suspended from the College:
- (a) the suspension will be recorded on the student's file; and
 - (b) the student will not be permitted to attend the College, represent the College, or attend any event run by or associated with the College for the period of the suspension.
- 5.5 When a student is expelled from the College:
- (c) the expulsion will be recorded on the student's file;
 - (d) the student's current enrolment will be terminated, and all fees paid for that enrolment period will be forfeited;
 - (e) the student will not be entitled to receive any benefits, advantages or privileges of the College; and
 - (f) the student will not be permitted to re-enrol in or graduate from the College.
- 5.6 The Deputy, Head of Preparatory Schools, Deputy, Pastoral (K-12), Deputy Headmaster or Headmaster, as relevant, may, in their absolute discretion, suspend the operation of any severe reprimand or suspension on such terms and conditions as they consider appropriate.
- 5.7 The Deputy Headmaster, Headmaster or the Chair of the Council, as relevant, may, in their absolute discretion, suspend the operation of an expulsion on such terms and conditions as they consider appropriate.
- 5.8 The Deputy, Head of Preparatory Schools, Deputy, Pastoral (K-12), Deputy Headmaster or Headmaster, as relevant, must, when imposing a penalty for serious misconduct take into account:
- (a) the nature and frequency of the misconduct;
 - (b) the safety and welfare of the student, and of other students, staff and visitors;
 - (c) whether the student has a behaviour management plan;
 - (d) any previous record of serious misconduct by the student;
 - (e) previous penalties imposed on the student for serious misconduct, including any penalty suspended in accordance with this policy or the **Boarder Discipline Policy and Procedures**; and
 - (f) any relevant mitigating circumstances.

- 5.7 The College expressly prohibits the use of corporal punishment under any circumstances. The College does not explicitly or implicitly sanction the administration of corporal punishment by people outside school, including parents, to enforce discipline at the school.

6. Procedural fairness

- 6.1 Students are entitled to procedural fairness in the management of alleged serious misconduct, including any appeal.
- 6.2 The College will handle allegations of serious misconduct in a timely manner, and will take reasonable steps to resolve the matter as soon as practicable.
- 6.3 The College will:
- (a) give students a reasonable opportunity to respond to alleged serious misconduct; and
 - (b) invite students to bring a support person to any meeting.
- 6.4 Decisions relating to serious misconduct matters will be made impartially, meaning that they will be made without actual or perceived bias.
- 6.5 The Deputy, Head of Preparatory Schools, Deputy, Pastoral (K-12), Deputy Headmaster, Headmaster, or Chair of the Council, as relevant, will not hear or determine an allegation of serious misconduct if they:
- (a) are personally and substantially involved in any aspect of the allegation;
 - (b) have a current or prior personal relationship with the student accused of serious misconduct; or
 - (c) may otherwise be perceived to have a conflict of interests or bias in regard to the alleged misconduct.
- 6.6 The Deputy, Head of Preparatory Schools, Deputy, Pastoral (K-12), Deputy Headmaster, Headmaster, or Chair of the Council, as relevant, will not be considered to have a conflict of interests or to be biased solely because they have previously been made aware of or been consulted about the alleged serious misconduct.
- 6.7 If the Deputy, Head of Preparatory Schools or Deputy, Pastoral (K-12), as relevant, is precluded from hearing and determining an allegation of serious misconduct, the Deputy Headmaster will perform the functions under clause 5 and clauses 8 to 11.
- 6.8 If the Deputy Headmaster is precluded from hearing and determining an allegation of serious misconduct, the Headmaster will perform the functions under clause 5 and clauses 8 to 12.
- 6.9 If the Headmaster is precluded from:
- (a) hearing an allegation of serious misconduct referred to him under clause 6.8, the Chair of the Council will nominate a suitably qualified external person to perform the functions under clauses 8 and 9;
 - (b) determining an allegation of serious misconduct, the Chair of the Council will perform the functions under clauses 5 and 10 to 12; or
 - (c) hearing an appeal against expulsion, the Chair of the Council will perform the functions under clause 13.
- 6.10 If the Chair of the Council is precluded from hearing an appeal against expulsion, the Chair will nominate a suitably qualified person to perform the functions under clause 13.

7. Confidentiality

- 7.1 The College will treat allegations of serious misconduct as confidential and, subject to clause 7.2, will not disclose to anyone other than the affected student and their parents:
- (a) the identity of the student;
 - (b) the information provided or collected during the consideration or investigation of the alleged serious misconduct; or
 - (c) any report, outcome or determination of alleged serious misconduct.
- 7.2 The College may disclose the information referred to in clause 7.1 in the following circumstances:
- (a) to comply with its legal obligations;
 - (b) to obtain assistance or advice from legal or other advisers;
 - (c) to ensure the safety and wellbeing of the student, or of other students or members of the College community; or
 - (d) to make a statement to the College community, and/or a public statement, provided that:
 - (i) the Headmaster is satisfied that the College community and/or the public have a legitimate interest in knowing the information; and
 - (ii) the information does not include the names of any individuals, or any other details that might identify the student or other parties (including any complainant) associated with the alleged serious misconduct.
- 7.3 Subject to clause 7.4, a student who is accused of serious misconduct must not disclose any information relating to the alleged serious misconduct, or any response by the College to the alleged serious misconduct, including the fact or outcome of any investigation.
- 7.4 A student who is accused of serious misconduct may disclose the information referred to in clause 7.3 to:
- (a) their immediate family members; or
 - (b) a qualified health professional, such as a doctor or counsellor.

8. Notice of alleged serious misconduct

- 8.1 If the Deputy, Head of Preparatory Schools, Deputy, Pastoral (K-12) or Deputy Headmaster, as relevant, believes that a student's alleged conduct could, if proven, constitute serious misconduct, they will write to the student, with a copy to their parents:
- (a) setting out the alleged conduct;
 - (b) describing the penalty that could be imposed if the conduct is proven;
 - (c) inviting the student to a meeting with the Deputy, Head of Preparatory Schools, Deputy, Pastoral (K-12) or Deputy Headmaster, as relevant;
 - (d) informing the student that they are entitled to:
 - (i) bring a support person to the meeting;
 - (ii) respond to the alleged conduct in writing;

- (iii) provide copies of any relevant documents or information; and
- (iv) provide the names of any witnesses who can provide information relevant to the alleged serious misconduct; and
- (e) providing a copy of, or an electronic link to, this policy and procedures.

9. Serious misconduct investigation

9.1 Investigations into serious misconduct will be conducted by the Deputy, Head of Preparatory Schools, Deputy, Pastoral (K-12) or Deputy Headmaster, or their nominee, as appropriate.

9.2 During the investigation, the investigator will:

(a) give the student a reasonable opportunity to:

- (i) respond to the alleged serious misconduct, and any relevant information, in person and in writing;
- (ii) provide copies of any relevant documents or information; and
- (iii) provide the names of any witnesses who can provide information relevant to the alleged serious misconduct; and

(b) invite the student to bring a support person to any meeting.

9.3 If at any time during an investigation a related allegation of misconduct is made against the student, the investigator may investigate that allegation together with the allegation of serious misconduct.

9.4 A decision by the investigator not to interview a witness, or refusal by a witness to be interviewed, will not invalidate the outcome of the investigation.

9.5 The standard of proof to be satisfied in investigations is 'on the balance of probabilities', which requires satisfaction on the evidence that the matter found to have occurred is more likely to have occurred than not. The investigator will take into account the nature and seriousness of the alleged conduct when deciding whether the standard of proof is met.

9.6 At the conclusion of the investigation, the investigator will write a report setting out:

- (a) findings of fact relevant to the alleged serious misconduct;
- (b) any breaches of College policy; and
- (c) any findings of serious misconduct.

10. Investigation outcome

10.1 If the Deputy, Head of Preparatory Schools, Deputy, Pastoral (K-12) or Deputy Headmaster, as relevant, finds that the alleged conduct is not proven, or does not constitute a breach of College policy, no further action will be taken against the student.

10.2 If the Deputy, Head of Preparatory Schools, Deputy, Pastoral (K-12) or Deputy Headmaster, as relevant, finds that the alleged conduct is proven and constitutes a breach of College policy, but does not constitute serious misconduct, they may decide to:

- (a) take no further action; or
- (b) develop and/or implement a behaviour management plan for the student in accordance with the College's **Pastoral Care Policy**.

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- 10.3 If the Deputy, Head of Preparatory Schools, Deputy, Pastoral (K-12) or Deputy Headmaster, as relevant, finds that the alleged conduct is proven, constitutes a breach of College policy, and constitutes serious misconduct, they may decide:
- (a) to issue a severe reprimand and/or suspend the student in accordance with clause 5;
 - (b) recommend to the Deputy Headmaster or Headmaster, as relevant, that the student be expelled in accordance with clause 5; or
 - (c) in the case of the Deputy Headmaster, to expel the student in accordance with clause 12.

11. Reprimand and suspension

- 11.1 If the Deputy, Head of Preparatory Schools, Deputy, Pastoral (K-12) or Deputy Headmaster, as relevant, decides to issue a severe reprimand and/or suspend the student, they will write to the student, with a copy to their parents:
- (a) setting out the findings of the investigation, including the findings of fact, breaches of College policy and findings of serious misconduct;
 - (b) setting out the penalty; and
 - (c) advising the student of their right of appeal in accordance with clause 13.
- 11.2 If the student does not lodge an appeal in accordance with clause 13, the penalty will be imposed on the student.

12. Expulsion

- 12.1 If, following an investigation conducted in accordance with clause 9:
- (a) the Deputy, Head of Preparatory Schools or Deputy, Pastoral (K-12) recommends to the Deputy Headmaster that a student be expelled from the College and the Deputy Headmaster forms the preliminary view that the student should be expelled in accordance with clause 5;
 - (b) the Deputy Headmaster, of his own motion, forms the preliminary view that the student should be expelled in accordance with clause 5; or
 - (c) the Deputy Headmaster recommends to the Headmaster that a student be expelled from the College and the Headmaster forms the preliminary view that the student should be expelled in accordance with clause 5;
- the Deputy Headmaster or Headmaster, as relevant and determined at the sole discretion of the College, will write to the student, with a copy to their parents:
- (d) setting out the findings of the investigation, including the findings of fact, breaches of College policy and findings of serious misconduct;
 - (e) advising the student of the proposed expulsion; and
 - (f) inviting the student and their parents to make written or oral representations about the proposed expulsion to the Deputy Headmaster or Headmaster, as relevant, by a prescribed date.
- 12.2 If the student or their parents do not make written or oral representations about the proposed expulsion by the date prescribed, the Deputy Headmaster or Headmaster, as relevant, will expel the student.
- 12.3 If the student or their parents make written or oral representations about the proposed expulsion by the date prescribed, the Deputy Headmaster or Headmaster, as relevant, will:

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- (a) consider the written or oral representations;
- (b) take into account the factors listed in clause 5.8;
- (c) decide whether to:
 - (i) expel the student; or
 - (ii) issue a severe reprimand and/or suspend the student; and
- (d) write to the student, with a copy to their parents, advising the student of the Deputy Headmaster's or Headmaster's decision and the student's right of appeal in accordance with clause 13.

13. Appeals

13.1 A student may appeal against either or both of:

- (a) a finding that the student is guilty of serious misconduct; or
- (b) a decision to impose a penalty on the student.

13.2 Any appeal against a severe reprimand and/or suspension must be made in writing to the Headmaster within 5 working days of the date of the notice referred to in clause 11.1, and specify the grounds for the appeal.

13.3 Any appeal against expulsion must be made in writing:

- (a) to the Headmaster if the Deputy Headmaster has expelled the student; or
- (b) to the Chair of the Council if the Headmaster has expelled the student;

within 5 working days of the date of the notice referred to in clause 12.3(d), and specify the grounds for the appeal.

13.4 An appeal may only be made on one or more of the following grounds:

- (a) the investigation was procedurally unfair because the investigator:
 - (i) showed bias or had a conflict of interests;
 - (ii) failed to give the student a reasonable opportunity to respond to the alleged serious misconduct, or to provide relevant documentation or information;
 - (iii) failed to take into account relevant information; and/or
 - (iv) took into account irrelevant information; or
- (b) new relevant information has become available that was not available or known to the student at the time of the investigation and could reasonably be expected to affect the decision.

13.5 The Headmaster or the Chair of the Council, as relevant, may uphold or dismiss an appeal.

13.6 If the Headmaster or the Chair of the Council, as relevant, dismisses an appeal, the finding of serious misconduct and the decision to impose the original penalty on the student will stand.

13.7 If the Headmaster or the Chair of the Council, as relevant, upholds an appeal, they may in their absolute discretion:

- (a) quash the finding that the student is guilty of serious misconduct and substitute a new finding; and/or
- (b) quash the decision to impose a penalty on the student, and decide to:
 - (i) take no further action;
 - (ii) develop and/or implement a behaviour management plan for the student in accordance with the College's **Pastoral Care Policy**; or
 - (iii) substitute a new penalty in accordance with clause 5.

13.8 The Headmaster or the Chair of the Council, as relevant, will write to the student, with a copy to their parents, setting out:

- (a) the outcome of the appeal;
- (b) any penalty to be imposed in accordance with clause 5; and
- (c) the reasons for the decision.

14. Interim measures

14.1 Notwithstanding any clause in this policy and procedures, in order to minimise the potential for harm to the student or any other person, the Deputy, Head of Preparatory Schools, Deputy, Pastoral (K-12), Deputy Headmaster or Headmaster, as relevant, may take the following temporary action against a student accused of serious misconduct, for such period and on such terms as the Deputy, Head of Preparatory Schools, Deputy, Pastoral (K-12), Deputy Headmaster or Headmaster, as relevant, considers necessary:

- (a) suspend the student from entering specified parts of College lands;
- (b) restrict the student's access to particular classes or activities;
- (c) restrict the student's access to specified College buildings facilities or accommodation; or
- (d) prohibit the student from speaking to or approaching another person (including by social media, email, letter or through a third party).

14.2 A decision to take interim measures should not:

- (a) influence the findings of the investigation process; or
- (b) be interpreted as anticipating or revealing the outcome of the investigation process.

14.3 Interim measures must be:

- (a) set for a fixed period of time; and
- (b) reasonable and proportionate, having regard to the seriousness and circumstances of the alleged serious misconduct.

14.4 Interim measures may be taken summarily, and the Deputy, Head of Preparatory Schools, Deputy, Pastoral (K-12), Deputy Headmaster or Headmaster, as relevant:

- (a) is not required to provide a hearing to the student before making a decision; and
- (b) may inform themselves in relation to any matter in any manner that they think fit.

- 14.5 Once taken, interim measures will continue to apply until they:
- (a) are revoked or varied by the Deputy, Head of Preparatory Schools, Deputy, Pastoral (K-12), Deputy Headmaster or Headmaster, as relevant; or
 - (b) expire in accordance with their terms.
- 14.6 The Deputy, Head of Preparatory Schools, Deputy, Pastoral (K-12) Deputy Headmaster or Headmaster, as relevant, must:
- (a) notify the student and their parents of the imposition of interim measures, and the reason for the interim measures; and
 - (b) provide a copy of, or an electronic link to, this policy and procedures.

Notes

Student Discipline Policy and Procedures

Date approved: 25 February 2021

Date commenced: 24 January 2022

Date amended: 10 February 2022

Related documents: [Boarder Discipline Policy and Procedures](#)

[Pastoral Care Policy](#)

[Student Code of Conduct](#)

[Student Diversity and Equality of Opportunity Policy](#)

[Student Social Media Policy](#)

[Student Use of Information and Communication Technology \(ICT\) Policy](#)