

## **11.0 Miscellaneous**

### **11.1 Student Pregnancy**

Generally schools treat student pregnancies sensitively and caringly. A school should not take disciplinary action against a girl because of her pregnancy, irrespective of the circumstances. Neither should any pressure be exerted on the girl to leave school. Depending on the circumstances, a school may decide to assist the girl to get a transfer to another school, if that were her clear wish and the wish of her parents.

On learning of a student's pregnancy, a school should make sure that the girl's parents know of the pregnancy and, in so far as it is possible, ensure that she is treated and cared for properly. It may be wise to inform the local Health Board to ensure that social workers and medical personnel can monitor the pregnancy and activate any interventions which would be deemed appropriate, if that is the wish of the girl and/or her parents.

If the pregnant girl is under sixteen years of age, and her child's father is an adult, it is clear that child abuse has taken place and the school is obliged to report this to the local Health Board.

### **11.2 Trespass**

Many schools have recurring trouble with trespassers. Trespassing is not a criminal offence. Unless criminal damage is done while trespassing, the trespassers cannot be prosecuted by the Gardaí. In reality, the only option available to a Board to prevent trespass is to seek, through the Courts, an injunction to stop a particular trespasser. This is an expensive process and one which should only be contemplated in the most exceptional and extreme cases.

The posting of notices, such as "Trespassers will be Prosecuted", may deter some from trespassing, but in reality has little or no legal relevance.

### **11.3 Teachers' Property**

Occasionally there are claims made to Boards of Management for loss or damage to personal property. Some of these claims may relate to malicious damage to teachers' cars while parked in the school car-park. Boards have no legal liability for such damage.

A school car-park is merely a convenience for staff and visitors, and its availability does not confer any entitlement upon its users any more than if they had parked on the public road outside. To avoid any misunderstanding in this regard, Boards are advised to place disclaimer notices in car parks.

Teachers frequently bring personal property into school for the use of students or for the enhancement of lessons. Such belongings might include musical instruments, video equipment and computer equipment. If a teacher brings in the equipment on her/his own initiative, s/he does so at her/his own risk. A Board may consider an

appropriate means for compensating teachers whose property has been lost or damaged while being used by the school for the benefit of students.

#### **11.4 Political Indoctrination**

Teachers may not seek to politically indoctrinate students either in class or in any situation, inside or outside school, where the teacher/student relationship could be exploited. Not only would a Board be expected to forbid political indoctrination, but would be expected to act decisively and promptly if it were discovered.

Parents have a right to expect that schools are free from any promotion of partisan politics. Teachers and students should be forbidden from engaging in the promotion of political parties or partisan views within the school. Teachers have an implicit, but clear, duty to distinguish between facts and opinions. They should promote the notion of objective evaluation and reflection.

When social issues, with a moral dimension, are under consideration, teachers must be mindful that one's own conviction does not confer any right to promote partisan views.

Facts and opinions may be considered and discussed, but interpretations should be balanced and tempered by acknowledgement and explanation of the views of others.

While respecting the democratic right to freedom of political thinking, it is natural that schools should follow a code of fairness at election times. A school may decide to bar all political candidates from meeting students or even refuse them entry to the school while obviously campaigning. Alternatively, a school may choose to cultivate political debate and reflection by asking candidates to present their policies and manifestos for consideration and questioning. If this latter course is taken, it is necessary to treat all candidates similarly, giving all, irrespective of policy, equal opportunity to present their policies and manifestos.

#### **11.5 Defamation**

Defamation occurs when a statement is made about a person or persons, and when that statement has the effect of lowering the public esteem enjoyed by the person/s about whom it is made. Defamation can occur through spoken comment. This is called slander. Or it can occur in written or broadcast form. Such published or permanent form is called libel.

Occasionally, parents or students complain to the Department of Education and Science or to the Board of Management about teachers. Such complaints (written or verbal), if they contain unfounded accusations, may be defamatory and actionable. However, the teacher would have to prove that malice had been intended by the author of the complaint/s.

If the Department of Education and Science receives a complaint about a teacher, and passes details of the complaint on to the Board of Management, the communication between the Department and the Board is privileged and not actionable even if the complaint is unfounded.

## **11.6 Defamation of Students by Teachers**

A student or his/her parents may well regard comments made in a school report or in a school testimonial as being defamatory.

Such reports, which are associated with one's duties, are usually protected by privilege, but comment must be fair and without malice intended.

## **11.7 Garda Investigations**

School authorities and teachers should be concerned to assist the Gardaí in all reasonable ways in the investigation of crime. Like every citizen, they are obliged by law not to obstruct the Gardaí. However, they do have obligations towards students.

If the Gardaí come to arrest a student, they should not be obstructed. But, if they come to question a student, care should be taken. Normally, a student should only be questioned by the Gardaí in the presence of the student's parents or guardians. If the Gardaí request an interview with a student on school premises care should be taken to:

- a) establish whether there is any objection to the student's parent/s being present or at least informed of the Garda request;
- b) advise the student that the Gardaí wish to question her/him; advise the student (preferably in front of a witness) that s/he may refuse to be interviewed;
- c) have a member of staff present, in loco parentis, throughout the interview, if it goes ahead;
- d) ensure that the teacher present, in loco parentis, does not in any way induce or coerce the student to co-operate or to make admissions; (The teacher, acting in loco parentis, should be of the same sex as the student who is being interviewed.)
- e) write up an aide-memoire describing the details of the incident and file it for the record.

## **11.8 Juvenile Liaison Service**

Many of the urban Garda stations have specialists in dealing with juvenile misdemeanours. The Juvenile Liaison Officer is a non-uniformed Garda who investigates and processes the minor offences of juveniles. S/he brings a social work dimension to investigative work. The Juvenile Liaison Officer spends much time in counselling and monitoring young offenders and endeavours to steer them away from crime. Normally, an offender is not brought to court for a minor offence, especially a first offence. Instead, the offender is brought before a Garda Superintendent and given a formal caution.

The Juvenile Liaison service is one which depends to a great extent on the goodwill and co-operation of schools.

## **11.9 Drug Abuse**

School Boards of Management, like the community generally, are becoming more and more concerned about the alarming increase in the use of illegal drugs.

Clearly, there is a widespread need for drugs education programmes in schools. As well as tackling the general drugs problem, through a preventative programme, schools may also have to deal with specific problems such as drug pushing, possession of drugs and drug usage.

It is advisable that Boards of Management should have a well developed policy to deal with these issues.

It is not sufficient to have a policy of expelling a student who is involved in a drug-related incident. The consequences of such an expulsion might be more damaging than beneficial. If, for instance, the student who is expelled becomes a dealer and starts selling to other students, the consequences may be very serious. Thought and consideration must be given to alternative sanctions and interventions, e.g. the school could insist that the student attends regular counselling sessions.

In practical situations there are certain interventions which are necessary, e.g. where a student is found in possession of illegal drugs, the drugs should be confiscated. It is permissible to take possession of illegal drugs so as to prevent their use. Such drugs should be handed over to the Gardaí.

Many schools are reluctant to discuss drugs policies with parents in case it conveys to parents that the school has a drugs problem. This is a common dilemma for schools which should be addressed, as parents can prove to be valuable allies of a school in affecting a good drugs prevention programme.

## **11.10 Computer Systems**

Schools generally are reliant on computer systems to maintain records and to process financial and management data. This imposes on Boards of Management a considerable responsibility in respect of data security and compliance with the Data Protection Act of 1989.

It is recommended to Boards that they take the following precautions:

- install anti-virus software;
- install a good quality back-up system;
- keep back-up disks locked securely in a fire protected cabinet/safe;
- establish the use of Passwords and assign appropriate levels of access;
- mark all computer hardware equipment with a non-removable marking system.

### **11.11 The School Year**

Second level schools are required to be in operation for 179 days during the school year. This number includes 12 days during which the state examinations are taking place.

The Department of Education Circular Letter 29/95 outlines the required time in school as: -

- 167 teaching days in the school year;
- 28 hours is the minimum number of instruction hours per week.

The following school closures are included in the 167 days referred to above: -

- days on which the school is closed owing to bad weather or epidemic;
- special in-service days where the Department of Education and Science has given advance approval;
- special free days granted by the Minister for Education and Science to mark a special occasion or event.

N.B. School must be in operation for a minimum of three hours on any given day if the day is to count as a school day.

Standard arrangements for the opening of schools during the school years 2004 – 2007 have been agreed and are set out in DES CL M21/04. All schools are obliged to conform to the arrangement outlined in this CL.

### **11.12 Child Abuse**

The number of cases of child abuse coming before the courts in recent years would suggest that physical abuse and sexual abuse of children are not uncommon. Teachers are regularly exhorted to watch out for signs of abuse, and there are guidelines from the Department of Education and Science as to the procedures which should be followed by school authorities where it is suspected or alleged that abuse has occurred. (See C.L. 41/92 - Procedures for Dealing with Allegations of Child Abuse).

The recommended procedures include the following:-

- a) if a teacher receives an allegation or has a suspicion that a child is being abused, s/he should report the matter to the Principal or to the Chairperson of the Board of Management;
- b) if the matter is reported to the Principal, and s/he accepts that there are reasonable grounds for the suspicion or allegation, s/he should inform the Chairperson of the Board of Management;
- c) the Chairperson, together with the teacher, should report the matter to the local Health Board (to either the Director of Community Care or to the Medical Officer of Health).

N.B. It is essential that, at all times, the matter be treated in the strictest confidence. The communication of information must be confined to those who have an obligation to receive it, and third parties should not be privy to allegations unless it is necessary to involve them as matters unfold.

The investigation of suspected abuse is not, under any circumstances, a matter for the school, and under no circumstances should the school staff make any enquiries.

### **11.13 Allegations of Abuse against a Student**

If there are allegations or suspicions that a child is being abused by a student of the school, the same procedure as outlined above should be followed.

### **11.14 Allegations of Abuse against an Employee of the School**

If a teacher receives an allegation or has a suspicion that a student is being abused by an employee of the school, s/he should, in the first instance, report the matter to the Principal and to the Chairperson of the Board of Management. In exceptional circumstances, the teacher should report directly to the Chairperson.

The Chairperson should inform the employee concerned of the suspicion or allegation which has been made. If it appears to the Chairperson that there are reasonable grounds for the suspicion or allegation, s/he should afford the employee concerned an opportunity to respond and should report the matter to either the Director of Community Care or to the Medical Officer of Health in the local Health Board. The report should include the employee's response, if the employee so desires.

It is important to emphasise that the Board of Management has a duty of care to the student, who has been subjected to, or is alleged to have been subjected to, abuse, and to the general body of students. Therefore, where a person is alleged to have abused a student, the Board of Management must ensure that the alleged abuser is removed forthwith from contact with the alleged injured student and from contact with the body of students. In the case of an employee, this may involve suspension with pay pending the outcome of an enquiry.

**The Board of Management should also contact the Department of Education and Science, obtain legal advice and consult the current guidelines from the Department.**

### **11.15 Information Required by a Health Board**

When child abuse is suspected, it is essential to have a record of all the information available. Staff should record, in writing, what they observed and when they observed it. Signs of physical injury should be described in detail or sketched. Any comment by the child concerned, or by an adult who might be the abuser, about how an injury occurred should be recorded, preferably quoting words actually used, as soon as possible after the comment has been made.

## 11.16 Handling Disclosures from Students

An abused student is likely to be under severe emotional stress, and a teacher may be the only adult whom the student is prepared to trust. When information is offered in confidence, the teacher will need tact and sensitivity in responding to the disclosure. The teacher will need to reassure the student and retain her/his trust, while explaining the need for action and the possible consequences which will necessarily involve other adults. It is important to tell the student that everything possible will be done to protect and support her/him, but not to make promises that cannot be kept, e.g. promising not to tell anyone else.

## 11.17 Young People at Work

The employment of young people is regulated by the Protection of Young Persons (Employment) Act, 1996, which consolidates the law on young workers and gives effect to international rules on protecting young workers drawn up by the International Labour Organisation (I.L.O.) and the European Union (E.U.). The law is designed to protect the health of young workers and to ensure that work during the school years does not put the young person's education at risk.

### 11.17.1 Age Limits

For a regular job, the general minimum age is 16.

Employers can take on 14 and 15 year olds on light work, subject to the following requirements :-

- during the school holidays, provided there is a minimum three week break from work in the summer;
- in part-time work during the school term (over 15 years only);
- as part of an approved work-experience or educational programme.

Any child under 16 may be employed in film, theatre, sports or advertising under licence.

### 11.17.2 Maximum hours of Work per Week

Under 18s may not be employed for more than 40 hours per week or 8 hours a day, except in a genuine emergency. The maximum weekly working hours for 14 and 15 year olds are:-

<u>Age</u>	<u>14 years</u>	<u>15 years</u>
Term-time	Nil	8 hours
Holiday work	35 hours	35 hours
Work experience	40 hours	40 hours

People under 16 may not work before 8.00am or after 8.00pm. People between 16 and 18 may not work before 6.00 a.m. and after 10.00 p.m. with school the next morning, or after 11.00 p.m., if they do not have to attend school the next day. The ban on early morning work then moves forward to 7 a.m.

No under 18 year old person may work more than 5 days in every seven and they are entitled to minimum rest periods as follows:

Under 16 yrs.            30 minutes break after 4 hours work and 14 hours off in every 24 hours.

16 and 17 yrs 30 minutes break after 4.5 hours work and 12 hours off in every 24 hours.

### **11.17.3     Duties of Employers**

Employers are obliged to keep records of all employments of young people. They must have sight of the birth certificates of the young people employed and must have written parental permission before employing anyone under 16. Employers who break the law are subject to fines of up to €1,900, plus €317 per day for each day they continue in breach.

The Safety, Health and Welfare at Work Act, 1989 obliges employers to have due regard for the safety of children ( under 16) at work, and the Terms of Employment (Information) Act, 1994 requires employers to give workers under 18 years of age a copy of the official summary of the Protection of Young Persons (Employment) Act, 1996, as well as details of their employment within one month of starting the job.

The full provisions of the Protection of Young Persons (Employment) Act, 1996 do not apply to the employment of close relatives in a family business or farm provided the conditions of employment meet the terms of the E.U. Directive on the protection of young workers and the health and safety of the young people concerned are not put at risk.

Complaints under the Act should be made to:

The Employment Rights Section, Department of Enterprise and  
Employment, Davitt House,  
65A, Adelaide Road, Dublin 2.

N.B. Confidentiality is guaranteed to anyone making a complaint.