

7.0 The care and Management of Students

7.1 General Responsibilities of the Board of Management

The Deed of Trust and the Education Act, 1998 place a responsibility on the Board of Management to manage the school for the benefit of students and to provide an appropriate education for each student in the school. The responsibilities placed on the Board by the Deed of Trust were detailed at 2.10.1 above, and the Education Act requires the Board to perform the functions conferred on it and on the school by the Act. Some of the functions conferred on the Board were outlined at 2.10.3 above, and the functions of a school are detailed at Part 11, Section 9 of the Act. Many of these functions refer to the welfare and rights of students and are reproduced below.

A recognised school shall use its available resources to:

- a) provide education to students which is appropriate to their abilities and their needs.
- b) ensure that the educational needs of all students, including those with disability or other special educational needs, are identified and, within the limits of available resources, provided for.
- c) ensure that students have access to appropriate guidance to assist them in their educational and career choices .
- d) promote the moral, spiritual, social and personal development of students and provide health education for them in consultation with parents having regard to the characteristic spirit of the school.
- e) promote equality of opportunity for both male and female students.
- f) ensure that parents of a student, or in the case of a student who has reached the age of 18 years, the student, have access to records kept by the school relating to the educational progress of the student.
- g) establish and maintain systems whereby the efficiency and effectiveness of the operations of the school can be assessed, including the quality and effectiveness of teaching in the school and the attainment levels and academic standards of students.

It is clear from the foregoing that the Board of Management is required, as far as is reasonably possible, to ensure that the climate of the school is such that students are valued and respected, and that their welfare and rights are protected. The Board implements this responsibility through delegation to the Principal who is responsible for the day-to-day running of the school, and through the promotion of a school climate of shared values, attitudes and beliefs between the teaching staff, parents and the students. This is an on-going process which should be encouraged through appropriate staff development programmes, through involving students and parents in the operation of the school, through identifying clearly aims and objectives and through evaluation of progress. (Refer to 2.10.3 above re School Plan).

7.2 Enrolment of Students

7.2.1 Policy and Procedure

The Education Act, 1998, Section 15(2)(d) requires the Board of Management to publish the policy of the school concerning the admission to and participation in the school. This policy is subject to conditions laid down in the Education (Welfare) Act, 2000 as interpreted and administered by the National Educational Welfare Board (NEWB).

ACCS guidelines for the development of a school admissions policy are appended to this manual in appendix X.

The enrolment and induction of new students is a vital part of the educational process, and schools are advised that a lot of effort should be invested in the integration of new pupils into the life of the school.

7.2.2 Removal of a Student from Roll

The Education (Welfare) Act, 2000 obliges schools to keep an accurate and updated account of the enrolment and attendance of students. Such records are subject to monitoring by the NEWB. Schools have an obligation to inform NEWB of the absence of any student for a period in excess of 20 school days in any one school year.

It is expected that guidelines and templates for the maintenance of enrolment and attendance records will be issued in due course by NEWB. In the meantime Boards of Management are advised to draw up a policy dealing with the removal of a student from the roll to cover such eventualities as the case of a student who ceases attendance without explanation or where a student, who has enrolled, does not attend at the start of the school year. The policy must be reasonable, must conform to the rules of natural justice and, ideally, should be made known to parents when they first enrol a student.

The following suggestions may be helpful to Boards of Management and Principals when formulating this policy:

- a) If there has been continuous absence for a period of days without explanation, the parent(s)/guardian(s) of the student should be written to, seeking an explanation, and advising them that, unless confirmation is received from them that s/he intends to return to school, the removal of the student from the roll would be considered. If there is no response, the intention to remove the student from the roll and the reason should be notified in writing to the parent(s)/guardian(s) by registered post, if necessary. The parent(s)/guardian(s) should be given an opportunity to make representations on the student's behalf within a specified period and the NEWB should be notified.
- b) If a student, with the knowledge of the school, moves to another school, s/he should be removed from the roll only in accordance with the Education (Welfare) Act, 2000, Section 20(4),(6).

- c) The removal of any student from the roll should be confirmed in writing to the parents/guardians of the student.

The re-enrolment of a student who has been removed from the roll is a decision for the Principal and the Board of Management to be taken in accordance with the school's published admissions policy. In considering such decision Boards of Management must have due regard to the provisions of the Education (Welfare) Act, 2000 and of the appeal procedures provided for in Section 29 of the Education Act, 1998.

7.2.3 Repeat of a School Year (ref. C.L. 2/95)

The standard maximum period of second-level education for all students is six years. However, authority is delegated to Boards of Management to permit a student to repeat a year in any one of the following circumstances.

- a) If there has been prolonged absence through illness - either eight weeks continuously, or intermittent absences over a period of at least sixteen weeks, and for an average of two and a half days per week during that period, in the previous school year.
- b) The absence and the reason for it must be certified by the Board of Management. If the reason is related to health, that reason must also be certified by a doctor.
- c) If there is medical certification that a serious illness or injury, although not requiring eight week's absence, has been so traumatic as to affect adversely the student's academic performance.
- d) If there has been serious family trauma (death of a parent, separation, violence, etc.) which, in the opinion of school management, has had a seriously damaging effect on the student's academic performance.
- e) If the academic record of the student is very poor and s/he requires regular remedial teaching and there is sufficient evidence to establish that (i) the student's academic record is very poor, (ii) that the student is in need of regular remedial teaching and (iii) that the pupil can benefit from the extra year.
- f) If, because of change of domicile or for other reasons, a student transfers to another school and, as a result, must change subjects.

For full details of all the requirements relating to the repeat of a year, Boards and Principals are advised to consult DES Circular Letter 02/95.

7.3 The Code of Behaviour and Discipline

7.3.1 The Role of the Board of Management

Central to the operation of an effective and caring school is a fair and efficient Code of Behaviour to which students, parents, teachers and management can subscribe, which encourages mutual respect and co-operation and which has regard to the rights and responsibilities of all concerned.

The Board of Management is charged, under the Education (Welfare) Act, 2000, with the responsibility of ensuring that a Code of Behaviour and Discipline is drawn up, applied in the school and reviewed from time to time.

The task of drafting the Code should be delegated to the Principal in consultation with teachers, parents and students, especially senior students.

The Code of Behaviour should take account of the ethos and the environment of the school, should encompass rules, sanctions, rewards, incentives and procedures, and should be formally approved by the Board of Management. It must be available in the school for inspection by Inspectors of the Department of Education and Science, and a copy must be forwarded to the Department if requested.

ACCS guidelines on the development of School Code of Behaviour is appended in Appendix X

7.3.2 School Rules

The age, range of abilities and level of aspirations of the students should be taken into account when rules are formulated. They should be kept to a minimum, and should emphasise personal responsibility, safety and respect for persons and property as fundamental requirements.

In her report to the Minister for Education on Discipline in Schools, 1997, Maeve Martin recommends that :

“Rules should be

- Few and Fair.
- Simple and Positively stated.
- Enforceable and Enforced.
- Developed and owned by all the Partners.
- Discussed and, if necessary and appropriate, taught like academic content”

7.3.3 Sanctions

It is accepted that a teacher/school may administer sanctions for misdemeanours and breaches of school rules. However, the sanction must be reasonable and fair in all the circumstances. Its imposition and administration must be without malice or discrimination. Generally, sanctions should have elements of deterrent and penalty and opportunities for reform.

Boards of Management should have guidelines for teachers regarding sanctions. Such guidelines could reasonably leave minor sanctions, such as reprimand and minor verbal chastisement, to the discretion of teachers, but there should be clear guidelines regarding detention, suspension, expulsion and harassment.

Corporal punishment should be explicitly prohibited.

The “Non-fatal Offences Against the Person Act, 1997 abolished scholastic corporal punishment. Consequently, if a teacher should strike a student the s/he may be open to criminal charges and to a civil action for damages

If a Board of Management/Principal receives a complaint alleging physical assault by a teacher, the teacher should be approached and given an opportunity to respond to the allegation. If it is established that the teacher is culpable, disciplinary action ranging from a written warning to dismissal may be invoked, depending on the circumstances. The Board has a duty of care and, if it knowingly fails to take corrective action, it clearly is failing in its duty.

7.3.4 Rewards and Incentives

Discipline systems are more often associated with sanctions than with rewards. However, it is important that schools should promote the idea of positive behaviour among students and have a system of rewards for those students who display such behaviour and attitudes.

Students respond well to praise and encouragement, and Boards Of Managements and Principals are advised to explore and to develop appropriate systems of rewards as a counterbalance to sanctions.

Many schools have worthwhile award systems in place, and ACCS would be happy to provide further information.

7.3.5 Procedures

In the context of imposing sanctions, Boards of Management should ensure that appropriate procedures are in place and that the rules of natural justice apply. In general, this requires that proper records of misbehaviour and the action taken are maintained by teachers, Class Tutors, Year Heads, Deputy Principal and Principal as appropriate, that students and parents are informed when instances of misbehaviour are recorded, that parents are involved at an early stage in resolving instances of serious misbehaviour, and that, before sanctions are applied, the pupil, and in serious cases, both the pupil and the parent(s) have an opportunity to respond. Parents should be made aware of their right to appeal to a higher authority, such as the Principal or the Board of Management.

The Education Act, 1998, Section 28, makes provision for a Grievance Procedure for the resolution of the grievances of students or their parents. Section 29 makes provision for appeals to the Secretary General of the Department of Education and Science against decisions of a Board of Management regarding the suspension or expulsion of a student or the refusal to enrol a student. The introduction of a Grievance Procedure and an Appeals mechanism will follow a consultative process between the Minister for Education and Science and the Education Partners.

It is particularly important that proper procedures are followed in cases of detention, suspension, expulsion and harassment.

(a) Detention

In the use of detention, care should be taken to ensure that neither the school nor the teacher involved is in breach of their responsibility of care.

It should be made quite clear to parents before they enrol their child that certain breaches of discipline are punishable by detention. Indeed, it would be wise to state explicitly in the school rules that detention is an approved sanction.

However detention, like other punishments, should be used reasonably. It should be appropriate to the offence, the child's age, inconvenience or danger arising from travelling home alone and at a later time and the anxiety it may cause parents if they do not have at least twenty four hours notice of the detention.

Parents/guardians should always be advised in advance of detention and given precise details of when the sanction is to be imposed and for what period. (C.L. 33/91)

Suspension

The Articles of Management 10(ii) state that the Principal shall have power, for any cause which he or she judges adequate to dismiss, subject to the approval of the Board, or to suspend pupils from attendance but on the dismissal or suspension of any student the parent shall be informed that he or she has the right to appeal to the Board.

Suspension is a serious sanction and should only be imposed by the Principal in cases where other efforts to resolve a disciplinary situation have failed, or where the nature of the incident dictates that the student be removed from the school immediately.

Before suspending a student, the Principal should meet with the parents and then inform the parents in writing of the reason for the suspension, the period of the suspension and should state the requirements which must be fulfilled to gain reinstatement. The parents must be fully informed of their rights in respect of appeal against the suspension.

When a student is suspended it is important that both the student and his/her parents are dealt with fairly. Careful contemporaneous notes should be kept of such meetings and any agreement reached should be recorded.

If a suspension extends beyond five school days the National Education Welfare Board must be informed. It is advisable that all suspensions be reported to the Board of Management for noting and review.

Expulsion

Expulsion is the most severe sanction available to a school against a student. It should only be imposed for very serious breaches of school rules or in cases where the rights of a greater number of students are being denied because of the continual disruptive behaviour of an individual.

In accordance with the Deed of Trust, the Principal has power, for any cause which s/he judges adequate, to dismiss a pupil, subject to the approval of the Board.

The process of expulsion should conform in every way to the requirements of natural justice. It is recommended that each step in the process be conducted in the presence

of a witness and contemporaneous notes should be kept. The following steps should be followed.

- (i) The case against the student should be put to her/him and s/he should be given an opportunity to respond. The parents should be informed of the grounds upon which the action to dismiss is being made, and the nature of the evidence being relied upon. It is accepted that the quality of proof required for expulsion need not be of the quality required in a court of Law.
- (ii) The parents should also be provided with a fair opportunity to consider the evidence and to offer evidence to rebut it.
- (iii) Having considered all aspects of the case, if the Principal decides to dismiss the student subject to the approval of the Board, s/he must inform the student's parents in writing of the decision, the reason/s for it and of their right to appeal to the Board of Management against her/his **intention** to dismiss the student. In the interest of the student, an appeal should be received by the Secretary of the Board of Management no later than a specified date to enable an early hearing by the Board of Management. It is suggested that a date two weeks from the date of the Principal's letter is reasonable.
- (iv) The parents are entitled to seek access to the student's file and to documentation relevant to the expulsion. If the Principal, for whatever reason, refuses to hand over copies of documentation, the parents may seek a Court Order of Discovery.
- (v) If the parents decide to appeal against the intention of the Principal to dismiss the student from the school, arrangements should be made for the Board to hear the appeal at the earliest possible date. The student should stand suspended from school until that date.
- (vi) When the Board has heard the appeal, the parents and/or their representative/s and the Principal must withdraw to allow the Board to consider the case. Even though the Principal is a member of the Board, s/he may not be party to the consideration of the appeal as s/he is an involved party.
- (vii) To ensure its independence as the appeal authority, the Board of Management must not be involved in the process leading to the decision of the Principal to dismiss the student.
- (viii) If the appeal is upheld, it is a matter for the Board to decide on what conditions, if any, the student will be allowed back to school.
- (ix) If the appeal fails, the parents or, (in the case of a student over 18 years) the student must be informed of their right to appeal the decision to the Secretary General of the Department of Education and Science under Section 29 of the Education Act, 1998.
- (x) Where a Board of Management has taken the decision to dismiss a student, it is obliged to notify the designated educational welfare officer of its opinion

and the reasons therefor. A student shall not be considered expelled before the passing of 20 school days from the receipt of such notification by the educational welfare officer. The Board is obliged to co-operate fully with the educational welfare officer in the fulfilment of his/her duties under section 24 of the Education (Welfare) Act, 2000.

- (xi) The NEWB has the right, under section 29 of the Education Act, 1998, to appeal a decision of the Board of Management to expel and, in the event that such an appeal is initiated by a parents or student, to make submissions to the appeals committee.
- (xii) The School is advised to assist in finding a place in another school for a dismissed pupil, particularly if the pupil is under school-leaving age.

7.4 Harassment

The school Code of Practice on Harassment should apply to all forms of harassment, especially sexual harassment and bullying, and should take into account that students may be victims of harassment in the school.

Suggested Procedures for dealing with Harassment

- (i) Students subjected to harassment should report the harassment to any of the following: Principal, Deputy Principal, Guidance Counsellor, Year Head, Class Tutor, who will report the complaint to the Principal/Deputy Principal for investigation.
- (ii) Where a complaint of harassment is made by a student against a member of staff the complaint should be dealt with as described above under procedures for Staff Members.(See 4.7 above)
- (iii) Where a complaint of harassment is made by a staff member against a student, the complaint should be handled in accordance with the Code of Behaviour and Discipline for students.
- (iv) Where a complaint of harassment is made by one student against another student, the complaint should be handled in accordance with the Code of Behaviour and Discipline for students.
- (v) Where a student is victimised as a result of invoking or participating in any aspect of the complaints procedure, including acting as a witness for another student or a staff member, such conduct is also subject to disciplinary action.
- (vi) All investigations of complaints must be handled with sensitivity and with due regard to the rights of all concerned.
- (vii) No record of any complaint should be registered on a student's file unless the formal procedure is invoked.

- (viii) It is the responsibility of the Board of Management to ensure that all students are aware of the Code of Practice on Harassment and of the complaints procedure described above.

7.5 Uniform

The wearing of uniform, in so far as it is required by school rules, may be enforced on the following grounds:

- Parents, in sending their child to the school, implicitly, and perhaps even explicitly, accepted the school rules, including the code of dress prescribed in the rules.
- Teachers, acting in loco parentis, may enforce a code of dress to the extent that a prudent parent would do so.

Conflict may arise about the wearing of uniform. Boards of Management should be cognisant of the conflicting rights of the student to attend school and the right of the school's Board of Management to include in its rules an insistence on uniform. The enforcement of rules, including a uniform rule, should be done sensibly and should not bring about unnecessary conflict .

7.6 Complaints about Conduct Outside School

Complaints from members of the public, about the behaviour of students outside of school may cause problems for schools. It has been established in a number of legal cases that the school's authority does run outside the school premises, in certain circumstances. For example, if there is a fight outside the school gate, the school has a right to apply the Code of Behaviour and Discipline to those who are guilty of fighting. Likewise, if there is trouble on the school-bus, sanctions may be imposed on those responsible in accordance with the school's Code of Behaviour.

A school must differentiate between conduct which comes within the general control of the school and conduct which has nothing to do with the school. Clearly, if a student is being bullied outside of school by other students from the school, the offenders could be properly punished by the school. If there is feuding between students of one school and another, the schools could reasonably invoke sanctions against those involved. However, if a student vandalises a local property on a Saturday night, such an incident has nothing to do with the general control and conduct of the school and is a matter for the Gardaí or for civil action.

7.7 Size of Classes

Maximum class sizes are dictated more by custom and practice than by prescribed regulation. Generally, class sizes tend to be capped at thirty for non-practical subjects and at twenty four or, occasionally, twenty for practical classes. Special remedial classes should not be greater than sixteen. Capacity and design of classrooms frequently impose an imperative with regard to class size.

7.8 Supervision

Schools have a duty of care to pupils. As a rule, the quality of that care should be such as would be provided by a prudent parent. This does not require that each student should be watched throughout every minute. The level of the supervision varies with the activity taking place and with the age and maturity of the student. A sixteen year old would be expected to exercise some independence and accept some responsibility for her/his behaviour. This is particularly important in the context of TYP, LCVP, and LCA programmes where initiative, enterprise and independent learning are encouraged. On the other hand, the location of the school, for example near a busy road or a hazardous lake or an industrial site or other potential danger, should be taken into consideration when determining the level of supervision required.

It may be useful to look at some of the activities in which the supervision of students is an issue.

7.8.1 Classroom Lessons

The Board of Management has a duty of care even in the classroom. That duty is to a great extent delegated to the classroom teacher, but the Board is still directly responsible for defective equipment, apparatus or furnishings. If a piece of equipment is defective, the teacher has a responsibility under Health and Safety legislation to report it and to request that it be repaired. If a teacher allows students to use a piece of equipment which s/he knows to be defective, then there may well be a joint liability with the Board in the event of an accident. In a court of law, if negligence is attributed to the teacher, either jointly with a Board or entirely, liability for payment of compensation may to some extent, or fully, accrue to the teacher. It is, therefore, important to emphasise to teachers the importance of:

- being in time for class.
- not using defective equipment.
- advising the Principal of all known defects and hazards.
- not leaving classes unattended. (This is critical where there is/are dangerous equipment/machinery/substances in the classroom).
- not putting students outside classroom door during class.

7.8.2 Break-Time

The duty of care which is expected of school authorities includes provision of a safe environment and reasonable precautions to prevent injury or accident to students during break time. It is advisable that:

- rules of conduct during break time should be incorporated in the School's Code of Behaviour.
- a reasonable teacher presence should be maintained to ensure compliance with the Code of Behaviour.

The Deed of Trust [Articles of Management, 10(i) and 10(ii)] states that the Board shall have responsibility for the general direction of the conduct and curriculum of the school, and subject to the direction of the Board, the Principal shall control the internal organisation, management and discipline of the School. Since the Principal

alone could not possibly oversee the application of the Code of Behaviour, as it relates to supervision in all parts of the school, it is essential that the teaching staff accept their responsibility for supervision, including break-time supervision, within the school and its environs.

As and from September 2003, the Department of Education and Science has put in place provision for the formal involvement of teaching staff in the supervision of pupils during school break times. Details of these arrangements are available in DES CL PPT 01/03.

7.8.3 Out of School Activities

Out of school activities include games, cultural activities, field-trips and educational tours (domestic and overseas). The organisation, conduct and supervision of out of school activities must be of a high standard.

The school has an “in loco parentis” responsibility for the students for every minute of the duration of the outing.

The following considerations must be borne in mind:

7.8.3.1 The appropriateness of the Activity

There is a wide range of activities which are commonly pursued by schools. A Board of Management should have a list of approved extra-curricular activities. If any teacher wishes to extend this list, the Board’s specific approval, and that of the Department in some cases, should be sought.

In deciding whether to approve of a proposed activity, the Board should bear in mind the experience, qualifications and skills of the teacher who would instruct and lead students in the activity. It is also advisable that the Board establish that a reasonable student/teacher ratio be maintained for the activity.

For example, in sports like canoeing and hill-walking it is necessary to improve the ratio of skilled people to students as the degree of difficulty or danger increases. It would be irresponsible of a Board of Management to allow activities such as water-sports or mountaineering unless entirely satisfied about the competence of the teachers and/or instructors, the adequacy of equipment and the level of preparedness of the students.

7.8.3.2 An appropriate level of Supervision.

Every out of school activity, requires a reasonable or appropriate level of supervision. In the case of some TYP, LCVP and LCA activities, such as work experience, carrying out surveys, research, etc., students may not need direct supervision by a teacher or teachers. On educational tours/visits, which do not involve particular hazards, a ratio of one teacher to ten students is generally accepted.

7.8.3.3 Parents' Permission

Parents should be notified of any out of school activity organised by the school in which their children participate. A standard note sent home with the pupil and returned with the signature of parent or guardian is normally sufficient for games, field trips and local cultural outings. Specific permission should be sought in respect of hazardous activities, overnight trips and foreign tours.

Before a trip takes place the school should seek parental permission for the organiser/supervisor to refer pupils for medical attention if required during the trip. Parents/Guardians should be obliged to inform the school before the trip if any pupil has a medical condition which may require particular care or treatment.

When getting the permission from parents to bring a student on an overseas trip, care must be taken, where parents are separated or divorced, that the permission is reliable and does not infringe the rights of one parent or does not conflict with any court order.

7.8.3.4 Application of School Rules

Although out of school trips are generally more relaxed than the normal school regime, it is recommended that school rules, with perhaps one or two exceptions, be enforced. A typical exception would be the wearing of school uniform. However, there should be notice that some special rules would be enforced. Typically, these would ban strictly the possession, purchase and consumption of tobacco, alcohol and illegal substances. Special rules might also include procedures and standards of conduct to be observed on ferries/aeroplanes and in places of accommodation.

7.8.3.5 Contact with Home

It is recommended that contact and communication between tour participants, parents and the school should be facilitated at all times. To this end, parents should have detailed itineraries in respect of trips. There should be contact telephone numbers in respect of each day. The tour leader should have contact telephone numbers for all parents. This information should also be available in the school during the course of the trip. Students on tour should each have, on her/his person, a card containing details of her/his name, boarding address and telephone number. This could be of vital importance if a student becomes detached from her/his party, especially if s/he is not fluent in the language of the country.

7.8.3.6 Approval of the Department of Education and Science

The Department of Education and Science requires that overseas tours, of whatever duration, and domestic tours, of more than three days duration, during school time have its approval. To obtain approval it is necessary to apply two months in advance of the proposed trip to the Department of Education and Science, Post Primary Administration, Community and Comprehensive Schools Section, Tullamore, Co. Offaly, outlining the proposed itinerary and educational programme. (See Department of Education Circular of February, 1987 entitled "Out of School Educational Activities within the State", and the Circular of January 1979 entitled "Educational Visits by School Groups outside State".)

7.8.3.7 Passports

It is a common practice for organisers of tours to continental Europe to organise passports for the group. Passports are still required for travel to all countries except the United Kingdom. Visas are required for most non E.U. countries. Applications on behalf of minors must be signed by both parents (if both are alive and maintaining parental responsibility in a legal sense). Principals may witness those signatures. Care should be taken that the signatories presenting are the people they purport to be. Particular care should be taken if the natural parents are separated or divorced. (see 7.8.3.3).

7.8.3.8 Suitability of Location

Schools should only bring pupils to centres which are reputable and properly licensed, have suitably qualified and experienced staff for the activities offered and have appropriate insurance in place which indemnifies the Minister for Education and Science, the Board of Management and those acting on behalf of the Board in respect of matters which fall within the responsibility of the centre. There should also be a sufficient school staff involvement to ensure adequate supervision and control at all times.

Generally, the standard of care expected of teachers on a school outing should be of the quality which would be given by a prudent and careful parent.

It is recommended that agreed procedures are put in place to deal with contingencies and irregularities which may arise in connection with school outings. Those procedures should be issued in writing by the Board of Management to all involved.

7.9 Work Experience

Work experience has become an essential element of several courses, notably LCVP, TYP and LCA. Work experience, generally, includes work shadowing and work simulation. Work experience, in its basic form, means that a student actually works in a place of employment, usually under the guidance and supervision of a mentor. This type of assignment is designed to give the student insight into the particular work and into the nature of formal employment.

The various versions of work experience raise a considerable range of issues for a Board of Management. (See: Work Experience Guidelines for Schools - Department of Education and Science, 1998.)

The issues arising include the following.

7.9.1 Liability for injury to Students in the Work-place

If a student suffers injury in the workplace during a work experience assignment there are several possibilities about liability.

The employer has a duty of care to employees and visitors. That duty arises from several sources, including common law and statute law. If an employer is remiss in keeping the place of work free from hazards, clearly s/he is responsible for any injury that may be suffered as a result of her/his negligence. The employer's liability, however, may be indemnified by the Board of Management in accordance with the terms outlined by the Department of Education and Science concerning insurance arrangements for pupils on work experience modules in Community and Comprehensive Schools (See Appendix 5, pp 1-2).

The school, in placing the student with an employer, has a responsibility to ensure that the student is not placed at risk. In the event of an injury, which could give rise to a claim, it is possible that the Board of Management may be sued. The indemnity provided by the State, in lieu of insurance, and the Work Experience Insurance referred to in Appendix 5, pp 1-2, covers the Board, provided the Board or its agents had not been reckless in placing the student in the employment in the first place.

A court of law would expect a school to take reasonable precautions, as a prudent parent would, to ensure that a student is not exposed to peril or hazard.

Students who wish to gain work experience on construction sites are obliged to have the **"Safe Pass"** certificate. To achieve this students must be 16 years of age and must take a training programme organised by FÁS. Boards of Management may arrange for this training programme by an accredited tutor. The costs associated with the tutor and the Safe Pass training programme may be met from the school's No.1 Account in respect of the work experience element of courses offered by the school. Details may be obtained from FÁS or from ACCS.

7.9.2 Product Liability

If a mini-company in a school produces merchandise which is defective, and which might cause injury, there may be a product liability accruing to the Board of Management. If the product is food, a claim relating to food poisoning could arise. If the product is an item of hardware or a toy, claims could arise in relation to dangerous parts or defective construction.

Clearly, no producer of goods for sale can entirely prevent or forestall claims for injury arising from defects in goods. However, it is important that schools are aware of potential liabilities and that good standards of quality control are in place to reduce the risk of injury to any purchaser, consumer or user of school produced goods.

7.10 Taking care of Pupils who Become ill or are injured during the school day

Schools need to have procedures in place to deal with unanticipated illnesses or accidents involving pupils.

Pupils and parents should be made aware of these procedures so that when the need arises, pupils will follow the prescribed routine. For example, if a pupil is feeling ill s/he may be referred to the School Secretary who will contact home should the situation require it.

In all cases of illness and no matter how minor – a parent/guardian or an adult nominated by a parent/guardian should collect the pupil from the school if it is considered necessary to send the pupil home.

It is also advisable for the school to have a written record of the pupil leaving before the end of the school day, such as a ‘signing out’ system.

In the case of accidents occurring on the school premises during the school day the above routine may suffice in the case of very minor incidents. However, if the accident is more serious great care should be taken to ensure that the situation is dealt with adequately. Under Health and Safety Regulations all workplaces are required to have personnel trained in first aid. Where it is suspected that someone may have suffered a serious injury the First Aid person should make an initial assessment. This person must not attempt any medical assessment or attempt any para-medical action unless fully qualified to do so.

In the case of suspected or apparent serious injury the emergency services should be contacted immediately. As soon as possible the parents/guardians should also be contacted and informed of the situation.

It is recommended that all accidents should be reported in detail and recorded and kept on file. It is also a legal requirement to report serious accidents to the Health and Safety Authority.

7.11 Liability for Personal Property

7.11.1 Students’ Property

The school is not liable for loss or damage to a student’s property.

A school may provide places of convenience for storing bicycles, equipment or coats without being liable for the safety of what is stored. Students should be actively discouraged from bringing valuables to school.

Boards are advised to place disclaimer notices at appropriate locations.

7.11.2 Confiscation of Students’ Property

If a teacher confiscates an item of property because it is a distraction (e.g. a Mobile Phone or a Walkman), it should be stored carefully and returned at an appropriate time. If the property, which is confiscated, is dangerous, e.g. a weapon or drugs, it should not be returned, but the matter should be reported to the parents as soon as possible and to the Gardaí, if that is deemed appropriate. In such circumstances the confiscated property should be handed over to the parents or to the Gardaí.

7.12 Provision of Information to Students

The Education Act, 1998, Section 27, requires a Board of Management to establish and maintain procedures for the purposes of informing students of the activities of the school. These procedures should facilitate the involvement of the students in the

operation of the school in association with their parents and teachers. This involvement should have regard to the age and experience of the students.

7.13 The Student Council

The Education Act, Section 27, also requires a Board of Management to encourage the establishment by students of a Student Council, to facilitate students who wish to establish such a Council and to give all reasonable assistance to the Council when it is established.

A Student Council should promote the interests of the school and the involvement of students in the affairs of the school, in co-operation with the Board of Management, teachers and parents.

The rules for the establishment of a Student Council should be drawn up by the Board of Management in accordance with such guidelines as may be issued by the Minister for Education and Science. These rules may provide for the election of members and the dissolution of the Council. Having been established, the Council, following consultation with the Board of Management, may make rules governing its affairs, including the conduct of meetings.