

# Student Discipline and Procedural Fairness Policy

## Policy Number: SAS017

Policy Number	SAS017
Version	4.4
Policy Name	Student Discipline and Procedural Fairness Policy
Registered Entity	Nautilus Senior College
Compliance Standards	ACEQA: NESA: Discipline (B9) VET:
Date Created	6/9/2017
Approved By / Date	CEO under delegation / 25/3/2024
Date Revised	1/3/2019, 15/7/2023, 22/3/2024
Next Revision Date	1/7/2026
Related Policies	SAS002 Enrolment and Withdrawal of Enrolment Policy SAS014 Child Protection Policy & Procedures SAS020 Complaint Management Framework Policy & Procedure SAS007 Student Welfare Policy
Related Documents	SAS007.02P Schoolwide Positive Behaviour Framework

Nautilus Senior College policies which are updated from time to time, are made pursuant to the requirements set out in section 47 of the *Education Act 1990 No 8 (NSW)* and of the NSW Education Standards Authority (NESA) requirements for registration.

### 1. PURPOSE

Nautilus Senior College (the College), comprising of Nautilus College & Yulinbal Campus, endeavours to provide an inclusive learning environment to meet the needs of young people who have disengaged from mainstream education. The College seeks to support and encourage students to maintain their enrolment and to complete their secondary education.

The College maintains the required and fair standards of practice regarding student discipline.

### 2. SCOPE

For all students and staff of the college.

### 3. PREAMBLE

Inclusivity is the fundamental basis of our philosophy.

The College is committed to a restorative practice model where the student discipline process ends in 'school or student-initiated withdrawal' not 'expulsion.'

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The College believes that all students have the right to a second chance so it can be suggested that the term ‘expulsion’ carries with it a connotation of finality. It is language that a learner often identifies with the concept of being ‘kicked out’ without the opportunity to try again at a later date while the term ‘college initiated withdrawal’ holds a connotation of having a second chance, a student may be *withdrawn* for the time being however they may have the opportunity to be *included* later when they decide they are ready to take up the challenge of an adult learning environment.

Importantly there are three types of **withdrawal** at the College

- Time-out
- Student Initiated Withdrawal
- College Initiated Withdrawal.

#### 4. DEFINITIONS

##### **Corporal punishment**

Corporal punishment is the application of physical force to punish or correct a student. It does not include the application of force to prevent personal injury to, or damage to or the destruction of property of, any person (including the student).

Examples of corporal punishment may include caning, beating or using an implement such as a ruler.

Corporal punishment is not permitted at the College. All staff are not permitted to use corporal punishment, regardless of whether the parent or caregiver has requested or given permission to do so.

The College does not condone the use of corporal punishment by a parent of a caregiver to reinforce any disciplinary actions implemented by the College, or any disciplinary decision by a parent or caregiver.

##### **Time-out**

The preferred language and practice used for de-escalating conflict or breaches of school guidelines of behaviour is to organise ‘time-out’ away from the College with remedial activities and appointments with external agencies.

In the past, the student may have attended another school where a suspension was used as a temporary removal of a student from all the classes that a student would normally attend at a school for a set period.

##### **Student-initiated withdrawal**

Whether through a discipline process or not, students have the right to initiate a withdrawal from the College at any time, in the knowledge that they may re-apply after 3 months.

##### **College-initiated withdrawal**

The College will initiate withdrawal when it believes the College is unable to attend to the student’s needs, or the safety of others is at risk.

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### Expulsion

Expulsion is the permanent removal of a student from school. This is **not** the equivalent of college- initiated withdrawal as any student of the College retains the right to return after a suitable period.

### Exclusion

Exclusion is the act of preventing a student’s admission to several schools. In extreme circumstances, a school principal may make a submission to an appropriate authority, or to other schools, recommending the permanent exclusion of a student from the registration system of which the school is a member, or from other schools.

**Note: NSC does not endorse the practices of corporal punishment, expulsion nor exclusion.**

### Procedural Fairness

Procedural fairness is the process by which decisions are made to ensure fair and equitable outcomes and must include the right to be heard and the right to impartial decisions being made.

Procedural fairness is a basic right of all individuals dealing with the school. All members of the College community have a legitimate expectation that College staff will follow these principles in all circumstances, including when dealing with withdrawals. The Equity Committee and restorative practice processes are designed to ensure procedural fairness is a part of the College culture.

### Breach of Discipline

Any student who is believed to be in breach of the Discipline Policy may be subject to actions under this policy relating to procedural fairness.

In this policy, breach of discipline means “Conduct that impairs the reasonable freedom of any person (whether or not a student) to pursue his or her studies or work within the College and/or College premises”.

Conduct does not cease to be a breach of discipline merely because it takes place elsewhere than on the premises of the College (eg planned excursion).

A student commits a “breach of discipline” if the student does any of the following:

- Assaults or threatens to assault another person
- Engages in any offensive conduct or any unlawful activity
- Removes, damages, or uses any property of the College without having permission from the organisation or a member of staff
- Obstructs a member of staff in the performance of the member’s duties especially where this may raise safety concerns
- Repeatedly and wilfully disobeys or disregards an order or direction of a member of staff, including a direction regarding appropriate behaviour or safety
- Repeatedly commits or engages in any dishonest or unfair act in relation to an examination or other form of academic assessment
- Repeatedly discriminates against a person on the grounds of the person’s age, race, sex, homosexuality, transgender, marital status, physical or intellectual disability, or religion
- Incites hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the grounds of the age, race, sex, homosexuality, transgender, marital status, physical or intellectual disability, or religion of the person or members of the group.

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For the avoidance of doubt, a breach of discipline may be committed by an act that involves

- A communication in person or in writing or by telephone or other telephonic or electronic means which may include any and all forms of social media, or
- A transaction using telephonic or electronic means which may include any and all forms of social media.

**Offensive Conduct** includes any of the following, but not limited to:

- Spitting
- Littering
- Using offensive language
- Being under the influence of alcohol
- Being under the influence of a drug (other than medication that has been prescribed by, and taken, in accordance with the instructions of a registered medical practitioner).

**Unlawful Activity** includes any of the following, but not limited to:

- Using, possessing, or supplying any prohibited drug, substance or item
- Stealing the property of another person.

### The Hearing Rule

The right to be heard (the hearing rule) ensures any and all communications with the student regarding any disciplinary action outlines:

- why the action is happening
- the way in which the issues will be determined
- what the allegations in the matter are and any other information which will be considered
- the student's right to, and opportunity for, responding to the allegations, and
- the students right to an appeal and the process for said appeal.

## 5. PROCEDURAL CONSIDERATIONS

A member of staff who believes that a student has committed a breach of discipline must, as soon as practicable;

- report the alleged breach to the Co-Principal, who
- may grant time-out for the student from attendance at the College for the remainder of the day on which the alleged breach occurred, or until a decision can be made regarding the consequences of the breach.

A student should not be issued a time-out without, firstly, being notified of the possibility. Time-Out's can only be authorised by a Co-Principal, CEO or Operations Manager, [ie: a Co-Principal from any site can approve a time-out for the alternate site, if the site Co-Principal is unavailable]. A time-out report must be lodged with the CEO within 24hours of issue.

If all of the authorisers are unavailable, an approved acceptable alternate offsite activity with appropriate staff facilitators as per the Approved Alternative Activities List, should be actioned.

When a student receives notification of the possibility of a **'time-out'** from College activities, the Co-Principal will contact the parents to offer support during this period.

Should students conduct themselves in a manner that constitutes a **serious breach of discipline**, they can be provided with a **time-out** immediately with parental notification occurring as soon as practical after the fact.

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The College believes in allowing students the opportunity to learn by their mistakes. Should a student persist in breaching the guidelines of the College, there are levels and options of discipline and intervention that can be progressed through.

Examples include:

1. Verbal statement of expectations
2. Self-choice discipline
3. Written statement of expectations
4. Time-out with remedial activities.

The College believes in finding innovative and flexible ways of assisting the students to make any appropriate changes in their behaviour or attitude. Some other possible strategies that could be beneficial include a 'Commitment challenge' or community services on our grounds, attendance plan, a mutual respect contract, mediation etc.

Importantly, the College will deal with persistent and concerning issues through the Wellbeing Committee and will employ restorative justice practices throughout the discipline process. The final decision on college-initiated withdrawal is made by the Co-Principal and CEO after consultation with stakeholders.

All disciplinary actions taken by the College will follow the principles of procedural fairness by ensuring that the student has

- **the right to be heard** (the hearing rule)
- **the right to an impartial decision** by ensuring
  - there is impartiality in the investigation and decision-making phases
  - the right to an absence of bias in the decision maker by using a third party (in the case of the College, this role may be the Co-Principal, a member of the Equity Committee, Nautilus Advisory Committee or the CEO).

The decision regarding **college-initiated withdrawal** of a student will be made in the first instance by the Co-Principal and will be based on evidence, then referred to the Equity Committee. If necessary, the CEO or Nautilus Advisory Committee will become involved as part of any appeal process.

As part of ensuring the **right to be heard**, the Co-Principal should establish if parents or caregivers require an interpreter and, if so, make arrangements for one to be available.

If required, the Co-Principal will direct the students, parents or caregivers to policies and procedures relating to Discipline and the Code of Conduct outlined within the enrolment agreement as sighted and signed by all parties upon acceptance of enrolment and contained within the Student Handbook.

Whenever a student is involved in a process regarding their ongoing placement, they have a right to have with them a support person, either a Wellbeing Team member or from the College Equity Committee, Youth Support Worker or a person of their choosing.

In addition to the letter and/other communications outlined above, a student and their parent/guardian/caregiver involved in a disciplinary action will also, where practicable, receive copies of any relevant statements detailing allegations etc, unless the Co-principal is of the view that it is not appropriate to provide copies of statements, for example, due to a concern that witnesses may be intimidated etc.

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## 6. APPEAL PROCESS RESPONSIBILITIES

Issue	Process requirement and responsibility
1. Students and parents/caregivers who consider that correct procedures regarding the withdrawal of a student placement have not been followed, or that an unfair decision has been made, have the right to appeal.	<ul style="list-style-type: none"> <li>▪ A right to appeal notice is provided verbally or in writing to parents/caregivers and the student, at the time the decision to withdraw is made by the Co-Principal and approved by the CEO.</li> </ul>
2. Appeals should be in writing, stating the grounds on which the appeal is being made. This should be done within 1 week of the decision to withdraw a student.  For carers who are unable to produce a written appeal, staff can be assigned to take a statement.	<ul style="list-style-type: none"> <li>▪ A <i>Request to Appeal</i>, along with any other relevant documents, will be provided to the CEO of the college.</li> <li>▪ The CEO will acknowledge the receipt of the appeal request and schedule associated tasks within Outlook to monitor the process.</li> </ul>
3. The right to be heard	<ul style="list-style-type: none"> <li>▪ An appointment will be made with the CEO, the student and their support person, to discuss the matter.</li> </ul>
4. The right to impartiality	<ul style="list-style-type: none"> <li>▪ The CEO will review the circumstances, documentation and discussions with the student party and will make an impartial decision regarding the future placement of the student making the appeal.</li> <li>▪ Where required, the CEO will refer the matter to the Nautilus Advisory Committee, whose decision will be final.</li> </ul>
5. The right to restoration	<ul style="list-style-type: none"> <li>▪ The CEO will contact the student party and inform them verbally and in writing of the final decision.</li> <li>▪ The student party will also be informed about the right of the student to apply to return to the school after a minimum of three months.</li> <li>▪ The student and their caregiver will acknowledge that they have understood and accepted the final decision.</li> </ul>
6. The right to a timely process  The appeals process (wherever possible) will be finalised within two weeks of the date the school received the appeal form.	<ul style="list-style-type: none"> <li>▪ Timeframe to be monitored by the CEO.</li> <li>▪ Where this time frame is not possible, the Co-Principal will inform stakeholders of the reason.</li> <li>▪ Standing item for grievances in the monthly Co-Principal's report to the CEO will ensure compliance with time frame.</li> </ul>

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## 7. VERSION HISTORY

Version	Prepared By	Date prepared	Approved By	Approval Date	Reason
1.0	V Byrnes	06/09/2017	V Byrnes	06/09/2017	Original
2.0	V Byrnes	01/05/2018	V Byrnes	01/005/2018	Improvements
3.0	V Byrnes	06/09/2018	V Byrnes	06/09/2018	Improvements
3.2	A Paterson	1/02/2019	V Byrnes	01/02/2019	Addition of policy number
4.0	C Parkin	1/03/2019	V Byrnes		Addition of definitions, responsibilities and formatting
4.1	J Beaumont / Paul Davis (Integroe)	18/1/2021 – 24/3/2021	V Byrnes	24/3/2021	Clarification and amendment: Preamble and Procedural considerations Minor formatting by Integroe.
4.2	Integroe Partners	July 2023	V.Byrnes	31/7/2023	Review of corporal punishment definition, to absorb 'SAS004 Corporal Punishment Prohibition Policy'.
4.3	SAS	22/3/2024	V Byrnes	25/3/2024	Updated terminology and NESA manual references. Minor improvements to improve clarity.
4.4	V Byrnes	1/7/2024	V Byrnes	4/7/2024	Clarification amendments to Time Out process flow

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