

# national centre for circus arts

## Guide to the Emergency Powers of Exclusion and Suspension

### What is the policy?

The Emergency Powers of Exclusion and Suspension are the procedures the School will follow in the event that the Chief Executive (or another member of senior School staff nominated by the Chief Executive to act on their behalf) determines that emergency action to exclude or suspend a student is needed. A flowchart of the procedures can be found in Appendix 1 of this guide.

### What is the difference between exclusion and suspension?

**Exclusion** means that certain restrictions are placed upon a student's access to the School or any parts of the School premises, and/or any related facilities, service(s) or functions that the student would normally have. If you are excluded using the Emergency Powers, the terms of your exclusion may include an order restricting or prohibiting you to have any contact with a particular individual or individuals.

**Suspension** means that attendance at, or access to, physical School premises, and participation in any or all School activities (including external course-related activities), is prohibited until the term of suspension is lifted. However, the suspension may be subject to qualification, such as exceptional permission to attend for the purpose of an assessment. A suspension order made by the Chief Executive under the Emergency Powers may include an order restricting or prohibiting contact between the student and a particular individual or individuals.

### Whose powers are these?

The Emergency Powers of Exclusion and Suspension belong to the Chief Executive and Chief Executive NCCA. The School Chief Executive can either take direct action under the Emergency Powers to temporarily exclude or suspend a student, or another member of senior School staff nominated by the Chief Executive to act on their behalf can take such action and then report it to the Chief Executive.

There are three members of School staff that the School Chief Executive has authorised to act on their behalf to take emergency action to temporarily exclude or suspend a student if the Chief Executive is unable to take action (for example because they are away). These staff are known as the Chief Executive's 'nominees' or 'delegates'. The Chief Executive's nominees/delegates are:

- The Head of Academic Administration and Student Support
- The Chief Operating Officer
- The Director of Professional Development

Ultimately, because the School Chief Executive owns these powers, if one of the above members of staff uses them, this is known as 'using the delegated powers' and they must report their use to the Chief Executive.

### **When might the Emergency Powers be used?**

Such action is only taken when the School Chief Executive (or one of the nominated staff as set out above) has a reasonable belief that there is good reason to do so. A risk assessment will normally be completed to determine whether the Emergency Powers are needed if someone raises a concern relating to a student's wellbeing and/or conduct, whether in NCCA or somewhere else, which staff feel might pose a potential or actual threat to:

- the safety, security, health, wellbeing, good order or reputation of you, and/or
- the safety, security, health, wellbeing, good order or reputation of anyone else (including your School, an external organisation or placement provider, members of the public)

A list of examples of occasions where there might be reasons to take emergency action under these powers is outlined below:

- A student is considered a danger to them self or others;
- A student might have seriously breached the published School Code of Behaviour and/or Student Code of Conduct and/or any other applicable code of conduct (eg a code of conduct belonging to a placement provider);
- A student presenting with urgent critical 'support through studies' concerns (e.g. such that their health or other circumstance is preventing them from being fit to study);
- A student for whom a criminal charge is pending, or who is the subject of police investigation;
- Where a previously undisclosed relevant criminal conviction comes to light;
- A student who is the subject of an allegation of misconduct;
- Where there is an identified need to protect the health and safety and/or property of the student and/or the School community.

The above list gives examples of when action under the Emergency Powers might be needed. However, there may be situations which aren't listed above but which the School determines require action under the Emergency Powers to be taken. Please note therefore that the list above is only indicative as it cannot cover every possible scenario.

### **How long can a student be excluded/suspended for?**

If a student is excluded or suspended under the Emergency Powers, this will normally be for a maximum period of 28 days in the first instance. In exceptional circumstances, the exclusion/suspension may be longer, but a review will normally take place within 3 months.

The student will be informed of the length of time they are initially excluded or suspended for, and this will be reviewed by the Chief Executive/their nominee before the end of the exclusion/suspension period who will determine whether or not it can be lifted, or whether

it needs to be extended. Students will be notified in writing both of the dates of any reviews and of the outcomes of these reviews. In all cases students will be formally informed in writing of the reason(s) for their exclusion or suspension, normally within 3 working days of initial notification of the exclusion/suspension.

### **Do students have the right to respond to their exclusion or suspension?**

Yes. Following a decision that an exclusion or suspension under the Emergency Powers is necessary, the Chief Executive/their nominee will formally write to the student. That letter will set out the reason(s) for the exclusion/suspension, along with the student's right to submit 'written representations'.

### **What are written representation?**

Written representations means a written statement from a student (plus any supporting evidence or documentation) with any points or information that they want the Chief Executive/their nominee to consider when they come to review the exclusion/suspension. Details of how to make written representation will be provided in the formal letter from the Chief Executive/Nominee confirming the emergency action.

In the event that an emergency exclusion/suspension is extended, the student has the right to submit further written representations to the Chief Executive/their nominee for consideration.

### **What happens after the review of an emergency exclusion/suspension?**

Following the review of the initial period of exclusion/suspension, the Chief Executive or their nominee will determine if the exclusion/suspension can be lifted, or whether it needs to be extended. Students will receive a formal letter from the Chief Executive/their Nominee setting out the decision once the review has been completed.

If the period of emergency exclusion/suspension is lifted, that is the end of the matter. Generally, all records relating to the emergency exclusion/suspension will be retained securely on a student's file for the duration of their programme of study, and will be kept for no longer than 6 months after the date the student has graduated.

If the period of emergency exclusion/suspension is extended, the student will receive a formal letter from the Chief Executive/their nominee that sets out the following:

- The new period of extended exclusion/suspension
- The reason(s) for the extension to the initial period
- Details of when the extended exclusion/suspension period will next be reviewed
- Information about the right to submit further written representations

### **Is an exclusion or suspension under the Emergency Powers disciplinary action?**

No. Exclusion or suspension under this policy is not a disciplinary measure and is not part of the School's Non-Academic Misconduct Procedures.

There may be cases where a student who is excluded or suspended under this policy also faces an allegation of possible misconduct. In such cases, the fact that the student has been

excluded/suspended under the Emergency Powers will not in any circumstances be taken into consideration as part of the misconduct case. However, any written submissions the student makes to the Chief Executive/their nominee may be referred for consideration under the misconduct procedures, if the student is facing allegations of possible misconduct and their written submission is of material relevance to the alleged misconduct case.

### **Can the Emergency Powers be used if other procedures are instigated/ongoing?**

The Emergency Powers may also be used in conjunction with procedures under other policies, such as the Non-Academic Misconduct Policy & Procedures or the Support Through Studies Policy. They may be used before other procedures are started, or they may be used whilst other procedures are already ongoing. For example, emergency action may be taken to exclude or suspend a student using the Emergency Powers either before any Support Through Studies procedures are started, or even where a student is already undergoing formal Support Through Studies procedures.

At the time of making a decision to exclude or suspend a student under the Emergency Powers, the Chief Executive/their nominee may also refer a student into the Support Through Studies procedures, in order to provide the best opportunity to support them.

### **What does 'without prejudice' mean?**

All action taken under the Emergency Powers is 'without prejudice'. This means, for example, that where a student has been excluded or suspended under the Emergency Powers and they are referred into the Non-Academic Misconduct Procedures, the fact that they have been excluded/suspended will not have any bearing on the potential case of misconduct that is considered and will not be taken into account.

### **Who can students talk to about their exclusion/suspension under the Emergency Powers?**

In all cases, the student will be assigned a designated member of School staff with whom they can communicate throughout the course of their exclusion/suspension, for any School-related queries.

### **What is Emergency Permanent Exclusion?**

In highly exceptional circumstances where the Chief Executive deems that the risk of a student remaining a student of the School is untenable, they may decide to withdraw student status from the student under this policy, which is known as 'Emergency Permanent Exclusion'. In this event, the Chief Executive/their nominee will write to the student to notify them of this decision, and the student has the right to make appeal against this decision within 14 days of the date of the letter. An appeal must be made under one or more of the specific grounds of appeal. For further information, see Sections 7 and 8 of the Policy.

## What are the procedures?

The table below sets out the procedures under the policy.

STAGE OF PROCEDURE	EXPLANATION OF PROCEDURE
<b><i>Initial report of concerns and risk assessment</i></b>	<ul style="list-style-type: none"> <li>• On learning of concerns, the School Chief Executive (or their nominee) will decide whether emergency action under the Emergency Powers is needed.</li> <li>• A risk assessment (Appendix 3 to the Policy) is normally undertaken and signed off by two members of School staff, one of whom may be the Chief Executive.</li> </ul>
<b><i>Formal procedures: First Steps</i></b>	<ul style="list-style-type: none"> <li>• A Record of Decision Form (Appendix 4 to the Policy) will then be completed. The form will be completed either by a member of School senior staff, and then signed off by the Chief Executive/their nominee, or by the Chief Executive in consultation with a member of School senior staff.</li> <li>• This helps the Chief Executive (or their nominee) to determine the right course of action, and to identify any particular considerations, student support needs and/or associated risks. It also helps the School to have a clear record of the decision-making process.</li> </ul>
<b><i>Formal procedures: Second Steps</i></b>	<p><b>Verbal/Initial notification of the decision</b></p> <ul style="list-style-type: none"> <li>• If the decision is that a student should be excluded or suspended under the Emergency Powers, they will normally be told in person (referred to in the policy as ‘verbal notification’) as soon as possible after the decision. They may be asked to leave the School premises immediately.</li> <li>• Where the decision to impose an exclusion or suspension under the Emergency Powers is communicated verbally, the School will confirm this decision briefly in writing normally the same day.</li> </ul> <p><b>Formal notification of the decision</b></p> <p>Within three working days of the initial notification of the decision to exclude or suspend a student under the Emergency Powers, the student will receive a formal letter from the Chief Executive/their nominee, which will set out the following:</p> <ul style="list-style-type: none"> <li>• The length (the period) of the exclusion or suspension</li> <li>• The reasons for the decision to exclude or suspend, plus any conditions the student must follow</li> <li>• Information about the right to submit written representations for consideration, and how to do so</li> <li>• Information about when a review of the emergency exclusion/suspension will take place</li> </ul>

	<ul style="list-style-type: none"> <li>• Notification, if relevant, of referral into any other School procedures (eg Support Through Studies; Non-Academic Misconduct)</li> <li>• Information about available support (including external support).</li> </ul>
<p><b>Review / Written Representations</b></p>	<p>The student’s case will be reviewed by the Chief Executive/their nominee before the end of the exclusion/suspension period to determine whether it can be lifted or whether it is necessary to extend the period. Any written representations submitted by the student will be considered by the Chief Executive when they undertaken their review.</p> <p>If the Chief Executive/their nominee is satisfied that the level of risk that led to the initial period of exclusion/suspension is satisfactorily low or no longer relevant, they will lift the extension and that is the end of these procedures.</p> <p>If the Chief Executive/their nominee determines that emergency action under these procedures is still necessary, the period will be extended. The Chief Executive/their nominee will determine the length of the extended period according to the circumstances of the case.</p> <p>Even where a long period of extended exclusion or suspension is put in place, this will be reviewed normally within 56 days.</p> <p>In this event the student can submit additional written representations for consideration. These will be considered in this further review. The Chief Executive/their nominee may consider these along with the earlier written representations.</p> <p>The Chief Executive/their nominee will write to the student to confirm the decision following the review.</p>
<p><b>Emergency Permanent Exclusion</b></p>	<p>In highly exceptional circumstances, such as a student going to prison or becoming too unwell to study at the School, the Chief Executive may decide that they should have their student status withdrawn and will instigate an Emergency Permanent Exclusion. The student will receive a letter informing them of this, and their right of appeal. If no appeal is received within 14 days of the date of the letter, the School will withdraw student status from the student.</p>
<p><b>Right Of Appeal</b></p>	<p>In the event of an Emergency Permanent Exclusion, the student has the right to appeal against this decision under one or more of the following grounds:</p> <ul style="list-style-type: none"> <li>a) <b>There has been procedural irregularity</b> i.e. that some rules or procedures were not applied correctly;</li> <li>b) <b>The decision(s) is/are unreasonable and/or the sanction or outcome disproportionate;</b></li> </ul>

**c) There is new evidence that is also material to the case, which the student can demonstrate was for good reason not previously available, and sufficient evidence remains that this warrants further consideration.**

An appeal should be made using the Emergency Powers Appeal Form (Appendix 5 to the Policy) within 14 days of the date of the letter that notifies the student of the decision that the School has decided to impose Emergency Permanent Exclusion.

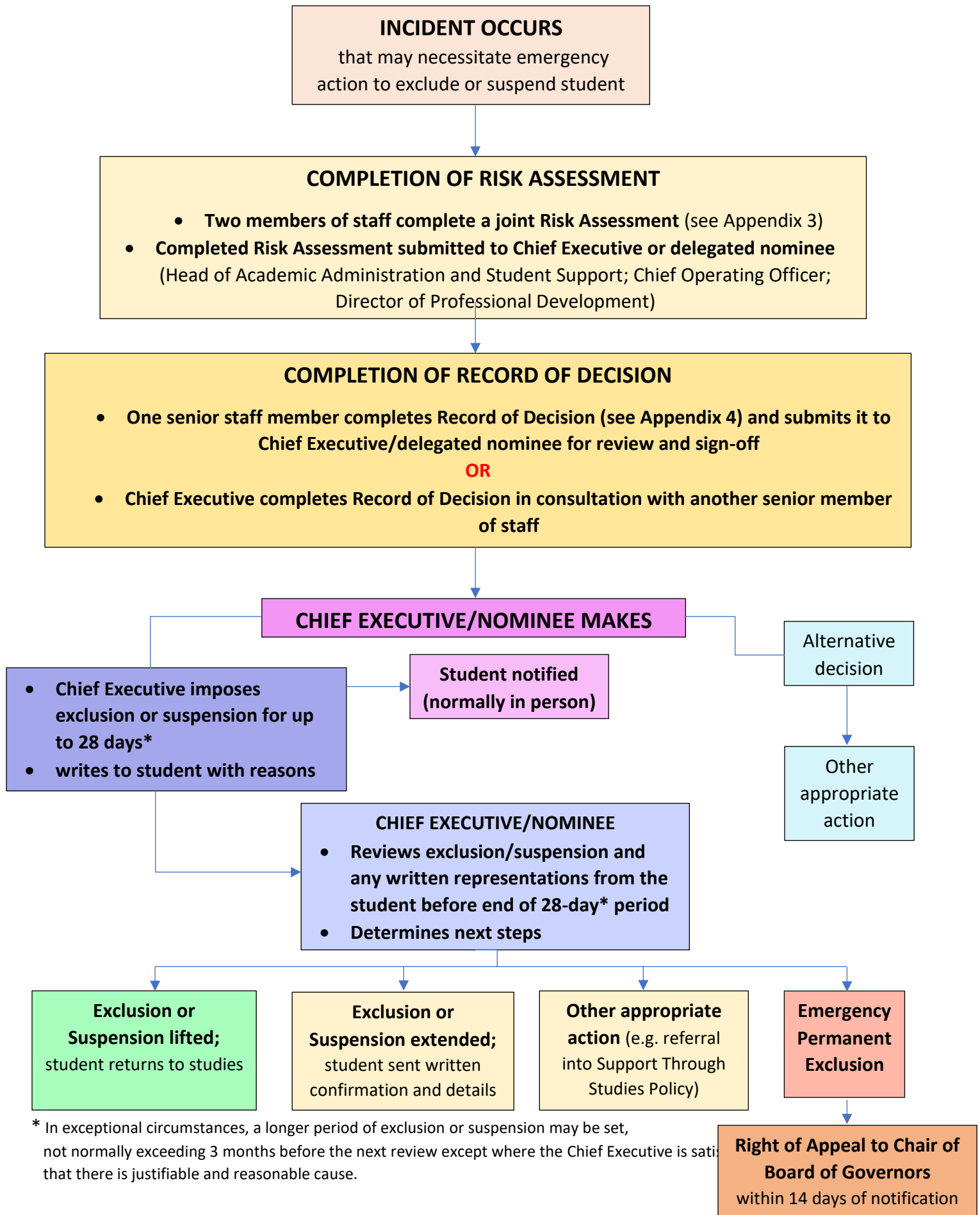
On receipt of an appeal, the School will screen it to see whether it has been submitted by the deadline and whether it has been made under one or more of the grounds of appeal.

If it has been submitted in time and has been made under one or more of the appeal grounds, it will be forwarded to the Appeal Reviewer (normally the Chair of the School Board of Governors) who will determine whether it should be upheld. An Appeal Outcome Letter will be issued normally within 21 days.

At the end of the procedure, a Completion of Procedures Letter will be issued.

**Appendix 1**

**Emergency Powers of Exclusion and Suspension  
Procedural Flowchart**



\* In exceptional circumstances, a longer period of exclusion or suspension may be set, not normally exceeding 3 months before the next review except where the Chief Executive is satisfied that there is justifiable and reasonable cause.