

## Addiction Prevention Policy – Brief Introduction

The following policy was drafted by the school over the spring of 2018. The purpose of the policy is to articulate a coherent approach to the possession of addictive substances on campus and/or the consumption of such substances on or before entering the campus. The policy also lays down concrete procedures to confront substance abuse at our school.

Ideally, the policy should be a document that teachers, students, the school administration and parents can all agree to, and the whole school community should work together on its enforcement. For this reason, it is important that we all take a moment to read, understand and provide any feedback on the document.

**Background:** The policy was presented on two occasions at a school working group which included parent, teacher and student representatives as well as the school counsellor and the administration. The work was carried out in strict confidentiality so little consultation was possible outside the confines of the group.

In the context of the group, a parent representative raised some concerns about certain sections of the original proposal (Appendix I). The draft you are seeing now has been developed from the first draft and was presented at the October Secondary CE meeting. It hasn't been formally voted on or presented in any of the school's higher bodies, which makes this an opportune moment for broad consultation and feedback.

### **Feedback instructions for Class Representatives and Parents:**

We are asking parent class representatives to consult parents in their classes in order to collect feedback on the prevention policy. We ask that parents consider the following aspects of the policy when giving feedback:

- *Scope and structure:* Does it contain all relevant sections and does the structure meet the objectives?
- *Coverage:* Is the coverage of the policy clear? Does the policy specify which populations, physical locations/spaces and times of day or week are covered? Is there an appropriate coverage of populations, times and places? Does it take into account the age of legality of certain behaviours or places where certain behaviours may be permitted?
- *Overall Approach:* How does the document approach the issues? Are there potential legal problems or ethical concerns with the approach taken? Are the decision makers and their mandate for each situation clearly spelled out?
- *Discipline and punishment:* Are the punishments for particular behaviours clearly laid out? Are the punishments consequent and proportionate? Are there procedural safeguards in place to ensure students a fair hearing and to protect students' rights? Is there a clear procedure for complaint or appeal?
- *Prevention Aspects:* Is there a prevention programme in place? Are there means for students or teachers to report concerns to the school administration?

**The class representatives should gather feedback, collate and return to your APEEE CA representative by Thursday, 10 January**—preferably earlier in time to allow them time to organise it. Feedback will be submitted to the APEEE through section representatives on 11 January and members of the Bien Etre Working Group will develop a parent position. **The position will be discussed, adapted as needed and agreed at APEEE's CA/board meeting on 22 January**, after which it will be submitted to the school.



March 2018/ J Guyot/ JFL

## PREVENTION & SECURITY

### Guidelines for the care and prevention of addiction

#### Position of the school and initial observations

As stipulated in the student's Code of Conduct (Article 8 and 9), the consumption of alcohol, drugs, or tobacco is not acceptable in or around school property. This document focuses on tobacco, alcohol, and narcotics<sup>1</sup> addictions in order to avoid any disruption. Treatment of other potential addictions (Internet, laptops, video games etc ...) will be considered separately.

#### Policy Objectives

- 1) The main objective is to ensure the well-being, health, and safety of the school population as a whole, and handle incidents in the best interest of all parties involved by clarifying both the legal requirements and the corresponding actions.
- 2) The well-being of every student is our central concern, but it must be clear that the school will be intractable regarding any consumption, possession, and especially the sale or sharing of narcotics, and holds a "zero tolerance" attitude in this regard. The school will be particularly vigilant in this area, and assess sanctions accordingly.

#### Responsibility

Staff members here have a fundamental responsibility.

Everyone **must act/react when they notice an incident relating to consumption (tobacco, narcotics, alcohol) and/or possession (alcohol, narcotics)**. He or she must inform management immediately.

#### Student support and training

It is necessary to organize adequate training for pupils to inform them about addiction and the risks involved in order to provide them with an untroubled education allowing them to express their full potential.

#### Education

Preventive education is more effective when it is part of a broader personal, social, and health education program that should start in primary school and continue into secondary. The earlier this awareness begins and the more regularly it is made available to students (respective of age), the more effective it will be, allowing young people to grow up constructively and trouble-free.

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<sup>1</sup> *The current situation (particularly in relation to narcotic addictions) is clearly improving as a result of policies in effect and actions taken since 2015, but this goes hand-in-hand with an obligation to persevere in order to avoid new deterioration.*

Our program includes and/or will include the following points:

1) **Raising awareness regarding substance use and abuse.**

(Understanding the impact that images conveyed in the media have in relation to substance abuse and the stereotypes they reinforce; influence of others; messages conveyed by friends and the media about alcohol and narcotics)

2) **Understanding the effects and risks** associated with the use of legal and illegal substances; information on the types of legal and illegal substances as well as their effects ; specific vocabulary etc.)

3) **Getting to know the law as well as the rules within the school.**

4) **Validation of students** abstaining from/refusing addictive behaviors. Learning to say "no" and to protest clearly when observing a transgression. (Positive solidarity, self-esteem, claiming the right to evolve in a HEALTHY environment.)

As a reminder, the 'Prevention Plan 2'<sup>2</sup> established in 2017-18, tested and refined since September 2015 in partnership with the APEEE, is implemented as follows:

- S2: Tobacco, alcohol.
- S3: Tobacco, alcohol, cannabis.
- S4: tobacco, alcohol, cannabis and other drugs.
- S5: meeting with an ex-addict.

*This sequence is the one finalized between 2015-16 and 2017-18. It is subject to revision according to an optimized match with the development of children and adolescents.*

- S4567: individual or small group meeting with a professional, according to demand and individual needs.

Information to parents about narcotics may be offered in consultation with the APEEE.

### **Standard rules**

Our school has a number of rules that complement our anti-addiction policy, including the following:

- **Alcohol:** It is forbidden to bring alcohol to school. Students showing signs of alcohol consumption will be brought to the infirmary and their parents will be notified in order to pick them up. An appropriate penalty will be given.
- **Tobacco:** Tobacco is forbidden on the school grounds and surrounding area. Smoking will be sanctioned by an appropriate penalty.
- **Narcotics:** The supply and/or consumption of narcotics is prohibited on the school grounds and surrounding area

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<sup>2</sup> *Similar approaches (on the dangers of the Internet, for example), are organized regularly for different levels, but will not be discussed here as explained in the preamble.*

*We will deal below with the treatment of incidents related to narcotics offenses specifically, but it is understood that in case of consumption and/or supplying of alcohol the school will react sensitively and firmly to the observed behavior, in order to help the offending student(s) while preserving the peace of mind and well-being of the school community.*

### **Incidents/offenses related to narcotics**

An **incident** as referred to in this section may include one of the following situations, and will be qualified as an **infraction** once the facts are proven:

- Suspicion of being under the influence of a drug;
- Observation of drug possession (or related paraphernalia) in or around the school, or during a school trip or activity;
- Consumption of drugs by a student in or around the school grounds, or during a school trip or activity;
- Resale, supply, or distribution of narcotics in or around the school grounds, or during a school trip or activity ;
- Incitement to the consumption of tobacco, narcotics, or alcohol.

### **Procedures relating to narcotics**

The main purpose of these procedures is the **preservation of the health and safety of the school community** and to respond to behavior contrary to the student Code of Conduct.

If a student is suspected of being under the influence of drugs or alcohol on school grounds, the first priority is his/her safety and that of the students around him/her.

If necessary, such situations may be handled as a **medical emergency**.

It will be a **systematic** process to call parents/legal representatives and inform the police.

On the other hand, if the school feels that the child is in danger, it may be necessary to call social services.

*Procedures for specific circumstances are reiterated below:*

- **Individuals in possession of drugs**

Any prohibited substance found in a student's possession on school grounds or the surrounding area will be confiscated. In case of seizure of narcotics, the school will contact the police and will hand over the offending substance(s). The parents of the student will be informed as well as other professionals, if necessary (school psychologist, social services).

- **Support for students**

After taking the necessary measures to ensure the immediate safety of the pupils, their health and emotional needs will be taken into consideration. Support is available to provide a compassionate response to students in difficulty. Interventions will be considered if the school thinks that a student shows signs of any involvement with drugs, be it their own or those of a parent/legal representative.

Such interventions may include consultation and possible referral of the case to the relevant organization.

• **In the case of proven suspicion**, the school administration may involve the police for appropriate action in order to ensure a safe and healthy school environment.

### **Penalties specifically related to drugs.**

Disciplinary measures can be found in the school regulations published on its website. The Senior Advisor is responsible for handling incidents related to drugs, providing support, and liaising with external agencies. Our sanctioning policy is based on the following principles:

- 1) The school will always seek to respond appropriately to each individual case when selecting the appropriate response, keeping it educational and informative in nature as far as possible. Chosen from among a large selection of possible actions, it will be in proportion to the transgression, in the interest of the student, and take into account the well-being and safety of all.
- 2) All incidents will be handled after an evaluation has been carried out and reported to the Director, who will convene the Disciplinary Council where the verdict may go as far as final expulsion.
- 3) Appropriate support will be offered (to the extent possible) to those with an addiction problem.

### **Confidentiality**

The school ensures that sensitive information will be processed with discretion in the adjudication and review of disciplinary matters.

### **Development of procedure and communication**

*This procedure was developed by the Prevention Advisor, the Directorate and the CPE.*

*It was then reviewed, revised, and validated by a working group comprised of the staff mentioned above, as well as representatives of the various parties concerned (Students via CDE representatives, teachers, parents).*

*It is intended for students and aims to clarify the intentions of the school and the measures envisaged. It applies to the school grounds in their entirety. We will make sure that all staff and students are informed regularly of the whys and wherefores of this document.*

*As a reference, the scale of sanctions and measures envisaged will be as follows:*

<b>Fault /offense</b>	<b>Immediate action</b>	<b>Inform police</b>	<b>Official follow-up</b>	<b>Possible sanctions</b>
Noticed in: school, surroundings, on school trip * during school activity	(teacher/ advisor/ CPE)			
Being under influence of a drug (suspected)	Infirmery sends student home if suspicion confirmed.		Formal Interview with Secondary School Management  Repeat offense(s): School Board of Directors	Secondary School Director, according to Art. 42B, Rgl EE. Days of suspension medical injunction; Disciplinary hearing if repeat offender.
Possession of drugs	Confiscation of substance. Call family, who should come as quickly as possible.	Yes - and substance is turned over to them.	Release to family possible. Report to Director. Summons to Disciplinary Council	Decision of Disciplinary Council with sanctions up to and including permanent expulsion possible.
Consumption of narcotics	Confiscation of substance. Infirmery visit. Call family, who should come as quickly as possible.		Report to Director. Formal Interview with School Board of Directors.	Secondary School Director / Art 42B. Suspension or permanent expulsion possible.
Sharing or resale	Confiscation of substance. Call family, who should come as quickly as possible.	Yes - substance turned over to them and filing of complaint for endangering the welfare of students.	Report to director. Formal Interview with School Board of Directors	Disciplinary Council Sanctions up to and including permanent expulsion possible. Legal proceedings also possible.
Incitement, diffusing pro-drug propaganda (verbal, written, or via explicit imagery) either in or around the school	Meeting w/ student. Inform family.		Meeting with parents. Request medical intervention if necessary.	Follow-up and individual meetings. Community service related to Drug prevention.

**\* School trip: immediate call to the family to pick up the student without delay.**



Mars 2018/ J Guyot/ JFL

## **PREVENTION & SECURITE**

### **Lignes directrices de prévention et d'accompagnement des addictions.**

#### **Position de l'école et constat de départ.**

Comme stipulé dans le Code de Conduite de l'élève (Article 8 et 9), la consommation d'alcool, stupéfiants et tabac n'est évidemment pas acceptable dans le cadre de l'établissement et aux alentours. Ce document est centré sur les addictions au tabac, à l'alcool et aux stupéfiants<sup>1</sup>, par souci d'efficacité et pour éviter toute dispersion. Le traitement d'autres addictions potentielles (Internet, portables, jeux vidéo etc...) pourra être envisagé séparément.

#### **Objectifs de cette politique spécifique**

- 1) L'objectif central est d'assurer le bien-être, la santé et la sécurité de la population scolaire dans son ensemble, et de gérer les incidents dans le meilleur intérêt de toutes les parties impliquées en clarifiant tant les exigences légales que les actions correspondantes.
- 2) Le bien-être de l'élève est au centre de toutes les préoccupations, mais il doit être clair que l'école sera intraitable pour toute consommation, détention, et à fortiori revente ou partage de stupéfiants, dans une optique dite de tolérance ou « d'acceptation zéro » dans un contexte anglo-saxon. Ce qui signifie explicitement que, sans préjuger de la sanction à venir, l'école sera particulièrement vigilante en ce domaine.

#### **Responsabilité**

Les membres du personnel ont ici une responsabilité fondamentale.

Chacun **se doit d'agir/ de réagir** lorsqu'il constate un incident relatif à une consommation (tabac, stupéfiants, alcool) et/ ou détention (alcool, stupéfiants). Il doit en informer immédiatement la Direction.

#### **Soutien et formation des élèves**

Il est nécessaire d'organiser une formation adéquate pour les élèves afin de les informer sur les addictions, et les risques encourus, afin de leur assurer une scolarité sereine leur permettant d'exprimer tout leur potentiel.

#### **Education**

L'éducation préventive est à priori plus efficace lorsqu'elle s'inscrit dans un programme d'éducation personnelle, sociale et sanitaire plus large qui devrait commencer au cycle primaire et continuer au cycle secondaire. Au plus tôt cette sensibilisation commence et au plus régulièrement elle est mise à la disposition des élèves en respect de leur âge, au plus efficace elle sera, permettant aux jeunes gens de grandir de manière sereine et constructive.

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<sup>1</sup> La situation observée en particulier dans le domaine des addictions aux stupéfiants est en nette amélioration du fait des actions entreprises depuis 2015, mais ce constat s'assortit de l'obligation de persévérer dans cette voie sous peine de voir la situation se détériorer à nouveau.

Notre programme comprend/comprendra les points suivants:

- 1) **Conscientiser à la consommation et l'abus de substances.**  
(Image véhiculée dans les médias ; comprendre l'impact de celle-ci en relation avec l'abus de substances et les stéréotypes qu'elle renforce ; influence des autres ; les messages véhiculés par les amis et les médias sur l'alcool et les stupéfiants)
- 2) **Comprendre les effets et les risques** associés à la consommation de substances légales et illégales; information sur les types et groupes de substances légales et illégales ainsi que sur les effets ; vocabulaire spécifique...)
- 3) **Connaître la loi et les règles au sein de l'école.**
- 4) **Valorisation des élèves** s'abstrayant /refusant les conduites addictives. Apprendre à dire « non » et à protester clairement lorsqu'on observe une dérive. (Solidarité positive ; estime de soi; revendiquer clairement le droit à évoluer dans un environnement SAIN.)

Pour mémoire/ information, le plan de prévention<sup>2</sup> systématisé en 2017-18, expérimenté et affiné depuis Septembre 2015 en partenariat avec l'APEEE, est implémenté de la manière suivante :

- S2: Tabac,alcool
- S3: Tabac, alcool, cannabis.
- S4: tabac, alcool, cannabis et autres drogues.
- S5: rencontre avec un ex-toxicomane.

*Cette chronologie est celle finalisée entre 2015-16 et 2017-18. Elle est susceptible de révision en fonction d'une recherche d'adéquation optimisée avec le développement des enfants/ adolescents.*

- S4567: entretien individuels ou en petits groupes avec un professionnel, selon demande et besoins.

Une information aux parents relative aux stupéfiants pourra être proposée en concertation avec l'APEEE.

### **Règles standards**

Notre école a un certain nombre de règles qui viennent compléter notre politique anti-addictions, notamment les suivantes:

- **Alcool** : Il est interdit apporter de l'alcool à l'école. Les élèves présentant des signes de consommation d'alcool seront amenés à l'infirmerie et leur parents seront prévenus afin de venir les chercher. Une sanction adaptée sera prise.
- **Tabac** : Le tabac est interdit dans l'enceinte de l'école - à l'intérieur aux alentours. La consommation en sera sanctionnée par une sanction adaptée.
- **Stupéfiants** : L'apport et/ou la consommation de stupéfiants sont interdits dans l'enceinte de l'école et aux alentours.

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<sup>2</sup> Des actions parallèles portant sur les dangers d'Internet par exemple sont organisées régulièrement sur différents niveaux mais ne seront pas abordés ici comme précisé en préambule.



*Nous allons traiter ci-dessous spécifiquement du traitement des incidents et infractions relatives aux stupéfiants, mais il est bien entendu qu'en cas de consommation et/ ou d'apport de boissons alcoolisées, l'établissement réagira avec discernement et fermeté, dans l'optique de remédier au comportement observé, d'aider le ou les élèves fautifs tout en préservant la sérénité et le bien-être de la communauté scolaire.*

### **Incidents/ infractions relatifs aux stupéfiants**

Un **incident** relatif à ce chapitre peut inclure l'une des situations suivantes, et sera qualifié d'**infraction** dès lors que les faits seront avérés :

- Soupçon d'être sous l'influence d'une drogue;
- Constatation de possession de drogue (voire de matériel s'y rapportant) dans l'enceinte de l'école ou aux alentours, ou pendant un voyage ou une activité dans le cadre scolaire ;
- Constatation de consommation de drogue par un élève dans l'enceinte de l'école ou aux alentours, ou pendant un voyage ou une activité dans le cadre scolaire ;
- Revente, offre ou distribution de stupéfiants dans l'enceinte de l'école, aux alentours, ou pendant un voyage ou une activité dans le cadre scolaire ;
- Incitation à la consommation de tabac, stupéfiants ou d'alcool.

### **Procédures relatives aux stupéfiants**

L'objectif principal de ces procédures est la **préservation de la santé et de la sécurité de la communauté scolaire** et de donner une réponse aux comportements contraires au Code de Conduite de l'élève.

Si un élève est soupçonné d'être sous l'influence de drogue ou d'alcool dans l'enceinte de l'école, la première priorité est sa sécurité et celle des élèves autour de lui/d'elle.

Si nécessaire, de telles situations peuvent être gérées comme une **urgence médicale**.

Il sera à priori **systématique** d'appeler les parents/représentants légaux et d'informer la police.

Par ailleurs, si l'école estime que l'enfant est en danger, il sera peut-être nécessaire d'appeler les services sociaux.

*Les procédures pour les circonstances spécifiques seront reprises ci-dessous:*

- **Individus en possession de drogue**

Tout élève trouvé en possession d'une substance prohibée dans l'enceinte de l'école ou aux alentours se la verra confisquée. En cas de saisie de stupéfiants, l'école contactera la police et lui remettra les produits incriminés. Les parents de l'élève seront informés et d'autres professionnels pourront être informés ou consultés si nécessaire (psychologue scolaire; service sociaux).

- **Soutien pour les élèves**

Après avoir pris les mesures nécessaires afin d'assurer la sécurité immédiate des élèves, les besoins sanitaires et émotionnels de ces derniers seront pris en considération. Le soutien est disponible afin d'assurer une réponse bienveillante aux élèves en difficulté. Des interventions seront envisagées si l'école pense qu'un élève présente des signes particuliers d'une implication quelconque avec de la drogue, la leur ou celle d'un parent/représentant légal.

De telles interventions peuvent inclure la consultation et l'éventuel renvoi de l'affaire vers les organismes compétents ;

- **En cas suspicion avérée**, la direction de l'école peut faire appel à la police pour des actions adaptées, afin de garantir un site et un environnement sain et protégé.

### **Sanctions spécifiquement relatives aux stupéfiants.**

Les mesures disciplinaires peuvent être trouvées dans le règlement scolaire publié sur le site de l'école. Le Conseiller Principal est responsable pour la coordination de la gestion des incidents relatifs à la drogue, proposant un soutien et se faisant le relais avec les organismes externes. Notre politique de sanctions est basée sur les principes suivants :

- 1) L'école cherchera toujours à répondre de manière appropriée à chaque cas individuel en sélectionnant la réponse adéquate, de caractère tant que faire se peut éducatif et formateur, parmi toute une catégorie de réponses possibles, proportionnellement à la faute, dans l'intérêt bien compris de l'élève et en tenant compte du bien-être et de la sécurité de tous.
- 2) Tout incident sera géré après qu'une évaluation ait été effectuée et rapportée au Directeur, qui convoquera le cas échéant le Conseil de Discipline, dont le verdict peut aller jusqu'à l'exclusion définitive.
- 3) Un soutien approprié sera offert dans la mesure du possible aux personnes ayant un problème addictif.

### **Confidentialité**

L'école s'assure que les informations sensibles seront traitées selon le principe général de discrétion qui prévaut dans le jugement et l'examen des affaires disciplinaires.

### **Procédure de développement et communication**

*Cette procédure a été élaborée via le Conseiller en Prévention, la Direction et le CPE.. Elle a ensuite été examinée, commentée et validée par un groupe de travail comprenant ces personnels, mais aussi des représentants des différents acteurs évoluant sur le site et/ou concernés (Elèves via représentants CDE, professeurs, parents).*

*Elle est à destination des élèves et vise à clarifier à leur intention la volonté de l'établissement et les mesures envisagées. Elle s'applique à l'enceinte scolaire dans son intégralité. On veillera tout particulièrement et régulièrement à ce que tous, personnels et élèves, soient informés des tenants et aboutissants du présent document.*

*A titre indicatif, le barème des sanctions et mesures envisagées sera le suivant :*

<b>Faute / infraction</b> relevée dans l'école, aux alentours, en voyage* /activité scolaire	<b>Mesure immédiate</b> (enseignant/ conseiller voire CPE)	<b>Information police</b>	<b>Suites formelles</b>	<b>Sanctions possibles</b>
Etre sous influence d'un stupéfiant (Présomption)	Infirmierie Remise à la famille si soupçon avéré.		Entretien formel Direction Secondaire. Si récidive : Direction	Directeur Secondaire selon Art. 42B Rgl EE. Jours d'exclusion, injonction médicale ; Conseil de Discipline si récidive.
Possession de stupéfiants	Confiscation produit. Appel famille qui doit venir au plus vite.	Oui et remise produit.	Remise à la famille possible/ Rapport au Directeur/ Convocation Conseil de Discipline	Décision Conseil de Discipline avec sanction pouvant aller jusqu'à <b>exclusion définitive.</b>
Consommation de stupéfiants	Confiscation produit. Infirmierie. Appel famille qui doit venir au plus vite.		Rapport au Directeur Entretien formel Direction au retour.	Directeur Secondaire /Art 42B Jours d'exclusion à Conseil Discipline.
Partage ou revente	Confiscation produit. Appel famille qui doit venir au plus vite.	Oui avec remise produit et dépôt de plainte pour mise en danger de l'intégrité des élèves.	Rapport. Entretien formel Direction Conseil de Disc.	Conseil Discipline, sanction jusqu'à exclusion définitive, sans préjuger des poursuites judiciaires parallèles.
Incitation, propagande pro-consommation, verbale ou écrite ou via des images explicites (sur le site ou aux alentours de l'école)	Entretien élève Information famille		Entretien avec parents. Demande de prise en charge médicale possible.	Suivi et entretiens individuels. Travaux d'intérêt collectif si possible en prévention.

**\*Voyage scolaire : appel immédiat à la famille qui doit venir récupérer l'élève sans délai.**

## APPENDIX I

### Concerns raised on first draft:

- Formulates rules and procedures and sets actions which will result in legal consequences for the children/ students (way beyond disciplinary action in the school). Thus the document has to meet the prerequisites of a legal text. In this respect, the draft needs to be in line with basic legal requirements of administrative law and should be clear and not prone to further interpretation.
- Missing the overall priority which would be the “well-being of the children”. In any case this would need to include the well-being of the school community as such but also the well-being of the potential culprit.
- Responsabilité refers a certain responsibility to the members of staff, however it is not stipulated what the nature and requirements of such a responsibility are.
- ‘Règles standards’ we find ‘La consommation (Tabac) en sera sanctionnée par une sanction adaptée.’ What is the point of formulating rules and procedures when sanctions remain arbitrary? The document leaves open who decides according to which mandate to impose a sanction on the student.
- The drafting of text on sanctions must be governed by the overall applicable ‘Proportionality Principle’ to which is applicable to all administrative action. Not only the application of a sanction but as well the stipulation of a sanction requires that this principle is followed, this means:
  - A. All actions must be governed by legitimate cause (More simple: Is the foreseen action legal? Example: sniffing dogs in the school ...). As the document aims at being practical, the necessity occurs to legally ringfence practical solutions as stipulated for instance in the table.
  - B. Suitability of means of action (expedience) (More simple: Is the action fit for the purpose?) An action would be judged not suitable in case it is not or only insufficiently providing means to achieve a specific purpose.

In the document we read about a „zero-tolerance policy“. I see the prevention intention of the school which has the desire to show a sharp edge but in such a document the need occurs to find formulations which are legally sustainable. A „zero-tolerance policy“ means translated into legal speech that the school would consider that there will be no discretion, when the school encounters a case of any infringement. Such a way of (per se one size fits all) approach would infringe in the Proportionality Principle which requires that each case needs to be elaborated as a specific case. In order to keep the line, I would advise the school to use the words: „zero acceptance of drugs in the school environment“ because „zero-tolerance policies“ have a tendency to fail in courts when their impact and results are put on the test. The school should aim at legally sustainable rules and proceedings.
  - C. The requirement of necessity of the action includes that the action foreseen or imposed must be adequate/ appropriate/ pertinent or more simple: Fit for the purpose.

A governing principle in administrative law is that the administration should exercise its discriminatory powers and discretion by means of the mildest possible action because all administrative action has the duty to alleviate the effects. (More simple formulated: Is there a softer/ more moderate/ mitigating measure an objective observer can think of in the respective context?)
  - D. The last principle to be observed is the „Proportionality in narrower sense Principle“ (adequacy of resources/ means used). This requires that in each and every

single specific case via means of thorough consideration/weighing procedure of the appropriateness of the administrative action must be evaluated. In order to avoid procedural flaws in the course of such a consideration the school administration needs to answer the following questions when stipulating rules and procedures and applying them: (i.) What needs to be protected? (Intensity of danger/ threat/ hazard) (ii.) What effect will the action foreseen/ enforced unfold to the student?

As concerns the outcome of such a consideration the following principle indicators will help assessing: duration of threat, degree/magnitude of damage, degree of frequency of infringement, receptiveness of student and/or parents, etc. one can think of many more indicators to use in the school context ...

The table on page 5 is a first step towards bringing such competence on paper and it needs to be more concrete and detailed.

### **Other feedback:**

- The document seems not to clearly distinguish between on the one hand use/and esp. sale of drugs ("stupéfiants") and on the other alcohol and tobacco consumption. Whilst the first is illegal and thus necessarily in a different category, the latter two are legal from a certain age, (even if rightly prohibited at school). This will necessarily have implications for follow up such as calling the police.
- Careful with "suspicion". Suspicion may lead to questions being asked information of parents maybe, but not to sanctions - at least not without appropriate safeguards. Would be reluctant to accept a "presumption" of drug use as valid basis for days of expulsion.
- Unclear what "Incitation à la consommation de tabac, stupéfiants ou d'alcool." entails— would a pro-legalisation of marijuana campaign fall under this? What about encouraging a friend to join for a drink or a cigarette after school? This could be very hard to prove and if not clarified could lead to biased or uneven application.
- It is crucial to ensure that the school does not just organise seminars on substances use and abuse, but also ensures that all pupils are clearly aware of the school's policy and of the consequences they face in the case of breach.
- Disciplinary sanctions (except for maybe light ones such as "retenue") ought to be given only after some minimal procedural safeguards (right to be heard for instance).
- On the other hand, the policy seems rather mute on offering pupils help should they be concerned about the drug/tobacco/alcohol use/abuse among their friends – should this not be covered by offering a person to contact (anonymously/under the veil of secrecy)?
- Should make appropriate reference to entire legal context
  - Professional secrecy: It is questionable, in my view, that the nurse can share medical information with the school.
  - Criminal legislation in Belgium. Please notice the very heavy prison penalties in case of delivery of drugs by a student over 18 to minor students.
  - Minor legislation in Belgium. Possible responsibility of those in charge of minors in case of negligent behaviour.
  - A reflection on the different consequences of the consumption/tenant/dealing of drug in other States where school trips may take pupils.

## APPENDIX II

In a successful appeal dated 7 July 2017 against discipline meted out in the European School in Alicante in a suspected case of drug selling, the appeals board ruled that the punishment was not proportionate and did not have an educational character.

*Dans sa décision 17-05 du 7 juillet 2017, rendue sur un recours en matière disciplinaire, la Chambre de recours a rappelé qu'au nombre des principes généraux de droit consacrés au sein de l'Union européenne figure le principe de proportionnalité des peines, selon lequel l'intensité des sanctions doit être proportionnée par rapport à l'infraction. Constatant que le fait le plus sérieux parmi ceux reprochés à l'élève n'avait pas été prouvé à suffisance de droit, la Chambre de recours a considéré que la sanction de l'exclusion définitive de l'école – c'est-à-dire la sanction la plus lourde prévue par le Règlement général – n'était pas proportionnée aux manquements effectivement établis. La Chambre de recours a également rappelé que les mesures disciplinaires doivent avoir un caractère «éducatif et formateur» ; «or une sanction disproportionnée est dépourvue d'un tel caractère».*

*[In its decision 17-05 of 7 July 2017, delivered on an appeal in the disciplinary area, the Complaints Board pointed out that one of the general principles of law recognised within the European Union is the principle of the proportionality of penalties, whereby the level of disciplinary measures must be proportionate to the offence. Finding that the most serious of the allegations of misconduct of which the pupil was supposedly guilty had not been proved to the requisite legal standard, the Complaints Board considered that expulsion from the school – i.e. the severest disciplinary measure provided for by the General Rules – was not proportionate to the misconduct actually established. The Complaints Board also pointed out that the purpose of disciplinary measures is "to educate and train"; "now a disproportionate disciplinary measure is lacking in that respect."]*

Here there are two strands that are relevant for our purposes:

1. the need for any sanction to respect the (general legal) principle of proportionality and
2. from a legal point of view school sanctions need to have "un caractère éducatif et formateur"

The Chamber suggests that in the General Regulations article 42b containing the sections for the secondary cycle is drafted in a hierarchical way, and seems to imply that the steps cannot be jumped (i.e. heavier sanctions imposed immediately) unless well and duly justified.

*« b) Dans le cycle secondaire, les mesures disciplinaires applicables sont les suivantes: 1. Rappel à l'ordre 2. Travail supplémentaire 3. Retenue. 4. Avertissement et/ou sanction par le directeur 5. Avertissement et/ou sanction par le directeur sur proposition du Conseil de discipline 6. Exclusion temporaire de l'école : - par le directeur, pour un maximum de trois jours ouvrables, - par le directeur sur proposition du Conseil de discipline, pour une durée maximale de 15 jours ouvrables. 7. Exclusion d'un ou plusieurs voyages scolaires organisés pendant l'année scolaire en cours. 8. Exclusion définitive de l'école par le directeur sur proposition du Conseil de discipline »*

In this regard, we refer to point 9 of the ruling : *« Toutefois, la liste des mesures disciplinaires possibles, telle qu'établie par l'article 42 b), est le reflet du principe de proportionnalité des sanctions : la liste commence en effet par un simple rappel à l'ordre, continue avec des mesures de plus en plus lourdes, et se termine avec la sanction la plus sévère, l'exclusion définitive de l'élève de l'école. »*

This points to the need for a differentiated policy.