



**An Bille Oideachais (Cairt Mac Léinn agus
Tuismitheoirí), 2019**
Education (Student and Parent Charter) Bill 2019

Meabhrán Mínitheach agus Airgeadais
Explanatory and Financial Memorandum



**AN BILLE OIDEACHAIS (CAIRT MAC LÉINN AGUS
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EXPLANATORY AND FINANCIAL MEMORANDUM

Purpose of the Bill

The Bill provides for new provisions in the Education Act, 1998 that are aimed at creating a more cohesive approach in the school system to how schools will engage with students and their parents. The overall objective is to put in place a framework which schools will follow in respect of their engagement with students and parents, by requiring schools to prepare, publish and implement a charter for students and parents in accordance with guidelines made by the Minister for Education and Skills.

Provisions of the Bill

Section 1: Definition

In this Bill, the “Act of 1998” is defined as the Education Act 1998.

Section 2: Student and parent charter

Section 2 inserts 4 new sections (27A, 27B, 27C and 27D) into the 1998 Act after Section 27 as follows –

Section 27A – Student and parent charter

Section 27A provides that-

- a school board of management must prepare, publish and implement a student and parent charter in accordance with the Minister’s charter guidelines,
- in preparing its charter, the board must consult, in accordance with the guidelines, with persons such as the Principal, patron, school staff, students, parents, student council and parents association,
- each school charter must contain a statement that the charter has been prepared by the board in accordance with, and complies with, the charter guidelines,
- the board shall not include any content in its charter that is not in accordance with or provided for by charter guidelines and
- the board must review and amend its charter as required by the charter guidelines.

Section 27B - Charter Guidelines

Section 27B(1) requires the Minister, subject to section 27C, to make national charter guidelines in respect of -

- the process by which a school board will prepare its charter, including procedures for consultation with stakeholders at school level,

- the title and content of a charter,
- the form of the statement to be included in a charter confirming that the charter has been prepared in accordance with, and complies with, the guidelines,
- the implementation of a charter,
- the form and manner in which a charter and any amendments to a charter following a review must be published,
- procedures for reviewing and amending a charter, and
- such other matters as are necessary or appropriate for the purposes of the guidelines.

In Section 27B(2), provision is made for the Minister to consult with the education partners, the Ombudsman for Children, the Ombudsman and such other Government Ministers or any other bodies or persons considered appropriate before making the guidelines.

Section 27B(3) sets out that the charter guidelines in respect of the content of charters may relate to -

- procedures for consulting with students and their parents on such matters relating to the school as may be specified in the charter guidelines, including by inviting, and responding to, comments and suggestions from students and their parents on any such matter;
- information on school plans and policies of the school (other than the admission policy) and the activities of the school;
- procedures (including consultation procedures) for-
 - the preparation, review and updating of school plans and policies of the school (other than the admission policy), and
 - the development, review and updating of the activities of the school;
- procedures to be established by a board under section 20 for the purposes of informing students and their parents of matters relating to the operation and performance of the school;
- procedures to be established by a board under section 27 for the purposes of informing students and their parents of the activities of the school;
- information on the structures and systems for the management of the school;
- the information to be provided to students and their parents relating to monies that the school receives (including voluntary contributions made by parents) and the expenditure of those monies by the school, and of the form and manner in which that information is to be provided;
- the information to be provided to students and their parents relating to the school calendar, closures and timetables and of the form and manner in which that information is to be provided;
- the procedures for dealing with grievances of students or their parents relating to the school;
- details of aggregated and anonymised information to be provided to students and their parents relating to grievances of students or their parents dealt with by the school, which may include the number

or type of such grievances and related outcomes, and the form and manner in which that information is to be provided;

- such other information, procedures and other matters relating to the school as the Minister considers necessary and appropriate for the purposes of the charter guidelines.

Section 27B also provides that -

- the guidelines may, where the Minister considers it necessary for ensuring consistency, include model charters including different model charters for different categories of schools,
- the guidelines may contain different provisions for different categories of schools or different categories of students,
- the Minister must publish the guidelines in such manner (including on the internet) as he or she considers appropriate and
- the Minister may, from time to time, review and amend the guidelines.

Section 27C – Matters to which Minister shall have regard when preparing charter guidelines

Section 27C provides that the Minister, in preparing the charter guidelines must have regard to the need for a school to -

- seek to achieve, as far as practicable and subject to the resources available, the best possible outcomes for students in relation to their education and personal development,
- foster and promote the relationship and a spirit of partnership between the school and students and their parents,
- foster and promote mutual respect in communications between the school and students and their parents,
- ensure, as appropriate, confidentiality in communications between the school and students and their parents,
- promote the role and participation of parents in the education and personal development of students,
- consult with, and encourage the participation and engagement of, students (to the extent appropriate to their age and experience) and their parents, and respond as appropriate, to comments and suggestions made by students and their parents, in respect of the development, review and updating of school plans and policies of the school (other than the admission policy) and the activities of the school,
- monitor and review the provision of education by the school to students, including by consulting with, and responding, as appropriate, to comments and suggestions made by, students (to the extent appropriate to their age and experience) and their parents, for the purposes of assessing and improving such provision on an ongoing basis,
- foster and promote equality of access for students to, and participation by students in, education by seeking, as far as practicable, to reduce the costs to parents and students of such participation,
- address and resolve concerns of students or their parents relating to the school, as far as possible, at an early stage, and
- ensure that grievances of students or their parents relating to the school are dealt with efficiently, effectively and fairly and, as far as

possible, in an informal manner consistent with the principles of fair procedures.

Section 27D – Directions to board by Minister in relation to charters

Section 27D provides that the Minister may give a direction to a board where the Minister -

- a) is of the opinion that the board has failed or is failing to comply with Section 27A and
- b) is satisfied, having regard to the failure concerned, that in all the circumstances of the case–
 - such other available and appropriate procedures to address the failure have been exhausted and it is necessary and appropriate to give a direction or
 - it is otherwise necessary and appropriate to give a direction

Before giving a direction, the Minister must give the board and the school patron notice of his or her intention to give a direction, setting out the reasons and the proposed remedial action and must offer the board and the patron (or both) an opportunity to make representations in relation to the proposed direction and provide the board and patron at least 14 days to do so. The Minister must, in deciding whether or not to give a direction consider any representations.

A direction must be in writing to the board, must include the Minister’s reasons, the remedial action to be taken, the time period for carrying out the remedial action and any other matter considered appropriate.

A copy of the direction must be provided to the patron (as soon as practicable after the giving of a direction and in any case before the date of publication) and a board must comply with a direction under this section. Provision is also made to allow the Minister where he or she considers it appropriate to do so, including where the patron or the board so request in writing, extend the time period for carrying out the remedial action outlined in the direction.

The Minister must publish the direction on the Department’s website no later than 14 days from the date of the giving of the direction.

The board must confirm in writing to the Minister when it has complied with the direction and the Minister, on being satisfied that a direction has been complied with, must publish a notice to that effect on the Department’s website and give notice in writing to the board and the patron that the Minister is satisfied that the direction has been complied with.

Directions or notices published under this section are, for the purposes of the law of defamation, absolutely privileged and immune from legal proceedings.

Section 3: Amendment of section 2 of Act of 1998

Section 2 of the Act of 1998 is amended by the insertion of definitions for ‘charter’ and ‘charter guidelines’ for the purposes of the 1998 Act.

Section 4: Amendment of section 9 of Act of 1998

Section 4 provides for the inclusion in section 9 of the 1998 Act (functions of a school) of two new functions as follows-

- to promote the involvement of students and their parents in the provision of education to students and
- ensure the implementation of its charter.

Section 5: Amendment of section 20 of Act of 1998

Section 5 amends section 20 of the 1998 Act to link the procedures to be established in that section with any applicable charter guidelines in respect of same and to provide that both students and parents are referred to in section 20. Section 20 currently refers to procedures for informing parents (but not students) of matters relating to the operation and performance of the school.

Section 6: Amendment of section 21 of Act of 1998

Section 6 amends section 21 of the 1998 Act to link the arrangements in that section for the preparation of a school plan with any applicable charter guidelines in respect of same.

Section 7: Amendment of section 27 of Act of 1998

Section 7 amends section 27(1) of the 1998 Act to link the procedures to be established in that section with any applicable charter guidelines in respect of same and to provide that both students and parents are referred to in section 27(1). Section 27(1) currently refers to procedures for informing students (but not parents) about activities of the school.

Section 7 also amends section 27(4) to change the requirement on a student council from one of promoting the interests of the school to a requirement to promote the interests of the students of the school having regard to the characteristic spirit and policies of the school and the charter.

Section 8: Amendment of section 28 of Act of 1998

Section 8 replaces the existing section 28 of the Education Act 1998 with a new Section 28 which provides that:

Grievance procedures for students and parents must provide for at least the following -

- the requirements to be complied with by the school and the student or parent concerned in relation to the grievance process;
- the investigation of grievances in a manner appropriate to the nature of the grievance concerned, whether by informal means (including mediation) or formal investigation, or by a combination of those means;
- the resolution of grievances, whether by formal or informal means (including mediation);
- the giving of reasons for decisions in relation to grievances;
- the implementation of decisions in relation to grievances, including the taking of any remedial action required thereby.

The new section 28 also provides that a school may, in accordance with charter guidelines, decide not to deal with a vexatious or frivolous grievance and provides that the procedures under this Bill for dealing with grievances of students or their parents do not apply to grievances relating to matters that can be appealed under section 29 of the 1998 Act (appeals in relation to school enrolment, expulsions and suspensions lasting longer than 20 days).

Section 9: Amendment of section 42 of Teaching Council Act 2001

As the Bill will replace the existing wording of Section 28 of the Education Act, 1998 with alternative wording which will refer to grievance procedures under this Bill, a consequential amendment to Section 42 of the Teaching Council Act 2001, which cross references section 28 of the Act of 1998, is necessary.

Section 10: Amendment of section 9 of Ombudsman for Children Act 2002

This is a similar amendment as the above amendment of the Teaching Council Act, 2001 and updates an existing cross reference to Section 28 of the Act of 1998 in Section 9 of the Ombudsman for Children Act, 2002.

Section 11: Short title, commencement and collective citation

This is a standard section dealing with the short title, commencement provisions, and the collective citation of the Education Acts.

Financial implications of the Bill

There will be no significant costs to the Exchequer arising from this Bill. Any relatively minor costs in relation to developing and publishing national guidelines on a Student and Parent Charter and any minor administration costs where the Minister may issue a direction to a School board will be met from within the Department of Education and Skill's existing funding allocation.

*An Roinn Oideachais agus Scileanna
Meán Fomhair, 2019.*