

# Atheist Ireland



To: NCCA Consultation on  
Background Paper and Brief  
for the redevelopment of  
Senior Cycle SPHE

3 December 2022

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## 1. Overview

There is no legal guarantee that any updated SPHE course will be taught by schools in an objective, critical and pluralistic manner.

Over half of second level schools in Ireland operate with a religious ethos. They are mainly Catholic, some of the ETBs have a religious ethos and there are also minority religious schools at second level.

This means that any school with a religious ethos can legally teach any updated SPHE course through their religious ethos. Boards of Management are legally required to uphold the ethos of the Patron body (Section 15-2(b) Education Act 1998)

Teachers are legally obliged to uphold the religious ethos of schools. Section 37 of the Employment Equality Act is still in place.

## 2. Why legal change is needed

Until there is legal change there is simply no guarantee that SPHE will be taught in an objective, critical and pluralistic manner.

The situation as it stands leaves teachers in a very difficult position. It is teachers that have to decide whether or not to ignore the policy of the Board of Management in relation to SPHE and teach it in an objective, critical and pluralistic manner.

Giving teachers' confidence through training to teach objective SPHE does not solve the issue for them. Some Teachers are being put in an unenviable situation where they want to deliver SPHE objectively but are legally obliged to teach it through the ethos of the school. Other teachers are only too happy to teach SPHE through a religious ethos.

This leaves parents and students in a position that they do not know what is happening in SPHE. Schools are not obliged to inform parents that SPHE will be taught through the ethos of the school.

### **3. Constitutional rights of parents**

If the course is not taught objectively but through the religious ethos of schools, and parents are not informed that this is happening, it will undermine the rights of parents under the Constitution.

We appreciate that the NCCA have no legal control over 'ethos'.

However, the NCCA is obliged to:

41-(3) - In carrying out its functions the Council shall-

"have regard to the desirability of achieving equality of access to, participation in and benefit from education (Section 41-3(c) Education Act 1998) and  
"have regard to the practicalities of implementation of any advice which it proposes to give to the Minister. (Section 41-3(d).)"

Section 6 (a) of the Education Act 1998 obliges every person concerned in the implementation of this Act to have regard to:-

"give practical effect to the constitutional rights of children...."

(l) - to enhance the accountability of the education system, and"

"(m) - to enhance transparency in the making of decisions in the education system both locally and nationally."

Notwithstanding the fact that the NCCA have no control over 'ethos' (Section 15-2 (b) Education Act 1998), it cannot just ignore that it will have an impact on the updated course and this consequently will have consequences for the Constitutional rights of parents and their children.

Enhancing accountability, enhancing transparency in the making of decision and giving practical effect to the constitutional rights of children puts the NCCA in the position that it cannot continue to ignore its legal responsibilities.

### **4. Legal route to course being taught through religious ethos**

The following is the legal route under which any updated SPHE course can be taught through a religious ethos.

#### **4.1 Section 37 Employment Equality Act**

This Section of the Act states:

(1) A religious, educational or medical institution which is under the direction or control of a body established for religious purposes or whose objectives include the provision of services in an environment which promotes certain religious values shall not be taken to discriminate against a person for the purposes of this Part or Part II if—

(a) it gives more favourable treatment, on the religion ground, to an employee or a prospective employee over that person where it is reasonable to do so in order to maintain the religious ethos of the institution, or

(b) it takes action which is reasonably necessary to prevent an employee or a prospective employee from undermining the religious ethos of the institution.

#### **4.2 Section 15-2(b) of the Education Act 1998**

This Section of the Act obliges Boards of Management to uphold the ethos (characteristic spirit) of the Patron.

Section 15-2(b) of the Education Act 1998 states:

It shall be the duty of a board to manage the school on behalf of the patron and for the benefit of the students and their parents and to provide or cause to be provided an appropriate education for each student at the school for which that board has responsibility.

“uphold, and be accountable to the patron for so upholding, the characteristic spirit of the school as determined by the cultural, educational, moral, religious, social, linguistic and spiritual values and traditions which inform and are characteristic of the objectives and conduct of the school, and at all times act in accordance with any Act of the Oireachtas or instrument made thereunder, deed, charter, articles of management or other such instrument relating to the establishment or operation of the school,”

#### **4.3 Section 9 of the Education Act 1998**

A recognised school shall provide education to students which is appropriate to their abilities and needs and, without prejudice to the generality of the foregoing, it shall use its available resources to—

(d) promote the moral, spiritual, social and personal development of students and provide health education for them, in consultation with their parents, having regard to the characteristic spirit of the school,

### **5. Catholic Church Guidelines on teachers upholding their ethos**

The National Directory for Catechesis in Ireland (Share the Good News) states that:-

150. Schools Objective 5- The Principal will ensure that the decisions of the Board of Management, and particularly the ethos statement set out by the Board, are lived out in the day-to-day running of the school.

Some Indicators of Achievement

The Principal of a Catholic school will be employed on the understanding that he or she is delegated by the Board of Management and has responsibility to encourage, develop and promote the ethos of the school.

151. Schools Objective 6: Staff in a Catholic school will know, understand and sustain the Catholic ethos within which they are employed.

Some Indicators of Achievement

The teaching staff of a Catholic School will be actively involved in promoting the Mission Statement and policies approved by the Board of Management.

Teachers will be employed on the understanding that they will commit themselves actively to supporting the ethos of the school.

New teachers, as part of their induction to the school, will have an opportunity to focus on the Catholic character of the school.

School staff will take the opportunity to review some aspects of the Catholic ethos of the school at least once a year.