

Atheist Ireland



Submission to Draft specification
for Junior Cycle SPHE

15 October 2022

Dear NCCA,

We are addressing Question 1 of your suggested questions. We are willing to be listed as a contributor to the consultation on the NCCA website.

Question 1

The aim of the updated short course is 'to nurture students' self-awareness and positive self-worth and to develop the knowledge, understanding, skills, dispositions and values that will help them to create and maintain respectful and caring relationships and lead fulfilling and healthy lives.'

Please state whether you agree this aim summarises the purpose of SPHE for junior cycle and your reason for agreeing/disagreeing.

The aim should be extended to include

“...through a course delivered in an objective, critical, and pluralistic manner and not taught through the ethos of the school.”

This is in line with Article 11 of the Social Charter, human rights law, the rights of parents under the Constitution.

Article 42.1 of the Constitution obliges the state to respect the rights of parents in relation to the religious, moral and social education of their children.

Article 42.4 of the Constitution obliges the state to have due regard to the rights of parents in relation to religious and moral formation of their children.

If the course is taught through the religious ethos of schools, it will undermine the rights of parents with philosophical convictions.

In the recent *Burke v Minister for Education* case at the Supreme Court ¹ the court upheld the rights of parents in relation to the religious and moral formation of their children. The court found that parental authority was a foundational pillar of the constitution and that an overall saver in the constitutional text was that the state must have 'due regard' for the rights of parents in relation to the religious and moral formation of their children.

¹ <https://www.teachdontpreach.ie/2022/10/burke-v-minister-for-education/>

The Supreme Court went on to say that this provision reflects a concern for upholding parental authority; a foundation pillar of the Constitution that accords with Article 41 recognising the family as “the natural primary and fundamental unit group of” Irish society. This is a condition of the state funding of schools.

As part of the aim of the course is to ‘develop values’, it is parents under the Constitution who decide what is or is not suitable ‘values’ for their children. The state is constitutionally obliged to have ‘due regard’ for the rights of parents in this regard.

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 are 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.

Yours sincerely

Jane Donnelly
Human Rights Officer

Michael Nugent
Chairperson

Atheist Ireland