

GUIDELINES

EXPULSION

Responsibility of:	School Support Services	FILE2015/291
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Target Audience:	Principals, school staff, parents, students and school communities	

1. INTRODUCTION

The department is committed to providing a safe and secure environment for all staff and students that includes the implementation of measures that safeguard the wellbeing of everyone attending government schools.

Expulsion should only be used as a last resort and in **exceptional and extreme circumstances**, after all other available avenues of addressing problematic behaviour have been exhausted. The expulsion of a student from a Northern Territory government (NTG) school can be considered where the student:

- is involved in a **single incident** of such a serious nature that it may be necessary, in the interests of other persons attending the school, that the student be expelled from school; and/or
- displays a **significant pattern of unacceptable behaviour** and behaviour management strategies have proven to be unsuccessful, such that it may be necessary, in the interests of other persons attending the school, that the student be expelled from school.

These guidelines relate to the process that must be followed when expelling a student from an NTG school.

1.1 Procedural fairness

When considering expulsion, principals must ensure procedural fairness in their decision making. Procedural fairness in this type of decision making relates to a student and parent's right to:

- be informed of the allegations against them and any proposed sanctions, and be given the opportunity to see and consider the information that a decision is being based on
- have an opportunity to respond before a decision is made
- have decisions made that are, at all stages, objective, considered and based on all the information gathered from as many sources as possible.

2. DEFINITIONS

Child living independently relates to a child who is of or above the age of 14 years and is not living with a parent.

Child of compulsory school age is a child who has turned six years of age on or before the 30 June of the school year and has not completed Year 10, or turned 17 years of age, whichever comes first.

Parent is a child's father, mother or any other person who has parental responsibility for the child, including a person who is regarded as a parent of the child under Aboriginal or Torres Strait Islander customary law or tradition.

Daily care and control of a child (relating to the definition of parent) refers to a person who is entitled to exercise all the powers and rights, and has all the responsibilities, in relation to the day-to-day care and control of the child.

Parental responsibility (in regards to the definition of parent) refers to a person who has:

- a) daily care and control of the child, or
- b) is entitled to exercise all the powers and rights, and has all the responsibilities, in relation to the long-term care and development of the child, or
- c) has daily care and control of the child and the entitlement and responsibilities at (b) and includes a person who has been given the above responsibilities under another state or territory law.

Principal, for the purposes of these guidelines, also refers to acting principals who have delegation to act on the principal's behalf in their absence.

Special learning needs, includes any child that:

- a) has a disability under the [Disability Discrimination Act](#), or
- b) whose educational progress, because of a special factor other than a disability, is likely to suffer unless they have access to special education arrangements.

Student, for the purposes of these guidelines, is defined as any student enrolled in an NTG school.

Written notices, for the purposes of these guidelines, refer to notices provided to a student or the parent of a student that clearly set out:

- any decision and the reasons for it; and
- any right the person to whom the notice is to be given has to apply for a review of, or to appeal, the decision. This must include any provisions for appeals under the *Education Act*.

3. ROLES AND RESPONSIBILITIES

The Minister is responsible for:

- consider all information relevant to the incident / student behaviour, and where considered necessary in the interests of other persons present at a school, issue a written notice to a student enrolled in the school that expels the student from the school
- where relevant, and in the best interests of the student and all other persons present at a school, revoke the decision to expel and provide advice to the student and parent(s) about this decision and the requirement for the student to attend school.

The Chief Executive (CE) is responsible for:

- recommending decisions to the Minister for Education in relation to the expulsion of a student, or the re-enrolment of an expelled student, and the review of a decision to expel a student
- providing written notice to the parent/student advising of any decisions relating to expulsion ensuring that, if the student is a child of compulsory school age, they continue to have access to education

Executive Directors are responsible for:

- providing a written notice to the parent and student advising that expulsion has been recommended
- ensuring procedural fairness is afforded to the student and parent in line with [section 1.1](#) of these guidelines.

Regional Directors are responsible for:

- working with, and advising principals on, whether a recommendation to expel is warranted
- ensuring procedural fairness is afforded to the student and parent, in line with [section 1.1](#) of these guidelines, when recommending expulsion
- considering and, where appropriate, making alternative recommendations to the principal for problematic behaviour

Principals are responsible for:

- ensuring their school applies consistency and fairness when managing problematic behaviour
- ensuring all other available behaviour management avenues have been exhausted prior to recommending expulsion
- ensuring procedural fairness is afforded to the student and parent, in line with [section 1.1](#) of these guidelines, when recommending expulsion.

Parents are responsible for ensuring non-attendance when their child has been expelled from school.

4. LEGISLATION

Section 93 of the [Education Act](#) (the Act) provides authority for the Minister for Education to expel a student from an NTG school, when considered necessary in the interest of other persons present.

In accordance with section 95 of the Act, if a student has been expelled from a government school, the student must not be enrolled in a government school unless:

- a) the Minister gives permission for the enrolment; or
- b) the school is a distance education school (refer to the [Enrolment in Distance Education School guidelines](#)).

5. PRELIMINARY MATTERS

5.1 Management of behaviour

Section 90 of the Act requires principals to consider the following factors prior to making any decisions relevant to the management of a student's behaviour:

- a) the age of the student
- b) the developmental stage of the student
- c) whether the student is a child with special learning needs
- d) the mental health and wellbeing of the student
- e) the physical health and wellbeing of the student
- f) any relevant religious or cultural considerations
- g) the student's home environment and the arrangements in place for the student's care.

These factors must be considered prior to making a recommendation to the CE to expel a student.

5.2 Documentation to be provided to the CE

To ensure procedural fairness throughout the expulsion process, the parent/student must be provided with all documentation that is given to the CE, and afforded an opportunity to respond.

If further relevant information is identified *after* the parent/student have made their initial submissions, and the CE intends to factor this into their advice to the Minister, the parent/student must also be provided with this information and given an opportunity to reply.

5.3 Communication

It is essential that all communication relating to expulsion, particularly where the person is invited to make submissions, are addressed to the appropriate person.

- Where the student is still in the care of their parent(s), all communications must be with the **parent** and the parent must be given the opportunity to make submissions on behalf of their child.
- Where the student is a child living independently, communication must be with the **student**, who may make submissions on their own behalf.

Schools should be mindful to ensure that information about interpreter services is provided, where necessary.

5.4 Privacy issues

Documentation provided to the Minister in relation to a recommendation to expel must be “de-identified” by removing personal information as follows:

- the name(s) of other children who are witnesses, but not directly involved in an incident(s), must be removed. This does not apply to a child directly involved, for example, the name of a child assaulted by the student

The disclosure of the name(s) of students who have been directly affected should not be new information, and in the event that it is new information, procedural fairness requires that the person be given opportunity to respond to any new allegation/or allegations unknown to them.

- in the case of a staff member, their name must be included but personal information, such as a mobile phone number and private contact details, must be removed
- relevant details may be removed by “blacking out” the details on a **copy** of the document – NOT on the original.

In the event that the parent/student requests omitted details, advice should be sought from the Legal Services Unit as to what may be further disclosed. In determining whether to provide omitted information, the department will consider:

- whether the information is necessary in ensuring that procedural fairness is afforded
- whether the credibility of the witness(es) needs to be questioned.

6. WHEN EXPULSION MAY BE RECOMMENDED

6.1 Grounds for expulsion

Expulsion may be recommended:

- where a student’s pattern of behaviour is consistently unacceptable, and all attempts to address the behaviour have not resulted in improvement
- where the behaviour is so extreme that the school assesses any return to school grounds at any time (immediate or future) would in and of itself present an unacceptable risk of physical or psychological harm.

Decisions to expel must:

- reflect the context, nature and seriousness of the student’s conduct
- be applied fairly and consistently in a manner where students are not issued with this sanction prior to other avenues of behaviour management being exhausted.

It is essential that principals follow all required steps and clearly document both their actions and the reasons for their decision.

6.2 Considerations for students with disability

Expulsions are potentially more stressful for students with disability than other students. When considering expulsion of a student with disability the principal must consult with the Student Support Regional Manager and Regional Director, who will inform the Director Student Support (DSS). The DSS will ensure that, in accordance with the [Disability Discrimination Act](#) and the [Disability Standards for Education 2005](#), the student with disability is not discriminated against, harassed or victimised.

7. EXPULSION PROCEDURES

7.1 Temporary suspension

Where a principal considers that expulsion may be warranted, then the student must be suspended for a period not exceeding 20 school days in order to:

- allow the principal time to consider whether a recommendation to expel should be made to the CE
- ensure that the CE has sufficient time to make a decision when such a recommendation has been made.

When issuing the Notice of Suspension, the principal should advise the parent/student that they are also considering whether a recommendation should be made to the CE that the student be expelled. A copy of these guidelines should be provided with the notice. Refer to the [Suspension guidelines](#).

7.2 Recommending expulsion

The principal must consult with the Regional Director in relation to a recommendation to expel. Alternative options, such as recommending the CE issue a direction about the student's enrolment, or place conditions on a student's enrolment, may be more appropriate.

If the principal remains of the view that a recommendation to expel may be warranted, then the student must be afforded procedural fairness before the final decision to recommend expulsion is made by the principal.

The principal must issue a written notice to the parent who has daily care and control of the student, or if the student is living independently, to the student. An invitation to provide submissions within **three working days** from the student or parent must be included in the letter. A template letter can be found at **Attachment A**.

After considering any submissions the principal must decide, **within two working days**, whether they wish to recommend the student be expelled. The principal must immediately inform the parent/student of their decision in writing, and ensure delivery of that decision as expeditiously as possible.

If the principal has decided to recommend expulsion then, in advising of their decision, the principal must issue a written notice to the parent advising of the decision and providing all documentation that the CE will be provided to base their decision on. A template letter can be found at **Attachment B**.

7.3 Approval process

Upon making a decision to recommend expulsion, the principal must immediately forward the recommendation to the CE through the relevant Regional Director and Executive Director. The recommendation to the CE must include:

- a copy of the Notice of Suspension
- the reasons for recommending expulsion, including a detailed account of the incident or incidents giving rise to the recommendation
- all relevant supporting documentation relied upon by the principal in reaching their decision, and any evidence to be relied upon by the CE in making a decision
- where the student has a medical or other relevant condition which may give rise to the student having special needs, full particulars of any such condition(s) and the associated special needs
- full particulars of the incident and copies of all correspondence and other details of communications with the parents and/or student; and
- all submissions, if any, made by, or on behalf of, the student.

Regional Director clearance

The Regional Director must carefully check the recommendation and liaise with the principal and Legal Services Unit to ensure that a recommendation to expel is the appropriate course of action. If so, the Regional Director will then forward the recommendation to the CE through the Executive Director.

Executive Director clearance

If satisfied that it is appropriate for the recommendation to be forwarded to the CE then the Executive Director must:

- write to the parent/student to advise that the recommendation has been received and that it will be forwarded to the CE
- provide the parent/student with a copy of the recommendation and all supporting documents
- advise the parent/student that they may make written submissions to the CE **within seven days**, and if they wish, also include any further information that they consider to be relevant to the CE's decision, which will be considered by the CE before a decision is made; and

- provided the CE is prepared to do so, advise the person that they may also make an appointment to meet with the CE before the decision is made.

Wherever possible the letter to the parent/student must be hand-delivered or otherwise delivered by the most expeditious means available. Where there is any difficulty in communicating with the parent or student, then a copy of the letter should immediately be sent by registered mail while attempts to make personal contact continue.

Before forwarding the recommendation to the CE it is essential that the parent is provided with all documentation that will be considered by the CE in making a final decision.

7.4 Minister's decision

The Minister will consider the following in deciding whether or not it is necessary, in the interests of other persons attending the school, that the student be expelled from school:

- the principal's recommendation and all relevant documentation provided by the principal, including the submissions, if any, made to the principal
- all written submissions made by, or on behalf of, the student to the CE, and
- any verbal submissions made by, or on behalf of, the student to the CE.

The Minister may also consider alternatives to expulsion such as placing conditions on the students enrolment for behaviour management purposes, or directing the student to be enrolled in a specific school.

The CE will provide the parent/student with a written notice of their decision, including the reasons for the decision. Where the decision has been made to expel the written notice must also clearly state the right of the parent/student to apply for a review of the decision (Section 10 below refers).

8. ESSENTIAL TIMELINES

The CE must reach a decision and advise the parent/student of that decision **before the period of suspension has expired (20 school days)**. While the timeline may need to be varied to meet the special circumstances of a particular matter, the following timelines must apply:

- where the principal is considering recommending expulsion, the principal must inform the parent/student of this within **two working days** of the decision to suspend
- where a parent/student wishes to meet with the principal to discuss whether a recommendation to expel is to be made, then that meeting should take place within **three working days** of the principal's notification. Where a meeting cannot be scheduled within the three days, an alternative arrangement should be made – e.g. a teleconference
- where an alternative arrangement cannot reasonably be made, the parent/student should be advised that their only option is to make written submissions to the principal within the same three day period
- a principal may, at their discretion, extend this period by another two days, but only where they are satisfied that special circumstance exist that warrant this
- where a principal decides to recommend expulsion, then the recommendation should reach the Regional Director not later than **seven working days** after the date that the student was suspended
- the letter from the Executive Director to the parent/student must afford a minimum of **seven days** in which to make submissions to the CE
- where the parent/student requests an extension of time in which to make submissions to the CE, they should generally be granted such an extension, provided that valid reasons for requesting such an extension exist, and **that any extension will still afford the Minister sufficient time in which to make a final decision before the period of suspension expires**
- if the parent/student wish to meet with the CE, but cannot do so in a timely manner, then they must be advised that any submissions that they wish to make must be in writing.

9. NEWSFLASHES

A Newsflash, prepared in line with the department's Newsflash Guidelines, must be generated where the expulsion of a student is being considered. Principals unsure of this requirement should contact their Regional Director for guidance.

10. REVIEW OF DECISION

A parent/student may make an application to the Minister for a review of a decision to expel. The application must be made in writing within 14 days after the parent/student received the written notice from the CE advising of the expulsion. Applications to review must also provide an address to which notices may be sent by the CE, and state the reasons why a review is being requested. If the Minister grants this application, and decides to revoke the expulsion, the student must be reenrolled and attend school.

The CE must provide the parent/student with a written notice of the decision as soon as practicable.

10.1 Review by Tribunal

Where a parent/student is dissatisfied with the outcome of the Ministers review of the decision to expel, they may apply to the Northern Territory Civil and Administrative Tribunal (NTCAT) for a review of the decision. For a matter to be referred to NTCAT, it must have first been reviewed by the Minister.

11. RECORDING AND REPORTING

An expelled student may be removed from the school's current roll as outlined in the [Enrolment Procedures](#).

12. RELATED POLICY, LEGISLATION AND DOCUMENTS

Department of Education	<ul style="list-style-type: none">• Students with Disability policy• Attendance – recording and reporting guidelines• Attendance – exemptions from attendance and participation guidelines• Complaints policy and guidelines
Northern Territory	<ul style="list-style-type: none">• Education Act• Education Regulations