

GUIDELINES

for developing

The Student Code of Conduct

Incorporating
Student Discipline Procedures, 1994
and
Ministerial Order No. 1, Discipline of Pupils

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All Schools of the Future will have a student code of conduct which sets down acceptable student behaviour and appropriate disciplinary measures. The student code of conduct will form part of the school charter. This document sets out the rationale, processes and necessary content for the development and implementation of a student code of conduct.

The underlying purpose of the code of conduct is to provide students and staff in state schools with the right to work in a secure and orderly environment and parents with the right to expect that their children will be educated in a purposeful environment in which the principles of care, courtesy and respect for the rights of others are valued.

The code of conduct aims to foster a healthy school culture in which high levels of achievement take place within a positive social environment. It will foster high standards of behaviour based on cooperation, mutual responsibility and self discipline and will promote positive, non-discriminatory relationships among students.

The code of conduct will be developed with input from teachers, parents and students and will set out student discipline standards and procedures. It will provide schools with systematic strategies for fostering and maintaining student discipline and overcoming bullying, violence and harassment. It will include logical and consistent sanctions to be applied consistently across the whole school.

The new *Student Discipline Procedures, 1994*, which are set out in Section 4, provide a statewide framework for dealing with more serious breaches of student discipline. It is to be incorporated into the code of conduct of each School of the Future. All other schools will implement the new student discipline procedures within their discipline policies. The student discipline procedures detail the conditions under which the extreme sanctions of suspension and expulsion may be used.

The student discipline procedures will be an important part of the code of conduct. However, it is emphasised that they are to be only one component of a document of which the overall intention is to highlight and promote positive student behaviour.

Ministerial Order No. 1, Discipline of Pupils, provides the formal legislative authority for principals to suspend or expel students.

2.1 Responsibility of school councils and principals

Each school council is responsible for the development of a charter. Each school identifies a specific code of conduct within its school charter. This is subject to review in line with Directorate of School Education accountability requirements.

The code of conduct is the means by which school councils are to provide a framework for the management of student behaviour and the enhancement of positive relations in the school.

Through the development of a code of conduct, school councils are to identify goals and standards for student behaviour. The principal will have responsibility for its implementation and enforcement. The council is responsible for monitoring the implementation of the code of conduct, evaluating its success, and reporting to the school community and to the Minister for Education.

The code is to be developed through a process of school community consultation conducted by the school council. Students, parents and staff are to be fully informed of the code and expected to support its implementation. A copy of the code including the *Student Discipline Procedures, 1994*, should be made available to parents.

2.2 Principles

The code of conduct must give priority to enhancing self-discipline and respect for the rights of others. It should seek to promote an environment which maximises the opportunity of all students to strive for excellence. The rights and responsibilities of students, parents and school staff are to be clearly specified.

The principles which must underlie each code of conduct are:

- 2.2.1 all individuals are to be valued and treated with respect
- 2.2.2 students have a right to work in a secure environment where, without intimidation, bullying or harassment they are able to fully develop their talents, interests and ambitions
- 2.2.3 parents have a right to expect that their children will be educated in a secure environment in which care, courtesy and respect for the rights of others are encouraged
- 2.2.4 teachers have a right to expect that they will be able to teach in an orderly and cooperative environment
- 2.2.5 parents have an obligation to support the school in its efforts to maintain a positive teaching and learning environment
- 2.2.6 principals and staff have an obligation to fairly, reasonably and consistently implement the code of conduct

2.3 Content of codes of conduct

The code of conduct is a school's public statement on the management of student behaviour. It must be concerned not only with student discipline, but with the general enhancement of positive student behaviour. It should relate to and be consistent with government priorities and community expectations in areas such

as the encouragement of educational achievement and excellence, the maintenance of dress standards, regular school attendance, the prevention of bullying and violence, the elimination of discrimination based on difference of culture, race and gender and the acceptance of difference as a consequence of disability or impairment.

The content and format of the code of conduct is to be determined by the school council. There are, however, components which should be included to enable schools to develop practical and effective implementation strategies. The document should contain:

- 2.3.1 goals and objectives for the enhancement and management of student behaviour
- 2.3.2 principles concerning the rights and responsibilities of students, parents and teachers
- 2.3.3 standards and rules to guide the management of student behaviour
- 2.3.4 sanctions which logically follow from the infringement of the standards and rules set by the code of conduct
- 2.3.5 strategies for managing suspension conferences and expulsion reviews
- 2.3.6 procedures for monitoring and evaluating the code of conduct

Codes of conduct should relate to school policies and procedures which impact on student behaviour and discipline. These include school-based policies and guidelines on dress, expectations of student behaviour, discrimination, school attendance and other behaviour which is detailed in the statewide grounds for suspension. Codes of conduct should also incorporate procedures for the school council's role in the management of expulsion reviews.

Codes of conduct should encourage schools to anticipate difficulties before they become acute, and to deal with behaviour difficulties at the school level with a minimum of formality and a maximum of cooperation and consultation between relevant students, parents and teachers. An approach which has a balance between prevention and behaviour management is strongly recommended.

2.4 School community participation

The success of the code of conduct depends on the commitment of students, parents and teachers. This can best be achieved by all of the groups working together to reach agreement.

Teachers have the professional training and experience required for the development of a code of conduct which can be readily translated into practical strategies. The needs of students and the expectations of parents should also be recognised and taken into account in order to achieve a workable framework.

Parents should be actively encouraged to be involved in the implementation of the code.

The establishment by councils of representative working parties on which the views of students, parents and teachers can be presented provides a practical means of achieving agreement and commitment.

2.5 Parent and community access

The code of conduct should be a succinct statement presented in a form which can be readily understood by parents, students, school personnel and the local community.

While the document must be consistent with relevant school policies, it would not normally incorporate their detail. It is intended as a discrete statement providing an important focus for the school program. It is to be a key component of the school charter, through which the ethos and tone of the school can be enhanced. It will also be a valuable promotional statement for use with the wider community.

The code of conduct can be used to foster cooperation between students, parents and staff by ensuring its availability at the time of student enrolment.

2.6 Reporting and accountability

Upon completion of the code of conduct, the school council must oversee the effectiveness of its implementation. The principal and teaching staff have responsibility for developing and implementing strategies for the implementation of the code. The council is to receive regular reports which will enable it to monitor the effectiveness of the code and to be fully accountable to the community and the Directorate of School Education.

While communication is generally important to the effective implementation of the code, it should be noted that strict confidentiality relating to the details of suspensions and expulsions must be maintained.

2.7 Cooperation with other schools and agencies

It is valuable for school councils to be informed about the codes of conduct of neighbouring schools. This can lead to the development of understandings and cooperation between schools leading to more effective management of student behaviour. With the agreement of school councils, schools can cooperate in sharing expertise and resources to assist students with extreme behavioural problems.

It is also valuable for schools to seek cooperation with other relevant departments and agencies in the locality. Local branches of the Departments of Health and Community Services, Industry and Employment and Victoria Police, together with municipal government and voluntary agencies, can provide additional expertise and enable access to a broad range of resources.

Each teacher will be responsible for developing classroom strategies consistent with the school's code of conduct. Students can be involved in the development of these strategies to encourage them to adopt appropriate behaviour in the classroom. This will include the elimination of all forms of bullying, harassment and violence which obstruct the educational progress of students and the general management of the school. The consequences for breaches of these rules should be well established and consistently applied in the classroom and throughout the school.

It is important that students who are experiencing difficulties in relating positively with other students and staff are encouraged to discuss these difficulties with staff responsible for student welfare. These staff may include student welfare coordinators, pastoral care teachers or year level coordinators. They can assist students to establish goals and plans which build their confidence and competence in social relationships and academic work.

Where a student is beginning to build up a history of unsatisfactory behaviour, parents should be notified with a view to negotiating an agreed approach to solving the problem before it becomes a more serious matter.

In the case of students with disabilities and impairments, schools should develop strategies to ensure that they reach their maximum potential. Many schools have established support groups for this purpose.

Under Ministerial Order No. 1, Discipline of Pupils, principals have the power to suspend a student. The grounds for suspension are to be consistent for all state schools and are to be included in each school's code of conduct. The student discipline procedures indicate the types of behaviour for which suspension may be appropriate.

Under Ministerial Order No. 1, Discipline of Pupils, principals have the power to expel a student in extreme circumstances. These circumstances are detailed in clause 4.4.2, Grounds for expulsion. The grounds for expulsion are to be consistent for all state schools and are to be included in each school's code of conduct.

Accurate records are to be kept of significant disciplinary actions. Principals are required to maintain a register of all suspensions and expulsions. The Director of School Education is to be notified as soon as a student is expelled.

4.1 Disciplinary measures: a graded series of sanctions

The following section describes a range of measures that schools should consider in dealing with serious discipline matters. In addition to informal consultative approaches with a problem-solving focus, principals in conjunction with staff and parents may use a variety of measures when a student's behaviour does not comply with the school's code of conduct. These measures should vary to take into account the age and disabilities and impairments of the students and the nature and seriousness of breaches of the code of conduct.

When a student violates rules under the school's code of conduct, teachers should invoke consequences that are consistent with the rules. Rules must be clearly explained so that students understand why they have been punished. The student should understand the connection between the behaviour and the consequence. Consequences should be graded in severity, with emphasis on students being accountable and learning to take responsibility for their behaviour. These disciplinary measures should be part of the teacher's classroom management plan and consistent with the whole school's approach to the implementation of the code of conduct. Care should be taken to ensure that the student's studies are not adversely affected by such disciplinary measures.

4.1.1 Withdrawal of privileges

Schools are permitted to withdraw privileges from students as a logical consequence of breaches of school rules.

4.1.2 Withdrawal from class

When a student's behaviour significantly interferes with the rights of other students to learn or the capacity of a teacher to teach a class, that student may be temporarily isolated from regular classroom activities or, in more severe cases, required to leave the classroom for a specified period of time.

Students should only be withdrawn from class if appropriate supervision can be provided. Procedures for withdrawal from class must be identified in the classroom management plan. Where appropriate, parents should be informed of such withdrawals.

4.1.3 Detention

Teachers may require a student to finish school work which has not been completed in the regular classroom, or to undertake additional or new work or duties at a reasonable time and place. No more than half the time allocated for any recess may be used for this work. The school code of conduct should determine, in the light of local circumstances, what a reasonable time and place entails.

Where students are required to undertake school work after school, the time should not exceed forty-five minutes. The principal should ensure that parents are informed at least the day before the detention. Where family circumstances are such that the completion of after-school work would create undue hardship, for example, where students regularly supervise younger siblings in the absence of parents, schools may choose to negotiate alternative disciplinary measures with parents. Schools

are permitted to detain students but are encouraged to take into account family circumstances and negotiate with parents as appropriate.

Any special conditions relating to the imposition of detention should be specified in the school's code of conduct.

4.1.4 Discipline meetings

Informal meetings or support groups may be convened by schools at the request of teachers or parents to exchange information and facilitate solutions to behavioural problems or difficulties of students. In general, they will be convened at the school, although they could occur at alternative locations agreed to by the school and parents. These meetings are to be held at a time suitable both to the school and to the parents.

The purpose of and procedures for such meetings will vary depending on the needs of individuals and schools, but they should have a cooperative, problem-solving focus. Frequently, an informal meeting between relevant teachers, parents and student, as appropriate, will be a satisfactory forum for the resolution of problems.

On some occasions, the school may believe that a problem warrants a more structured discipline meeting involving a range of expert and interested people. As well as teachers, parents and student, the discipline meeting could involve a person requested by the parents who is not acting for fee or reward, principal or nominee and any support staff who have been involved with the student and/or the student's family or who have particular relevant expertise. The presence of a qualified legal practitioner or agent acting for fee or reward is not permitted.

If the principal considers it warranted, or the student or the student's parents request, the principal must ensure that suitable language interpretation facilities are available at the meeting.

In general, discipline meetings should attempt to define the issues, set goals and determine strategies, tasks and responsibilities associated with these goals. The outcomes of each meeting, especially expectations and requirements, should be clearly understood by all involved.

A brief written statement including a list of participants and agreed outcomes should be maintained to assist future problem-solving processes at the school. The statement should be verified by the parents and/or student and remain confidential.

4.1.5 Exclusion

Details of suspension and expulsion procedures are discussed below, however, it should be noted that parents are to be involved in exclusion procedures as stated, except where:

- the student is over 18 years of age
- the student is over 16 years of age, without disability or impairment and is living separately, apart and independently from his/her parents
- for any reason the parent is not available or cannot be contacted

In these circumstances the principal may then refer to the student over the age of 18 years of age in place of 'a parent'. Where a student has a disability or impairment, the principal must make enquiries as to the student's ability to represent

himself or herself. After making such enquiries, if the principal is satisfied that the student lacks the ability to adequately represent himself or herself, the student cannot be referred to in place of 'a parent'. In this case, as with a student under 18 years of age, the principal may regard as 'a parent' an adult whom the principal considers to be suitable and available to perform the role of the parent.

4.2 Suspension

4.2.1 General information

Suspension is a serious disciplinary measure and should normally only be used when other measures have not produced a satisfactory response. Suspension should be used for the shortest time necessary. The maximum period of time a student can be suspended at any one time is ten school days. 'School days', as referred to in this document, does not include weekends, public holidays or school holidays. A student cannot be suspended for more than twenty school days in a school year. However, a student may be suspended for a further period (not exceeding ten school days) pending the principal's decision whether to expel a student.

Provision shall be made by the school for appropriate school work to be supplied to the suspended student where requested. While completion of the work is not a provision for re-entry to the school, parents can assist the process by ensuring that the work is completed.

The school principal has responsibility for student suspensions.

4.2.2 Procedures before suspension

With the exception of situations which require urgent action, principals of schools should ensure that a range of options (and in particular those to accommodate the needs of students with a disability or impairment) has been considered before suspending a student. The student must be informed that suspension is being considered and given an opportunity to address the issues of concern and to respond positively, unless the principal is satisfied that urgent action (in the form of a suspension or expulsion) is required.

When it is believed that a student's behaviour warrants suspension, the principal must ensure that every reasonable step is taken to arrange a meeting with the parent and, if appropriate, the student to discuss:

- the student's behaviour and performance
- the strategies being developed within the school to meet the educational needs of the student
- the possibility of suspension, should that behaviour continue
- the responsibilities of the parents, should suspension be considered necessary

The parent may, at the principal's discretion, be accompanied at that meeting by another person who is not acting for fee or reward.

If the principal considers it warranted, or the student or the student's parent request, the principal must ensure that suitable language interpretation facilities are available at the meeting.

4.2.3 Procedures for suspension

If the strategies outlined in 4.2.2 fail to achieve an acceptable change in behaviour and suspension is imposed, the following steps are to be taken:

- (i) The principal must provide the parents of the student with a notice of suspension on the day on which the suspension commences or within twenty-four hours thereof. The notice shall:
- state the reasons for the suspension
 - state the school days on which the suspension shall occur
 - notify the parents of the opportunity to participate in a suspension conference

The principal must also ensure that the parents have a copy of the *Student Discipline Procedures, 1994* published by the Directorate of School Education. The principal shall also provide the president of the school council with a copy of the notice of suspension.

- (ii) At any time during the suspension of a student the parent can request a suspension conference. The principal may convene a suspension conference at any time, but must convene a suspension conference when a student has been suspended for ten continuous school days on any one occasion and when a student has been suspended for a total of twenty school days in any one school year.

A suspension conference will consider educational, welfare and disciplinary strategies in relation to the student and will also consider other options for meeting the student's educational needs.

The suspension conference will involve a formal meeting convened by the school principal or nominee. The participants will be determined by the school principal and unless considered inappropriate by the principal will involve the relevant staff members, parents, student and other relevant support personnel. At the request of the parent, a person who is not acting for fee or reward may accompany the parent. No party to the conference may be represented by another person acting for fee or reward. Conference proceedings must remain confidential.

- (iii) The suspension conference is to be conducted during the period of the suspension or as soon as practicable thereafter. The period of suspension shall not be extended due to delays in holding a suspension conference.

4.2.4 Grounds for suspension

- (1) A student may, by order of the principal of a state school, be suspended if, whilst attending school or travelling directly to or from school or engaged in any school activity away from the school, including travel organised by the school, the student:
- (a) *behaves in such a way as to constitute a danger to the health of any staff member, student or any other person assisting in the conduct of school activities;*
or
- (b) *commits an act of significant violence or causes significant damage or destruction to property, or is knowingly involved in the theft of property; or*

- (c) *possesses, uses, or deliberately assists others to use illegal drugs or substances prohibited by the Director of School Education; or*
 - (d) *fails to comply with any reasonable and clearly communicated instruction of a principal or teacher; or*
 - (e) *consistently behaves in a manner that interferes with the educational opportunities of any other student or students; or*
 - (f) *behaves in a way which threatens the good order of the school's program or facility; or*
 - (g) *engages in unacceptable discriminatory behaviour (including harassment) towards another person based on sex, race (including colour, nationality and ethnic or national origin), marital status, the status or condition of being a parent, the status or condition of being childless, religious beliefs, political beliefs, or physical or mental disability or impairment*
- (2) The principal of a state school may suspend a student who is fifteen years of age, or older, from the school if the student commits an act identified in 4.2.4 (1) or deliberately and consistently fails to take advantage of the educational opportunities provided by the school.
- (3) In determining whether to suspend a student the principal must also take into account:
- (a) *in favour of the student any special needs of a student who has an impairment; and*
 - (b) *the age of the student*

4.3 Voluntary transfer from a school

In some cases after the suspension conference, parents of a student may agree with a recommendation that the student might make more of his or her educational opportunity in another school. Where such agreement exists, the principal should offer assistance to the parents to find another school. Parents and students must be given comprehensive advice about the benefits that this option would provide.

When a student is transferred, the principal of the student's former school shall ensure that sufficient background information concerning the student is given to the new school. This will enable staff at that school to develop appropriate curriculum and behaviour management strategies and to ensure that appropriate support is made available. Normal transfer arrangements, including documents signed by parents, should be completed.

Where a transfer is unable to be arranged, the student is to remain enrolled at his or her current school.

4.4 Expulsion

4.4.1 General information

The school principal has the authority to permanently exclude a student from his or her school according to the procedures set out below. This power cannot be delegated to any other person at the school level.

Permanent expulsion from a school is the most extreme sanction open to a principal. Except in the most unusual and extreme circumstances, it will only be used after other relevant forms of behaviour management outlined in a school's code of conduct have been exhausted.

Once an expulsion has been effected by a principal, the parent has the right to request that the president of the school council organise a review of the decision by establishing an Expulsion Review Panel (see page 18). This panel can advise the principal but not over-rule the expulsion decision. However, a parent of an expelled student may appeal to the Director of School Education where the Expulsion Review Panel affirms the principal's decision to expel the student.

The right of review is vested in parents alone, except where a student is living independently from his or her parent. In this case, a student also has the right to seek a review of the expulsion.

4.4.2 Grounds for expulsion

- (i) The principal can expel a student from the school if, whilst attending school or directly travelling to or from school or engaged in any school activity away from the school, including travel organised by the school
 - *the student does anything mentioned in clause 4.2.4 (1)*

AND

 - *the student's behaviour is of such magnitude that having regard to the need of the student to receive an education compared to the welfare and safety of other students at the school and the need to maintain order and discipline within the school, a suspension under clause 4.2.4 is inadequate to deal with that behaviour*
- (ii) In determining to expel a student the principal must also take into account:
 - (a) *in favour of the student any special needs of a student who has an impairment;*
and
 - (b) *the age of the student*

4.4.3 Procedures for expulsion

- (1) The principal must give the student and parent an opportunity to be heard, which may include a meeting with the parent, prior to expelling a student.
- (2) Where the principal considers, having regard to the welfare and safety of other students at the school or the need to maintain order and discipline within the school, that immediate action is required to remove the student from the school environment, the principal may suspend the student pending the parents' and student's representations (if any) to the principal under sub-clause (1).

- (3) If the student has been suspended for twenty school days in the same school year in which the principal is considering expelling a student, the student may be suspended for a further period (not exceeding ten school days) pending the principal's decision to expel the student.
- (4) To implement an expulsion, a principal must on the day on which the expulsion commences, or within the next 24 hours;
- (a) *provide the parent of the student with a notice of expulsion which*
 - (i) states the reasons for the expulsion; and
 - (ii) states the date of the commencement of the expulsion; and
 - (b) *ensure that the notice to the parent is accompanied by details of the review and appeal process; and*
 - (c) *provide the school council president with a copy of the notice of expulsion.*
- The principal must also notify the Director of School Education of the expulsion and forward details of the case indicating the gravity of the situation and recommending whether further action (either at the school, local, regional or state level) is required.
- (5) The expulsion commences from the date stated in the notice referred to in sub-clause (4) regardless of a review being initiated.
- (6) The parent of a student expelled from a state school may, within five school days of receipt of the notice of expulsion under sub-clause (4), seek a review of the principal's expulsion decision. In exceptional circumstances this time limit may be extended for up to ten school days.
- (7) The request for a review is to be made to the principal. It shall be in writing and shall state the grounds on which the review is sought and whether the student and parent require to be heard in person at the review hearing. The parent may be accompanied at the review by another person who is not acting for fee or reward.
- (8) If a request for a review is duly made, it is to be directed by the principal to the president of the school council who shall form an Expulsion Review Panel to review the case. The review must be held within five school days to enable a swift return to school by the student if the expulsion decision is revoked. In exceptional circumstances this time limit may be extended for up to ten school days.
- (9) The Expulsion Review Panel shall consider the details of the case, and after giving the student and parent the opportunity to be heard on the grounds of review, forward a recommendation to the principal. The parent and the Director of School Education are to be notified by the principal of the findings of the panel within three school days of the review. The review is completed on the last day on which the Review Panel receives submissions of evidence.
- (10) If the Expulsion Review Panel recommends that the student be readmitted to school and the principal agrees:
- (a) *a student under 15 years of age must return to school immediately*
 - (b) *a student 15 years of age or over may return to school at an appropriate time as decided by the principal*

- (11) If the Expulsion Review Panel recommends that the student be readmitted and the principal is not prepared to accept the recommendation, then the matter must be immediately referred by the principal to the Director of School Education.
- (12) The Director of School Education must appoint an officer to investigate a matter referred to under sub-clause (11). The investigation must consider all matters relating to the grounds of review lodged under sub-clause (7).
- (13) Where the Expulsion Review Panel affirms the principal's decision to expel the student, the parent may appeal to the Director of School Education within ten days of receipt by a parent of an Expulsion Review Panel's decision. In exceptional circumstances this time limit may be extended for up to ten school days.

4.4.4 Continuation of schooling by expelled students

(a) *Students above school age*

Where a student who has been permanently excluded is 15 years of age or older the school has no further responsibility for the education of the student other than providing information about continuing educational options.

(b) *Students of school age*

If an expelled student is less than 15 years of age, the Director of School Education (or his or her nominee) must ensure that the student is enrolled in another school. This may include directing a principal of another state school to enrol the student.

The principal of the school from which the student is expelled must assist in enrolling the student in another school by providing information to the parents about possible alternatives, and must also ensure that transfer procedures are completed in conjunction with the principal of the school receiving the student.

Groups of cooperating schools are encouraged to expand local options. These may range from protocols on transfers of students with behaviour management problems, to the shared resourcing of alternative learning centres.

4.4.5 Reports to the Director and exclusion from more than one school

(a) *Authority for expulsion*

Only the principal has the authority to expel a student from the school in respect of which he/she is the principal. Any extension of the exclusion to other schools is the responsibility of the Director of School Education, on the advice of the school principal.

(b) *Director's powers*

The principal who has expelled a student must after an expulsion immediately forward a written report to the Director of School Education containing:

- full details of the case (which must include a short statement of the history of the student, a copy of the notice of expulsion, the facts and any statements in writing in support of the grounds of expulsion and the student's and parent's response and submissions, and the results and findings of any review conducted under section 4.5)

- a statement indicating why expulsion was considered appropriate
- for students under 15 years of age, the steps taken by the principal under clause 4.4.4 (b), and for students of or over 15 years of age, recommendations on the further educational provisions for the student.
- recommendations on whether any further action (either at the school, local, regional or state level) is required

The Director of School Education must consider the report and have regard to:

- the need of the student to receive an education
- the severity of the problem and its likely implications for the education of the student in any other schools
- the welfare and safety of other students
- the need to maintain order and discipline in state schools

If the circumstances of the expulsion are considered to be particularly severe, the Director may, after giving the parent of the student an opportunity to be heard on the matter, exclude the student from one or more other specified schools.

In exceptional or extreme circumstances where an expelled student represents a serious threat to the welfare or safety of other students or persons, or to the maintenance of the general order or discipline in state schools, the Director may, irrespective of the age of the student, exclude the student from attendance at any state school. In this situation the Director must provide or assist the student, or the student's parent with alternative arrangements for the continued education of the student.

4.5 Review process

4.5.1 Expulsion Review Panel

Following a request by a parent to review an expulsion, an Expulsion Review Panel must be formed by the school council president or his/her nominee who must be a school council member with no direct interest in the case. The panel shall be composed of two or three members, none of whom has a direct interest in the case.

The school council president (or nominee) must:

- decide whether the panel will consist of two or three members*
- select a person from each of the lists referred to below if the panel is to consist of two members*
- select two people from one list and a third from the other list if the panel is to consist of three members*
- appoint the members (either verbally or in writing)*
- appoint one member as chairperson of the panel*

The two lists for the purposes of the Expulsion Review Panel are:

(a) *The Directorate approved list*

This list is to contain the names of four or more persons approved by the school council. The names are to be selected from a statewide register of people experienced in student discipline matters or otherwise suitably experienced.

(b) *The school council approved list*

This list contains the names of four or more people approved by school council who are:

- (i) members of the school council and/or
- (ii) representatives of the school community

A person whose name is on the statewide register or is a Directorate of School Education employee member on any school council is not eligible for appointment to the school council's approved list.

These two lists may be approved by the school council either before or after any request is made for a review and the school council must approve any amendments to the list.

The panel is to be supported in its work by an executive officer who shall be appointed by the principal.

The principal must ensure that panel members are fully informed of their role.

In summary, the role of the school council comprises the approval of the two panel membership lists.

In addition, the role of the school council president is to exercise the following responsibilities or designate a nominee to exercise the following responsibilities:

- decide whether the panel shall be composed of two or three members
- select the panel members
- appoint the members and one of them as chairperson of the panel

4.5.2 Role of the Expulsion Review Panel

The Expulsion Review Panel is to review the decision to expel a student and make recommendations to the principal who must consider the recommendations but is not bound to act upon them.

Where the Expulsion Review Panel's recommendations do not support the decision of the principal, the matter must be immediately referred by the principal to the Director of School Education for resolution.

4.5.3 Procedures for Expulsion Review Panels

The Expulsion Review Panel must be provided with a report of the events that led to the expulsion of the student by the school principal. It must include the grounds on which the expulsion was made, the circumstances of the student's misconduct and the reasons for the decision to expel the student. The parent of the expelled student must be given the opportunity to put the case of that student.

The review must be held within five school days to enable a swift return to school by the student if the principal revokes the expulsion decision. In exceptional circumstances this time limit may be extended for up to ten school days.

Any meeting held by the panel at which parents or others are invited to attend is to be informal. The attendance of qualified legal practitioners or agents acting for fee or reward is not permitted. Attendance at the review meeting, if any, will only be by invitation of the panel. The parent may be accompanied at the review by another person who is not acting for fee or reward.

The panel will determine the procedures of its meetings but must prepare a record of its deliberations for retention by the school council.

Where more than two persons constitute the Expulsion Review Panel, the decision of the majority of members is the decision of the panel.

Any individual panel should not normally need to meet on more than one or two occasions.

4.6 Appeal process

4.6.1 Right of appeal

A parent can appeal against the act of expulsion where it has been endorsed by the Expulsion Review Panel. The appeal is made to the Director of School Education on the grounds of the process followed or the expulsion imposed by the principal. The Director of School Education must then appoint an officer to investigate the appeal in accordance with the grounds of the appeal.

The Director of School Education may, after considering the advice of the investigation officer, confirm the decision of the Expulsion Review Panel, uphold the appeal or vary any of these decisions.

The right of appeal is vested in parents alone except where a student is living independently from his or her parent. In that case a student also has the right to appeal.

4.6.2 Role of the Director of School Education

The Director may make any determinations that are necessary for the continued education of the student.

A P P E N D I X

EDUCATION ACT 1958

Discipline of Pupils

Ministerial Order No. 1

The Minister for Education makes the following Order:

PART 1 Preliminary

1. Title and commencement

This Order may be cited as Ministerial Order No. 1 – Discipline of Pupils and except where otherwise stated comes into operation on 1 February 1995.

2. Authorising provisions

This Order is made under sections 25 and 84 of the *Education Act 1958*.

3. Definitions

In this Order –

‘impairment’ has the same meaning as in the *Equal Opportunity Act 1984*;

‘school days’ does not include weekends, public holidays or school holidays.

4. Application

(1) This Order applies to pupils enrolled in State schools, including pupils 18 years of age and over.

(2) In applying this Order, where –

(a) a pupil is or over 18 years of age, or

(b) a pupil is or over 16 years of age and is living separately, apart and independently from his/her parents, or

(c) for any reason a parent is not available or cannot be contacted for the purposes of this Order,

the principal or head teacher may –

(d) in the circumstances referred to in sub-clause (a), implement this Order as if any reference herein to “a parent” is construed as a reference to “the pupil”, and

(e) in the circumstances referred to in sub-clauses (b) or (c), implement this Order as if any reference herein to “a parent” is construed as a reference to an adult which the principal or head teacher considers suitable and available to perform the role of the parent for the purposes of this Order.

(3) In applying sub-clause 2(a), where a pupil has an impairment, the principal or head teacher must make enquiries as to the pupil's ability to represent himself or herself for the purposes of this Order. After making such enquiries, if the principal is satisfied that the pupil lacks the ability to adequately represent himself or herself, sub-clause (2)(d) shall not apply to that pupil.

PART 2 Grounds for exclusion

5. Grounds for suspension

- (1) The principal or head teacher of a State school may suspend a pupil from the school if, whilst attending school or travelling directly to or from school or engaged in any school activity away from the school (including travel organised by the school), the pupil –
 - (a) behaves in such a way as to threaten or constitute a danger to the health of any staff member, pupil or any person assisting in the conduct of school activities; or
 - (b) commits an act of significant violence or causes significant damage or destruction to property, or is knowingly involved in the theft of property; or
 - (c) possesses, uses, or deliberately assists others to use illegal drugs or substances prohibited by the Director of School Education; or
 - (d) fails to comply with any reasonable and clearly communicated instruction of a principal or head teacher or teacher; or
 - (e) consistently behaves in a manner that interferes with the educational opportunities of any other pupil; or
 - (f) behaves in a way which threatens the good order of the school's program or facility; or
 - (g) engages in unacceptable discriminatory behaviour (including harassment) towards another person based on sex, race (including colour, nationality and ethnic or national origin), marital status, the status or condition of being a parent, the status or condition of being childless, religious beliefs, political beliefs, or physical or mental disability or impairment.
- (2) The principal or head teacher of a State school may suspend a pupil, who is fifteen years of age or older, from the school if the pupil does anything mentioned in sub-clause (1) or deliberately and consistently fails to take advantage of the educational opportunities provided by the school.
- (3) In determining whether to suspend a pupil the principal or head teacher must also take into account –
 - (a) in favour of the pupil, any special needs of a pupil who has an impairment, and
 - (b) the age of the pupil.

6. Grounds for expulsion

- (1) The principal or head teacher of a State school may expel a pupil from the school if, whilst attending school or travelling directly to or from school or engaged in any school activity away from the school, including travel organised by the school –
 - (a) the pupil does anything mentioned in clause 5(1), and
 - (b) the pupil's behaviour is of such magnitude that having regard to the need of the pupil to receive an education compared to the welfare and safety of other pupils at the school and the need to maintain order and discipline within the school, a suspension under clause 5 is inadequate to deal with that behaviour.
- (2) In determining whether to expel a pupil the principal or head teacher must also take into account –
 - (a) in favour of the pupil, any special needs of a pupil who has an impairment, and
 - (b) the age of the pupil.

PART 3 Procedures for exclusion

7. Procedures prior to suspension

- (1) The principal or head teacher of a State school must ensure that –
 - (a) a range of options (and in particular those to accommodate the needs of impaired pupils) has been considered before suspending a pupil; and
 - (b) a pupil is informed that suspension is being considered and is given an opportunity to address the issues of concern and respond positively,
unless the principal or head teacher is satisfied that urgent action (in the form of a suspension or expulsion) is required.
- (2) Where the principal or head teacher is satisfied that urgent action is required, the principal or head teacher may proceed to implement clause 8(2) without implementing the remaining parts of this clause 7.
- (3) If, in the opinion of the principal or head teacher, a pupil's behaviour warrants consideration of suspension, the principal or head teacher must ensure that reasonable steps are taken to arrange a meeting with a parent of the pupil and, if appropriate, the pupil to discuss –
 - (a) the pupil's behaviour and performance; and
 - (b) the strategies being developed within the school to meet the educational needs of the pupil; and
 - (c) the possibility of suspension, should that behaviour continue; and
 - (d) the responsibilities of the parent, should suspension be considered necessary.
The parent may, at the principal's or head teacher's discretion, be accompanied at that meeting by another person who is not acting for fee or reward.
- (4) If the principal or head teacher considers it warranted, or the pupil or the parent requests, the principal or head teacher must ensure that suitable language interpretation facilities are available at the meeting arranged under sub-clause (3).

8. Procedures for suspension

- (1) If, in the opinion of the principal or head teacher the actions referred to in clause 7(3) fail to achieve an acceptable change in behaviour, the principal or head teacher may, subject to the grounds stated in clause 5, suspend the pupil.
- (2) The principal or head teacher must (on the day on which the suspension commences, or within twenty-four hours thereof) –
 - (a) provide a parent of the pupil with a notice of suspension which –
 - (i) states the reasons for the suspension; and
 - (ii) states the school days on which the suspension shall occur; and
 - (iii) notifies a parent of the opportunity to participate in a suspension conference; and
 - (b) ensure that a parent has a copy of the *Student Discipline Procedures, 1994*, published by the Directorate of School Education; and
 - (c) provide the president of the school council with a copy of the notice of suspension.

9. Suspension conferences

- (1) A parent can request a suspension conference at any time during the suspension of a pupil.
- (2) The principal or head teacher must convene a suspension conference when –
 - (a) a pupil has been suspended for ten continuous school days on any one occasion; or
 - (b) a pupil has been suspended for a total of twenty school days in any one school year.
- (3) A suspension conference will consider educational, welfare and disciplinary strategies in relation to the pupil and will consider other options for meeting the pupil's educational needs.
- (4) The participants in the suspension conference may be determined by the principal or head teacher and, unless considered inappropriate by the principal or head teacher, will involve the relevant staff members, parent and pupil and other relevant school support personnel.
- (5) No party to the conference may be represented by another person acting for fee or reward. The parent may be accompanied at the conference by another person who is not acting for fee or reward.
- (6) Conference proceedings must remain confidential.
- (7) The suspension conference is to be conducted during the period of the suspension or as soon as practicable thereafter.
- (8) The period of suspension shall not be extended due to delays in holding a suspension conference.

10. Period of suspension

- (1) The maximum continuous period of time a pupil can be suspended at any one time is ten school days. Subject to clause 11(3), a pupil cannot be suspended for more than twenty school days in a school year.
- (2) The school shall provide for appropriate school work to be supplied to the suspended pupil where requested.

11. Procedures for expulsion

- (1) The principal or head teacher must give the pupil and parent an opportunity to be heard (which may include a meeting with the parent) prior to expelling a pupil.
- (2) Where the principal or head teacher considers, having regard to the welfare and safety of other pupils at the school or the need to maintain order and discipline within the school, that immediate action is required to remove the pupil from the school environment, the principal or head teacher may suspend the pupil pending the parent's and the pupil's representations (if any) to the principal or head teacher under sub-clause 1.
- (3) If the pupil has been suspended for twenty days in the same school year in which the principal or head teacher is considering expelling a pupil, the pupil may be suspended for a further period (not exceeding ten school days) pending the principal's or head teacher's decision whether to expel the pupil.

- (4) If the principal or head teacher of a State school determines to expel a pupil, the principal or head teacher must (on the day on which the expulsion commences, or within 24 hours thereof) –
 - (a) provide a parent of the pupil with a notice of expulsion which –
 - (i) states the reasons for the expulsion; and
 - (ii) states the date of the commencement of the expulsion; and
 - (b) ensure the notice to the parent is accompanied by details of the review and appeal process; and
 - (c) provide the president of the school council with a copy of the notice of expulsion.
- (5) The expulsion commences from the date stated in the notice of expulsion referred to in sub-clause 4 regardless of a review being initiated.

PART 4 Continuation of education

12. Pupils above school age

If a pupil expelled from a State school is 15 years of age or older, the school has no further responsibility for the education of the pupil other than providing information about continuing educational options.

13. Pupils of school age

If an expelled pupil is less than 15 years of age –

- (a) the Director of School Education (or his or her nominee) must ensure that the pupil is enrolled in another school – (this may include directing a principal of another State school to enrol the pupil); and
- (b) the principal or head teacher of the school from which a pupil is expelled must –
 - (i) assist in enrolling the pupil in another school by providing information to the parents about possible alternatives; and
 - (ii) ensure that the transfer procedures are completed in conjunction with the principal of the school receiving the student.

PART 5 Reports to the Director and Prohibiting attendance at other State schools

14. Authority for expulsion

Only the principal or head teacher of a State school has the authority to expel a pupil from the school in respect of which he or she is the principal or head teacher.

15. Director's powers

- (1) A principal or head teacher who has expelled a pupil must, after an expulsion, immediately forward a written report to the Director of School Education containing –
 - (a) full details of the case (which must include a short statement of the history of the pupil, a copy of the notice of expulsion containing the grounds of the expulsion, the facts and any statements in writing in support of the grounds of expulsion and the pupil's and parent's response and submissions, and the results and findings of any review conducted under Part 6); and

- (b) a statement indicating why expulsion was considered appropriate; and
 - (c) in respect of pupils under 15 years of age, the steps taken by the principal or head teacher under clause 13 (b); and
 - (d) in respect of pupils of or over 15 years of age, recommendations on the future educational provision for the pupil; and
 - (e) recommendations on whether any further action (either at the school, local, regional or State level) is required.
- (2) The Director of School Education must consider the report and have regard to –
- (a) the need of the pupil to receive an education, and
 - (b) the severity of the problem and its likely implications for the education of the pupil in any other schools, and
 - (c) the welfare and safety of other pupils, and
 - (d) the need to maintain order and discipline in State schools.
- (3) If the Director of School Education considers the circumstances of the expulsion are sufficiently serious the Director may, after giving a parent of the pupil an opportunity to be heard on the matter, prohibit the pupil from attending one or more other schools which the Director specifies.
- (4) In exceptional or extreme circumstances, including circumstances where an expelled pupil represents a serious threat to the welfare or safety of other pupils or persons, or to the maintenance of the general order or discipline in State schools, the Director of School Education may, irrespective of the age of the pupil, prohibit the pupil from attending any State school.
- (5) Where the Director exercises the power in sub-clause (4), the Director must assist or provide the pupil, or the pupil's parent (if the pupil is under 15 years of age), with alternative arrangements for the continued education of the pupil.

PART 6 Review of expulsion decision

16. Right of review

- (1) A pupil expelled from a State school may, within 5 school days of receipt by a parent of the notice of expulsion under clause 11(4) seek a review of the principal's or head teacher's expulsion decision.
- (2) The request for review is to be made to the principal or head teacher. It shall be in writing and shall state the grounds on which the review is sought and whether the pupil and parent require to be heard in person at the review hearing. The review must be held within five school days after the review is sought to enable a swift return to school by the pupil if the expulsion decision is revoked.

17. Review procedure

- (1) The principal or head teacher must forward a request for a review to the president of the school council who must, in accordance with clause 20(2), form an Expulsion Review Panel to review the case.

- (2) The Expulsion Review Panel shall consider the details of the case and, after giving the pupil and parent the opportunity to be heard on the grounds of review, forward a recommendation to the principal or head teacher. The parent may be accompanied at the review by another person who is not acting for fee or reward.

18. Decision of the Expulsion Review Panel

- (1) The Expulsion Review Panel must report its findings to the principal or head teacher to enable the principal or head teacher to notify the pupil and the pupil's parent and the Director of School Education of the findings within three school days of the completion of the review. The review is completed on the last day on which the review panel receives submissions or evidence.
- (2) If the Expulsion Review Panel recommends that the pupil be readmitted to school and the principal or head teacher agrees –
 - (a) a pupil under 15 years of age must return to school immediately, and
 - (b) a pupil aged 15 years or over may return to school at an appropriate time as decided by the principal or head teacher.
- (3) If the Expulsion Review Panel recommends that the pupil be readmitted and the principal or head teacher is not prepared to accept the recommendation, then the principal or head teacher must refer the matter immediately to the Director of School Education.
- (4) The Director of School Education must appoint an officer to investigate a matter referred under sub-clause (3). The investigation must consider all matters relating to the grounds of review lodged under clause 16(2).
- (5) The Director of School Education may, after considering the advice of the investigation officer –
 - (a) confirm the decision of the Expulsion Review Panel,
 - (b) uphold the decision of the principal or head teacher, or
 - (c) vary any of the decisions referred to in (a) or (b),and may make such determinations as are necessary for the continued education of the pupil.

19. Appeal against the decision of the Expulsion Review Panel

- (1) If the Expulsion Review Panel affirms the principal's or head teacher's decision to expel the pupil, the pupil may within ten school days of receipt by a parent of the Expulsion Review Panel's decision, appeal to the Director of School Education.
- (2) An appeal against the expulsion of a pupil may be made on the grounds of the process followed or the expulsion imposed by the principal or head teacher.
- (3) The Director of School Education must appoint an officer to investigate the appeal in accordance with the grounds of appeal.
- (4) The Director of School Education may, after considering the advice of the investigation officer –
 - (a) confirm the decision of the Expulsion Review Panel,
 - (b) uphold the appeal, or
 - (c) vary any of the decisions referred to in (a) or (b),and may make any determinations that are necessary for the continued education of the pupil.

PART 7 Expulsion Review Panel

20. Formation of an Expulsion Review Panel

- (1) An Expulsion Review Panel shall be composed of two or three members, none of whom has a direct interest in the case.
- (2) If a request for review is received by the school council president under clause 17, the school council president (or his/her nominee who must be a school council member with no direct interest in the case) must, in his or her absolute discretion –
 - (a) decide whether the panel shall be composed of two or three members,
 - (b) (if the panel is to comprise two members) select a person from each of the lists referred to in clause 20(3) to be the two members of the Expulsion Review Panel,
 - (c) (if the panel is to comprise three members) select two members in accordance with clause 20(2)(b) and a third member from either of the lists referred to in clause 20(3), and
 - (d) appoint (either verbally or in writing) the members and one of them as Chairperson of the panel.
- (3) The two lists for the purposes of clause 20(2) are –
 - (a) The Directorate's approved list:

This list is to contain the names of four or more persons approved by the school council. The names are to be selected from a State wide register (as amended from time to time) of persons, published by the Director of School Education for the purpose of this clause, as being experienced in pupil discipline matters or otherwise suitably experienced.
 - (b) The School Council's approved list:

This list is to contain the names of four or more persons approved by the school council who are either,

 - (i) members of the school council, and/or
 - (ii) other representatives of the school community.

A person whose name is on the State wide register referred to in clause 20(3)(a) or is a Directorate of School Education employee member on any school council is not eligible for appointment to the school council's approved list.
- (4) The lists referred to in clause 20(3) may be approved by the school council either before or after any request is made under clause 16, and the school council may approve any amendments to the lists.
- (5) The panel is to be supported in its work by an executive officer who shall be appointed by the principal or head teacher.
- (6) The principal or head teacher must ensure that panel members are fully informed of their role.

21. Role of an Expulsion Review Panel

The Expulsion Review Panel is to review the decision to expel a pupil in accordance with the grounds of review lodged under clause 16(2) and make recommendations to the principal or head teacher, who must consider the recommendations but is not bound to act upon them.

22. Proceedings of an Expulsion Review Panel

- (1) The principal or head teacher must provide to the Expulsion Review Panel and to a parent of the pupil a report of the events that led to the expulsion of the pupil including –
 - (a) the grounds on which the expulsion was made, and
 - (b) the circumstances of the pupil's misconduct, and
 - (c) the reasons for the decision to expel the pupil.
- (2) The expelled pupil or a parent of the pupil must be given the opportunity to put their case.
- (3) Any meeting held by the panel at which the parent or others are invited to attend is to be informal.
- (4) The attendance of qualified legal practitioners or other agents acting for fee or reward is not permitted.
- (5) Attendance at a meeting of the panel will only be by invitation of the panel.
- (6) The panel will determine the procedure of its meetings, but must prepare a record of its deliberations for retention by the school council.

23. Miscellaneous

- (1) Where more than two persons constitute the Expulsion Review Panel, the decision of the majority of members is the decision of the panel.
- (2) The time limits in clauses 16, 18 and 19 may in exceptional circumstances and at any time prior to or after the expiration of the relevant time limit be extended –
 - (a) in respect of clauses 16 or 18, by the principal or head teacher, or
 - (b) in respect of clause 19, by the Director of School Education, provided that an extension shall not be granted more than once for each of the above clauses and shall not exceed ten school days.

PART 8 Transitional

24. This Part 8 comes into operation on 7 December 1994 and is repealed from and inclusive of 1 February 1995.

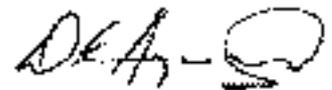
25. In this part –

- (a) Parts 1 to 7 (including the definitions therein) do not apply;
- (b) “head teacher” means head teacher of a primary school at which no other full time teacher is employed;
- (c) “principal”
 - (i) includes head teacher of a primary school and any other position as head of a State school, but
 - (ii) does not include a head teacher in charge of a primary school at which no other full time teacher is employed.

- 26.** A person who holds (or acts in or performs the duties of) the position –
- (i) of head teacher may, with the approval of the general manager of the region in which the head teacher's school is located, or
 - (ii) next in seniority to the principal in a State school may, with the approval of the principal of the school,
- suspend a pupil from a State school on any ground stated in clause 27.
- 27.** A pupil may be suspended if the pupil –
- (a) behaves in such a way as to constitute a danger to the physical and emotional health of any staff member or pupil; or
 - (b) consistently and deliberately fails to comply with any lawful order of a principal or teacher; or
 - (c) is in such condition as to be offensive to, or dangerous to, the health of any staff member or any pupil; or
 - (d) consistently and deliberately behaves in a manner that interferes with the educational opportunities of other pupils.
- 28.** If exercising the power under clause 26, paragraph 5.1.3 of the School Information Manual (School Operations), and all of this Part 8, must be complied with.
- 29.** No pupil may be suspended on any ground –
- (i) solely related to disability or lack of access to services, or
 - (ii) relating solely to the religious or political beliefs of the pupil or his or her parents.
- 30.** Where a pupil is suspended the principal or head teacher shall –
- (a) immediately advise;
 - (i) the parent(s) of the pupil. This notification shall include a notice of suspension as provided in paragraph 5.1.3 of the School Information Manual (School Operations) which notice shall be issued wherever possible by the principal or head teacher in the language normally spoken by the parent or parents;
 - (ii) the president of the school council;
 - (iii) the general manager of the region, and
 - (b) arrange a meeting with the pupil's parents within five school days irrespective of the length of suspension.
- 31.** If a meeting held pursuant to sub-clause 30(b) fails to resolve the issue, the principal or head teacher may initiate, or the parent may request of the principal or head teacher, a conference with regional support staff to decide on a course of action.
- 32.** A principal or head teacher may at any time cancel or reduce the suspension imposed upon a pupil. When this action is undertaken the principal or head teacher shall immediately notify all persons referred to in sub-clause 30(a) of the change stating clearly the reason for this.

33. Within ten days of a suspension the principal or head teacher or the parent may request the general manager of the region to conduct an inquiry or the general manager of the region may initiate an inquiry.
34. Where a pupil's total suspension days in any one school year exceeds ten school days an inquiry shall be held by a panel appointed by the general manager of the region unless, with the agreement of the principal or head teacher and parent(s), the general manager of the region decides an inquiry shall not be held.
35. Where an inquiry has been conducted pursuant to clause 33 or 34 –
- (a) the inquiry panel shall make recommendations to the general manager of the region. The general manager of the region shall consider these recommendations, make a decision and take appropriate action, except where a recommendation is one of exclusion of a pupil from the school. In this case the general manager of the region shall refer this recommendation to the Director of School Education;
 - (b) the placement of the pupil shall be the responsibility of the general manager of the region.
36. On receipt of any recommendation under clause 35(a) from an inquiry panel or from a general manager of a region (involving exclusion of a pupil from the school), the Director of School Education may, with the approval of the Minister for Education, exclude a pupil from a State school on any ground stated in clause 27.
37. Any pupil excluded from a State school while of school age shall be afforded an opportunity (whether by means of correspondence or otherwise) of continuing his or her education while of school age.

Dated this 6th day of December 1994.



DON HAYWARD
Minister for Education

