



EDUCATION (STAND-DOWN, SUSPENSION, EXCLUSION, AND EXPULSION) RULES 1999

PURSUANT to section 18AA of the Education Act 1989, the Secretary of Education makes the following rules.

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RULES

1. Title and commencement—(1) These rules may be cited as the Education (Stand-down, Suspension, Exclusion, and Expulsion) Rules 1999.
(2) These rules come into force on 12 July 1999.

2. Interpretation—(1) In these rules,—
"the Act" means the Education Act 1989;
"Board" has the meaning given to it by rule 3:
"Given" has the meaning given to it by rule 4:

“Ministry” means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of Part II of the Act:

“Parent”, in relation to any person, means a person who is the person’s mother, father, or guardian:

“Reconsideration meeting” means a meeting to reconsider the action a Board took under section 15 or section 17 of the Act:

“Secretary” means the chief executive of the Ministry:

“Stand-down meeting” means a meeting to discuss a stand-down:

“Suspension meeting” means a meeting held under section 17B of the Act.

(2) Words defined in the Act have the same meanings in these rules.

3. “Board”—In these rules, “Board” means either—

(a) A Board of Trustees constituted under Part IX of the Act; or

(b) A special committee of a Board of Trustees constituted under Part IX of the Act, if the Board appointed the committee under section 66 of the Act and delegated to it the Board’s powers and functions under sections 14 to 18 of the Act and these rules.

4. “Given”—(1) Any document that these rules require to be given must be given by the method in subclause (2) that, in the opinion of the person giving the document, is most likely to ensure that the document reaches the person for whom it is intended.

(2) The methods by which a document may be given are—

(a) Personally delivering it to the person; or

(b) Posting it to a usual address of the person; or

(c) Sending it to the person by fax or some other electronic means; or

(d) Providing it to the person in a manner approved by the person.

(3) A document posted under subclause (2) (b) is deemed to have been delivered to the person at the time it would have been delivered in the ordinary course of post. For the purposes of proving delivery,—

(a) It is sufficient to prove that the document was properly addressed; and

(b) The document is presumed, in the absence of proof to the contrary, to have been posted on the day on which it was dated.

(4) A document sent under subclause (2) (c) is deemed, in the absence of proof to the contrary, to have been delivered on the day after the day on which it was sent, and it is sufficient proof of sending that a correct machine-generated acknowledgement of receipt exists.

5. Purpose of rules—(1) These rules regulate the practice and procedure to be followed by Boards, principals, students, parents of students, and other persons, under sections 14 to 18 of the Act.

(2) Sections 13 to 18 of the Act are set out in these rules so that readers can see how the sections and the rules fit together. (The sections are in boxes.)

Section 13 of the Education Act 1989

13. Purpose—The purpose of the provisions of this Act concerning the standing-down, suspension, exclusion, or expulsion of a student from a state school is to—

- (a) Provide a range of responses for cases of varying degrees of seriousness; and
- (b) Minimise the disruption to a student's attendance at school and facilitate the return of the student to school when that is appropriate; and
- (c) Ensure that individual cases are dealt with in accordance with the principles of natural justice.

6. “Standing-down”, “suspension”, “exclusion”, “expulsion”—

- (1) The processes dealt with in sections 14 to 18 of the Act are—
 - (a) “Standing-down”, which is the process described in sections 14, 17A (1), and 18 (1) of the Act;
 - (b) “Suspension”, which is the process described in sections 14 (1) and (3), 15 (1) to (4), 17 (1) (a) and (b), 17 (2) to (4), 17A, 17B, 17C, and 18 (2) and (3) of the Act;
 - (c) “Exclusion”, which is the process described in sections 15 (1) (c), (5), and (6), 16, 17C, 17D (1) and (2), and 18 (3) of the Act;
 - (d) “Expulsion”, which is the process described in sections 17 (1) (c), 17C (2) (b), 17D, and 18 (3) of the Act.
- (2) The practices and procedures dealt with in these rules are in rules 8 to 21.

7. Principles applying to processes, practices, and procedures—

Every participant in the processes, practices, and procedures dealt with in sections 14 to 18 of the Act and these rules should be guided by the following principles:

- (a) The need for every participant to understand the processes, practices, and procedures;
- (b) The need for every participant to treat every other participant with respect, which includes recognising and respecting New Zealand's cultural diversity;
- (c) The need to recognise the unique position of Maori;
- (d) The need for every participant to be guided by the charter of the student's school;
- (e) The need for every participant to recognise that the Board has a responsibility to maintain a safe and effective learning environment at the student's school.

*Stand-downs and suspensions, and notices about them***Section 14 of the Education Act 1989****14. Principal may stand-down or suspend students—**

- (1) The principal of a state school may stand-down or suspend a student if satisfied on reasonable grounds that—
- (a) The student's gross misconduct or continual disobedience is a harmful or dangerous example to other students at the school; or
 - (b) Because of the student's behaviour, it is likely that the student, or other students at the school, will be seriously harmed if the student is not stood-down or suspended for an unspecified period.
- (2) A stand-down may be for 1 or more specified periods, and—
- (a) The period or periods may not exceed 5 school days in any 1 term;
 - (b) A student may be stood-down more than once in the same year but for not more than 10 school days in total in that year;
 - (c) In calculating the period of a stand-down, the day on which the student was stood-down, and any day on which the student would not have had to attend school in any event, must not be counted;
 - (d) The principal may lift the stand-down at any time before it is due to expire.
- (3) If a student has been stood-down or suspended, the following provisions apply in relation to the student's attendance at the school:
- (a) The principal may require the student to attend the school if the principal reasonably considers the student's attendance is appropriate for the purposes of section 17A;
 - (b) The principal must allow the student to attend the school if the student's parents request that the student be permitted to attend the school and the principal considers the request is reasonable;
 - (c) Otherwise the student does not have to, and is not permitted to, attend the school while stood-down or suspended.

Section 18 of the Education Act 1989

18. Notice requirements for stand-downs, suspensions, exclusions, and expulsions—(1) Immediately after a student is stood-down under section 14, the principal must tell the Secretary and (except in the case of a student who has turned 20) a parent of the student—

- (a) That the student has been stood-down; and
- (b) The reasons for the principal's decision; and
- (c) The period for which the student has been stood-down.

(2) Immediately after a student is suspended under section 14, the principal must tell the Board, the Secretary, and (except in the case of a student who has turned 20) a parent of the student—

- (a) That the student has been suspended; and
- (b) The reasons for the principal's decision.

(3) Immediately after a Board lifts a suspension, extends a suspension, excludes a student, or expels a student (whether under section 15 or section 17), the Board must tell the Secretary and (except in the case of a student who has turned 20) a parent of the student—

- (a) That the suspension has been lifted or extended, and the period of the extension (if any), or that the student has been excluded or expelled; and
- (b) The reasons for the Board's decision.

8. No imposed absences—A principal who wants a student to absent himself or herself from school for disciplinary reasons, or who wants a parent to remove a student from school for disciplinary reasons, may bring about the absence or the removal only by standing-down or suspending the student under section 14 (1) of the Act.

9. Information about stand-downs or suspensions—A principal who has stood-down or suspended a student must ensure that the student and a parent of the student are, as soon as practicable, given the information on stand-downs or suspensions provided by the Ministry for the purpose.

10. Information for Ministry—A principal telling the Secretary about a stand-down or suspension must ensure that the Secretary is given the information about the stand-down or suspension, under section 18 (1) or (2) of the Act, in the form that the Secretary requests.

11. Stand-down meeting—(1) A principal who has stood-down a student may cause a stand-down meeting to be arranged.

(2) A principal who, having stood-down a student, is asked by the student or a parent of the student for a stand-down meeting—

- (a) Must cause such a meeting to be arranged; and
- (b) Must take steps to be available for the meeting as soon as is practicable for the student, the parent, and the principal.

12. Stand-down may be withdrawn—As a consequence of a stand-down meeting, the principal may be satisfied that reasonable grounds for the stand-down did not exist under section 14 (1) of the Act. In that case, the principal must—

- (a) Ensure that the stand-down is withdrawn; and
- (b) Ensure that the student, and anyone told of the stand-down under section 18 (1) of the Act, is told that the stand-down has been withdrawn.

13. Attendance at school—In exercising the discretion under section 14 (3) (a), the principal must take into account, for the purposes of section 17A (2) and (3), that an appropriate educational programme for the student may include the need for the student—

- (a) To fulfil course requirements for a qualification;
- (b) To sit an examination.

Suspension meetings

Section 17B of the Education Act 1989

17B. Who may attend Board meeting concerning suspensions—If a student has been suspended, the student, the student's parents, and their representatives are entitled to attend at least 1 meeting of the Board and speak at that meeting, and to have their views considered by the Board before it decides whether to lift or extend the suspension or exclude or expel the student (whether under section 15 or section 17).

14. Report for Board—A principal who has suspended a student must ensure that a report that contains all information relevant to the suspension is written for the Board.

15. Information about suspension meeting—(1) The Board must ensure that a student who has been suspended, and the student's parents, are given the following as soon as practicable after the suspension:

- (a) Written notice of the time and place of the suspension meeting; and
 - (b) Written information about the statutory options available to the Board to deal with the suspension at the suspension meeting.
- (2) The Board must ensure that the following material is given, in writing, to the student and the student's parents within the time described in subclause (3):
- (a) Information on the procedures the Board follows at suspension meetings; and
 - (b) Advice that the student and the student's parents may attend the meeting and speak at it about the suspension; and
 - (c) Those parts of the following that, in the Board's opinion, it would have no ground to withhold if the student made a request for the following under the Privacy Act 1993:
 - (i) The principal's report to the Board on the suspension; and
 - (ii) Any other material about the suspension to be presented by the principal or the Board at the meeting.

(3) The material must be given to the student and the student's parents at a time that enables it to reach them at least 48 hours before the meeting (or within a shorter time agreed by all the parties).

16. Adjournments to consider new information—(1) The Board must allow an adjournment in a suspension meeting if the student, a parent of the student, or any member of the Board asks the Board to do so because the person making the request needs time to consider new information.

(2) In subclause (1), “new information” means information—

(a) That is referred to at the suspension meeting; and

(b) That is either—

(i) Information that was not given, under rule 15, to the person making the request; or

(ii) Information that is new to the person making the request for some other reason.

(3) In deciding on the period of the adjournment, the Board must have regard to the amount of time that the person making the request needs, in his or her particular circumstances, to consider the information.

17. Board's decision—(1) Before deciding at a suspension meeting whether to lift or extend the suspension or exclude or expel the student, the Board must—

(a) Have due regard for each circumstance relevant to the suspension; and

(b) Consider each statutory option available to it.

(2) The Board may—

(a) Require the principal, the student, the student's parents, any representative of the student, and any representative of the parents to withdraw from the meeting while the Board makes its decision; or

(b) Ask the principal, the student, the student's parents, and any representatives of the student and the parents to stay at the meeting while the Board makes its decision.

(3) Before making its decision, the Board may try to get all the parties at the meeting to agree on what the decision should be.

(4) The Board must record its decision, and the reasons for it, in writing.

*Monitoring of extended suspensions***Section 15 of the Education Act 1989**

15. Board's powers when suspended student younger than 16—(1) If a student younger than 16 has been suspended from a state school, the school's Board may—

- (a) Lift the suspension at any time before it expires, either unconditionally or subject to any reasonable conditions the Board wants to make;
- (b) Extend the suspension conditionally for a reasonable period determined by the Board when extending the suspension, in which case subsection (2) applies;
- (c) If the circumstances of the case justify the most serious response, exclude the student from the school by extending the suspension and requiring the student to be enrolled at another school.

(2) If the Board extends a suspension conditionally, the Board must impose reasonable conditions aimed at facilitating the return of the student to school and must take appropriate steps to facilitate the return of the student to school.

(3) If a student fails to comply with any condition imposed under this section in respect of the lifting or extension of his or her suspension, the principal may request the Board to reconsider the action it took under this section in that case and the Board may confirm or reverse its earlier decisions or may modify its earlier decisions by taking any action specified in any of paragraphs (a) to (c) of subsection (1).

(4) If the Board has not sooner lifted or extended it or excluded the student under subsection (1)(c), the suspension of a student younger than 16 ceases to have effect—

- (a) At the close of the 7th school day after the day of the suspension; or
- (b) If the suspension occurs within 7 school days before the end of a term, at the close of the 10th calendar day after the day of the suspension.

(5) If the Board of a state school excludes the student under subsection (1)(c), the principal must try to arrange for the student to attend another school (which school is a suitable school that the student can reasonably conveniently attend).

(6) If the principal is unable, by the 10th school day after the day of the Board's decision to exclude a student, to arrange for the student to attend another school, the principal must tell the Secretary what steps the principal took in trying to do so.

Section 17 of the Education Act 1989

17. Board's powers when suspended student 16 or older—(1) If a student who is 16 or older has been suspended from a state school, the Board may—

- (a) Lift the suspension at any time before it expires, either unconditionally or subject to any reasonable conditions it wants to make; or
- (b) Extend the suspension conditionally for a reasonable period determined by the Board when extending the suspension, in which case subsection (2) applies; or
- (c) Expel the student.

(2) If the Board extends a suspension conditionally, the Board must impose reasonable conditions aimed at facilitating the return of the student to school, and must take steps to facilitate the return of the student to school.

(3) If a student fails to comply with any condition imposed under this section in respect of the lifting or extension of his or her suspension, the principal may request the Board to reconsider the action it took under this section in that case and the Board may confirm or reverse its earlier decisions or may modify its earlier decisions by taking any action specified in any of paragraphs (a) to (c) of subsection (1).

(4) If the Board has not sooner lifted or extended it or expelled the student under subsection (1) (c), the suspension of a student who is 16 or older ceases to have effect—

- (a) At the close of the 7th school day after the day of the suspension; or
- (b) If the suspension occurs within 7 school days before the end of a term, at the close of the 10th calendar day after the day of the suspension.

Section 17A of the Education Act 1989

17A. Duties of principal when student stood-down or suspended—(1) When a student is stood-down or suspended from a state school, the principal must take all reasonable steps to ensure that the student has the guidance and counselling that are reasonable and practicable in all the circumstances of the stand-down or suspension.

(2) If a student's suspension is subject to conditions (whether under section 15 or section 17), the principal must take all reasonable steps to ensure that an appropriate educational programme is provided to the student.

(3) The purpose of the programme referred to in subsection (2) is to facilitate the return of a student to school and to minimise the educational disadvantages that occur from absence from school.

18. Extended suspension under any of sections 15 (1) (b), 15 (3), 17 (1) (b), or 17 (3) of the Act—(1) This rule applies when a Board extends a suspension under any of sections 15 (1) (b), 15 (3), 17 (1) (b), or 17 (3) of the Act for a period of 4 weeks or more.

(2) The Board must monitor the progress of the suspended student by ensuring that it receives, at each regular Board meeting after the suspension, a written report on whether the student is meeting the conditions imposed and progressing with any educational programme provided.

(3) The principal must ensure that the student and a parent of the student are given a copy of any such report as soon as practicable.

19. Student failing to comply with conditions—(1) If the Board agrees to a request made by the principal under section 15 (3) or section 17 (3) of the Act, the Board must hold a reconsideration meeting about the student's case.

(2) The meeting must be held—

(a) Within 7 school days of the request; or

(b) If the request is made within 7 school days of the end of term, within 10 calendar days of the request.

20. Information about reconsideration meeting—(1) The Board must ensure that a student who has been suspended, and a parent of the student, are given written notice of the time and place of the reconsideration meeting as soon as practicable after the Board decides to hold the meeting.

(2) The Board must ensure that the following material is given, in writing, to the student and the parent within the time described in subclause (3):

(a) Information on the procedures the Board follows at reconsideration meetings; and

(b) Advice that the student and a parent of the student may attend the meeting and speak at it about the reconsideration of the suspension; and

- (c) Those parts of the following that, in the Board's opinion, it would have no ground to withhold if the student made a request for the following under the Privacy Act 1993:
- (i) The principal's report to the Board on the reconsideration of the suspension; and
 - (ii) Any other material about the reconsideration of the suspension to be presented by the principal or the Board at the meeting.
- (3) The material must be given to the student and the parent at a time that enables it to reach them at least 48 hours before the meeting (or within a shorter time agreed by all the parties).

21. Information for Ministry—As soon as practicable after the Board has made a decision on its reconsideration of the suspension under section 15 (3) or section 17 (3) of the Act, the principal must ensure that the Secretary is given the information about the decision, under section 18 (3) of the Act, in the form that the Secretary requests.

Excluded students

Section 16 of the Education Act 1989

16. Secretary's powers when excluded student younger than 16—(1) If the Secretary is satisfied that the Board of a state school has excluded a student who is younger than 16 from the school under section 15 (1) (c), and that the principal has not arranged for the student to attend another school, the Secretary must either,—

- (a) If satisfied that it is not inappropriate for the student to return to the school from which the student has been excluded, lift the exclusion; or
- (b) Arrange for and, if necessary, direct the Board of any other state school (that is not an integrated school) to enrol the student at the other school; or
- (c) Direct a parent of the student to enrol the student at a correspondence school.

(2) The Secretary may not give a direction under subsection (1) (b) or lift an exclusion under subsection (1) (a) unless the Secretary has also made all reasonable attempts to consult the student, the student's parents, the Board, and any other person or organisation that, in the opinion of the Secretary, may be interested in, or able to advise on or help with, the student's education or welfare.

(3) If the Board of the school from which the student has been excluded also controls another school, the Secretary (in exercising the power conferred by subsection (1) (b)) may direct the Board to enrol the student at that other school.

(4) A Board must comply with a direction under subsection (1) (b), and the direction overrides the provisions of any enrolment scheme the school may have in place.

*School register***Section 17c of the Education Act 1989**

17c. Effect of suspension on school register—(1) The name of a student younger than 16 who has been suspended from a school under section 14 or excluded from a school under section 15 (1) (c) must stay on the school's register until the earliest of the following days:

(a) The day the student is enrolled at another registered school:

(b) The day the student is given an exemption under section 21 or section 22.

(2) The name of a student who has turned 16 and is suspended from a school under section 14 must stay on the register of the school until the earliest of the following days:

(a) The day on which the student is enrolled at another registered school:

(b) The day on which the student is expelled from the school:

(c) The day on which the student leaves school:

(d) The 1 January after the student's 19th birthday.

(3) Subsection (2) applies to a student who is younger than 16 when suspended from a school under section 14 or excluded from a school under section 15 (1) (c), and turns 16 while subject to the suspension or exclusion.

Section 17d of the Education Act 1989

17d. Re-enrolment of excluded or expelled student—

(1) The Board of a state school from which a student has ever been excluded or expelled (whether under section 15 or section 17) may refuse to enrol the student at the school (unless, in the case of an exclusion, the Secretary has lifted the exclusion under section 16 (1) (a)).

(2) Subject to section 16 (1) (b), the Board of a state school may refuse to enrol a student who is for the time being excluded or expelled (whether under section 15 or section 17) from another state school.

(3) The Secretary may, in the case of a student who has turned 16, direct the Board of another state school (that is not an integrated school) to enrol a student at the school if—

(a) The student has been expelled under section 17; and

(b) The Secretary has made all reasonable attempts to consult the student, the student's parents, the Board, and any other person or organisation that, in the opinion of the Secretary, may be interested in, or able to advise on or help with, the student's education or welfare.

(4) A Board must comply with a direction under subsection (3), and the direction overrides the provisions of any enrolment scheme the school may have in place.

Dated at Wellington on 16th day of June 1999.

HOWARD FANCY,
Secretary of Education.

EXPLANATORY NOTE

This note is not part of the rules, but is intended to indicate their general effect.

These rules, which come into force on 12 July 1999, are made by the Secretary of Education. They regulate the practice and procedure to be followed by Boards, principals, students, parents of students, and other persons, under sections 14 to 18 of the Education Act 1989, in order to ensure that individual cases are dealt with in accordance with the principles of natural justice.

Issued under the authority of the Acts and Regulations Publication Act 1989.

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These rules are administered in the Ministry of Education.