SUSPENSION, TRANSFER OR EXCLUSION OF A STUDENT IN ACT PUBLIC SCHOOLS POLICY

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1. What is this policy about?

This policy outlines the ACT Education Directorate’s (the Directorate’s) responsibilities to support the application of a suspension, transfer or exclusion in ACT public schools consistent with the Education Act 2004 (the Act).

2. Policy Statement

2.1. Schools are committed to providing positive environments where young people feel connected and respected, achieve success and are engaged in their education.

2.2. School environments should be safe, conducive to positive social and academic outcomes and support the wellbeing of staff, students and other persons. This requires a focus on prevention and early support for student behaviour that may impact safety and wellbeing, including individualised behavioural support in an appropriate and timely manner.

2.3. Schools are committed to working in partnership with students, parents, carers and stakeholders, including government and community agencies, to support a student’s success and safety at school.

2.4. Suspension, transfer or exclusion of students will be used when educational adjustments and actions to engage a student and/or to create a safe learning and work environment are not applicable in the circumstances or have not worked.

2.5. The Directorate recognises the potential negative impact on students when they are disconnected from school, particularly for students in vulnerable circumstances and/or impacted by trauma. Where appropriate and possible, schools will use in-school alternatives to suspension.

2.6. As outlined in section 36 of the Act, suspension, transfer or exclusion of a student, will be considered when the principal of the school is satisfied that action should be taken under this section when a student:

(i) is persistently and wilfully noncompliant; or

(ii) threatens to be violent or is violent to another student attending the school, a member of the staff of the school or anyone else involved in the school’s operation; or

(iii) acts in a way that otherwise threatens the good order of the school or the safety or wellbeing of another student attending the school, a member of staff of the school or anyone else involved in the school’s operation; or

(iv) displays behaviour that is disruptive to the student’s learning or that of other students.

2.7. Suspension is the process of temporarily withdrawing a student from school activities and school grounds, placing them in the care of their parent/carer.

2.7.1. Suspension is used when a student’s behaviour requires the need for the school to undertake one or more of the following:

- restore a safe learning and working environment for the school community;
- establish or review safety risk assessments and support plans for the student, to assist a successful return to school;
- communicate the significance of a behaviour and its impact;
seek or reconnect with services or supports for the student, parents/carer and school community to address underlying reasons for the behaviour leading to the suspension, as well as necessary safety controls.

2.8. **Transfer** is a Directorate initiated process used for moving a student from one school to another school, when:

- comprehensive supports to assist the student to effectively participate in school have been unsuccessful; or
- a behavioural or other incident which has occurred at school, or outside the school, is so severe that re-entry to the school concerned would be unreasonable for staff and students; and
- it is in the best interest of the student; and
- the parent/carer is not acting to voluntarily move their child to an alternative education setting on the advice of the Directorate.

2.9. **Exclusion** is the process of preventing a student from continuing to be enrolled or being re-enrolled at any government school and will only be used in exceptional circumstances when a student’s presence in any public-school would create an extreme risk to the safety and welfare of staff and students.

2.9.1. Exclusion is considered when:

- comprehensive supports to assist the student to effectively and safely participate in school have been unsuccessful; or
- a behavioural incident is so severe that re-entry to a school would be unreasonable and unsafe for staff and students; and
- reasonable and practicable available support has not been able to establish a safe learning and work environment.

2.9.2. During an exclusion, regular reviews by Education Support Office (ESO) must be utilised to determine the suitability of the student returning to school.

3. **Who does this policy apply to?**

This policy applies to all ACT Education Directorate staff, students and their parents and carers.

4. **Context**

4.1 ACT public schools use a range of strategies to facilitate safe, respectful and supportive school environments as part of an early support and prevention approach to mitigating behaviours that negatively impact on student safety and wellbeing. Refer to the Directorate’s [Safe and Supportive Schools Policy and Procedures 2016](http://www.education.act.gov.au/publications_and_policies/policy_a-z) and [The Australian Student Wellbeing Framework 2018](http://www.education.act.gov.au/publications_and_policies/policy_a-z).

4.2 The Directorate is committed to the health and safety of staff, students and other persons and ensuring, as far as reasonably practicable the elimination or minimisation of risks arising in the workplace, consistent with obligations of the [Work Health and Safety Act 2011](http://www.education.act.gov.au/publications_and_policies/policy_a-z).

4.3 ACT is a Human Rights jurisdiction, as such the ACT Government, including the Education Directorate is committed to protecting human rights, including the right to education, equality and non-discrimination and the rights of children to protection. This includes seeking to ensure that all students can access and participate in education on the same basis as their peers. It also recognises a child’s right to be heard and to be supported to participate in decisions that affect them.

4.4 Suspension, transfer and exclusion are reviewable decisions, which requires reasonable steps be taken to give written notice of the decision to any person whose interests are affected.

5. **Responsibilities**

5.1. **School Staff** are responsible for:

5.1.1. contributing to a school culture based on respect, positive relationships and restorative principles which promote the safety and wellbeing of students in their care;
5.1.2. working in partnership with students, parents and carers by taking an early support and prevention approach to behaviours of concern using a whole school positive behaviour support approach to reduce the incidence of behaviours that potentially lead to occupational violence, suspension, exclusion and transfer;

5.1.3. ensuring appropriate data is recorded and reported, consistent with school behaviour management processes, about incidents that relate to behaviours of concern, suspension, transfer or exclusion.

5.2. **Principals** are responsible for:

5.2.1. ensuring that as far as reasonably practicable, the school is a safe and healthy environment for staff, students and others, consistent with obligations of the [Work Health and Safety Act 2011](http://www.education.act.gov.au/publications_and_policies/policy_a-z);

5.2.2. making decisions or recommendations to the D-G about suspension, transfer and exclusion that are equitable and consistent with Section 36 of the Act and follow the principles of procedural fairness, this policy and procedures;

5.2.3. providing reasonable opportunities for students to access appropriate supports where there is an identified need and/ or when the student is suspended for seven or more consecutive or non-consecutive school days in a school term;

5.2.4. providing support to staff and students impacted by an incident and referring for additional support where required;

5.2.5. Identifying, implementing and documenting in-school alternatives to suspension where appropriate.

5.3. **Education Support Office** are responsible for:

5.3.1. supporting principals to address issues relating to behaviours of concern, suspension, transfer and exclusion;

5.3.2. supporting schools to provide environments that are safe and support the wellbeing of staff, students and others;

5.3.3. supporting administrative and governance processes relating to suspension, transfer and exclusion;

5.3.4. ensuring visibility and monitoring of recurrent suspensions and student absences to ensure appropriate support is provided to address staff and student wellbeing.

5.4. **Director-General (D-G)** is responsible for:

5.4.1. ensuring that schools and the ESO are adequately resourced to meet their responsibilities in relation to suspension, transfer and exclusion, including the provision of in-school alternatives to suspension;

5.4.2. as far as reasonably practicable, providing a safe and healthy workplace for staff, students and others by implementing strategies and actions that are consistent with the obligations of the [Work Health and Safety Act 2011](http://www.education.act.gov.au/publications_and_policies/policy_a-z);

5.4.3. considering suspension of a student for up to 20 days, transferring or excluding a student, following a recommendation from the school principal;

5.4.4. delegating to the principal of a school or other delegate (in line with ACT Education’s delegations manual) the power to suspend or transfer a student, noting that a delegate may only suspend a student for not longer than 15 days.

5.5. **Students** are responsible for treating school staff, other students and members of the school community with respect and complying with school behaviour procedures to contribute to a safe and respectful school environment.

5.6. **Parents/ Carers** are responsible for:

5.6.1. working in partnership with the school to support their child’s education and behaviour, for example participating in meetings, contributing to positive behaviour support plans;

5.6.2. treating school staff, students and members of the school community with respect and complying with school behaviour procedures to contribute to a safe and respectful school environment;

5.6.3. the supervision and care of their child during the suspension or exclusion period.
5.7. **Policy Owner**

The Executive Branch Manager of Student Engagement, Service Design and Delivery Division is responsible for this policy.

6. **Monitoring and Review**

The Policy Owner is responsible for proposing amendments as and when required and undertaking a full review of the policy every 2 years after publication.

7. **Contact**

For support, contact Student Engagement Branch on 6205 7029 or email ETDStudentWellbeing@act.gov.au

8. **Complaints**

Any concerns about the application of this policy or the policy itself, should be raised with:

- the school principal in the first instance;
- the Family, Students Complaints and Feedback Unit on (02) 6205 5429;
- online at [https://www.accesscanberra.act.gov.au/app/forms/etd_liaison_feedback](https://www.accesscanberra.act.gov.au/app/forms/etd_liaison_feedback);


9. **References**


- **ACT Public School** refers to all ACT government schools established under section (20)1 of the Act.
- **Behaviour** in this policy context is outlined in the Act as one or more of the following student actions—persistently and wilfully non-compliant; threatens or enacts violence; acts in a way that threatens the good order of the school or the safety or wellbeing of the school community; or is disruptive to the learning of other students.
- **Early Support** involves reducing a known risk factor, problem or behaviour of concern through the provision of timely and appropriate support. This aims to reduce a negative impact or prevent an issue developing further or escalating. Early support can reduce or avoid the need for other services in the longer term and may include differentiation, implementing individualised learning goals, referral to the student support team or to an external professional or program.
- **Educational Adjustments** are actions and reasonable adjustments made in the education context to enable students to access educational content and outcomes and participate in the school program on the same basis as other students, while balancing the interests of all parties involved. Reasonable adjustments to teaching and learning may include adjustments to curriculum, instruction, environment and assessment. Trauma informed practice is an example.
- **Equity**: In the context of education, equity refers to differentiated adjustments for those who need it, the Directorate is committed to the success of every student. Students come to school with the differing home lives, life experience and resources which may impact the way they learn. Students with a disability, students who have experienced trauma or poverty, students who are carers and students with mental health difficulties are examples of students who may need additional planning, consideration and responses from their school to provide equitable opportunities to access an education.
- **Human Rights Jurisdiction**: ACT is a human rights jurisdiction and was the first Australian jurisdiction to enact a [Human Rights Act 2004](http://www.education.act.gov.au). The Act protects a range of human rights, including the right to education (s27A), the rights of children to protection (s11), and the right to equality and non-discrimination (s8). ACT Government staff must act consistently with and give proper consideration to human rights in their work, for Education this includes decision-making related to suspension, transfer and exclusion. Human rights, such as the right to education may be limited in accordance with s28 of the Human Rights Act,
however limitations on rights must be authorised by law for a legitimate purpose (for example safety of students or staff) and must be the least restrictive option reasonably available in the circumstances, supported by evidence and have a monitoring process to ensure the limitation contributes to achieving the objective sought.

- **In-school alternative to suspension** is where a student is excluded from school activities and their peers and is required to attend school to participate in an alternative program. This explained absence is recorded differently to a suspension.

- **Parent/ Carer**: for the purpose of this policy, a parent/carer is a person having parental responsibility for the child under the *Children and Young People Act 2008*.

- **Procedural Fairness**: The rules or principles of natural justice, also known as procedural fairness, apply and are relevant in this context as suspension, transfer and exclusion involve decision making by a delegate which should be fair, reasonable and free from bias. Section 36 (4) and (5) of the Act detail some important considerations to ensure the people involved have the right to be heard. Further information in Procedures, Attachment B.

- **Reviewable Decisions**: Suspension, transfer and exclusion are reviewable decisions, which requires that a decision-maker (other than the Director-General), must provide the parents with an internal review notice, and must take reasonable steps to provide written notice of the decision to any person whose interests are affected, including the student. Where the decision-maker is the Director-General or where an internal review decision has been made, the decision-maker must provide the parents with a reviewable decision notice, and the decision-maker must take reasonable steps to provide written notice of the decision to any person whose interests are affected.

### 9.2. Legislation

- *ACT Discrimination Act 1991*
- *ACTPS Work Health and Safety Policy Statement 2012*
- *Children and Young People Act 2008.*
- *Disability Discrimination Act 1992 (Cth) and Disability Standards for Education 2005*
- *Education Act 2004*
- *Health Records (Privacy and Access) Act 1997*
- *Human Rights Act 2004*
- *Information Privacy Act 2014*
- *The Senior Practitioner Act 2018*
- *UN Convention on the Rights of the Child (UNCRC) 1989*
- *Work Health and Safety Act 2011*

### 9.3. Implementation Documents

- *Suspension, Transfer or Exclusion of a Student in ACT Public Schools Procedures 2019*

### 9.4. Related Policies and Information and

- *Australian Student Wellbeing Framework 2018*
- *Education Participation (Enrolment and Attendance) Policy, 2016* and *Procedures 2011*
- *Managing Occupational Violence Policy 2017* and *Occupational Violence Management Plan 2017*
- *Safe and Supportive Schools Policy and Procedures 2016*