



ACT
Government

Education

INTERIM: SUSPENSION, TRANSFER OR EXCLUSION OF A STUDENT IN ACT PUBLIC SCHOOLS POLICY 2023



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INTERIM: SUSPENSION, TRANSFER OR EXCLUSION OF A STUDENT IN ACT PUBLIC SCHOOLS POLICY 2023

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1. What is this policy about?

- 1.1. 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)
- 2.1. 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 students' success and safety at school.
- 2.4. Suspension, transfer or exclusion of students will be used when educational adjustments and actions to create a safe and effective learning environment are not reasonable 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. Suspension, transfer and exclusion of students will only be used when all other reasonable alternatives have been exhausted.
- 2.6. Chapter 2A of the Act sets out the requirements for decision makers when deciding to suspend, transfer or exclude a student. Suspension, transfer or exclusion of a student, will only be considered for the purpose of ensuring a safe and effective learning environment, when the principal of the school is satisfied that:
 - The student has engaged in unsafe or non-compliant behaviour;
 - The school has exhausted all reasonable alternatives;Additional requirements are outlined below.
- 2.7. **Suspension** is the process of temporarily withdrawing a student from school, placing them in the care of their parent/ carer when:
 - they have engaged in behaviour which is unsafe or noncompliant;
 - it is reasonable to suspend the student after considering all the circumstances, including any views of the student and their parents.

- 2.8. Suspension may only be used for the purpose of ensuring a safe and effective learning environment at the school.
- 2.9. The decision-maker for government schools for the purposes of deciding a suspension under Chapter 2A is the director-general, however consistent with the Act, the power to suspend has been delegated to principals. This includes all staff formally appointed as a principal of a government school, as well as any staff member assuming the role of principal of a government school.

E.g. A senior staff member who is assuming the role of principal while the appointed principal is not at school.

- 2.10. The principal proposing the suspension must follow the process of notifying the student and their parents/carers and involving them in the suspension process as outlined in sections 17H (Suspension)-17I (Suspension – notice) and 17L (Suspension – involving student and parents) of the Act.

- 2.11. The notice requirements vary where the student’s unsafe or non-compliant behaviour presents an immediate or imminent risk of harm to a person.

- 2.12. A suspension cannot be for a period longer than 20 school days.

- 2.13. A suspension cannot start immediately after another suspension ends.

- 2.14. If a student at a school is suspended, the principal of the school must:

- ensure the student is given the materials and support needed to continue their education during the period of suspension e.g. Ensuring the student has access to google classroom or home learning resources.
- provide a reasonable opportunity to attend counselling when a student has been suspended for a total of 7 school days or longer (consecutive or otherwise) in a school term.

E.g. Counselling could be provided by someone suitably qualified to provide support or guidance relevant to the reasons for suspension (i.e. a member of the school wellbeing team, psychologist, teacher, or the school principal).

- review any reasonable adjustments in place for the student including reviewing the way the adjustments are implemented and make any new reasonable adjustments they consider would support the student, or change the way that existing adjustments are implemented

E.g., Considering if the existing reasonable adjustments had been implemented as planned

- 2.15. **Transfer** is a Directorate initiated process used for moving a student from one government school to another government school.

- 2.16. The Director-General may decide to transfer a student from one government school to another government school if satisfied:

- the student has engaged in unsafe or noncompliant behaviour; and
- the transferring school has exhausted all reasonable alternatives to transferring the student;
- it is not in the best interests of the student, another student or member of staff at the school for the student to remain at the school;
- it is reasonable to transfer the student after considering all the circumstances,

including any views of the student and their parents/carers and whether the relationship between the student and the school has deteriorated to such an extent that remaining at the school is no longer in the student's best interests.

- 2.17. Where the parent/carer voluntarily moves their child to an alternative education setting or enrolls their child in another school, that is not a transfer for the purposes of part 2A, even where that action is taken on the advice of the Directorate.
- 2.18. The decision to transfer a student is made by the Director-General. The Director-General may only transfer a student after receiving a recommendation to do so from the principal of the student's school. The Director-General may transfer the student as recommended by the principal of the student's school or may make any change that the Director-General considers reasonable.
- 2.19. The principal recommending the transfer and the Director-General must follow the process of notifying the student and their parents/carers and involving them in the transfer process as outlined in sections 17P-17Q and 17S of the Act.
- If a student has been transferred, the principal of the transferring school must ensure the student has been given a reasonable opportunity to attend counselling. *E.g. Counselling could be provided by someone suitably qualified to provide support or guidance relevant to the reasons for transfer (i.e. a member of the school wellbeing team, psychologist, teacher, or the school principal).*
- 2.20. **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. Exclusion may only be used for students of non-compulsory education age, and when a student's presence in any government school would create an extreme risk to the safety and welfare of staff and/or students.
- 2.21. The Director-General may exclude a student from enrolling at any government school if satisfied:
- they have engaged in unsafe or noncompliant behaviour;
 - all reasonable alternatives to exclusion have been exhausted by their enrolled school;
 - it is not in the best interests of the student, another student at a government school or a member of staff of a government school for the student to be enrolled at any government school;
 - it is reasonable to exclude the student after considering all the circumstances, including any views of the student and their parents/carers.
- 2.22. The principal recommending the exclusion and the Director-General must follow the process of notifying the student and their parents/carers and involving them in the exclusion process as outlined in sections 17ZA-17ZB and 17ZD of the Act.
- 2.23. During an exclusion, regular reviews by Education Support Office (ESO) may be used to determine the suitability of the student returning to school.
- 2.24. If a student at a school is excluded, the principal of the school must:
- ensure the student has been given a reasonable opportunity to attend counselling. *E.g. Counselling could be provided by someone suitably qualified to provide*

support or guidance relevant to the reasons for exclusion (i.e. a member of the school wellbeing team, psychologist, teacher, or the school principal).;

- provide information about other options for the student to continue their education.

1. Who does this policy apply to?

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

2. Context

- 2.1. 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*](#) and [*The Australian Student Wellbeing Framework 2018*](#).
- 2.2. 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*](#).
- 2.3. The ACT is a Human Rights jurisdiction, and 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. As part of this commitment, Chapter 2A of the Act on suspension, transfer and exclusion has been designed to ensure compliance with human rights legislation, including the [*Human Rights Act 2004*](#).
- 2.4. 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.

3. Responsibilities

- 3.1. **School Staff** are responsible for:
 - 3.1.1. contributing to a school culture based on respect, positive relationships and restorative principles which promote the safety and wellbeing of students in their care;
 - 3.1.2. working in partnership with students, parents and carers by taking an early support and prevention approach to behaviour management using a whole school positive behaviour support approach to reduce the incidence of unsafe or noncompliant behaviours that potentially lead to occupational violence, suspension, transfer or exclusion;
 - 3.1.3. ensuring data is recorded in the School Administration System (SAS) about incidents that relate to unsafe or noncompliant behaviours, suspension, transfer or exclusion.
- 3.2. **Principals** are responsible for:

- 3.2.1. 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](#);
- 3.2.2. enacting the delegated authority to suspend a student in a way that is consistent with Chapter 2A of the Act and follows the principles of natural justice and procedural fairness, this policy and procedures;
- 3.2.3. making decisions or recommendations to the Director-General about transfer and exclusion that are equitable and consistent with Chapter 2A of the Act and follow the principles of natural justice and procedural fairness, this policy and procedures;
- 3.2.4. ensuring that students and their parents/carers are given sufficient information about the decision-making process for suspensions, transfers and exclusions in a language and way that the student and their parents/carers can understand, to allow them to effectively take part in the decision-making process and have their views heard;
- 3.2.5. ensuring that students have access to materials and support to continue their education during the period of suspension;
- 3.2.6. providing reasonable opportunities for students to access appropriate supports including counselling 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;
- 3.2.7. reviewing any reasonable adjustments that are in place for a suspended student, including reviewing their implementation and making any new reasonable adjustments that would support the student, or changing the implementation of existing adjustments;
- 3.2.8. identifying, implementing and documenting in-school alternatives to suspension where appropriate;
- 3.2.9. providing a reasonable opportunity for students who have been transferred or excluded to attend counselling and provide information about options to continue education for students who have been excluded;
- 3.2.10. Complying with the requirements for recording student transfers and exclusions from an ACT school set out in section 10AA of the Act, section 2AA of the Education Regulation 2005 and the Student Movement Register Procedures and;
- 3.2.11. providing support to staff and students impacted by an incident and referring for additional support where required.

3.3. Education Support Office are responsible for:

- 3.3.1. supporting principals to address issues relating to unsafe or noncompliant behaviours, suspension, transfer and exclusion;
- 3.3.2. supporting schools to provide environments that are safe and support the wellbeing of staff, students and others;
- 3.3.3. supporting administrative and governance processes relating to suspension, transfer and exclusion;
- 3.3.4. ensuring visibility and monitoring of recurrent suspensions and student absences to ensure appropriate support is provided to address staff and student wellbeing.

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

- 3.4.1. 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;
- 3.4.2. 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*;
- 3.4.3. considering transferring or excluding a student, following a recommendation from the school principal;
- 3.4.4. delegating to principals the power to suspend a student consistent with Chapter 2A of the Act.

3.5. **Students** are responsible for:

- 3.5.1. treating school staff, other students and members of the school community with respect and complying with school behaviour procedures to contribute to a safe, effective and respectful school environment.

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

- 3.6.1. 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;
- 3.6.2. treating school staff, students and members of the school community with respect and complying with school behaviour procedures to contribute to a safe, effective and respectful school environment;
- 3.6.3. the supervision and care of their child during the suspension period.

4. **Policy Owner**

- 4.1. The Executive Group Manager, Service Design and Delivery Branch is responsible for this policy.

5. **Monitoring and review**

- 5.1. The Policy Owner monitors the policy. This includes an annual scan of operation and review. A full review of the policy will be conducted within a three year period.

6. **Contact**

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

7. **Feedback**

- 9.1 Any feedback about this policy, should be raised with the policy owner. Refer to Contact information above.

8. **References**

- 8.1. **Definitions: Definitions in this policy context-** *refer also to Procedures, Safe and Supportive Schools Policy 2016 and the Managing Occupational Violence Policy 2017.*

- **ACT Public School** refers to all ACT government schools established under section (20)1 of the Act.

- **Unsafe and non-compliant** means behaviour of a student that reduces the safety or effectiveness of the school because it is persistently or disruptively noncompliant; or poses an unacceptable risk to the safety or wellbeing of another student, a member of staff at the school, or someone else involved in the school's operation; and can include unsafe or noncompliant behaviour even if it does not happen on school premises or during school hours where it reduces the safety or effectiveness of the school.
E.g. Using social media outside of school hours to encourage violence against a student at school the next day.
- **Exhausting all reasonable alternatives** means the decision-maker is satisfied that no other alternative is likely to be suitable or successful for managing the student's unsafe or noncompliant behaviour.
E.g. When it is not safe for the student to be onsite, then an in-school alternative program would not be a reasonable alternative that could be made.
- **Compulsory Education Age** in the ACT and for the purpose of this policy refers to a child who is aged from six years until the child turns 17 or completes Year 12, whichever happens first.
- Considering the **views of the student and their parents** means applying the principles of natural justice and procedural fairness, in particular: ensuring the students and their parents are given sufficient information about the decision-making process, in a language and way they can understand, to allow them to effectively take part in the decision-making process; and the student has a parent, or someone else chosen by the student, present when taking part in the decision-making process.
E.g. another suitable adult.
- **Early Support** involves reducing a known risk factor, problem or unsafe or noncompliant behaviour 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.
- **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*. 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 reasonable option 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 prevented from attending their usual school activities or class/es and their peers and is required to attend school to participate in an alternative program. This explained absence from their usual class/es is recorded differently to a suspension.
- **Parent/ Carer:** for the purpose of this policy, a parent/carers 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. Further information is available in the procedures and supporting documents of this policy.
- **Reasonable Adjustments** are actions 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.
- **Reviewable Decisions:** Suspension, transfer and exclusion are reviewable decisions.

8.2. Legislation

- [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](#)

8.3. Implementation Documents

- Suspension, Transfer or Exclusion of a Student in ACT Public Schools Procedures 2022

8.4. Related Policies and Information

- [Australian Student Wellbeing Framework 2018](#)
- [Compulsory Education Student Enrolment and Attendance Policy 2022](#)

- Managing Occupational Violence Policy 2017 and Occupational Violence Management Plan 2017
- Review of Decisions Policy 2016
- Safe and Supportive Schools Policy and Procedures 2016

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