



**ACT**  
Government

Education

# TRANSFER OR EXCLUSION OF A STUDENT: ACT PUBLIC SCHOOLS PROCEDURE MARCH 2024



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## **TRANSFER OR EXCLUSION OF A STUDENT: ACT PUBLIC SCHOOLS PROCEDURE 2024**

This procedure must be read in conjunction with the Education Directorate’s *Suspension, Transfer or Exclusion of a Student: ACT Public Schools Policy 2024* (Policy Identifier 00044), the *Safe and Supportive Schools Policy 2016*, *Managing Occupational Violence Policy 2017*, *Review of Decisions Policy 2016* and the *ACTPS Work Health and Safety Policy Statement 2012*.

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## 1. Overview

- 1.1. This procedure relates to the Suspension, Transfer or Exclusion of a Student: ACT Public Schools Policy 2024 and provides information for staff, students and parents/carers of students attending ACT public schools.
- 1.2. This procedure provides information about the use of transfer and exclusion in ACT public schools to ensure that they are safe and effective learning environments.
- 1.3. This procedure applies to all ACT public schools, ACT Education Directorate (Directorate) staff, and parents/carers and students attending ACT public schools.

## 2. Rationale

- 2.1. Transfer or exclusion may be used to manage student behaviour where their behaviour compromises the safety or effectiveness of the school learning environment because it is unsafe or noncompliant.
- 2.2. This procedure supports decision-makers to make decisions that:
  - 2.2.1. contribute to a fair and equitable approach by ACT public schools when transferring or excluding a student;
  - 2.2.2. reflect the roles and responsibilities of principal and school-based staff, students, parents/carers, and the Education Support Office (ESO) when transferring or excluding a student from an ACT public school; and
  - 2.2.3. consider alternatives to transfer or exclusion that may be used to support a safe and effective learning environment in an ACT public school.

## 3. Responsibilities

- 3.1. The **Director-General** is responsible for:
  - 3.1.1. ensuring that schools and the ESO are adequately resourced to meet their responsibilities in relation to transfer and exclusion;
  - 3.1.2. any decision to transfer or exclude an ACT public school student.
- 3.2. **Principals** are responsible for:
  - 3.2.1. exhausting all reasonable alternatives to transfer or exclusion prior to recommending transfer or exclusion to the Director-General;
  - 3.2.2. ensuring that students and their parents/carers are provided with an opportunity to engage in the decision-making process for transfers and exclusions in a manner that affords them natural justice and procedural fairness;
  - 3.2.3. 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;
  - 3.2.4. recording student transfers and exclusions in the Student Movement Register within five days of them taking effect; and
  - 3.2.5. providing support to staff and students impacted by a negative behavioural incident and referring for additional support where required.
- 3.3. The **Education Support Office** is responsible for:
  - 3.3.1. providing advice and assistance to principals to address issues relating to unsafe or noncompliant behaviours, transfer, and exclusion;

- 3.3.2. providing assistance to schools to complete safety risk assessments where student behaviour poses a risk to the safety of staff/ students/others;
  - 3.3.3. supporting administrative and governance processes relating to transfer and exclusion, including the process of internal review of decisions; and
  - 3.3.4. providing support to staff impacted by an incident and referring for additional support where required.
- 3.4. **Directors School Improvement** are responsible for:
- 3.4.1. providing advice and support to principals about reasonable alternatives to transfer or exclusion; and
  - 3.4.2. advising principals when they are making recommendations to the Director-General about the transfer or exclusion of an ACT public school student.
- 3.5. **School Staff** are responsible for:
- 3.5.1. working with ESO to identify further assistance that may be required to address challenging and complex student behaviour; and
  - 3.5.2. ensuring data is recorded in the School Administration System (SAS) about incidents that relate to unsafe or noncompliant behaviours, transfer or exclusion.
- 3.6. **Students** are responsible for:
- 3.6.1. engaging in restorative practices to address the impacts of behaviour on self and others, where appropriate;
  - 3.6.2. identifying any actions or supports that may support them to attend school safely and effectively, or an alternative learning option; and
  - 3.6.3. deciding whether to engage in counselling where it is offered.
- 3.7. **Parents and carers** are responsible for:
- 3.7.1. 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;
  - 3.7.2. engaging with school staff when attempts are being made to make contact;
  - 3.7.3. providing information that may assist with identifying behavioural supports for their child that could be used in a school;
  - 3.7.4. providing information that may assist with identification of reasonable alternatives to transfer or exclusion; and
  - 3.7.5. working in partnership with the school to support their child's education and behaviour.
- 4. Transfer and exclusion**
- 4.1. **Transfer** is a Directorate-initiated decision to transfer the enrolment of a student from one ACT public school to another ACT public school.
- 4.2. **Exclusion** is a Directorate-initiated decision that prevents a student from being or continuing to be enrolled at any ACT public school. Exclusion of a student from being enrolled in an ACT public school may only be used for students of non-compulsory education age (and not below compulsory school age), and when a student's presence in any ACT public school would create an extreme risk to the safety and welfare of staff and students.

- 4.3. Transfer or Exclusion may only be used where there is an ongoing, repetitive, and persistent risk to the safety and wellbeing of:
- another student at the school; or
  - a member of staff of the school; or
  - someone else involved in the school's operation.

## **5. Managing student behaviour**

- 5.1. Transfer and exclusion may be used in circumstances where a student engages in behaviour that reduces the safety or effectiveness of the school learning environment because it is:
- unsafe: poses an unacceptable risk (including psychosocial risk) to the safety or wellbeing of another student at the school, member of staff at the school or someone else involved in the school's operation; or
  - noncompliant: persistently disruptive behaviour or failing to follow a reasonable and lawful direction made to ensure the safety or effectiveness of the learning environment.
- 5.2. Persistent unsafe and/or noncompliant behaviour patterns pose an ongoing risk to the safety of staff and students at the school.

## **6. Making decisions about transfer and exclusion**

- 6.1. Decisions about transfer and exclusion of an ACT public school student may only be made by the Director-General.
- 6.2. The principles of natural justice and procedural fairness apply to all transfers or exclusions of ACT public school students (see Implementation Document A – internal document only). The decision-maker must ensure that students and their parents/carers are provided with reasonable opportunity to be heard, and an opportunity to provide information relevant to the decision-maker for consideration when making their decision.
- 6.3. In some circumstances, the information provided by a student, or their parent/carer may:
- lead to a different decision than the one proposed;
  - include information that supports an alternative to transfer or exclusion being implemented; or
  - affirm for the decision-maker that it is appropriate to make the proposed decision.

## **7. Exhausting all reasonable alternatives prior to transfer or exclusion**

- 7.1. Transfer should only be considered when all other reasonable alternatives, including periods of suspension, have been exhausted.
- 7.2. Exclusion is a last resort and can only be considered following suspension and/or transfer. It cannot occur without approval from the Director-General.
- 7.3. When considering whether s to transfer or exclusion of a student have been exhausted, the following circumstances must be considered:
- the student's age;
  - whether the student has additional or complex needs, including consistency with the *Disability Standards for Education 2005*;
  - whether the student is or comes from a family that is experiencing social or economic disadvantage;
  - any other inherent characteristics or personal circumstances that may impact the effect that the transfer or exclusion is likely to have on the student;

- e) whether appropriate supports have been put in place and the extent to which these were implemented effectively; and
- f) whether any additional supports could be put in place or whether the implementation of these supports could be improved.

7.4. What is considered a reasonable alternative to transfer or exclusion will depend on the specific circumstances of the individual student and their behaviour.

## **8. Documentation**

- 8.1. When an ongoing risk to safety is identified, all relevant evidence including SAS incident reporting, an Individual Learning Plan, student behaviour plans, Occupational Violence Risk Assessments and incident reporting documentation needs to be collated and provided as supporting documentation for the recommendation of student transfer or exclusion to the Director-General.
- 8.2. Evidence must be used by decision-makers to support their decisions when considering transfer or exclusion. Decision-makers must document, and store evidence and information used in the decision-making process in accordance with the ACT Government requirements.

## **9. Transfer**

- 9.1. Transfer of a student is a Directorate-initiated process to transfer the enrolment of a student at one ACT public school to another ACT public school.
- 9.2. Before commencing the transfer process, a principal must seek advice from the relevant Director of School Improvement about reasonable alternatives to transfer.
- 9.3. The ESO will assist with identification of additional case management support for the student and will work with the school, the student, and their parent/carer to identify alternatives to transfer.
- 9.4. The school principal, supported by the relevant Director School Improvement, is required to make a recommendation to the Director-General and seek endorsement for the proposed transfer of the student.
- 9.5. Following endorsement from the Director-General, the principal will, with support from the ESO and the relevant Director School Improvement, meet with the family/carer to discuss the proposed transfer.
- 9.6. The principal is required to provide the notice of proposal to transfer to the parent/carer. It must include:
  - a) the grounds for the proposed recommendation to transfer including details of the student's unsafe or noncompliant behaviour and how they have exhausted reasonable alternatives to transferring the student;
  - b) the school the student is proposed to be transferred to;
  - c) the day the proposed transfer would take effect; and
  - d) the decision-making process for the proposed transfer including:
    - i. why the proposed transfer school was chosen, and
    - ii. how the student and their parent/carer may take part in the process and have their views heard –this will provide the student and their parent/carer with 14 days to provide any additional information that should be considered.

- 9.7. An additional timeframe to provide additional information may be extended by the principal issuing the notice of proposed transfer.
- 9.8. After the stipulated 14 days, the principal will then make a final recommendation to the Director-General using the Recommendation: Transfer of a Student Form (internal use only).
- 9.9. The recommendation must include:
- a) the grounds for the proposed transfer including details of the student's unsafe or noncompliant behaviour and how the school has exhausted all reasonable alternatives to transfer;
  - b) the school to which the student is to be transferred, why that decision was made and the consultation with this school principal that has occurred;
  - c) the day the transfer is to take effect;
  - d) steps taken to involve the student and their parent/carer in the decision-making process and any views of the student and their parent/carer about the transfer, including the school to which the student will be transferred, noting that consultation does not require consensus; and
  - e) any other information that the principal considers would assist the Director-General in deciding whether to enact the transfer of the student.
- 9.10. The recommendation is to be provided to School Operations, who then provide a copy of the recommendation to relevant areas within the ESO, including any additional information relevant to making a decision to transfer. All information is then to be provided to the Director-General for consideration and decision.
- 9.11. The Director-General makes a decision about transfer after receiving the recommendation and must advise the parent/carer, student and principal of the transferring school and the receiving school of their decision within 28 days.
- 9.12. While the Director-General is considering the recommendation, the principal of the transferring school is responsible for ensuring the school remains a safe and effective learning environment and for providing the student with access to relevant supports to support their wellbeing.
- 9.13. Where the Director-General makes a decision to transfer a student, they will:
- a) inform the student, and give their parent/carer written notice, about the transfer, including:
    - i. the grounds for the transfer; and
    - ii. the school to which the student is being transferred; and
    - iii. the day the transfer takes effect.
  - b) inform the recommending principal about the transfer, including any changes made to the principal's recommendation; and
  - c) inform the principal of the school to which the student is being transferred about the transfer, including:
    - i. the grounds for the transfer; and
    - ii. the school from which the student is being transferred; and
    - iii. the day the transfer takes effect.
- 9.14. It is the responsibility of the transferring school to ensure the student has an opportunity to attend counselling, noting the counselling might be provided by either school.

- 9.15. When a student is transferred to another ACT public school, the transferring and receiving schools should commence communication and transition planning as soon as possible to ensure strategies are in place before the student starts at the receiving school.
- 9.16. The transferring school is responsible for updating the Student Movement Register within five days of the transfer taking effect.
- 9.17. During the transfer process, any additional information that may arise which provides an alternative to transfer of the student must be considered.
- 9.18. At any point during the transfer process, a parent/carer may decide to enrol their child at another school. Where this occurs, and the new enrolment has been accepted, the transfer process is to be cancelled by the Education Directorate and communicated to both schools.

## **10. Exclusion**

- 10.1. The Exclusion of a student can only be undertaken by the Director-General.
- 10.2. Exclusion of a student is a Directorate-initiated process that prevents a student from being or continuing to be enrolled at any ACT public school. Exclusion may only be used:
  - a) for students - non-compulsory education age; and
  - b) in circumstances when a student's presence in any ACT public school would create an extreme risk to the safety and welfare of staff and/or students; and
  - c) where student behaviour is unable to be managed in a school setting, including through any Directorate managed programs; and
  - d) where all other reasonable alternatives have been exhausted.
- 10.3. A child under compulsory education age cannot be excluded from being enrolled in any ACT public school. While this is allowable under the Education Act 2004, ACT public schools must seek reasonable alternatives to excluding students in this age group, which may include transfer to another ACT public school.
- 10.4. Exclusion can only be sought in the most serious of circumstances where it is not in the best interests of the student, another student, or a member of staff for the student to be enrolled in any ACT public school.
- 10.5. Before commencing the exclusion process, a principal must seek advice on reasonable alternatives to exclusion from:
  - a) ESO (Education and Wellbeing Support Supports and Complex Behaviour Support and Work Health and Safety Branches); and
  - b) Director of School Improvement.
- 10.6. The ESO may assist with identification of additional case management support for the student and may work with the school, the student, and their parent/carer to identify alternatives to exclusion.
- 10.7. Where a reasonable alternative exists, the exclusion process must not continue and instead that alternative must be explored. During the exclusion process, any additional information that may arise which provides an alternative to exclusion of the student must be considered.
- 10.8. The principal will, with support from the ESO and the relevant Director School Improvement, recommend exclusion only once they have:
  - a) given the student's parent/carer written notice, about the recommendation to exclude the student;



- b) told the student; and
  - c) met with the parent/carer to discuss the proposed exclusion and gather the relevant information from the parent/carer about the proposal.
- 10.9. The final documentation must then be provided to the Director-General for final approval.
- 10.10. The principal should, where possible, have a conversation with the student's parent/carer (the student may be involved in this conversation) prior to sending them a notice that they intend to make a recommendation for exclusion of the student from all ACT public schools.
- 10.11. The principal must write to the student's parent/carer providing notice that they propose to recommend that the student be excluded (a notice of proposal to exclude).
- 10.12. The notice of proposal to exclude must include:
- a) the grounds for the proposed exclusion including details of the student's unsafe or noncompliant behaviour and how they have exhausted reasonable alternatives to excluding the student; and
  - b) the day the proposed exclusion would take effect; and
  - c) options available to the student to continue their education; and
  - d) the decision-making process for the proposed exclusion and how the student and their parent/carer may take part in the process and have their views heard – usually this will provide the student and their parent/carer with 14 days to provide any additional information that should be considered.
- 10.13. The principal then makes a recommendation to the Director-General using the Recommendation: Exclusion of a Student Form (internal use only).
- 10.14. The recommendation must include:
- a) the information outlined in the notice of proposal to exclude; and
  - b) any previous suspension or transfer of the student and reasonable alternatives previously used or attempted to be used, and the behaviour giving rise to the action; and
  - c) steps taken to involve the student and their parent/carer in the decision-making process and any views shared about the exclusion; and
  - d) any other information that the principal considers would assist the Director-General in deciding whether to exclude the student.
- 10.15. The recommendation is to be provided to School Operations, who provide a copy of the recommendation to relevant areas within the ESO that may provide additional information relevant to making a decision to exclude. The recommendation documentation will then be provided to the Director-General for consideration and decision.
- 10.16. The Director-General makes a decision about exclusion after receiving the recommendation and advises the parent/carer, student and school of their decision within 28 days.
- 10.17. While the Director-General is considering the recommendation, the principal of the school from which the student may be excluded is responsible for ensuring the school remains a safe and effective learning environment and for providing the student with access to relevant supports to support their wellbeing.
- 10.18. The Director-General may only exclude a student from enrolling at any ACT public school if they are satisfied:

- a) the student is of a non-compulsory school age (and not below the compulsory school age);
- b) the student has engaged in unsafe or noncompliant behaviour; and
- c) the school at which the student is enrolled has exhausted all reasonable alternatives to excluding the student; and
- d) it is not in the best interests of the student, or another student at an ACT public school, or a member of staff of an ACT public school for the student to be enrolled at any ACT public school; and
- e) it is reasonable to exclude the student considering all the circumstances, including any views of the student and their parent/carer about the proposed exclusion.

10.19. Where the Director-General decides to exclude a student from enrolling at any ACT public school, the Director-General must:

- a) tell the student, and give their parent/carer written notice about the exclusion, including:
  - i. the grounds for the exclusion; and
  - ii. the day the exclusion takes effect; and
- b) tell the recommending principal about the exclusion, including any changes made to the principal's recommendation.

10.20. The principal of the school recommending the exclusion must provide the student with information about the options available to them to continue their education and the opportunity to engage in counselling.

10.21. When the decision is made to exclude the student, the school at which the student was last enrolled is responsible for updating the Student Movement Register within five days of the day the exclusion takes effect.

## **11. Communication**

11.1. Information must be provided to students and their parents/carers in a language and way that they can understand.

11.2. Translating and Interpreting Services must be offered as required.

11.3. The student must have a parent/carer or appropriate support person present when taking part in the decision-making process.

11.4. When a school makes contact, or attempts to make contact, with a student or parent/carer about a transfer or exclusion the school must document/record the contact or attempted contact on SAS.

## **12. Reviewable Decisions**

12.1. Students and their parents/carers must be advised in writing that they have the right to apply for an external review of a decision to transfer or exclude a student. As decisions relating to transfer and exclusion can only be made by the Director-General, an internal review is not available. Information on how to apply for a review of a decision can be found in the Directorate's *Review of Decisions Policy 2016* and its procedures.

12.2. Where an application for review is made, the school is responsible for amending the transfer or exclusion information on the student's record to indicate that the decision was reviewed, and the decision was upheld, varied, or overturned.

### 13. Contact

- 13.1. The Executive Branch Manager, Complex Behaviour Support & Work Health and Safety, is responsible for this procedure.
- 13.2. For support contact Complex Behaviour Support & Work Health and Safety Branch on (02) 6207 6744 or email: [EBMCBS.WHS@act.gov.au](mailto:EBMCBS.WHS@act.gov.au).

### 14. Feedback

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

### 15. References

#### Related legislation, policies and documents

- [Attachment A – Procedural Fairness and Natural Justice](#)
- [ACT Civil and Administrative Tribunal Act 2008](#)
- [ACTPS Work Health and Safety Policy Statement 2012](#)
- [Australian Student Wellbeing Framework 2018](#)
- [Complaints Policy 2016](#)
- [Compulsory Education Student Enrolment and Attendance Policy 2022](#)
- [Education Act 2004](#)
- [Exemption Certificate Procedure 2016](#)
- [Human Rights Act 2004](#)
- [Infectious Diseases – Outbreak Procedures and Exclusions Period Policy and Procedures 2016](#)
- [Managing Occupational Violence Policy 2017](#)
- [Occupational Violence Management Plan 2017](#)
- [Review of Decisions Policy 2016](#)
- [Safe and Supportive Schools Policy 2016](#)
- [Safe and Supportive Schools Procedures A and B 2016](#)
- [Suspension, Exclusion or Transfer of a Student in ACT Public Schools Policy 2023](#)
- [Work Health and Safety Act 2011](#)

#### Internal use only

- [Alternatives to suspension Fact Sheet](#)
- [Psychosocial Harm Fact Sheet](#)
- [Unsafe or noncompliant behaviour Fact Sheet](#)