

SUSPENSION & EXPULSION

The Ministry of Education is concerned that some students in the Cook Islands are being denied their rights to relevant, quality education. These rights are enshrined in education legislation and policy and international conventions signed by the Cook Islands Government and include the Convention on the Rights of the Child and the Convention on the Elimination of Discrimination Against Women. The primary role of a school is to provide quality learning programmes for all students in the community. The denial of the right to education is not to be used by a government school as a punishment for events that occur in the wider community. The responsibility for dealing with misbehaviour or criminal behaviour occurring outside school times rests with the police, social welfare, parents/guardians, individual citizens and community groups, unless students are participating in a school activity. Schools should assist such groups but this assistance should be in the form of education and guidance rather than punitive action.

The Education Act states that “Misbehaviour” is a breach of school rules.

A student has “seriously misbehaved” if the student has behaved in a way that—

- (a) **is a harmful example to other students at the school; or**
- (b) may have seriously harmed themselves or someone else at the school.

For misbehaviour not deemed to be of a serious nature, the school’s approved discipline policy will apply.

If the principal, after consultation with the chairperson of the school committee and in accordance with the school’s policy, is reasonably satisfied that the student has seriously misbehaved—

- (1) The Principal may stand-down or, if an extended period of time is required to deal with the offence, suspend the student
 - (a) The principal of a school may stand-down or suspend a student if satisfied on reasonable grounds that—
 - (i) the student's gross misconduct or continual disobedience is a harmful or dangerous example to other students at the school; or
 - (ii) 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.
 - (b) A stand-down may be for 1 or more specified periods, and—
 - (i) the period or periods may not exceed 5 school days in any one term;
 - (ii) 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;
 - (iii) 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;
 - (iv) the principal may lift the stand-down at any time before it is due to expire.
 - (c) If a student has been stood-down or suspended, the following provisions apply in relation to the student's attendance at the school:

- (i) 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 23;
 - (ii) 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;
 - (iii) otherwise, the student does not have to, and is not permitted to, attend the school while stood-down or suspended.
- (2) A “stand down” is a period of time, of up to 3 school days, during which a student must not attend school (but see section 23 under which the student must do school work during a stand down).
 - (3) A suspension is the extension of a stand down period. A suspension requires a Disciplinary Committee meeting which must be called within 7 calendar days of the commencement of the stand down.
 - (4) A child cannot be excluded from gaining an education before he or she attains the legal school leaving age.

(5) School's powers when suspended student younger than 16

- (a) If a student younger than 16 has been suspended from a school, the school's Discipline Committee through the Principal may—
 - (i) lift the suspension at any time before it expires, either unconditionally or subject to any reasonable conditions the committee wants to make;
 - (ii) extend the suspension conditionally for a reasonable period determined by the committee when extending the suspension, in which case subsection (b) applies;
 - (iii) 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.
- (b) If the committee extends a suspension conditionally, the committee 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.
- (c) 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 committee to reconsider the action it took under this section in that case and the committee may confirm or reverse its earlier decisions or may modify its earlier decisions by taking any action specified in any of paragraphs (i) to (iii) of subsection (a).
- (d) If the board has not sooner lifted or extended it or excluded the student under subsection (a)(iii), the suspension of a student younger than 16 ceases to have effect—
 - (i) at the close of the seventh school day after the day of the suspension; or
 - (ii) if the suspension occurs within 7 school days before the end of a term, at the close of the tenth calendar day after the day of the suspension.
- (e) If the Discipline Committee of a school excludes the student under subsection (a)(iii), 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).
- (f) If the principal is unable, by the tenth school day after the day of the committee'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.

(6) Secretary's powers when excluded student is younger than 16

(a) If the Secretary is satisfied that a school has excluded a student who is younger than 16 from the school under section 21A(4)(a), and that the principal has not arranged for the student to attend another school, the Secretary must either,—

- (i) 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
- (ii) arrange for and, if necessary, direct the Principal of any other school (that is not a private school) to enrol the student at the other school; or
- (iii) direct a parent of the student to enrol the student at a correspondence school.

(b) The Secretary may not give a direction under subsection (a)(ii) or lift an exclusion under subsection (a)(i) unless the Secretary has also made all reasonable attempts to consult the student, the student's parents, the Principal and School Committee, 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.

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

(7) School's powers when suspended student is 16 or older

(a) If a student who is 16 years or older has been suspended from a school, the Discipline Committee through the Principal may—

- (i) lift the suspension at any time before it expires, either unconditionally or subject to any reasonable conditions it wants to make; or
- (ii) extend the suspension conditionally for a reasonable period determined by the board when extending the suspension, in which case subsection (b) applies; or
- (iii) expel the student.

(b) If the school extends a suspension conditionally, the school 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.

(c) 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 Discipline Committee to reconsider the action it took under this section in that case and the committee may confirm or reverse its earlier decisions or may modify its earlier decisions by taking any action specified in any of paragraphs (i) to (iii) of subsection (a).

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

- (i) at the close of the seventh school day after the day of the suspension; or
- (ii) if the suspension occurs within 7 school days before the end of a term, at the close of the tenth calendar day after the day of the suspension.

1. Notice Requirements for stand-downs or suspensions

(1) As soon as possible after standing down a student, the principal must take all reasonable steps to—

- (a) meet with the student, in the presence of a parent of the student, to talk about the student's misbehaviour; and
- (b) give the Secretary of Education and Parent a notice that states—
 - (i) that the principal has stood down
 - (ii) the date and conditions of a suspension hearing if this is to occur; and

- (ii) the reasons for the stand down or suspension; and
 - (iii) the length of the stand down or suspension; and
 - (iv) whether the student is also required to participate in a behaviour improvement programme; and
 - (v) that the parent may apply to the Secretary for a review of the principal's decision; and
 - (vi) the way that the parent may apply for a review of the principal's decision.
- (2) The parent may apply to the Secretary, for a review of the principal's or Discipline Committee's decision.
 - (3) The parent's application must give the reasons why the decision should be changed.
 - (4) After reviewing the decision, the Secretary must—
 - (a) decide to confirm, change or cancel the decision; and
 - (b) as soon as practicable, give a notice to the parent, and the principal, about the Secretary's decision and the reasons for the Secretary's decision.
 - (5) The Secretary's decision cannot be appealed against.

2. Duties of Principal when a student is stood down or suspended

- (1) When a student is stood-down or suspended from a 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, 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.
- (4) Each parent of the student must ensure that the student participates full-time in the educational programme.
- (5) If a parent does not comply with subsection (4), the parent commits an offence, unless the parent has a reasonable excuse.
- (6) The maximum penalty for the offence is defined by regulation.

3. Effect of Suspension on School Register

- (1) The name of a student younger than 16 who has been suspended from a school under section 21 or excluded from a school under section 21A (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 from attendance
- (2) The name of a student who has turned 16 and is suspended from a school under section 21 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) 1 January after the student's 19th birthday.