



Student Welfare Directorate

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NSW Secondary Deputy Principals Association 2008 Conference

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Suspension and Expulsion Key Aspects and Considerations

Important Policy Statements

- **5.0.2. Purpose of suspension:**
 - Allows students time to reflect on their behaviour, to acknowledge and accept responsibility for the behaviours that led to the suspension and to accept responsibility for changing their behaviour to meet the schools expectations in the future.
 - It also allows time for school personnel to plan appropriate support for the student to assist with successful re-entry.

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Important Policy Statements

- **5.0.6.**
 - These procedures apply to the behaviour of students at school, on the way to and from school and while away from the school site on school endorsed activities (legal issues bulletin No 5)

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Important Context Statements

- **4.0.5**

The principal must also ensure that the implementation of these procedures takes into account factors such as the age, individual needs, any disability and developmental level of students.
- **5.0.4**

Procedural fairness

 - The right to be heard
 - The right to a fair and impartial decision

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Grounds for Suspension

- Short Suspension (6.2)**
1. Continued Disobedience
Including but not limited to:
 - Refusal to obey teacher instructions
 - Defiance
 - Disrupting other students
 - Minor criminal behaviour related to the school
 - Use of alcohol or persistent use of tobacco

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Grounds for Suspension

Short Suspension (6.2)

2. Aggressive Behaviour

Including but not limited to:

- hostile behaviour to students, members of staff or other persons (including verbal abuse and abuse transmitted electronically such as by email or SMS text messages)

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Grounds for Suspension

Long Suspension (6.3)

- Physical violence
- Use or possession of a prohibited weapon, firearm or knife
- Use of an implement as a weapon or threatening to use a weapon
- Possession or use of a suspected illegal substance

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Grounds for Suspension

Long Suspension (6.3)

- Persistent misbehaviour
- Serious criminal behaviour related to the school

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Suspension Quiz

1. If the principal can't resolve a suspension, the suspension can be extended
2. A knife is a prohibited weapon
3. After 2 short suspensions in a year the principal must impose a long suspension

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Suspension Quiz

- Once a student has turned 15 the responsibility for finding another educational placement is the parents or carers and the students'
- The deputy principal is able to make a decision to suspend or expel a student

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Suspension Quiz

- When a suspension has been imposed the student must not return to school until the full period of suspension has been served.
- The procedures allow flexibility regarding students with disabilities – the procedures should not be applied to students with disabilities in the same way as other students

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Suspension, Disability, OH&S

How do we reconcile:?

- Requirements of OH&S Act
- Commonwealth Disability Discrimination Act (DDA) 1992
- Disability Standards for Education (2005)
- Suspension and Expulsion of School Students - Procedures

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Direct Disability Discrimination

Where a person treats another person:

- Less favourably
- In the same or similar circumstances to a person without a disability.

And that treatment is on the ground of the person's disability.

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Indirect Disability Discrimination

A person requires another person to comply with a requirement or condition:

- a. with which a substantially higher proportion of persons without the disability comply or are able to comply; and
- b. which is not reasonable having regard to the circumstances of the case; and
- c. with which the aggrieved person does not or is not able to comply.

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Education Provisions

It is unlawful to discriminate:

- on admission – by refusing an application or the terms or conditions of admission,
- once a student – by denying or limiting any benefit, by expulsion or by any other detriment

if any action or decision taken on the ground of the person's disability.

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Students with Disabilities

- Disability Standards for Education
 - 10 August 2005
 - Formulated under the DDA (1992)
 - Reasonable adjustments
 - Consulting students
- Important Court Decisions
 - Purvis vs NSW Government
 - Clark vs CEO Office
 - Minns Vs NSW Department of Education

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Considerations:

- the impact and nature of the disability. Is the disability defined by the behaviour?
- the impact of the behaviour on the health and safety of others.
- the need for flexibility in the application of a discipline policy to a disabled student with challenging behaviour
- the need for a thorough assessment of a student's needs as part of the enrolment process
 - making reasonable adjustments

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Students with Disabilities

- Can you discipline students with disabilities without discriminating against them on the ground of their disability?

Yes

- Should you discipline a student with a disability in the same way you would discipline a student without a disability

Generally No

See HREOC Website:

http://www.hreoc.gov.au/disability_rights/education/education.html

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NSW Ombudsman Investigation of Implementation of Suspension and Expulsion Procedures

Findings

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Findings

- Length of long suspensions
 - Most 20 days, spike at 5 and 10 days.
 - Many schools set resolution meetings on last day of a 20 day suspension
- Action to be taken before giving a long suspension

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Findings

Operational and administrative practices

- Formal Disciplinary Interviews
- Record keeping
 - Considerable variation in quality

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Findings

Operational and administrative practices

- Database and use of template letters
 - School based system not compatible with state system
 - Considerable number of errors in using template letters with scant information on some
- Training in the suspensions policy
 - Principals receive ongoing training
 - As deputy principals are largely responsible for implementation of many aspects of the procedures, they should also be included in training.

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Findings

Operational and administrative practices

- Support Persons and Observers
 - Identified as a problem area
 - Further clarification needed on roles and speed of availability
- Work sent home
 - Little reference found in many files to work program
 - Additional guidance needed on what constitutes appropriate work

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Findings

Operational and administrative practices

- Engaging parents or carers
 - In some cases, schools are managing parent as well as student behaviour
 - Suspension resolution meetings should be able to be conducted on the telephone
 - Information on appeal rights and the procedures needs to be provided in a more easily understood form

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Findings

Operational and administrative practices

- Suspension Resolution Meetings and Length of suspension
 - Concern about the number of cases where the resolution meeting is fixed in the letter and occurs on last day of suspension (often on day 20)
 - Most long suspensions are 20 days, with blocks of 5 and 10 days – in conflict with the Department's stated aims.

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Findings

Support Services and Assistance

- Support services and assistance
 - Strong support for suspension centres and behaviour schools, although they are not accessible to all
- School Counsellors
 - Access to counsellor support an issue
 - Less than half of files showed evidence of a counsellor report



Findings

Support Services and Assistance

- Early Intervention
 - Many spoke of the need for early intervention and that they considered it too late once students had reached high school to address difficult behaviour (State Plan F4)
 - Primary principals were pessimistic about the availability of resources to address behaviour problems in younger students



Findings

Support Services and Assistance

- Professional development for teachers
 - Comment was made about increasing issues schools and teachers were ill equipped to deal with
 - Common theme – need for all teachers to have further professional development in behaviour management
 - Some regions identified strategies they have in place



Findings

Who is being suspended


- Reporting versus analysis
 - Suspension data gives limited information on which students are being suspended
 - Further analysis needed for data to drive change
 - Little evidence of school education directors giving approval for more than 2 long suspensions in a year



Findings
Who is being suspended

- Student's needs and characteristics


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Findings
Transition back to school

- Transition back to school is 'challenging'
 - Some schools have developed additional processes
 - If long suspensions are resolved at the earliest opportunity as required by the procedures and appropriate supports are put in place, transition might be less fraught for both the student and school


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Findings
In-school suspensions and use of time out/isolation rooms

- Although the procedures do not allow for it, in practice students are being given in-school suspensions
- Strong reservations expressed by many about how to operate these effectively and safely. If they were to be permitted by the department, a rigorous framework would be needed with dedicated resources

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Findings
In-school suspensions and use of time out/isolation rooms

- Time-out/isolation rooms
 - Additional guidance is needed other than that provided in the interim advice DN/04/00133

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