

SUSPENSION and EXPULSION



RATIONALE

The Farmhouse Montessori School is committed to providing a safe, secure and stimulating environment conducive to learning and the full development of the child. This is characterised by fairness, mutual trust, respect and reconciliation. A safe and supportive environment is developed when all members of the school community promote open communication, tolerance and positive relationships and embrace responsive, just and transparent processes.

As a Montessori school, it is neither our objective nor our standard approach to exclude or expel students at the school except under absolute extreme circumstances. However, in instances where we are unable to effectively address this, we will retain the option of requiring parents in those circumstances to remove their children from our care.

The Education Act 1990 requires that policies related to the discipline of students be based on procedural fairness. It is the responsibility of the school to determine incidents that may require disciplinary action and the nature of any penalties that may apply. The process that leads to the imposition of such penalties, particularly but not exclusively in relation to suspension, expulsion and exclusion, must be procedurally fair.

BACKGROUND AND DEFINITIONS

Suspension is a temporary removal of a student from all of the classes that a student would normally attend at a school for a set period of time.

Expulsion is the permanent removal of a student from one particular school.

Exclusion is the act of preventing a student's admission to a number of schools. In extreme circumstances, the Principal of a school may make a submission to an appropriate authority, or to other schools, recommending the permanent exclusion of a student from the registration system of which the school is a member, or from other schools.

Procedural Fairness:

Procedural fairness is a basic right of all when dealing with authorities. Procedural fairness refers to what are sometimes described as the 'hearing rule' and the 'right to an unbiased decision'.

The 'hearing rule' includes the right of the person against whom an allegation has been made to:

- know the allegations related to a specific matter and any other information which will be taken into account in considering the matter
- know the process by which the matter will be considered
- respond to the allegations
- know how to seek a review of the decision made in response to the allegations.
- The 'right to an unbiased decision' includes the right to:
 - impartiality in an investigation and decision-making
 - an absence of bias by a decision-maker.

Procedural fairness includes making available to students and parents or caregivers the policies and procedures under which disciplinary action is taken. It also includes providing details of an allegation relating to a specific matter or incident. This will usually involve providing an outline of the allegations made in witness statements and consideration of witness protection. As part of ensuring the right to be heard, schools could establish any need for parents/caregivers to be provided with interpreter services and, if required, make arrangements for such services to be available.

While it is generally preferable that different people carry out the investigation and decision-making, in the school setting this may not always be possible. If the principal is conducting both the investigative and decision-making stages, he or she must be reasonable and objective. To be procedurally fair, the principal must act justly and be seen to act justly. While it is difficult to combine the roles of investigator and adjudicator, it is acceptable to do so given the nature of the principal's responsibilities. Nevertheless, it may be preferable to have another appropriate officer, such as an assistant principal or independent person, carry out the investigation where possible. The review mechanism adds to the fairness of the process.

In matters where a long suspension, expulsion or exclusion is contemplated, the gravity of the circumstances requires particular emphasis to be given to procedural fairness. This includes the offer of having a support person/observer attend formal interviews. The key points of the interview/discussion should be recorded in writing.

Evidence of compliance

A registered non-government school will have in place and implement policies related to the discipline of students, including but not limited to the suspension, expulsion and exclusion of students, that are based on procedural fairness.

DECISION TO EXPEL

1. While it is generally preferable that different people carry out the investigation and decision making, in the school setting this may not always be possible. If the Principal is conducting both the investigative and decision making stages, he or she must be reasonable and objective. To be procedurally fair, the Principal must act justly and be seen to act justly. While it is difficult to combine the roles of investigator and adjudicator, it is acceptable to do so given the nature of the Principal's responsibilities. Nevertheless, it may be preferable to have another appropriate officer, such as an Assistant Principal or independent person, carry out the investigation where possible. The review mechanism adds to the fairness of the process.
2. Consideration may also be given to asking a family to remove a child when parents or caregivers of the child, act in a manner that is considered at risk to others at the school.
3. The Principal in consultation with the Chairman of the Manly Warringah Montessori Society will decide whether the child's position at the school is forfeited.
4. School staff may continue to support a student and his/her family in the transition to another school.

DECISION TO SUSPEND

A family may be required to give their child some time out of school to allow situations to calm down or provide a period of time for the child and or school to develop an environment that will assist the child to return into the school community in a positive manner.

INFORMATION FOR FAMILIES

If any child is suspended or expelled, a copy of Suspension and Expulsion of School Students Procedures - Information for Parents from the Dept. Education and Training will be given to the family. See Appendix 1

Appendix 1

Suspension and Expulsion of School Students Procedures

Information for Parents



1. INTRODUCTION

This document provides summary information for parents on the Department of Education and Communities' *Suspension and Expulsion of School Students - Procedures*. A full version of these procedures can be obtained from the Department's policy website at:

https://www.det.nsw.edu.au/policies/student_serv/discipline/stu_discip_gov/PD20060316.shtml

Further assistance is available from your local office of the Department of Education and Communities.

2. CONTEXT

- All students and staff have the right to be treated fairly and with dignity in an environment free from disruption, intimidation, harassment and discrimination.

- There will be cases of unacceptable behaviour where it will be in the best interests of the school community and/or the student involved, for the student to be removed from the school for a period of time or completely. Suspension and expulsion are the options available to the principal in these situations.

- In such cases of unacceptable behaviour, parents should not be asked to keep students at home without the formal imposition of a suspension unless this is for the remainder of a school day as part of an approved behaviour management program.

- In implementing these procedures, the principal must ensure that no student is discriminated against on any of the following grounds: ❖ race, including colour, nationality, descent, and ethnic, ethno-religious or national origin

- ❖ sex
- ❖ marital status
- ❖ disability, including HIV/AIDS
- ❖ homosexuality
- ❖ transgender, or
- ❖ age.

- 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.

- Suspension is not intended as a punishment. It is only one strategy for managing inappropriate behaviour within a school's student welfare and discipline policies. It is most effective when it highlights the parents' responsibility for taking an active role, in partnership with the school, to modify the inappropriate behaviour of their child. The school and the government school system will work with parents with a view to assisting a suspended student to rejoin the school community as quickly as possible.

- Suspension also allows time for school personnel to plan appropriate support for the student to assist with successful re-entry. This may include access to appropriate support staff such as an Aboriginal community liaison officer or learning and support teacher. In some cases suspension from school allows

the school and government school system time to put measures in place to ensure the safety of students and staff. For the majority of students, suspension allows time for the student to reflect on their behaviour, to acknowledge and accept responsibility for the behaviours which led to the suspension, and to accept responsibility for changing their behaviour to meet the school's expectations in the future.

- The principles of procedural fairness are fundamental to the implementation of these procedures. Procedural fairness is generally recognised as having two essential elements. These are: ❖ the right to be heard, and

- ❖ the right of a person to a fair and impartial decision.

- 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. They can also apply outside of school hours and off school premises where there is a clear and close connection between the school and the conduct of students. This includes the use by a student of social networking sites, mobile phones and/or other technology to threaten, bully or harass another student or a departmental staff member for school related issues.

3. SUSPENSION

a. General Principles

- In determining whether a student's misbehaviour is serious enough to warrant suspension, the principal will consider the safety, care and welfare of the student, staff and other students.

- Before a suspension is imposed, with the exception of the cases outlined in dot point 4 below or other serious instances of misbehaviour that impact on the safety or welfare of students or staff, the principal will ensure that appropriate learning and support strategies and discipline options have been applied and documented.

- In some circumstances the principal may determine that a student should be suspended immediately. This will usually be due, but not limited, to reasons such as the safety of students or staff.

- When consideration has been given to factors such as age, disability and developmental level of students (amongst others), principals must suspend immediately and consistently with these procedures, any student who:

- ❖ *is physically violent*: Any student who is physically violent, resulting in injury, or whose violent behaviour seriously interferes with the safety and well being of others is to be suspended immediately.

- ❖ *is in possession of a firearm, prohibited weapon, (as defined by Schedule One of the Weapons Prohibition Act), or knife (without reasonable cause).*

- ❖ *uses, supplies, or is in possession of, a suspected illegal substance (not including alcohol or tobacco) or supplies a restricted substance.*

- ❖ *engages in serious criminal behaviour related to the*

school.

- Schools should ensure that in meetings with school personnel, in cases where communication difficulties arise due to a lack of understanding of English, parents have access to the use of an on-site or telephone interpreter and receive translated letters notifying of suspension or expulsion.

Consideration may also need to be given to cultural issues and the intellectual capacity of the parent to understand what is occurring and what is being said. For details on arranging an on-site or telephone interpreter, refer to: <http://www.schools.nsw.edu.au/languagesupport/language/index.php>

- In all cases of suspension:

- ❖ a formal disciplinary interview must be held with the student prior to making the decision to impose a short suspension. Principals must ensure that the student is given explicit information about the nature of the allegation(s) and is given the opportunity to consider and respond to the allegation(s). The key features of the interview must be taken down in writing.

- ❖ a suspension resolution meeting must be convened by the principal at the earliest opportunity. The principal, in conjunction with the parents, should utilise the school, regional and other available resources in seeking a means of assisting the student to modify his or her behaviour.

- Should parents require a support person in order to participate fully in the suspension resolution or expulsion meeting, a person acceptable to both the parents and the principal may be involved, e.g. a member of the local Aboriginal Education Consultative Group (AECG) or an interagency support worker. The responsibility for organising a support person rests with the student or parents.

b. Short Suspension

- In cases where a range of appropriate learning and support strategies have been implemented and been

unsuccessful in resolving the inappropriate behaviour or the principal determines the behaviour of the student is of a type that warrants immediate suspension, the principal may choose to impose a short suspension of up to and including four school days. Short suspensions may be imposed for the following reasons and will be reported in the following categories:

1. Continued Disobedience. This includes, but is not limited to, breaches of the school discipline code such as: refusal to obey staff instructions; defiance;

disrupting other students; use of alcohol or repeated use of tobacco.

2. Aggressive Behaviour. This includes, but is not limited to hostile behaviour directed towards students, members of staff or other persons, including: damaging the property of the school or students; bullying (including cyberbullying); verbal abuse, and abuse transmitted electronically such as by email, SMS text messages or by other electronic means.

c. Long Suspension

- If short suspensions have not resolved the issue of inappropriate behaviour, or the misbehaviour is so serious as to warrant a long suspension, the principal may impose a long suspension of up to and including 20 school days. In determining if a student's behaviour is serious enough to warrant a long suspension the principal must consider: ❖ the

safety of students and staff

- ❖ the merit and circumstances of the particular case
- ❖ factors such as the age, individual needs, any disability and developmental level of students.

- Subject to factors outlined in the dot point above, principals will impose a long suspension for:

- ❖ **Physical violence:** Which results in injury, or which seriously interferes with the safety or well being of other students and staff (including sexual or indecent assault).

- ❖ **Use or possession of a prohibited weapon, firearm or knife.** When the student:
 - uses or possesses a weapon which is listed in Schedule One of the *Weapons Prohibition Act*. Prohibited weapons include laser pointers, or similar articles with a power output of more than one milliwatt. Prohibited Weapons do not include harmless children's toys such as plastic imitation guns that are clearly intended to be toys;
 - uses a knife or possesses a knife (without reasonable excuse as defined by the *Summary Offences Act**);
 - uses or possesses a firearm of any type (including live ammunition, and replica firearms).

*Note – “reasonable excuse” includes Kirpans carried by Sikhs for religious purposes.

- ❖ **Possession, supply or use of a suspected illegal substance.** This does not include alcohol or tobacco, but does include supplying other students with illegal drugs or restricted substances such as prescription drugs.

- ❖ **Serious criminal behaviour related to the school.**

This includes malicious damage to property (school or community), or against the property of a fellow student or staff member on, or outside of the school premises.

- Subject to factors outlined in the first dot point in this section (section c), principals may also impose a long suspension for:

- ❖ **Use of an implement as a weapon.** When a student uses an implement as a weapon to assault or injure another person (including use of an offensive implement, which is any implement made, or adapted to cause injury to another person).

- ❖ **Persistent or serious misbehaviour.** This includes, but is not limited to:
 - repeated refusal to follow the school discipline code;

- threatening to use a weapon in a way that might seriously interfere with the safety and wellbeing of another person;
- making credible threats against students or staff;
- behaviour that deliberately and persistently interferes with the rights of other students to learn or teachers to teach including bullying, harassment and victimisation.

- In the formal disciplinary interview, the student must be able to have an appropriate observer of their choosing present at the interview.

- The principal will not impose any more than two long suspensions on an individual student in any twelve month period without the approval of the Director, Public Schools NSW.

- If, after two long suspensions, the matter has not been resolved other strategies must be considered including alternative educational placements, expulsion from the school or expulsion from the school with a recommendation to the Minister that the student not be re-admitted to all or any government schools.

4. DECIDING ON, NOTIFYING AND RESOLVING A SUSPENSION

- The decision to suspend must be taken by the principal, or in the principal's absence, the person performing the principal's role (relieving principal).
- A student will not be sent out of the school before the end of the school day without notification being made to their parents and, if necessary, agreement reached about arrangements for the collection of the child from school.
- Notification of suspension must be made to the parents in writing within 24 hours following immediate verbal notification.
- The principal must convene a suspension resolution meeting of personnel involved in the welfare and guidance of the student, including the parents, to discuss the basis on which the suspension will be resolved.
- If parents are unable or unwilling to attend a suspension resolution meeting, the principal should consider the individual merits of the case and attempt to ensure that the student is back at school on or before the concluding date of the suspension period.
- Where a student is returning from suspension following an incident that involved violence or weapons, the principal must undertake a risk assessment in order to assess whether the return of the student will pose a risk to staff, students or other persons. This should be completed before the final day for resolution of the suspension.
- The student should not be re-admitted to the school until the issues identified in the risk assessment have been addressed. If the issues cannot be addressed before the final day of the suspension, the principal must refer the matter to the Director, Public Schools NSW, who will consider a range of measures to resolve the issues. While this is occurring it may be necessary to impose a second long suspension.

5. EXPULSION

a. General Principles

- In serious circumstances of misbehaviour the principal may expel a student of any age from their school. The principal may also expel a student who is over 17 years of age for unsatisfactory participation in learning.
- In all cases where expulsion is being considered the principal must:
 - ❖ notify the student and the parents, in writing, that expulsion from the school is being considered, giving reasons for the possible action
 - ❖ organise an interpreter or cultural assistance and/or translated documents, or other assistance for disability issues as appropriate, in order to allow parents to participate fully in the process
 - ❖ obtain and consider a report from the learning support team or school counsellor, as appropriate, that includes recommendations for further action
 - ❖ provide the parents with a copy of all documentation on which the consideration of expulsion is based
 - ❖ allow seven school days for students and parents to respond
 - ❖ consider any response from the student and parents before proceeding further
 - ❖ discuss with the student and the parents the implications of expulsion and provide information relating to the right to, and process for, an appeal.

b. Expulsion from a Particular School for Misbehaviour

- When considering expelling a student for misbehaviour, the

- principal must:
 - ❖ ensure, except as a result of a most serious incident, that all appropriate learning and support strategies have been implemented and documented
 - ❖ convene a formal disciplinary interview with the student. Principals must ensure that the student is given explicit information about the nature of the allegation(s) and is given the opportunity to consider and respond to the allegation(s). The student must also be able to have an appropriate observer of their choosing present at the interview. For very young students or students with certain disabilities it may be advisable to have a parent present at the meeting
 - ❖ place the student on a long suspension pending the outcome of the decision making.

- Having reached a decision to expel a student from the school, the principal will:
 - ❖ inform the student and the parents in writing. This formal advice should also restate the right to appeal the decision
 - ❖ arrange, within 10 school days, and with support from regional staff, an alternative educational placement appropriate to the needs of the student.

- If a suitable alternative cannot be arranged the principal must refer the issue to the Director, Public Schools NSW, for resolution.

- In the resolution process the Director, Public Schools NSW, may consider a range of options including:
 - ❖ directing, with approval from the Executive Director, Public Schools NSW, the re-admittance of the student to the school, subject to strict disciplinary arrangements as necessary to ensure the safety and welfare of the student, other students and staff

- ❖ placement in an alternative education setting
- ❖ enrolment in TAFE
- ❖ participation in other education or training approved by the Minister
- ❖ enrolment in distance education, or
- ❖ recommending to the Executive Director, Public Schools NSW, that another school be directed to enrol the student (subject to any issues that may have been identified by a risk assessment, having been addressed).

- In the majority of cases, expulsion from a particular school for misbehaviour will be finalised within the 20 school day period of a long suspension. In the unlikely event that this cannot be achieved, a second long suspension may be imposed provided approval is given by the Director, Public Schools NSW.

- If the student's behaviour has been so extreme that a suitable alternative placement cannot be found, the Director, Public Schools NSW, in consultation with the principal, may forward a submission to the Secretary, Department of Education and Communities through the Executive Director, Public Schools NSW and the Deputy Secretary, Department of Education and Communities, recommending to the Minister that the student who has been expelled for misbehaviour not be re-admitted to all or any government schools.

c. Expulsion from a Particular School of a Student over 17 Years of Age for Unsatisfactory Participation in Learning

- This will generally be where a student has failed to apply themselves with diligence and sustained effort to set tasks and experiences and the lack of application is impacting on the good order of the school and learning of other students.
- Prior to giving consideration to expulsion the student must receive at least one formal written warning that such action is

being contemplated. A program of improvement should be developed in conjunction with the student to assist them to improve their participation in learning. The student must also be provided with a reasonable period in which to demonstrate improvement.

- When considering expulsion in these circumstances, the principal will notify the student and the parents, in writing, that expulsion from the school is being considered, giving reasons for the possible action. There is no necessity to

place the student on long suspension pending the decision making process in these circumstances.

- Having reached the decision to expel the student from the school the principal will inform the student and the parents in writing. This formal advice should also restate the right to appeal the decision.
- The arrangement of an alternative placement is the responsibility of the student and the student's parents. Advice for students and parents in these circumstances is available from the appropriate regional office.

6. Appeals

- Students and parents may appeal if they consider that correct procedures have not been followed, and/or that an unfair decision has been reached.

- Some students or parents will require assistance in

lodging an appeal. Students or parents requiring assistance should be referred in the first instance to their local office for the Department of Education and Communities. Local office personnel should identify appropriate support people for the student or parents if this type of assistance is requested.

Appeals can be made to:

1. **The Director, Public Schools NSW** about the imposition of a suspension or a decision to expel a student from a particular school.

2. **The Executive Director, Public Schools NSW,**

where a Director, Public Schools NSW, has been so involved in a decision to suspend or expel a student from a particular school as to prevent him or her, on the grounds of procedural fairness, from deciding an appeal.

3. The Executive Director, Public Schools

NSW about the decision of a Director, Public Schools NSW, to decline an appeal relating to a suspension or an expulsion from a particular school.

- The Director, Public Schools NSW or the Executive Director, Public Schools NSW, will:

- ❖ deal with the appeal within 20 school days of its lodgement
- ❖ ensure that communication lines are maintained with the person(s) making the appeal and that they are kept aware of the progress of the appeal
- ❖ review all relevant material
- ❖ ensure that appropriate material has been made available to the student and his or her parents
- ❖ discuss relevant issues with the person(s) making the appeal and any other parties, as appropriate
- ❖ advise all the parties of the decision and the specific reasons for reaching the decision.

- Where an appeal or a component of an appeal is upheld, the person determining the appeal will decide what further action is to be taken. Further action will be determined by the findings of the appeal.

- The fact that an appeal has been lodged does not put on hold the principal's decision to suspend or suspend prior to expulsion from a particular school.

NOTE: In these procedures, the term "parent" or "parents" includes any person or persons having the custody or care of a child.

Source

- NSW Dept. of Education and Training - Suspension and Expulsion of School Students - Procedures 2011
- NSW Education & Communities Public School NSW

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