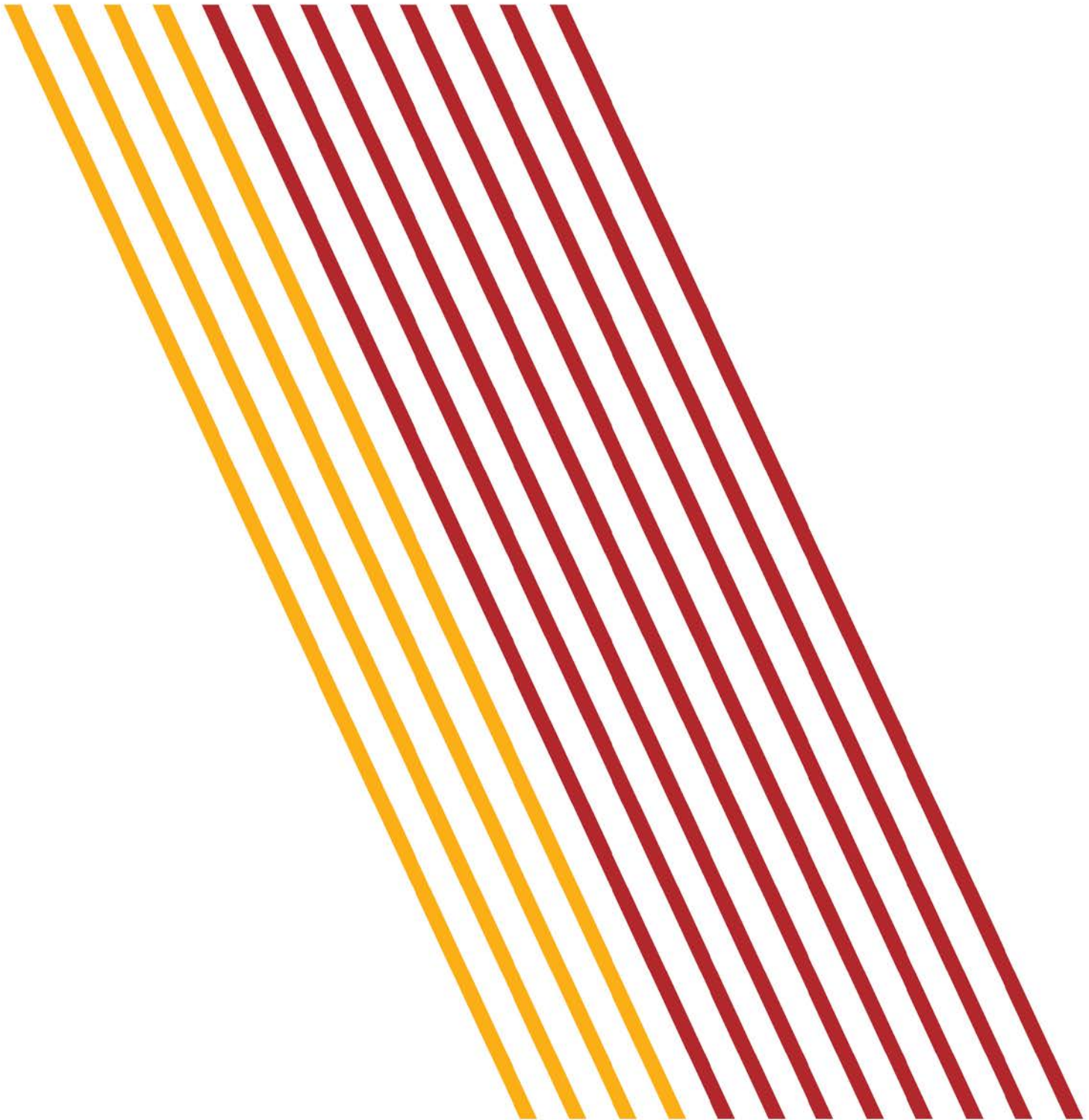


# EXPULSION POLICY FOR VICTORIAN GOVERNMENT SCHOOLS



Melbourne June 19

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# INTRODUCTION

Every child and young person deserves a good quality education and has a legal right to attend a Victorian government school. Upholding this right and ensuring the safety and wellbeing of all students are top priorities in the Victorian government education system.

Intervening early to understand and address the underlying factors that influence and trigger behaviours of concern in students is key to supporting children and young people to be connected and engaged in education. Recognising the fundamental importance of relationships, principals support and encourage the whole school community to resolve differences peacefully and respectfully at the school level.

On rare occasions, an individual student's behaviour may compromise the health, safety and wellbeing of other students and staff at the school. When a behavioural incident is of such magnitude that an expulsion is considered, it is important that a transparent, fair and supportive process is in place, with appropriate checks and balances at each stage.

The Victorian government school expulsion process is underpinned by a focus on procedural fairness and comprehensive support for all students. It aims to ensure that opportunities are provided to thoroughly consider the effect of a student's behaviour on all affected parties, and that decisions are informed by the safety, wellbeing and educational interests of the individual student and the school community. It also aims to ensure that vulnerable students who are a greater risk of poor educational outcomes are appropriately supported.

In the rare instance that the decision is made to expel a student, the principal and Department of Education and Training (the Department) will work closely with the student and their family to ensure they are supported to successfully transition to a new educational setting as soon as possible. This policy is based on the principle that no child will be excluded from the Victorian government school system, even if they are expelled from an individual school.

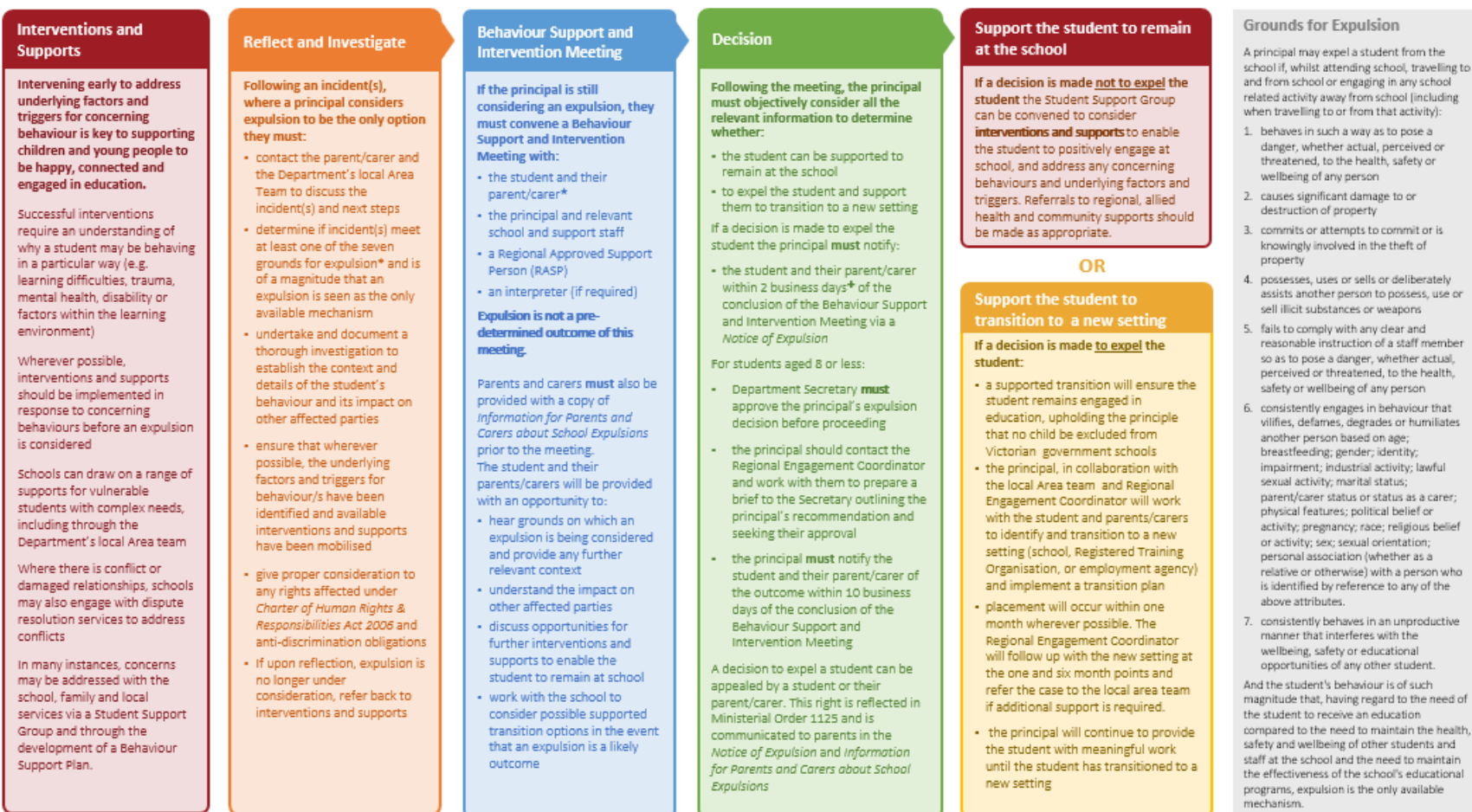
This policy applies to all Victorian government schools and reflects the requirements set out in *Ministerial Order 1125 – Procedures for Suspension and Expulsion of Students in Government Schools* (Ministerial Order 1125). The content has been developed to support and guide principals to meet their obligations when they are considering expelling a student from a Victorian government school. This policy comes into effect on the same date as Ministerial Order 1125.

This policy should be read in conjunction with the broader [Student Engagement and Inclusion Guidance](#).

Figure 1: Overview of Victorian government expulsion process

## EXPULSION POLICY OVERVIEW

Under legislation, the expulsion of a Victorian government school student can only be considered when a student's behaviour is of such magnitude that, having regard to the need to maintain health, safety and wellbeing of other students and staff, and the need to maintain an effective education program, expulsion is the only available mechanism.



\* Processes for expulsions are set out in [Ministerial Order 1125 – Procedures for Suspension and Expulsion of Students in Government Schools](#)

\* Where a parent/carer is unable or unwilling to participate in the expulsion process, another relevant person may be selected. Details on who can act as a relevant person are set out in [Ministerial Order 1125](#) - see also [Identifying a Relevant Person](#)

\* Business days means Monday to Friday excluding public holidays in Victoria



# INTERVENTIONS AND SUPPORTS

Understanding and addressing the underlying factors that influence and trigger behaviour is key to supporting students to be happy, connected and engaged in education. Where students repeatedly demonstrate challenging behaviours, schools should implement structured intervention strategies as part of a staged response to address the behaviours.

Interventions and supports implemented at the school-level may include:

- whole school strategies to build a positive culture and professional learning to build the capacity of school staff, for example through School Wide Positive Behaviour Support and Respectful Relationships
- individualised interventions and supports, for example supports developed and delivered by allied health professionals, including Student Support Services, and modifications to routine and learning environments
- targeted intervention and supports for vulnerable students, for example students in out-of-home care, students with a disability and Aboriginal and/or Torres Strait Islander students

Where behaviours escalate or are very complex, principals should seek support through the Department's Area team and regional staff who can advise on, and facilitate access to, evidence-based interventions, expert supports and services, particularly for vulnerable students and students with complex needs.

Refer to the [Student Engagement and Inclusion Guidance](#) for further advice on developing positive student behaviours and available interventions and supports.

Interventions and supports should be implemented and thoroughly documented well before an expulsion is considered by a principal. Expulsions are a serious disciplinary measure in Victorian government schools and should only be used as a last resort when all other disciplinary measures, interventions, supports and options have been exhausted.

In instances where there is no history of behavioural issues and an expulsion is being considered, principals may consider implementing interventions and supports rather than expelling a student.

## DEVELOPING A BEHAVIOUR SUPPORT PLAN

Principals should ensure a Behaviour Support Plan has been developed and implemented for all students who have a history of behavioural issues.

An effective Behaviour Support Plan contributes to building respectful relationships, resilience, and well-adjusted students who are able to learn effectively, and may prevent behaviours from escalating. Templates and advice are available to assist schools to develop an effective Behaviour Support Plan.

A Behaviour Support Plan should be regularly revisited and updated to ensure it remains current.

## SUPPORT FOR RESOLVING CONFLICTS

Schools are encouraged to consider making use of conflict resolution supports to assist in resolving conflicts that may arise from behavioural incidents or conflicts. Conflict resolution can assist in de-escalating situations and help all parties to develop flexible and creative solutions to difficult situations. The process emphasises building positive relationships between all parties.

Conflict resolution supports should be explored for a range of conflicts that arise within a school environment, irrespective of whether a suspension or expulsion is being considered. It is important to recognise that conflict resolution will not be appropriate to use in all situations and should not be used when there are threats or violence, or where there is unwillingness from either party to participate.

The Department has many internal avenues to help principals manage a conflict. Local Area teams can advise principals on available supports and direct them to the relevant part of the Department, the Central Complaints Team or the Independent Office for School Dispute Resolution.

Local Area teams can also provide advice on, and access to, suitable third party conflict resolution services. The Department's preferred supplier of conflict resolution services is Converge International.

**For further information**

- [School Wide Positive Behaviour Support](#)
- For assistance in managing conflicts, see: [Conflict Management](#)
- [Independent Office for School Dispute Resolution](#)
- On intervention, de-escalation and incident response; see: [Responding to Challenging Behaviours](#)
- [Behaviour Support at DET - online learning](#)
- [Student Support Services](#)

## REFLECT AND INVESTIGATE

Following a behavioural incident of such magnitude that expulsion may be considered, it is critical to reflect and conduct a thorough investigation to ensure procedural fairness. **Expulsion should not be a pre-determined outcome of this process.**

Principals are encouraged to engage and collaborate with the Department's local Area team and regional office about supports and interventions for the student that may not have been considered or implemented previously.

Principals are encouraged to use the *Principal Expulsion Checklist* which reflects the requirements of Ministerial Order 1125. This document will assist principals in ensuring they acquit each step of the process, regardless of whether they proceed to an expulsion.

At the reflection and investigation stage, it is essential that all supports and interventions implemented are thoroughly documented, and proper consideration is given to the *Charter of Human Rights and Responsibilities Act 2006* and anti-discrimination obligations. This is important to ensure the best outcome for a student, and to ensure that principals have sufficient written evidence to support an expulsion decision if it is later reviewed.

To facilitate reflection and a thorough investigation, critical actions for principals are:

- immediately responding to the incident
- establishing the context and details of the student's behaviour
- considering the impact on affected parties, including other students at the school
- communicating with students and parent/carer
- considering human rights and anti-discrimination obligations
- putting an immediate suspension in place, if appropriate
- contacting relevant Area and regional staff
- taking into account the considerations and actions required for vulnerable students
- considering if new interventions and supports can be put in place
- considering if the behaviour meets one of the grounds for expulsion and is of significant magnitude to warrant proceeding through the expulsion process.

These actions may take place concurrently.

### IMMEDIATE INCIDENT RESPONSE

Some incidents will require an immediate response. The principal may need to activate the school's emergency response management plan, report the incident, act on occupational health and safety (OHS) needs and inform a student's parent/carer about the incident.

#### For further information

- Security Services Unit, [Reporting and Management of Incidents and Hazards](#) and informing parent/carer about an incident: [Emergency and Critical Incidents](#)
- [Department's OHS Management System](#)
- In the event that:
  - a student has been restrained or secluded, refer to the key actions in the [Restraint and Seclusion resources](#)
  - the student is aged 10 or over and the behaviour may amount to a sexual offence, refer to the key actions in [Responding to Student Sexual Offending](#).



## WELLBEING SUPPORTS

The wellbeing of principals, school staff and students is a priority throughout an expulsion process. The Department is also committed to maintaining a safe workplace. Principals are encouraged to access supports available from a range of areas in the Department.

For more information on OHS and wellbeing supports for employees, see [HRWeb](#).

For information on principal health and wellbeing, see [Principal Health and Wellbeing Strategy](#).

## CONSIDERING THE GROUNDS FOR EXPULSIONS

### GROUND'S FOR EXPULSION

A principal may expel a student from the school if, whilst attending school, travelling to and from school or engaging in any school related activity away from school (including when travelling to or from that activity) the student:

1. behaves in such a way as to pose a danger, whether actual, perceived or threatened, to the health, safety or wellbeing of any person
2. causes significant damage to or destruction of property
3. commits or attempts to commit or is knowingly involved in the theft of property
4. possesses, uses or sells or deliberately assists another person to possess, use or sell illicit substances or weapons
5. fails to comply with any clear and reasonable instruction of a staff member so as to pose a danger, whether actual, perceived or threatened, to the health, safety or wellbeing of any person
6. consistently engages in behaviour that vilifies, defames, degrades or humiliates another person based on age; breastfeeding; gender; identity; impairment; industrial activity; lawful sexual activity; marital status; parent/carer status or status as a carer; physical features; political belief or activity; pregnancy; race; religious belief or activity; sex; sexual orientation; personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above attributes
7. consistently behaves in an unproductive manner that interferes with the wellbeing, safety or educational opportunities of any other student

**AND** the student's behaviour is of such magnitude that, having regard to the need of the student to receive an education compared to the need to maintain the health, safety and wellbeing of other students and staff at the school and the need to maintain the effectiveness of the school's educational programs, expulsion is the only available mechanism.

## COMMUNICATING WITH THE PARENT/CARER

When investigating a behavioural incident, it is important to communicate with the student and their parent/carer as soon as possible, so that they are aware of the situation and can put in place supports as required. Depending on the circumstances, this may happen prior to, or during the initial stages of an investigation.

When communicating with the student and their parent/carer, the principal should:

- provide details of the alleged incident or behaviour
- let them know an investigation is underway, and that this will be conducted fairly with consideration given to the student's best interests and the safety and wellbeing of the school community
- seek any relevant information that could inform the investigation
- advise if a suspension is being put in place and follow the relevant suspension processes
- establish if any other immediate wellbeing supports are needed that can be provided by the school or the local Area team.

### Students with separated parents

For students who have separated parents, it is important to remember that all parents and carers are entitled to be notified if there is a behavioural incident of such magnitude that expulsion may be considered. In circumstances where there is more than one parent/carer who would like to participate in the expulsion process, it is important to involve all of them.

If the principal needs advice and assistance on how to proceed with an expulsion in these circumstances, it is strongly recommended that they contact the Department's Legal Division on 9637 3146 or [legal.services@edumail.vic.gov.au](mailto:legal.services@edumail.vic.gov.au)

### Adult students or mature minors

The law recognises that as children become older and more mature they are more capable of making their own decisions on a wide range of issues. Students who are adults (18 years or older), or considered to be a mature minor by the school for the purposes of expulsion issues, may request that their parent/carer not be contacted.

The principal should strongly encourage such students to have a support person. For further advice on determining whether a student is a mature minor, see: [Decision Making Responsibilities for Students](#).

## CONSIDERING HUMAN RIGHTS AND ANTI-DISCRIMINATION OBLIGATIONS

Every situation is unique and will require individual consideration of rights affected under the *Charter of Human Rights and Responsibilities Act 2006* and principal's anti-discrimination obligations.

### CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES ACT 2006

The *Charter of Human Rights and Responsibilities Act 2006* (the Charter) is a Victorian law. The Charter sets out twenty human rights (a full list is available [here](#)). Every person in Victoria has these human rights.

When the principal is making a decision about whether or not to expel a student they **must** consider the Charter rights, and act compatibly with them.

The principal should consider the possible impact of the decision on any Charter rights and identify competing interests and obligations. For example, would an expulsion be compatible with:

- the right to equal and effective protection against discrimination
- a child's right to protection as is in their best interests and cultural rights
- the right to privacy and reputation
- any other rights that may apply.

Charter rights are not absolute and some have their own specific limitations. Under the Charter, rights may generally be subject to reasonable limitations (for example, in some circumstances, a student's Charter rights may be limited if their attendance at the school poses a genuine safety or security risk to others).

The principal **must** consider the implications for the person, or people, affected. A decision about expulsion may affect the rights of several people. In those cases, different rights and interests must be balanced.

If the principal is intending to take a decision or action which will limit a right under the Charter, the Department's Legal Division can help to assess whether the limit is reasonable and justified. Contact Legal Division on 9637 3146 or [legal.services@edumail.vic.gov.au](mailto:legal.services@edumail.vic.gov.au).

## ANTI-DISCRIMINATION LEGISLATION

The rights of students with a disability are set out in the *Disability Discrimination Act 1992* (Commonwealth) and the *Equal Opportunity Act 2010* (Vic). This legislation imposes a positive obligation on schools to make 'reasonable adjustments' for all students with disabilities to enable them to participate in their education on the same basis as their peers without a disability.

For example, the *Equal Opportunity Act 2010* provides that if a student with a disability requires adjustments in order to participate in or derive any substantial benefit from an educational program, then reasonable adjustments **must** be made unless the student could not participate in or derive any substantial benefit from the educational program even after the adjustments are made.

The law covers all students with a disability, regardless of whether they are funded under the Program for Students with Disabilities. The definition of disability is very wide and includes physical, intellectual, mental and medical impairments including disorders or malfunctions that result in a person learning differently (e.g. learning disorders).

Whether an adjustment is reasonable or not depends on many factors and it is important when considering whether an adjustment is reasonable for principals to seek advice from the:

- Regional Disability Coordinator (via the regional office)
- Legal Division on 9637 3146 or [legal.services@edumail.vic.gov.au](mailto:legal.services@edumail.vic.gov.au).

In addition to the obligation to make reasonable adjustments for students with disabilities, there is also a legal obligation not to directly or indirectly discriminate against a student because of a 'protected attribute'. These attributes include disability, race, gender identity, sex, religious belief or activity, physical features, sexual orientation and a range of other attributes.

For assistance with assessing compliance with anti-discrimination laws, the principal can contact DET's Legal Division on 9637 3146 or [legal.services@edumail.vic.gov.au](mailto:legal.services@edumail.vic.gov.au).

## PUTTING AN IMMEDIATE SUSPENSION IN PLACE IF APPROPRIATE

The principal may decide that the student should be suspended from school immediately while an expulsion is being considered, if the student's behaviour is such that they are putting the health, safety and wellbeing of themselves or any other person at significant risk.

The principal **must** follow the suspension process set out in Ministerial Order 1125, and:

- ensure the behaviour meets the grounds for suspension
- provide the student and their parent/carer with the *Notice of Suspension*
- record the suspension in CASES21
- provide the student with meaningful work including developing a Student Absence Learning Plan if the suspension extends beyond three days
- seek approval from the Regional Director if the suspension extends beyond five days.

### Allocating a teacher

It is important that a student is supported to remain engaged in their education during a suspension and throughout an expulsion process. The school should provide a student with work to support them to keep up with their learning and academic progress.

If a suspension is likely to extend beyond five days, a teacher should be designated as a key point of contact for the student and their family. Allocating a teacher will help to minimise disruption to the student's education and ensure the school meets its obligations to support a student's progress.

Ideally, the allocated teacher will be a teacher with whom the student has a positive relationship and who is able to support the student during the suspension and expulsion process.

The allocated teacher should:

- coordinate the collection of appropriate and meaningful tasks for the student to complete during the suspension
- endeavour to support the student to complete the work by maintaining high expectations and offering encouragement
- be a point of contact if the student has any questions about the work teachers have set
- inform planning of further support for the student and/or the planning for a supported transition in the event the student is expelled.

### **CONTACTING RELEVANT REGIONAL STAFF**

Engaging early and collaborating with regional staff will enable principals to be supported throughout the process, ensuring that the student is supported and that the correct expulsion process is followed.

There are a number of regional staff who can provide support to principals and families throughout the expulsion process. These include the Regional Engagement Coordinator, Regional Approved Support Person (RASP), Area Executive Director and their local Area teams, and the Regional Director.

#### **Regional Engagement Coordinators**

There is a Regional Engagement Coordinator in each of the Department's regions to:

- support principals to acquit the expulsion process
- connect principals to a Regional Approved Support Person
- connect principals with local Area and regional staff who can advise on available interventions and supports
- connect students and their family with local Area and regional supports during the expulsion process and in the event of an expulsion appeal
- support and monitor student transitions to a new setting, working with the local Area team and principal, if a decision is made to expel a student.

#### **Regional Approved Support Person**

Each region has a number of staff nominated to act as a RASP for the purpose of an expulsion process.

A RASP's key responsibility is to provide advice and support to the principal throughout an expulsion process, and ensure the school and student have accessed all relevant interventions and supports. A RASP will not take on any of the principal's responsibilities or decision-making authority.

The principal **must** seek the support of a RASP to:

- ensure all available supports and interventions to support the behaviours of concern are explored
- ensure alternative disciplinary measures are considered for the student
- attend the Behaviour Support and Intervention Meeting
- assist in implementing the actions agreed at the behaviour support and intervention meeting
- ensure that the appropriate education, training and/or employment options are considered for the student.

## CONSIDERATIONS AND ACTIONS FOR VULNERABLE STUDENTS

Some cohorts of students face additional barriers to engaging in education, and it is important that additional measures are in place to support them.

To assist schools and local Area and regional staff to work together to support vulnerable students, and to comply with the requirements set out in Ministerial Order 1125, the principal **must** advise the Regional Director if they are considering an expulsion for a student:

- in out-of-home care
- who is Aboriginal and/or Torres Strait Islander (Koorie)
- eligible for funding under the Program for Students with Disabilities.

If the student is from overseas, the principal **must** notify the Department's International Education Division.

### Students in out-of-home care

Students in out-of-home care face additional barriers to engaging in education. Many of these students have experienced trauma and multiple transitions between schools as a result of their living arrangements.

In addition to advising the Regional Director, the principal should:

- ensure the Education Support Guarantee has been delivered on, including arranging for an Educational Needs Assessment and appointing a Learning Mentor<sup>1</sup>.
- work with the Department of Health and Human Services Care Team and Learning Mentor to understand the impact that trauma may have on the student's behaviours, and any underlying needs
- contact the Lookout Education Support Centre in their region for advice on available supports.

### Koorie students

Some Koorie students face increased barriers to engagement in education. In addition to advising the Regional Director, the principal can seek additional support for Koorie students through their local Area team or Regional Engagement Coordinator.

For information on the Department's dedicated Koorie workforce, see: [Koorie Education Coordinators](#).

The principal should also let families know that they can contact the [Victorian Aboriginal Education Association Incorporated](#) (VAEAI) directly for independent support on 9481 0800.

### Students with a disability

For students with a disability, including those who are not funded under the Program for Students with Disabilities, the principal should also seek support from their local Area team to consider if:

- the student's behaviour is a symptom or manifestation of their disability
- the student could be supported to remain and positively engage at the school with appropriate intervention and support
- reasonable adjustments have been made to support the student to participate in their education on the same basis as their peers without a disability.

<sup>1</sup> [Education Commitment: A Partnering Agreement between the Department of Human Services, Department of Education and Early Childhood Development, the Catholic Education Commission of Victoria and Independent Schools Victoria](#) (the Partnering Agreement) commits all parties to improve the educational experience and outcomes of children and young people in out-of-home care in Victoria. As part of the Partnering Agreement, an [Education Support Guarantee](#) for children and young people in out-of-home care has been established and commits schools to providing an increased level of support for students in out-of-home care.

## Overseas students

If the student is an overseas student, the principal **must** contact the Department's International Education Division on 9637 2990 as the decision to expel may impact on the student's visa conditions.

This will ensure that the necessary transition arrangements and/or implications for the student's visa can be managed. It will also ensure that the Department complies with its obligations as a registered CRICOS provider under Commonwealth legislation.

## Next steps

If after reflecting and investigating, the principal thinks that the student can be supported to stay at the school, they should establish or reconvene a Student Support Group. The Student Support Group can develop, review or modify a Behaviour Support Plan and ensure appropriate interventions and support are in place to enable the student to remain at the school.

The principal should also give consideration to any supports required for students or staff affected by another student's behaviour. It may also be appropriate to consider accessing conflict resolution options where there is an ongoing conflict or tension between members of the school community.

Alternatively, the principal can proceed to convene a Behaviour Support and Intervention Meeting.



# BEHAVIOUR SUPPORT AND INTERVENTION MEETING

A Behaviour Support and Intervention Meeting **must** be held when an expulsion is being considered. **Expulsion should not be a pre-determined outcome of this meeting.**

A Behaviour Support and Intervention Meeting provides an opportunity for the student and their parent/carer to meet with the principal and collaboratively discuss the student's behaviour. The meeting **must** be conducted as informally as possible to encourage participation from all parties.

## MEETING PURPOSE

The purpose of the Behaviour Support and Intervention Meeting is to:

- advise the student and their parent/carer that the principal is considering whether to expel the student
- ensure all available supports and interventions in response to the behaviours of concern are considered for the student
- outline the grounds for expulsion that are being considered and the evidence to support a finding that the student has engaged in relevant conduct
- ensure that the student and their parent/carer have the opportunity to be heard
- consider the impact of the behaviour of the student on other affected parties
- identify the future educational, training and/or employment options most suited to the student's needs and agree on a course of action in the event expulsion is decided.

## ACTIONS PRIOR TO THE MEETING

The principal **must** provide a student's parent/carer with a copy of the *Information for parents and carers about school expulsions* and, if appropriate, provide the student with a copy of the *Information for students about school expulsions*.

The principal **must** contact the student and their parent/carer to inform them of the date, time and place for the meeting, taking reasonable steps to find a suitable time for all parties to meet.

The principal **must** also advise them:

- of the importance of both the student and their parent/carer attending the meeting
- that if the student's parent/carer is unable or unwilling to attend, they/or the student may nominate another adult to attend
- of the matters to be discussed at the meeting, which will include the impact of the student's behaviour on the affected parties
- that support person of their choice who is not acting for fee or reward may accompany them
- that if the student and their parent/carer do not attend the behaviour support and intervention meeting, it may proceed without them and a decision may be made without the benefit of hearing from them.

The principal **must** seek the support of a RASP to:

- attend the meeting, where appropriate
- ensure all available supports and interventions to support the behaviours of concern are considered for the student
- ensure that alternative disciplinary measures are considered for the student
- ensure that the appropriate education, training and/or employment options are considered for the student
- assist in implementing the course of action agreed to at the Behaviour Support and Intervention Meeting.

## When communicating with the parent/carer and mature minors

If after reasonable attempts to accommodate a parent/carers' needs fail, and suitable time for all parties to meet cannot be found, it may be necessary to request that a person from the Suitable Person List be appointed to support the student through the process. In this case, the principal **must** ensure that the key points discussed at the meeting are recorded in writing and sent to the student and their parent/carer.

Students who are adults (18 years old or over) or who are considered to be a mature minor by the school for the purposes of expulsion issues, have the right to elect that their parent/carers not attend the meeting. The principal should strongly encourage these students to have a support person accompany them.

## AT THE MEETING

The *Record of Behaviour Support and Intervention Meeting* template includes guidance and an agenda to assist the principal in conducting the meeting.

During the meeting, the principal should:

- discuss grounds upon which an expulsion is being considered and present the evidence to support this
- provide the student, their parent/carer and independent support persons with an opportunity to be heard and to provide any further context to the behaviours
- identify the needs and goals of the student and family for the student's future
- discuss potential options for a supported transition

The principal also needs to consider:

- the impact of the student's behaviour on other affected parties
- alternative disciplinary measures
- new interventions and supports that can be put in place to retain the student at school (expulsion is not a predetermined outcome of this meeting).

The principal **must** document the key points discussed at the meeting. If the student and their parent/carer cannot attend the meeting, the principal **must** send them a copy of the meeting record.

## MEETING ATTENDEES AND SUPPORTS

It is important that the student has a person to support and advocate for them throughout the process. If the student and their parent/carer do not attend the behaviour support and intervention meeting, it may proceed without them and a decision may be made without the benefit of hearing from them.

To support the student and their parent/carer, a relevant person, support person and interpreter can also attend the meeting if required.

### Relevant Person

In some circumstances, the student's parent/carer may be unable or unwilling to participate in the expulsion process. In this case, they can nominate a Relevant Person to act on their behalf.

If a student or their parent/carer nominates someone to act as a Relevant Person the principal **must**:

- notify the adult of that nomination (a phone call or email is recommended)
- explain their duties and obligations and provide them with a copy of *Information for parents and carers about school expulsions*
- ensure that the student and parent/carer complete the Relevant Person Nomination Form.

In this policy, the term parent/carer also reflects adults who are nominated to act as Relevant Person.

### **Suitable Person**

If the student or their parent/carer are unable to nominate a Relevant Person, a number of Departmental staff have been trained as Suitable Persons who can act as the student's Relevant Person for the purposes of expulsion.

To access a Suitable Person, the principal should submit a Request to Appoint a Person from the Suitable Person List form to the Area Executive Director.

If the student is considered a mature minor, they may choose to nominate a trusted adult or an adult from the Suitable Person list as a Relevant Person using the same form.

### **Support Person**

A support person can be someone a family trusts and chooses to be involved as a support throughout the expulsion process. A support person cannot act for a fee or reward. A support person cannot act for a fee or reward. A support person should be provided with a copy of *Support Person Guide*.

Students and families can access an independent support person from a community organisation. Key community organisations include:

- [Disability Advocacy Resource Unit](#) for students with a disability (9639 5807)
- [Victorian Aboriginal Education Association Incorporated. \(VAEAI\)](#) for Koorie students (9481 0800).

### **Interpreter**

The principal should organise an interpreter, including Auslan, if required.

# DECISION

In some instances it may be appropriate to expel a student who compromises the health, safety and wellbeing of the school community, in order to protect the learning environment for all students and to continue with effective teaching. This may be a difficult decision for a principal to balance the needs of all students in the school community. Principals are encouraged to engage closely with the Regional Engagement Coordinator and the local Area team to ensure the best outcome is reached.

When making a decision, the principal **must** properly, fairly and without bias consider all relevant matters, including the impact of the behaviour of the student on other affected parties.

The principal **must** determine whether the expulsion is appropriate in light of:

- the behaviour for which the student is being expelled
- the educational needs of the student
- any disability of the student
- the age of the student
- the magnitude and impact of the student's actions
- the residential and social circumstances of the student.

The principal **must** also ensure that all information or documentation provided by the student or their parent/carer has been taken into account when making the decision. The Regional Engagement Coordinator can provide advice to principals on documenting their expulsion decision. The RASP can support the principal to consider the best options for the student and the school.

While the principal is making a decision, the school should continue to provide the student with work. If a student is suspended for longer than five days, the designated teacher should provide support during this time.

## TIMELINES FOR DECISION

Following the conclusion of the behaviour support and intervention meeting, the principal **must** notify the student and their parent/carer of the decision to expel or not expel within the following timelines:

- where the student is 9 years or more, **within 2 business days**
- where the student is aged 8 or less, **within 10 business days**, and only once the Department Secretary's approval is obtained.

### Students aged 8 or less

The Secretary of the Department must approve a principal's decision to expel a student aged eight years or less. This is because the Department recognises the critical importance of supporting very young students to remain engaged in education.

For a student aged eight years or less, the principal should contact the Regional Engagement Coordinator and work with them to prepare a brief to the Secretary outlining the principal's recommendation and seeking their approval.

The principal will be informed of the Secretary's decision within 10 business days to enable them to notify the student and their parent/carer within the required time period. Until the Secretary makes their decision, the principal may not proceed with their expulsion decision.

## DECIDING NOT TO EXPEL

If the principal decides not to expel the student, the student should be supported to continue at the school. The principal should convene a Student Support Group in collaboration with the student and their parent/carer. The focus of this group is to put in place additional, or review existing, interventions and supports to engage the student positively at school.

Referrals to school based, local Area, allied health and community supports should be made as appropriate. Other reasonable adjustments to the student's program should also be considered.

Building a working relationship with the student and parent/carer should be a priority. Depending on the circumstances that led to the Behaviour Support and Intervention Meeting, the principal should consider seeking support from conflict resolution services to address any unresolved issues and to restore relationships and a positive learning environment.

## DECIDING TO EXPEL

To maintain procedural fairness and transparency, principals **must** complete and retain thorough and detailed documentation of their expulsion decision. This is also important as an expulsion decision can be appealed by the student or their parent/carer on the basis that the process was not followed.

Principals **must** provide the student and their parent/carer with a *Notice of Expulsion* and a copy of the *Expulsion Appeal Form*. The *Notice of Expulsion* **must** state:

- the ground/s for the expulsion
- the reason/s for the expulsion
- the date of the commencement of the expulsion
- that the student has a right to appeal the expulsion decision.

The principal **must** also prepare a written *Expulsion Report* which contains:

- a short statement of the history of the student's time at the school
- the grounds for the expulsion
- the reasons for expulsion
- any considerations in support of the expulsion including a comprehensive range of strategies which might have been employed to date
- any considerations of the impact of behaviour of the student on other affected parties;
- any representations made by the student or their Relevant Person
- a summary of the options considered at the Behaviour Support and Intervention Meeting and why expulsion was considered necessary
- details of the arrangements that have been made for the continuing education, training and/or employment of the student
- recommendations on whether any further action either at the school, local, regional or system level is required, including strategies at the school level to prevent the repeat of similar circumstances.

The *Expulsion Report* and a copy of the *Notice of Expulsion* **must** be provided to the Regional Director, **within 1 business day** of the expulsion taking effect.

The principal should retain a copy of the *Expulsion Report*, *Notice of Expulsion* and all relevant communication. The expulsion **must** also be recorded in CASES21.

## SUPPORTED TRANSITION

To uphold the principle that no child will be excluded from the government school system, if a student is expelled it is essential that a supported transition plan is promptly developed and enacted to ensure the student remains engaged in education. In many cases, a transition to a new setting with the right support will enable the student to thrive.

The principal, in collaboration with the local Area team and regional office, will work to identify a new setting and implement a transition plan for the student. This plan will build on discussions and options identified at the Behaviour Support and Intervention Meeting, reflect the needs and goals of the student and family, and consider the student's strengths and any insights from the school about the best educational options for the student.

Wherever possible, the transition plan will facilitate a placement in a new setting within a month.

Students of compulsory school age **must** be:

- enrolled at a registered school
- enrolled at a Registered Training Organisation (RTO)
- engaged with an employment agency or other organisation that provides services that support their future employment.

Students beyond compulsory school age and their parent/carer **must** be provided with information about:

- other schools or RTOs that may provide suitable opportunities for the student, or
- employment agencies or other organisations that support engagement in employment.

In identifying a new setting for the student the principal, along with regional staff, should be guided by the Department's [Transfers](#) and [Placement](#) policies which outline students' entitlements to enrolment and the expectations placed on enrolling schools.

The principal **must** establish a Student Absence Learning Plan and ensure that the school continues to provide the student with meaningful work until they have successfully transitioned to the identified setting. This may need to be monitored and updated and the designated teacher should offer support, as required.

The Regional Engagement Coordinator will follow up with the new setting at the one and six months points and refer the case to the local area team if additional support is required.



# APPEALS

In keeping with principles of procedural fairness and natural justice, a decision to expel a student from a Victorian government school can be appealed by the student or their parent/carer. This provides an opportunity to test the rare but sometimes necessary decision to expel a student.

Principals **must** provide the student and their parent/carer with copy of the *Expulsion Appeal Form* for their consideration.

An expulsion can be appealed on the following grounds:

- a student has a history of behavioural issues, and there is insufficient evidence of prior interventions designed to address the behaviour and support the student
- the grounds on which the student was expelled are considered unfair
- the expulsion process was not followed by the principal
- other extenuating circumstances.

Principals are encouraged to use the *Expulsion Appeal Process* and *Principal Expulsion Checklist* which reflects the requirements of Ministerial Order 1125. This document will assist principals in understanding and acquitting each step of the appeal process.

## APPEAL LODGEMENT

If a student or their parent/carer chooses to appeal the principal's expulsion decision, they must complete the *Expulsion Appeal Form* and provide it to the principal **within 10 business days** of receiving the *Notice of Expulsion*.

Appeals lodged after 10 business days will only be considered in extenuating circumstances. The principal must still forward late appeals to the Area Executive Director who will make an assessment on a case by case basis.

The principal must provide the Area Executive Director **within 1 business day** of receiving the appeal (including appeals received after 10 business days) with a copy of:

- *Notice of Expulsion*
- *Expulsion Report* (and the *Record of Behaviour Support and Intervention Meeting*)
- *Expulsion Appeal Form*.

The principal should contact the Regional Engagement Coordinator to advise that an appeal has been lodged. They will continue to support the student and their parent/carer during the appeal process.

## REVIEW PROCESS

Only the Secretary or their delegate (usually the Area Executive Director) has the authority to decide on an expulsion appeal. The Area Executive Director will assess whether an Expulsion Review Panel is required and convene one where useful to make a recommendation to them on whether to uphold or overturn an expulsion decision.

The Expulsion Review Panel is comprised of three members:

- a departmental representative selected by the Secretary or their delegate (usually the Area Executive Director)
- an independent member from a pool of nominated staff from the Department of Health and Human Services, selected by the Regional Director
- a RASP selected by the principal.

The RASP on an Expulsion Review Panel cannot be the same person who has been engaged in the expulsion process to date and attended the Behaviour Support and Intervention Meeting.

The Expulsion Review Panel will consider the documentation provided and must provide an opportunity to hear from the student and affected parties:

- the student and their parent/carer will explain their reasons for appealing the expulsion decision – this can be done in person or via phone, engaging interpreters where required
- the principal will be provided with an opportunity to be heard, either in person or by some other means considered appropriate by the Panel
- the Panel will give consideration to the safety and wellbeing of affected parties, including where an expulsion decision may be overturned, where relevant to the grounds of the appeal.

The Expulsion Review Panel will deliberate and prepare a report for the decision maker (usually the Area Executive Director) outlining the relevant facts and considerations, and making a recommendation in relation to the appeal **within 1 business** day of the conclusion of the Panel meeting.

## APPEAL DECISION

The Area Executive Director will consider the panel's recommendation to uphold or overturn the expulsion, but they are not bound to follow the recommendation.

The Area Executive Director **must** use their best endeavours to make a decision **within 15 business days** of receiving the Expulsion Appeal Form from the principal.

The Area Executive Director will contact the student and their parent/carer **within 2 business days** of a decision being reached to communicate the decision made. They **must** also provide the principal, student and their parent/carer with written notification of their decision and a copy of the *Expulsion Review Panel Report*.

### Decision to uphold the expulsion

It is essential that a supported transition plan is promptly developed and enacted to ensure the student remains engaged in education. Refer to the section of this policy on supported transition for further advice.

### Decision to overturn the expulsion

If the decision is made to overturn the expulsion, the principal **must** take the following actions as soon as possible:

- re-enrol the student in the school (where this is still the preference of the student and their parent/carer) under a Return to School Plan developed with the student, parent/carer and student's teacher/s
- remove record of the expulsion from the student's permanent record and CASES21
- notify the student and their parent/carer in writing that their record has been amended.

To ensure the student and whole school community is appropriately supported, the principal should work closely with the local Area Team to plan the student's return to school. This can include convening a Student Support Group and implementing a Behaviour Support Plan for the student. The focus of the Student Support Group should be to collaborate with the parent/carer and student and put in place or review relevant interventions and support to engage the student positively at school.

The principal should also give consideration to any supports required for students or staff affected by the student's behaviour. It may also be appropriate to consider accessing conflict resolution supports where there is an ongoing conflict or tension between members of the school community. The principal can seek advice and support on conflict resolution options from their local Area team or the Central Complaints Team.

## REFERRING AN OVERTURNED EXPULSION TO THE STUDENT SAFETY AND WELLBEING EXPERT PANEL

In rare cases, a principal may hold ongoing concerns for the safety of students at the school where an expulsion decision is overturned and the student plans to return to the school. In these circumstances, the principal may refer the case to a Student Safety and Wellbeing Expert Panel (Expert Panel) to consider the matter with regard to student safety, in order to provide a recommendation(s) to the Secretary, as a delegate of the Minister, about the student's future at the school and advise how best to support their ongoing engagement in education.

This step is designed to ensure that the best outcome for all students in the school community is reached, and can only be pursued where the principal reasonably believes that returning the student to the school poses a risk to the safety of other students at the school that cannot be managed, including with additional support.

Principals are encouraged to discuss their views and concerns with the Area Executive Director or a senior regional staff member in determining whether to refer a matter to an Expert Panel. This is an opportunity for the principal, local Area team and regional office to work closely together to collectively identify all available supports and interventions to mitigate safety concerns and support the student's successful transition back to school and ongoing educational engagement.

If, after these discussions, the principal believes the safety risks cannot be managed or mitigated, they should inform the Area Executive Director of their intent to refer the case to an Expert Panel. The principal must provide the Area Executive Director with a completed and signed *Referral Form* **within 1 business day** of being informed that the expulsion is overturned. This is to ensure the Area Executive Director is aware of the principal's decision prior to informing the student and their parent/carer of the outcome of the expulsion appeal process, which must occur **within 2 business days**.

An Expert Panel will be convened by members appointed on behalf of the Secretary to consider the matter and to make a recommendation(s) relating to the student's continued enrolment at the school, in accordance with section 2.2.17 of the *Education and Training Reform Act 2006*, with specific regard to the safety of the student or other students at the school.

The Secretary will make a decision, in a timely manner, having regard to the advice and recommendation(s) of an Expert Panel as to whether to refuse the student's continued enrolment at the school in the interests of ensuring the safety of all students at the school. The Secretary may also give consideration to any other comments made by an Expert Panel.

In the instance that an overturned expulsion is referred to an Expert Panel, the student's re-enrolment in the school will be deferred while an Expert Panel is considering the matter. It is essential that the student remains supported throughout this process. The school, including the teacher designated to support the student throughout the expulsion process, should continue to provide appropriate and meaningful work to support their ongoing education. The student's Student Absence Learning Plan should be updated, if required.

The Department's local area and regional teams will work closely with the school, student(s) and their family during this period, including considering any further actions required to support the student's continued learning.

The principal, student and their parent/carer will be informed of the outcome of an Expert Panel process. The local Area team and regional office will work closely with all involved to ensure they are appropriately supported and the actions arising from an Expert Panel process are implemented.