

Governance support resources

Suspensions - guidelines for imposing conditions

NZSTA's Advisory and Support Centre (A & SC) welcomes contact by boards during their Suspension Meeting deliberations for advice on conditions they are thinking about imposing on a suspended student.

A suspension meeting is one of the board's most challenging tasks.

It must place the student at the centre of its thinking and aim for an outcome that minimally disrupts the student's education. It must also meet its legal obligations to ensure the health and safety of staff and students.

Any conditions imposed must be legal, and not breach the natural justice requirement that the board, as decision maker, must act fairly and reasonably.

Many boards keep a folder of resources for suspension meetings of locally available courses and organisations. It can be helpful if before the meeting the board or student behaviour management committee find out about upcoming courses and organisations that could assist the student and form the basis of a condition.

Below are some general guidelines on conditions:

- 1) The conditions must be aimed at facilitating the student's return to school.
Conditions which are purely punitive, such as a paying a fine for misbehaviour, would not be seen as facilitating the student's return to school. This type of condition would also punish the student twice for the same behaviour, and would therefore breach the Bill of Rights Act 1990.
- 2) The conditions must be clear, specific, within the student's control and achievable by the student. Examples:
 - a. Conditions which rely solely on the action of an external agency would not be regarded as reasonable.
 - b. Conditions which are outside the developmental or behavioural capacity of the student to meet, would be regarded as unfair.
 - c. A condition that requires the student to "behave at all times at school" is too vague and open ended and would be regarded as both unreasonable and unfair.
- 3) Appropriate conditions for secondary, and possibly intermediate-level students could include:
 - a. maintaining daily attendance at school (which is monitored in the usual way),
 - b. attending counselling or courses with nominated agencies to deal with problems such as drug use and anger management.
 - c. abstaining from drug or alcohol use and submitting to drug tests.
 - d. excluding the student from sports and other activities such as school trips and special tournaments (which are not part of the curriculum) till they demonstrate good behaviour.
 - e. requiring the students to sign behaviour contracts. Failure to follow these contracts can result in withdrawal of privileges.
- 4) Finding conditions that are within the capabilities of a primary level student to meet can be challenging for a board. Some examples for the board to consider:
 - a. that the student participate in a medical or behavioural assessment that is arranged by the principal.
 - b. that the student participate / works with named adults in the drawing up of their own Independent Educational Plan (IEP) and/or Behavioural Management Plan.
 - c. a condition that is relevant to the reason the student was suspended but is not punitive. An example could be that the student not leave the school grounds during school time without permission, or for approved school activities.
 - d. A condition that the student attend an anger management course or meet with a Big Buddy mentor. The condition would require the principal to organise this.

- 5) The following are examples of unfair or potentially illegal conditions. This could be because they are outside the student's capacity and or control, outside the board's jurisdiction or breach the student's legal rights:
- a. a condition requiring the student to reduce their working hours outside school.
 - b. a condition preventing the student from attending school unless accompanied by their caregiver or psychologist.
 - c. a condition that requires the caregiver to collect the child from school if their behaviour becomes disruptive, when requested to do so by the school, .
 - d. a requirement that a student with psychological / behavioural issues manage their behaviour in accordance with the standards in their behavioural management plan .
 - e. extending a suspension until the student has had a psychological assessment, or has been provided with additional Teacher Aide hours.
 - f. a condition excluding a student from participation in certain activities which are part of the curriculum a prerequisite for completion of the NCEA curriculum
 - g. requiring a student to make a public apology for certain behaviour (this would breach the student's right to privacy under the Privacy Act 1993).
- 6) When a suspension is either lifted or extended with conditions, the duration of the conditions must only be for such period that is either reasonably necessary to facilitate the student's full integration into school or their full return to school.
- 7) During the initial suspension and if a student's suspension is extended with conditions, the principal must take all reasonable steps to ensure that an appropriate educational programme is provided to the student (section 17A of the Education Act 1989).
- 8) Where a suspension has been either extended or lifted with conditions, and the conditions have not been complied with, the board can, at the principal's request, hold a reconsideration meeting. The board then has the following options: confirm or reverse its earlier decision, lift the suspension, extend it further, or exclude/expel the student.

Student behaviour management decisions can be the subject of complaints to the Office of the Ombudsman and the Human Rights Commission, and legal challenges to the High Court by way of Judicial Review. Getting timely advice can minimise this risk for boards.



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Where do I get advice?

The *Governance advisory and support centre* advisers can also assist and are contacted on 0800 782 435, option 1 or govadvice@nzsta.org.nz