

Reprint
as at 1 August 2020



Education (Stand-Down, Suspension, Exclusion, and Expulsion) Rules 1999

(SR 1999/202)

Pursuant to section 18AA of the Education Act 1989, the Secretary of Education makes the following rules.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These rules are administered by the Ministry of Education.

Monitoring of extended suspensions

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*Excluded students**[Revoked]**School register**[Revoked]***Rules****1 Title and commencement**

- (1) These rules may be cited as the Education (Stand-down, Suspension, Exclusion, and Expulsion) Rules 1999.
- (2) These rules come into force on 12 July 1999.

2 Interpretation

- (1) In these rules,—

the Act means the Education and Training Act 2020

board has the meaning given to it by rule 3

given has the meaning given to it by rule 4

Ministry has the meaning given in section 10(1) of the Act

parent, in relation to any person, means a person who is the person's mother, father, or guardian

reconsideration meeting means a meeting to reconsider the action a board took under section 81 or 83 of the Act

Secretary means the chief executive of the Ministry

stand-down meeting means a meeting to discuss a stand-down

suspension meeting means a meeting held under section 85 of the Act.

- (2) Words defined in the Act have the same meanings in these rules.

Rule 2(1) **the Act**: amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Rule 2(1) **Ministry**: amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Rule 2(1) **reconsideration meeting**: amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Rule 2(1) **suspension meeting**: amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

3 Board

In these rules, **board** means a board constituted under subpart 5 of Part 3 of the Act.

Rule 3: replaced, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

4 Given

- (1) Any document that these rules require to be given must be given by the method in subclause (2) that, in the opinion of the person giving the document, is most likely to ensure that the document reaches the person for whom it is intended.
- (2) The methods by which a document may be given are—
 - (a) personally delivering it to the person; or
 - (b) posting it to a usual address of the person; or
 - (c) sending it to the person by fax or some other electronic means; or
 - (d) providing it to the person in a manner approved by the person.
- (3) A document posted under subclause (2)(b) is deemed to have been delivered to the person at the time it would have been delivered in the ordinary course of post. For the purposes of proving delivery,—
 - (a) it is sufficient to prove that the document was properly addressed; and
 - (b) the document is presumed, in the absence of proof to the contrary, to have been posted on the day on which it was dated.
- (4) A document sent under subclause (2)(c) is deemed, in the absence of proof to the contrary, to have been delivered on the day after the day on which it was sent, and it is sufficient proof of sending that a correct machine-generated acknowledgement of receipt exists.

5 Purpose of rules

- (1) These rules regulate the practice and procedure to be followed by boards, principals, students, parents of students, and other persons, under sections 80 to 88 of the Act.
- (2) *[Revoked]*

Rule 5(1): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Rule 5(2): revoked, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Text box: revoked, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

6 Standing-down, suspension, exclusion, expulsion

- (1) The processes dealt with in sections 80 to 88 of the Act are—

- (a) **standing-down**, which is the process described in sections 80, 84(1), and 88(1) of the Act:
 - (b) **suspension**, which is the process described in sections 80(1) and (3), 81(1) to (5), 83(1)(a) and (b), 83(2) to (5), 84, 85, 86, and 88(2) and (3) of the Act:
 - (c) **exclusion**, which is the process described in sections 81(1)(c), (6) and (7), 82, 86, 87(1) and (2), and 88(3) of the Act:
 - (d) **expulsion**, which is the process described in sections 83(1)(c), 86(2)(b), 87, and 88(3) of the Act.
- (2) The practices and procedures dealt with in these rules are in rules 8 to 21.
- Rule 6(1): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).
- Rule 6(1)(a): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).
- Rule 6(1)(b): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).
- Rule 6(1)(c): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).
- Rule 6(1)(d): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

7 Principles applying to processes, practices, and procedures

Every participant in the processes, practices, and procedures dealt with in sections 80 to 88 of the Act and these rules should be guided by the following principles:

- (a) the need for every participant to understand the processes, practices, and procedures:
- (b) the need for every participant to treat every other participant with respect, which includes recognising and respecting New Zealand's cultural diversity:
- (c) the need to recognise the unique position of Maori:
- (d) the need for every participant to be guided by the charter of the student's school:
- (e) the need for every participant to recognise that the board has a responsibility to maintain a safe and effective learning environment at the student's school.

Rule 7: amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Stand-downs and suspensions, and notices about them

Text boxes: revoked, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

8 No imposed absences

A principal who wants a student to absent himself or herself from school for disciplinary reasons, or who wants a parent to remove a student from school for disciplinary reasons, may bring about the absence or the removal only by standing-down or suspending the student under section 80(1) of the Act.

Rule 8: amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

9 Information about stand-downs or suspensions

A principal who has stood-down or suspended a student must ensure that the student and a parent of the student are, as soon as practicable, given the information on stand-downs or suspensions provided by the Ministry for the purpose.

10 Information for Ministry

A principal telling the Secretary about a stand-down or suspension must ensure that the Secretary is given the information about the stand-down or suspension, under section 88(1) or (2) of the Act, in the form that the Secretary requests.

Rule 10: amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

11 Stand-down meeting

- (1) A principal who has stood-down a student may cause a stand-down meeting to be arranged.
- (2) A principal who, having stood-down a student, is asked by the student or a parent of the student for a stand-down meeting—
 - (a) must cause such a meeting to be arranged; and
 - (b) must take steps to be available for the meeting as soon as is practicable for the student, the parent, and the principal.

12 Stand-down may be withdrawn

As a consequence of a stand-down meeting, the principal may be satisfied that reasonable grounds for the stand-down did not exist under section 80(1) of the Act. In that case, the principal must—

- (a) ensure that the stand-down is withdrawn; and
- (b) ensure that the student, and anyone told of the stand-down under section 88(1) of the Act, is told that the stand-down has been withdrawn.

Rule 12: amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Rule 12(b): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

13 Attendance at school

In exercising the discretion under section 80(3)(a), the principal must take into account, for the purposes of section 84(2) to (3), that an appropriate educational programme for the student may include the need for the student—

- (a) to fulfil course requirements for a qualification:
- (b) to sit an examination.

Rule 13: amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Suspension meetings

Text box: revoked, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

14 Report for board

A principal who has suspended a student must ensure that a report that contains all information relevant to the suspension is written for the board.

15 Information about suspension meeting

- (1) The board must ensure that a student who has been suspended, and the student's parents are given the following as soon as practicable after the suspension:
 - (a) written notice of the time and place of the suspension meeting; and
 - (b) written information about the statutory options available to the board to deal with the suspension at the suspension meeting.
- (2) The board must ensure that the following material is given, in writing, to the student and the student's parents within the time described in subclause (3):
 - (a) information on the procedures the board follows at suspension meetings; and
 - (b) advice that the student and the student's parents may attend the meeting and speak at it about the suspension; and
 - (c) those parts of the following that, in the board's opinion, it would have no ground to withhold if the student made a request for the following under the Privacy Act 1993:
 - (i) the principal's report to the board on the suspension; and
 - (ii) any other material about the suspension to be presented by the principal or the board at the meeting.

- (3) The material must be given to the student and the student's parents at a time that enables it to reach them at least 48 hours before the meeting (or within a shorter time agreed by all the parties).

16 Adjournments to consider new information

- (1) The board must allow an adjournment in a suspension meeting if the student, a parent of the student, or any member of the board asks the board to do so because the person making the request needs time to consider new information.
- (2) In subclause (1), **new information** means information—
 - (a) that is referred to at the suspension meeting; and
 - (b) that is either—
 - (i) information that was not given, under rule 15, to the person making the request; or
 - (ii) information that is new to the person making the request for some other reason.
- (3) In deciding on the period of the adjournment, the board must have regard to the amount of time that the person making the request needs, in his or her particular circumstances, to consider the information.

17 Board's decision

- (1) Before deciding at a suspension meeting whether to lift or extend the suspension or exclude or expel the student, the board must—
 - (a) have due regard for each circumstance relevant to the suspension; and
 - (b) consider each statutory option available to it.
- (2) The board may—
 - (a) require the principal, the student, the student's parents, any representative of the student, and any representative of the parents to withdraw from the meeting while the board makes its decision; or
 - (b) ask the principal, the student, the student's parents, and any representatives of the student and the parents to stay at the meeting while the board makes its decision.
- (3) Before making its decision, the board may try to get all the parties at the meeting to agree on what the decision should be.
- (4) The board must record its decision, and the reasons for it, in writing.

Monitoring of extended suspensions

Text boxes: revoked, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

18 Extended suspension under any of sections 81(1)(b), 81(3), 83(1)(b), or 83(3) of the Act

- (1) This rule applies when a board extends a suspension under any of sections 81(1)(b) or (3) or 83(1)(b) or (3) of the Act for a period of 4 weeks or more.
- (2) The board must monitor the progress of the suspended student by ensuring that it receives, at each regular board meeting after the suspension, a written report on whether the student is meeting the conditions imposed and progressing with any educational programme provided.
- (3) The principal must ensure that the student and a parent of the student are given a copy of any such report as soon as practicable.

Rule 18 heading: amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Rule 18(1): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

19 Student failing to comply with conditions

- (1) If the board agrees to a request made by the principal under section 81(3) or 83(3) of the Act, the board must hold a reconsideration meeting about the student's case.
- (2) The meeting must be held—
 - (a) within 7 school days of the request; or
 - (b) if the request is made within 7 school days of the end of term, within 10 calendar days of the request.

Rule 19(1): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

20 Information about reconsideration meeting

- (1) The board must ensure that a student who has been suspended, and a parent of the student are given written notice of the time and place of the reconsideration meeting as soon as practicable after the board decides to hold the meeting.
- (2) The board must ensure that the following material is given, in writing, to the student and the parent within the time described in subclause (3):
 - (a) information on the procedures the board follows at reconsideration meetings; and
 - (b) advice that the student and a parent of the student may attend the meeting and speak at it about the reconsideration of the suspension; and

- (c) those parts of the following that, in the board's opinion, it would have no ground to withhold if the student made a request for the following under the Privacy Act 1993:
 - (i) the principal's report to the board on the reconsideration of the suspension; and
 - (ii) any other material about the reconsideration of the suspension to be presented by the principal or the board at the meeting.
- (3) The material must be given to the student and the parent at a time that enables it to reach them at least 48 hours before the meeting (or within a shorter time agreed by all the parties).

21 Information for Ministry

As soon as practicable after the board has made a decision on its reconsideration of the suspension under section 81(3) or 83(3) of the Act, the principal must ensure that the Secretary is given the information about the decision, under section 88(3) of the Act, in the form that the Secretary requests.

Rule 21: amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Excluded students

[Revoked]

Heading: revoked, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Text box: revoked, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

School register

[Revoked]

Heading: revoked, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Text box: revoked, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Dated at Wellington on 16th day of June 1999.

Howard Fancy,
Secretary of Education.

Reprints notes

1 *General*

This is a reprint of the Education (Stand-Down, Suspension, Exclusion, and Expulsion) Rules 1999 that incorporates all the amendments to those rules as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Education and Training Act 2020 (2020 No 38): section 668