

Circular Number: 2021/04

Subject:

Suspensions and Expulsions Arrangements for pupils in grant-aided schools in Northern Ireland

Date of Issue:
5 March 2021

<p>Audience:</p> <ul style="list-style-type: none"> • Principals and Boards of Governors of all grant-aided schools; • Education Authority; • Council for Catholic Maintained Schools; • Northern Ireland Council for Integrated Education; • Comhairle na Gaelscolaíochta; • Governing Bodies Association; • Catholic Schools Trustee Service; • Controlled Schools Support Council. <p>Summary of Contents:</p> <p>This circular sets out for the attention of Boards of Governors and Principals the legal position regarding suspensions and expulsions in grant-aided schools.</p> <p>Enquiries: Any enquiries about the contents of this Circular should be addressed to:</p> <p>Additional Educational Needs Team Department of Education Rathgael House Rathgill 43 Balloo Road BANGOR BT19 7PR</p> <p>E-mail: AdditionalEducationalNeedsTeam@education-ni.gov.uk</p>	<p>Governor Awareness: Essential</p> <p>Status of Contents: Information for schools</p> <p>Related Documents: DE Circular 2015/19 DE Circular 1994/03 DE Circular 1995/09</p> <p>Superseded Documents: none</p> <p>Expiry Date: none</p> <p>DENI website: http://www.education-ni.gov.uk</p> <p>Tel: 028 9127 9876</p>
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Suspension and Expulsion (S&E) arrangements for pupils in grant-aided schools in Northern Ireland

Introduction

The purpose of this circular is to remind Boards of Governors and Principals of all grant-aided schools of the current legislative basis for suspensions and expulsions and their statutory responsibility to comply in relation to the provision of education.

Suspension and Expulsion Scheme

Article 49 of the Education and Libraries (NI) Order 1986 (as amended) requires:

- (1) The Education Authority (EA) to prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils from controlled schools:
- (2) The Council for Catholic Maintained Schools (CCMS) to prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils from Catholic maintained schools: and
- (3) The Board of Governors for pupils of a voluntary school (other than a Catholic maintained school) or a grant-maintained integrated school to prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils from the school.

School authorities are expected to adhere to their relevant suspension and expulsion scheme and to comply with all relevant legislation when considering the suspension or expulsion of pupils.

Guidance on the process of notifying the Education Authority and the relevant contact points for queries within each education sector will be issued from the Education Authority under separate cover.

Special Educational Needs and Disability (Northern Ireland) Order 2005 (SENDO)

All schools are also reminded of the statutory requirements with regard to disability discrimination as set out in the Special Educational Needs and Disability (Northern Ireland) Order 2005 (SENDO) in carrying out suspension and expulsion procedures. School authorities are expected to adhere to this order which states under Article 14(3) of SENDO: “It is unlawful for the body responsible for a school to discriminate against a disabled pupil by suspending or expelling him from the school”, unless it is justified to do so (Articles 15 & 16 of SENDO refer).

Suspensions and Expulsions Legislative requirements

A summary of the current suspensions and expulsions legislative requirements are set out in Annex A of this circular to assist schools when applying the process for suspensions and expulsions, in line with their relevant scheme.

You are reminded in particular that schools must not send a pupil out of school during the school day, due to behavioural issues, without recording this as a suspension, nor may schools reduce the minimum hours under instruction for any pupil, as set out in the Primary Schools (General) Regulations (NI) 1973 and the Secondary Schools (Grant Conditions) Regulations (NI) 1973, without following the procedures for applying temporary exceptions in accordance with [Circular 1990/45 \(education-ni.gov.uk\)](http://education-ni.gov.uk).

Schools experiencing difficulties in the management of more complex behaviour may request support from the Education Authority Primary Behaviour Support and Provisions and Post Primary Behaviour Support and Provisions Services.

Suspensions and Expulsions Current Legislative Basis

1. DE provides guidance for pastoral care which builds on the statutory responsibilities of Board of Governors (BoGs) and Principals for good discipline and behaviour in their schools, as per the Education (NI) Order 1998, Article 3. The latest pastoral care guidance was issued in 2001, on the back of the 'Promoting and Sustaining Good Behaviour: A Discipline Strategy for Schools' in 1998.
2. All schools have a statutory responsibility (Articles 3-6 of the Education (Northern Ireland) Order 1998 (as amended)) for developing their own discipline policy which sets out the behaviour expected from all registered pupils and the sanctions which it will impose for breaches in discipline.
3. The Education Authority has a statutory responsibility under Article 6 of the above mentioned legislation to prepare a plan relating to children with behavioural difficulties, providing advice and assistance to grant-aided schools in promoting good behaviour and dealing with general behaviour difficulties. This is provided by the Education Authority's Primary and Post Primary Behaviour Support and Provisions Services.
4. All schools must have a scheme, prepared by their managing authority, in which the procedures to be followed when suspending or expelling pupils are set out. The current legislative requirements, including regulations made under the power of Article 134 of the Education and Libraries (NI) Order 1986, require the following to be included in a suspension and expulsion scheme:

Requirement	Legislative Basis
<u>Scheme for suspension and expulsion</u> Responsibilities to prepare a scheme specifying the procedure to be followed in relation to the suspension or expulsion of pupils are: - The Education Authority (EA) to prepare a	Article 49(1-4) The Education and Libraries (Northern Ireland) Order 1986 (legislation.gov.uk)

<p>scheme for pupils from controlled schools.</p> <ul style="list-style-type: none"> - The Council for Catholic Maintained Schools (CCMS) shall prepare a scheme for pupils from Catholic maintained schools. - The Board of Governors (BoG) shall prepare a scheme for pupils of a voluntary school (other than a Catholic maintained school) or a grant-maintained integrated school. 	
<p><u>Suspensions & Expulsion Regulations</u></p> <p>A pupil may be suspended by a school only by the Principal.</p> <p>An initial suspension must not exceed 5 school days in any one term.</p> <p>The maximum period of suspension is 45 school days in any one school year.</p> <p>A Principal must provide written notification, immediately, of the reasons for the suspension and the period, to the parent, the Chair of the Board of Governors, the EA and, in the case of a Catholic maintained school, the local diocesan office of CCMS. The Principal should invite the parent to the school to discuss the suspension.</p> <p>The Principal shall not extend the period of suspension without approval from the Chair of the BoG, and provide written notification of the reasons, to the parent, the EA and in the case of a Catholic maintained school, CCMS.</p> <p>A pupil may only be expelled from a school after a period of suspension.</p> <p>A pupil may only be expelled from a school after consultation about their expulsion and future provision of suitable education takes place between the Principal, the parent, the Chief Executive of the EA or other duly</p>	<p>The Schools (Suspension and Expulsion of Pupils) Regulations (Northern Ireland) 1995 (legislation.gov.uk)</p> <p>Schools (Suspension and Expulsion of Pupils) (Amendment) Regulations (Northern Ireland) 1998 (legislation.gov.uk)</p>

<p>authorised EA officer or the Director of CCMS or other duly authorised CCMS officer, the Chairman of the BoG, provided that any neglect or refusal on the part of the parent to take part in the consultation shall not prevent a pupil being expelled from the school.</p> <p>The Principal must immediately give written notification to the parent of an expelled pupil of their right to appeal the decision and the time limit for an appeal to be lodged.</p>	
<p><u>Education of Suspended Pupils</u></p> <p>It is the duty of the BoG of a grant-aided school to make arrangements for the provision of suitable education to a suspended pupil. Suitable work being suitable to the pupils' age, ability, aptitude and to any special educational needs they may have.</p> <p>Legislation allows for in such circumstances as the Department may determine, the EA may make arrangements to assist the BoG of a grant-aided school in providing suitable education for a suspended pupil.</p>	<p>Article 34 The Education (Northern Ireland) Order 2006 (legislation.gov.uk)</p> <p>DE Circular Circular 2011/25 - Education of suspended pupils Department of Education (education-ni.gov.uk)</p>
<p><u>Recording and Notification of Suspensions</u></p> <p>Schools have a statutory responsibility to notify the EA immediately of the duration and reason for a pupil suspension.</p> <p>The latest form for such notifications and guidance notes are in use from September 2015.</p>	<p>The Schools (Suspension and Expulsion of Pupils) Regulations (Northern Ireland) 1995 (legislation.gov.uk)</p> <p>Circular 2015/19 - Notification of pupil suspension to the Education Authority Department of Education (education-ni.gov.uk)</p>
<p><u>The Expelling Authority</u></p> <p>The scheme shall provide that a pupil may be expelled from a school only by the expelling authority and shall include provision for such other matters as may be prescribed.</p>	<p>Article 49(5) The Education and Libraries (Northern Ireland) Order 1986 (legislation.gov.uk)</p>

<p>The expelling authority is the Education Authority in relation to a pupil in a controlled school; and the Board of Governors in relation to a pupil in any other grant-aided school.</p>	
<p><u>Education of Expelled Pupils</u></p> <p>It is the duty of the Education Authority to make arrangements for the provision of suitable education for children of compulsory school age who by reason of illness or expulsion from a school, may not receive suitable education.</p> <p>Suitable work being suitable to the pupils' age, ability, aptitude and to any special educational needs they may have.</p>	<p>https://www.legislation.gov.uk/nisi/1998/1759/article/86/made</p>
<p><u>Appeals against Expulsion</u></p> <p>The Education Authority shall make arrangements for enabling the parent of a pupil at a grant-aided school; or if the pupil has attained the age of 18 years, the pupil himself, to appeal against any decision of an expelling authority to expel the pupil from the school.</p> <p>Any appeal shall be to an appeal tribunal constituted in accordance with the regulations.</p> <p>The constitution of an appeals panel is required to consist of 3 to 5 members, selected by the EA, who may appoint sufficient members to make up two or more appeal tribunals to sit at the same time.</p> <p>An appeals panel should consist of at least one person from each of the following:</p>	<p>Article 49(6-12) The Education and Libraries (Northern Ireland) Order 1986 (legislation.gov.uk)</p> <p>Article 39 (substitution of Article 49) The Education and Libraries (Northern Ireland) Order 1993 (legislation.gov.uk)</p> <p>Schedule 1 The Schools (Expulsion of Pupils) (Appeal Tribunals) Regulations (Northern Ireland) 1994 (legislation.gov.uk)</p> <p>Schedule 2 The Schools (Expulsion of Pupils) (Appeal Tribunals) Regulations (Northern Ireland) 1994 (legislation.gov.uk)</p> <p>Schools (Expulsion of Pupils) (Appeal Tribunals) (Amendment) Regulations (Northern Ireland)</p>

<ul style="list-style-type: none"> - person(s) representing the interests of controlled schools; - person(s) representing the interests of voluntary schools and grant maintained integrated schools; - person(s) with experience in education, acquainted with the educational arrangements or are parents of registered pupils at a school. <p>The panel shall not include any person employed by the EA otherwise than as a full-time teacher.</p> <p>The members of an appeal tribunal shall elect one of their number to be chair of the tribunal.</p> <p>A person shall not be a member of an appeal tribunal for consideration of an appeal in which they were involved in the decision to expel or took part in discussions, or is a teacher at a school where the appeal involves a question as to whether or not a pupil should be re-admitted to that school.</p> <p>An appeal shall set out the basis for its decision in writing.</p> <p>Two or more appeal tribunals may sit at the same time.</p> <p>Substantially similar or connected appeals may be combined and dealt with in the same proceedings.</p> <p>An appeal tribunal will give the appellant (or their representative) and the expelling authority an opportunity to make written and oral representations.</p> <p>An appeal tribunal may request information from the expelling authority in relation to the procedures followed for the expulsion.</p> <p>In considering the appeal the panel shall</p>	<p>1998 (legislation.gov.uk)</p>
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<p>have regard in particular to the representations from the appellant and the expelling authority, and in the case of a controlled school the BoG's of the school; whether the procedures in relation to the expulsion of pupils have been properly followed; as well as the interests of other pupils and teachers in the school.</p> <p>The EA shall set time limits for the hearing and determination of appeals.</p> <p>Appeals should be heard in private unless the EA determines otherwise.</p> <p>A majority vote is cast in the event of disagreement amongst the panel.</p> <p>The decision and its grounds shall be communicated by the appeal tribunal in writing to the appellant and the expelling authority.</p>	
<p><u>SENDO:</u></p> <p>There is a statutory duty for all schools to comply with the Special Education Needs and Disability (NI) Order 2005 (SENDO) in carrying out suspension and expulsion procedures.</p> <p>It is unlawful for a school to discriminate against a disabled pupil by suspending or expelling him or her for a reason relating to his or her disability (Article 14(3) of SENDO).</p> <p>In this context for pupils identified with special educational needs or a disability (but not having associated special educational need), their identified disability should not be the underlying reason for a suspension or expulsion, without the school having justification to do so. It is also important to note that disability can be defined as a physical or mental impairment which has a</p>	<p>The Special Educational Needs and Disability (Northern Ireland) Order 2005 (legislation.gov.uk)</p> <p>Equality Commissions Disability Discrimination Code of Practice for Schools 2005 particularly Section 4 and 5 - https://www.equalityni.org/ECNI/media/ECNI/Publications/Employers and Service Providers/SENDOCoPforSchools 2006.pdf</p>

substantial and long term adverse effect on a person's ability to carry out normal day-to-day activities. As such any behavioural issues associated with a disability must be considered.	
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