

# Suspension, Expulsion and Negotiated Transfer of Children Policy



Good Samaritan Catholic Primary School is a school which operates with the consent of the Catholic Archbishop of Melbourne and is owned, operated and governed by Melbourne Archdiocese Catholic Schools Ltd (MACS).

## Introduction

Good Samaritan's approach to behaviour support is underpinned by the belief that all children should maintain a level of behaviour that respects their rights and the rights of others to:

- be safe and feel safe
- learn to the best of their ability
- express themselves
- take responsibility for their choices.

To this end, Good Samaritan commits to working in partnership with families, parents, carers and guardians and is guided by values of justice, equity, integrity, respect and compassion.

All children and staff have the right to be treated fairly and with dignity in an environment that is safe, and free from disruption, intimidation, harassment and discrimination.

Good Samaritan's child Behaviour Policy details related expectations and procedures for fulfilling the School's responsibilities in promoting positive child behaviour and responding to challenging child behaviour. There will, however, be cases of unacceptable behaviour where it will be in the best interests of the School community and/or the child involved for the child to be removed from the School for a period of time.

The Melbourne Archdiocese Catholic Schools (MACS) Guidelines for Schools contain specific policy direction and procedures for each of the following:

- suspension of students
- negotiated transfer of students
- expulsion of students
- appeal process for expulsion of students.

## Purpose

This document outlines MACS Board-approved grounds and processes for suspensions, negotiated transfers, expulsions and appeals relating to the expulsion of students.

The Guidelines reflect the mandatory requirements of MACS schools under the Minimum Standards for School Registration pursuant to the *Education and Training Reform Act 2006* (Vic.) and *Education and Training Reform Regulations 2017* (Vic.). These requirements are set out within the Victorian Registration and Qualifications Authority (VRQA) *Guidelines to the Minimum Standards and Requirements for School Registration*.

Working in partnership with families/parents/guardians/carers/relevant persons and guided by values of justice, equity, integrity, respect and compassion, approaches to behaviour support in MACS schools are underpinned by the belief that all students maintain a level of behaviour that respects their rights and the rights of others to:

- be safe and feel safe
- learn to the best of their ability
- express themselves
- take responsibility for their choices.

## Scope

These Guidelines – including all procedures, forms and notices – apply to all schools that are owned, operated and governed by MACS.

## Definitions

### Expulsion

Expulsion involves the termination of the contract entered into at the time of the enrolment by the parents/guardians/carers/relevant persons.

Expulsion occurs when, following consultation with the relevant MACS Regional General Manager, a student's attendance at their current school is permanently withdrawn by the Principal.

The enrolment agreement explicitly records at the time of acceptance of the enrolment of a student that unacceptable behaviour by a child may result in suspension or termination of the child's enrolment.

The Principal, wherever possible, will work with the student and their family/parents/guardians/carers/relevant persons to arrange enrolment with another school in accordance with these MACS Guidelines.

### Mature minor

MACS recognises that families, parents, guardians, carers and relevant persons are significant and essential partners with schools in actively supporting and nurturing the educational and wellbeing outcomes of children and young people from early years through adolescence. For this reason, schools continue to engage parents in schooling matters even after the student has turned 18 and is legally recognised as an adult.

Notwithstanding this, for a variety of reasons students under the age of 18 sometimes ask to make decisions on their own behalf, without involvement of their parents. The law recognises that a young person with sufficient maturity and intelligence may reach a stage where they are capable of making their own decisions about a wide range of issues including decisions about their education, healthcare and wellbeing before they are 18 years old. These young people are often referred to as mature minors.

In such scenarios, the Principal should consider the circumstances on a case-by-case basis and be satisfied that the young person has sufficient maturity, understanding and intelligence to comprehend the nature and effect of a particular decision. The Principal is, in the first instance, required to refer to the National Catholic Education Commission (NCEC) *Privacy Compliance Manual*, and to consult the MACS Regional General Manager and MACS Legal Services prior to determining whether a student is a mature minor.

Any applicable parenting orders made under the *Family Law Act 1975 (Cth.)* must be considered in assessing mature minor status.

### **Negotiated transfer**

Negotiated transfer involves a documented and mutually agreed move to another school.

Negotiated transfer occurs when all other pastoral and discipline measures, including suspension, have failed to resolve an issue of serious inappropriate student behavior.

A negotiated transfer ends the enrolment agreement with the first school and requires an enrolment in another school.

### **Relevant person**

Relevant person includes:

- where a student is living with their parent/s, is under 18 years of age and is not considered a mature minor:
  - a parent
  - an adult nominated by the parent
  - an adult from the suitable person list
- where a student is in out-of-home care:
  - a parent
  - an adult who is residing with, and providing care to, the child in the out-of-home care arrangement
  - an adult from the suitable person list
- where a student is considered a mature minor:
  - an adult nominated by the student
  - an adult from the suitable person list.

### **MACS school**

A school which operates with the consent of the Catholic Archbishop of Melbourne and is owned, operated and governed by MACS.

### **Support person**

Someone who the parents/guardians/carers/relevant persons can nominate to act in the student's best interests and who may speak on their behalf. A support person cannot make a decision for the student.

A support person may assist parents/guardians/carers/relevant persons:

- to understand what is going on during a meeting
- by interpreting for the parent if they do not speak or understand English.

The support person's details must be provided to the Principal prior to a meeting.

### Suspension

Suspension occurs when a student's attendance at school has been temporarily withdrawn, on the authority of the Principal or their delegate, for a set period of time.

Suspension allows the parties involved to reflect on and enter into dialogue about the behaviour and circumstances that have led to the suspension, and to plan and/or review learning and behaviour supports to assist a student to engage positively with school and learning.

### Vulnerable students and families

The MACS Board requires that the Principal of each school considers the special provisions that may apply where vulnerable students and families are concerned, prior to determining whether to instigate processes associated with suspension, negotiated transfer or expulsion.

- **Aboriginal and Torres Strait Islander students:** When considering a suspension, negotiated transfer or expulsion of an Aboriginal or Torres Strait Islander student, a Principal is required to notify the MACS Regional General.
- **Students with disability:** When responding to behaviour concerns associated with a student with a disability, consideration must be given to the requirements of the *Equal Opportunity Act 2010* (Vic.), *Disability Discrimination Act 1992* (Cth) and *Disability Standards for Education 2005* (Cth). The Principal is required to notify the MACS Regional General Manager.
- **Students from culturally and linguistically diverse (CALD) communities:** When considering the suspension, negotiated transfer or expulsion of a student from within a CALD community, the Principal is required to notify the MACS Regional General Manager.
- **Students in out-of-home care:** When considering the suspension, negotiated transfer or expulsion of a student living in out-of-home care, the Principal is required to notify the MACS Regional General Manager.
- **Students with mental health concerns:** When considering the suspension, negotiated transfer or expulsion of a student presenting with mental health concerns, the Principal should ensure that they are working with the family and relevant health professionals to ensure a thorough understanding of all issues. The Principal is required to notify the MACS Regional General Manager.

## Principles

Guiding principles for instigating suspension, negotiated transfer or expulsion procedures in schools include:

### Fairness

All students and staff have the right to be treated fairly and with dignity in an environment that is safe, and free from disruption, intimidation, harassment and discrimination. To achieve this, all schools must maintain high standards of student behaviour.

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

Principal in these extenuating circumstances.

## Ongoing learning

Schools must ensure that, where practicable, prior to and during processes of suspension, negotiated transfer and expulsion:

- the appropriate personalised learning and behaviour support strategies have been used and documented
- the appropriate support personnel available within the school, MACS and externally have been involved.

Collaboration and genuine engagement between MACS staff, school staff, students and families/parents/guardians/carers/relevant persons are important features of behaviour support in MACS schools. All should be fully aware of the school's wellbeing and behaviour support policies and practices.

## Supporting vulnerable students

In implementing a suspension, negotiated transfer or expulsion, the Principal will consider the special provisions that may apply where vulnerable students and families are concerned, and notify the MACS Regional General Manager. These include students:

- of Aboriginal and Torres Strait Islander descent
- with disabilities
- from culturally and linguistically diverse backgrounds
- in out-of-home care
- with mental health concerns.

## Diversity and equity

When responding to behaviour concerns associated with a student with a disability, consideration must be given to the requirements of the *Equal Opportunity Act 2010* (Vic.), *Disability Discrimination Act 1992* (Cth) and *Disability Standards for Education 2005* (Cth). These require that reasonable adjustments are provided to support students with a disability to access and participate in education on the same basis as other students.

## Transparency and voice

Should parents/guardians/carers/relevant persons require a support person in order to participate fully in the suspension, negotiated transfer or expulsion process, a suitable person may be involved, e.g. a member of a Local Aboriginal Education Consultative Group, an interagency support worker, staff from Victorian Aboriginal Child Care Agency (VACCA) or Victorian Aboriginal Education Association Incorporated (VAEAI). The responsibility for organising a support person rests with the student or parents/guardians/carers/relevant persons.

The Principal must ensure that records are made and retained of any action taken in relation to behaviour support or interventions put in place for the student and, if deemed necessary, the implementation of suspension, negotiated transfer or expulsion processes.

In determining whether a student's behaviour is serious enough to warrant suspension, negotiated transfer or expulsion, the Principal will consider the safety, care and wellbeing of the student, staff and other students. The Principal will notify the MACS Regional General Manager. In such

circumstances, the interests of the students will be balanced against the duty of care to, and the rights of, all members of the school community, and the legal obligations to, as far as reasonably practicable, provide and maintain a working environment that is safe and without risk to health.

Where requested, the school will assist the parents/guardians/carers/relevant persons to access counselling for the student.

## Requirements

### 1. Legislative requirements

- 1.1. MACS does not permit corporal punishment in any school (in accordance with the *Education and Training Reform Act 2006* (Vic.)).

### 2. Requirements for school registration

- 2.1. For details on school registration and managing school behaviour, refer to Care, safety and welfare of students in the Catholic Education Commission of Victoria Ltd (CECV) *Guidelines to the Minimum Standards and Requirements for School Registration and other Commonwealth Requirements for Victorian Catholic Schools*.

### 3. School-specific requirements

- 3.1. Each MACS school must have documented policies and procedures for suspension, negotiated transfer and expulsion that comply with legislative, minimum standards and MACS Board requirements.
- 3.2. Any other process or guideline approved by the Principal of a MACS school must be consistent with MACS Policy and Guidelines.
- 3.3. The MACS Student Behaviour Policy details related expectations and procedures for each Principal of a MACS school in fulfilling their responsibilities to promote positive student behaviour and respond to challenging student behaviour. The *CECV Positive Behaviour Guidelines* include information and templates on developing, implementing and reviewing Behaviour Support Plans and Student Safety Plans.
- 3.4. Each MACS school is required to publish its suspension, negotiated transfer and expulsion policies on its website.

## MACS guidelines for the suspension of students

### Context

Suspension occurs when a student's attendance at school has been temporarily withdrawn, on the authority of the Principal or delegate for a set period of time.

Suspension allows the parties involved to reflect on and enter into dialogue about the behaviour and circumstances that have led to the suspension, and to plan and/or review learning and behaviour supports to assist a student to engage positively with school and learning.

There are a range of other strategies that a school may have in place as part of their behaviour management plans, including time out or early finishing, that are not formal suspensions and are therefore not considered as part of this framework.

There are two forms of suspension:

1. **Internal suspension:** The student is excluded from the standard instruction or educational opportunities being provided to other students, but can still undertake educational activities on the school premises for the period of the suspension in the form of:

- In-school suspension: The student may be present at school but not participating in/attending scheduled classes or activities for a specified period of time.  
In-school suspensions should focus on encouraging the student to exhibit more positive behaviours, to increase their level of participation and, where appropriate, to learn problem solving and/or conflict resolution skills.

2. **External (out-of-school) suspension:** The student's right to attend school has been withdrawn for a defined period of time. Responsibility for the student's safety and welfare during this time is transferred to the parents/guardians/carers/relevant persons. The student is not to be on the school premises during the period of suspension.

An external suspension is designed to allow a period of time when the school, family/parents/guardians/carers/relevant persons and the student involved can work together on the resolution of the problem that has led to the student's suspension. This may include reviewing systems of support in place to mitigate risks.

In all suspension cases, the Principal must ensure a continuation of educational opportunity by providing the student with meaningful work, and monitor the completion of that work, until the period of suspension concludes.

The enrolment agreement explicitly records at the time of acceptance of the enrolment of a student that unacceptable behaviour by a child may result in suspension or termination of the child's enrolment.

## Authority for suspension

Only the Principal or their delegate has the authority to suspend a student from the school. The Principal should be notified of the suspension as soon as practicable.

The Principal is responsible for ensuring all procedures associated with suspension are followed correctly and must report to the MACS Regional General Manager as detailed in these Guidelines.

## Grounds for suspension

The Principal or their delegate has authority to suspend a student if the student:

- behaves in such a way as to pose a danger whether actual, perceived or threatened to the health, safety or wellbeing of any person
- causes significant damage to or destruction of property
- commits, attempts to commit or is knowingly involved in theft of property • possesses, uses or sells, or deliberately assists another person to possess, use or sell illicit substances or weapons
- 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
- consistently engages in behaviour that vilifies, defames, degrades or humiliates another person

- consistently behaves in an unproductive manner that interferes with the wellbeing, safety or educational opportunities of any other student.

## Application

Suspension only applies if the student is engaged in the behaviour referred to above while at school, travelling to or from school, is identifiable as a member of the school community, or while engaged in any school activity away from school (including travel to and from that activity).

## Criminal offences

Some wrongful behaviours of a serious nature are by definition criminal offences. These may include criminal damage of property, possession of a weapon, theft, assault with weapons, use, possession or distribution of drugs, sexual assault. This list is indicative only and not exhaustive.

When a Principal determines that a serious criminal offence has occurred, the Principal needs to be mindful of the school's and MACS' duty of care, including those owed to students who are victims or offenders, and staff.

The incident should be reported to the police at the earliest opportunity.

## Procedures

This section should be read in conjunction with *Flowchart for Suspension of Students* and *Checklist for Suspension of Students*.

### 1. Procedures for suspension of students

- 1.1 In determining whether to suspend a student, the Principal or delegate must ensure that suspending the student is appropriate to:
  - a) the behaviour for which the student is being suspended
  - b) the educational needs of the student
  - c) any disability of the student
  - d) the age of the student
  - e) the residential and social circumstances of the student
  - f) the cultural and linguistic background of the student.
- 1.2 The Principal or delegate is required to notify the MACS Regional General Manager where suspension is being considered for a student belonging to one or more of the following cohorts:
  - a) is of Aboriginal or Torres Strait Islander descent
  - b) has a disability
  - c) is from a CALD background
  - d) lives in out-of-home care
  - e) presents with mental health issues.
- 1.3 Before implementing a suspension, the Principal or delegate must ensure that principles of procedural fairness are followed in the decision-making process, including that:
  - a) the principal has put to the student the allegations or reasons why the particular decision is under consideration
  - b) the student has had the opportunity to be heard
  - c) any information or documentation provided by the student or their family/parent/guardian/carer/relevant person has, where necessary and as soon as reasonably practicable, been taken into account in making the decision regarding suspension



- d) other forms of action to address the behaviour for which the student is being suspended have been considered.
- 1.4 When providing procedural fairness to a student in accordance with paragraph 1.3, the principal must ensure that they do so in a manner which does not prejudice any relevant investigation on the request of Victoria Police.
- 1.5 Prior to an internal or external suspension taking effect, or on the day of implementing a suspension with immediate effect, the Principal or delegate must:
- a) identify the relevant person
  - b) give verbal notification to the student and notify the family/parent/guardian/carer/relevant person via telephone or in person of the reason/s for the suspension, the school days on which the suspension shall occur and where the suspension will occur, followed by notification in writing or email within 24 hours
  - c) provide contact details for additional support services to the student and their family/parent/guardian/carer/relevant person, as appropriate
  - d) provide meaningful work where the student is suspended for three days or less e) develop a *Student Absence Learning Plan* and *Suspension of Students – Return to School Plan* when the student is suspended for more than three days
  - f) provide the student and their family/parent/guardian/carer/relevant person with a *Notice of Suspension* which must include:
    - the reason/s for suspension
    - the school days on which the suspension shall occur
  - g) provide the student and their family/parent/guardian/carer/relevant person with copies of the *Student Absence Learning Plan* and *Return to School Plan* (if required).
- 1.6 The Principal or delegate may implement a suspension with immediate effect 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.
- 1.7 Where a Principal or delegate implements a suspension with immediate effect, the Principal may determine to expel the student while the student is on suspension.
- 1.8 Where the Principal or delegate implements a suspension with immediate effect, the Principal or delegate must provide supervision of the student:
- a) until the student is collected by a parent or a person chosen as an emergency contact for the student by the parent
  - b) if the student is in out-of-home care, or if the student cannot be collected by the parent, until the student is collected by an adult who is residing with, and providing care to, the student
  - c) until the end of the school day
  - d) in the case of a school camp or excursion, if paragraphs (a) or (b) do not apply, until the end of the camp or excursion.
- 1.9 Where requested, the school should provide access to counselling for the student and/or their family/parents/guardians/carers/relevant persons. The Principal or delegate may seek guidance from the MACS Regional General Manager with regard to access to counselling.

## **2. Period of suspension**

- 2.1 The maximum continuous period of time a student can be suspended at any given time is five school days, unless a longer period is approved by the MACS Regional General Manager.
- 2.2 Where a Principal or delegate implements a suspension with immediate effect and is considering whether to expel the student, the Principal must request written approval from the MACS Regional General Manager for a period of suspension of greater than five days for the purpose of undertaking the expulsion procedures.
- 2.3 A student cannot be suspended for more than 15 school days in a school year without written approval from the MACS Regional General Manager.
- 2.4 If a student is suspended for a period which is longer than the days left in the term, the Principal should consider the likely disruption to the student's learning before imposing a suspension that will continue into the following term.
- 2.5 If a student has been suspended for 15 school days in a school year, an expulsion is not an automatic consequence.
- 2.6 Principals or delegates may seek further advice in relation to periods of suspension from their MACS Regional General Manager.

## **3. Return to school meeting**

- 3.1 A return to school meeting must be conducted with the family/parents/guardians/carers/ relevant persons before the student's return to school. The student should be present.
- 3.2 The Principal or delegate will inform the family/parents/guardians/carers/relevant persons who will be in attendance at the return to school meeting.
- 3.3 The family/parents/guardians/carers/relevant persons may request that a support person attend the return to school meeting with them. The support person may provide emotional support and reassurance. They are not an advocate. The support person's details must be provided to the Principal or delegate prior to the meeting.
- 3.4 The Principal or delegate may decide to extend the suspension if the return to school meeting does not meet the desired outcomes.

## **4. Record keeping**

- 4.1 The Principal is responsible for ensuring all records pertaining to any incident involving a suspension are carefully recorded, filed and retained on the school records, including information on the number, reasons and frequency of suspensions pertaining to students in order to be able to track the occurrence and nature of suspensions at any point in time.
- 4.2 The Principal must report quarterly to the MACS Regional General Manager a summary of all suspension cases. This periodic report includes previously notified cases where the student was from one of the designated vulnerable cohorts or the suspension period was greater than five days.

# **MACS guidelines for the negotiated transfer of students**

## **Context**

When a series of incidents or a significant isolated incident occurs, and pastoral and disciplinary measures (including suspension) have failed to resolve an issue of serious inappropriate student behaviour, a negotiated transfer may be considered.

Negotiated transfer is a documented and mutually agreed move to another school. This may be considered as a way of giving a student a fresh start. It is an option in circumstances in which it is judged that the student's present school is not the right environment for the student, and that another setting would more suitably meet the student's current and future needs, and be the most appropriate means of providing for the student's wellbeing.

A negotiated transfer of a student can only be authorised by the Principal and is considered when:

- unacceptable behaviour has occurred or has risen to a level where continued enrolment of that student at the current school is not in their educational interests or the interests of others in the school community
- the interventions put in place to support the student in the current school have not resulted in a positive change in behaviour.

In such circumstances, the Principal will consult with the student and their family/parents/guardians/ carers/relevant persons on appropriate alternative school settings and, where possible, arrange enrolment with another school. The Principal is required to inform and seek assistance from the MACS Regional General Manager in any negotiated transfer process.

A negotiated transfer ends the enrolment agreement with the first school and requires enrolment in the new school.

### **Authority for negotiated transfer of students**

Only the Principal has the authority to negotiate a transfer for a student from the school of which they are Principal. A Principal may not delegate their power to negotiate a transfer for a student while on the school premises.

If the Principal is absent, the responsibility may be delegated to the Deputy Principal or the next senior person on staff to act on behalf of the Principal. The Principal should be notified of the negotiated transfer as soon as practicable.

The Principal is responsible for ensuring all procedures associated with negotiated transfer are followed correctly and must report to the MACS Regional General Manager as detailed in these Guidelines.

### **Grounds for negotiated transfer**

The Principal has authority to negotiate a transfer for a student if the student:

- behaves in such a way as to pose a danger whether actual, perceived or threatened to the health, safety or wellbeing of any person
- causes significant damage to or destruction of property
- commits, attempts to commit or is knowingly involved in theft of property • possesses, uses or sells, or deliberately assists another person to possess, use or sell illicit substances or weapons
- 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
- consistently engages in behaviour that vilifies, defames, degrades or humiliates another • consistently behaves in an unproductive manner that interferes with the wellbeing, safety or

educational opportunities of any other student.

## Application

Negotiated transfer will only be considered if the student is engaged in the behaviour referred to above while at school, travelling to or from school, is identifiable as a member of the school community, or while engaged in any school activity away from school (including travel to and from that activity).

## Criminal offences

Some wrongful behaviours of a serious nature are by definition criminal offences. These may include criminal damage of property, possession of a weapon, theft, assault with weapons, use, possession or distribution of drugs, sexual assault. The list above is indicative only and not exhaustive.

When a Principal determines that a serious criminal offence has occurred, the Principal needs to be mindful of the school's and MACS' duty of care, including those owed to students who are victims or offenders, and staff.

The incident should be reported to the police at the earliest opportunity.

## Procedures

This section should be read in conjunction with *Flowchart for Negotiated Transfer of Students* and *Checklist for Negotiated Transfer of Students*.

### 1. Prior to negotiated transfer

- 1.1 The Principal must identify the family/parents/guardians/carers/relevant persons.
- 1.2 The Principal is required to notify the MACS Regional General Manager when a negotiated transfer is being considered for a student belonging to one or more of the following cohorts:
  - a) is of Aboriginal or Torres Strait Islander descent
  - b) has a disability
  - c) is from a CALD background
  - d) lives in out-of-home care
  - e) presents with mental health issues.

### 2. Meeting

- 2.1 The Principal is required to meet with the family/parents/guardians/carers/relevant persons and student.
- 2.2 In the meeting, the Principal is required to:
  - a) advise the student and their family/parents/guardians/carers/relevant persons that they are considering a negotiated transfer. This notice must be confirmed in writing or by email within 24 hours
  - b) outline the grounds for the negotiated transfer that are being considered and the evidence to support a finding that the student has engaged in relevant conduct
  - c) ensure that the student and their family/parents/guardians/carers/relevant persons have the opportunity to be heard
  - d) provide comprehensive advice to the student and family/parents/guardians/carers/relevant persons about the potential options and the benefits a negotiated transfer would provide

- e) seek agreement from the student and family/parents/guardians/carers/relevant persons for a negotiated transfer.

If a negotiated transfer is desired to another MACS school, but cannot be arranged, assistance will be provided through the MACS Regional General Manager.

### **3. Decision regarding negotiated transfer**

3.1 Before arranging a negotiated transfer for a student, the Principal must:

- a) properly, fairly and without bias consider all of the relevant matters, including the impact of the behaviour of the student on other affected parties, in making their decision
- b) determine whether the action is appropriate when compared to:
  - the nature of the behaviour in question
  - 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 cultural and linguistic background of the student.

3.2 The Principal must ensure that principles of procedural fairness are followed in the decision making process, including that the student and their family/parents/guardians/carers/ relevant persons have the opportunity to be heard, any information or documentation provided to the student or their relevant person has been taken into account in making the decision regarding negotiated transfer, and other forms of action to address the behaviour for which the negotiated transfer is considered have been explored.

3.3 The Principal must be satisfied that there have been sufficient interventions and strategies used prior to the decision to consider a negotiated transfer and that documented evidence of those interventions exists.

3.4 Where requested, the school should provide access to counselling for the student and/or their family/parents/guardians/carers/relevant persons.

3.5 The Principal is required to inform the MACS Regional General Manager before arranging a negotiated transfer for any student.

### **4. Process following negotiated transfer**

4.1 Once a decision to proceed with negotiated transfer has been determined, the Principal must provide the student and their family/parents/guardians/carers/relevant persons with a *Notice of Negotiated Transfer of Students* which must include:

- a) why a change to another setting is being proposed
- b) the school or other setting that would provide an educational program suited to the student's needs, abilities and aspirations
- c) the date of the commencement of the transfer
- d) any additional considerations to support the transition.

4.2 A copy of the *Notice of Negotiated Transfer of Students* must be provided to the MACS Regional General Manager.

4.3 In the case of a student of compulsory school age, i.e. between six and 17 years of age, the Principal must ensure that the student is participating as soon as practicable in one or more of the following options:

- a) enrolled in another registered school

- b) enrolled at a registered training organisation
  - c) engaged in employment.
- 4.4 The Principal must provide the student with meaningful work, and monitor the completion of that work, until one of the options in 4.3 is exercised.
- 4.5 In the case of a student beyond compulsory school age, i.e. over 17 years of age, the Principal should provide the student and their family/parents/guardians/carers/relevant persons with information about other schools, registered training organisations or employment agencies that may provide suitable opportunities for the student. The Principal must be satisfied that the student is engaged in a suitable educational or employment pathway.
- 4.6 The student is to remain enrolled at their current school until the negotiated transfer process is completed, unless the circumstances are such as to require expulsion.
- 4.7 During the negotiated transfer process, if a student is suspended from school, they must be provided with:
- a) appropriate and meaningful work that is monitored to support ongoing engagement with learning until one of the options in 4.3 is exercised
  - b) appropriate wellbeing support, including counselling as deemed relevant, and in consultation with families/parents/guardians/carers/relevant persons. The Principal may
  - c) seek guidance from the MACS Regional General Manager with regard to access to counselling. When identifying appropriate wellbeing supports, consideration will be given to the particular circumstances of the student, including whether they are considered vulnerable, and whether they come from a culturally or linguistically diverse background.

## 5. Record keeping

- 5.1 The Principal is responsible for ensuring all records pertaining to any incident involving a negotiated transfer are carefully recorded, filed and retained on the school records.
- 5.2 The Principal must report annually to the MACS Regional General Manager a summary of all negotiated transfer cases. This periodic report includes previously notified cases where the student was from one of the designated vulnerable cohorts.

## MACS guidelines for the expulsion of students

### Context

Expulsion of a student from a school should only be considered in exceptional circumstances.

Expulsion occurs when, following consultation with the MACS Regional General Manager, a student's attendance at their current school is permanently withdrawn by the Principal.

Expulsion involves the termination of the contract entered into at the time of the enrolment by the parents/guardians/carers/relevant persons. The enrolment agreement explicitly records at the time of acceptance of the enrolment of a student that unacceptable behaviour by a child may result in suspension or termination of the child's enrolment.

Wherever possible, the Principal will work with the student and their family to arrange enrolment with another school. The Principal is required to inform and seek assistance from the MACS Regional General Manager in considering an expulsion. Principals are encouraged to engage early to seek appropriate advice and support.

### **Right of appeal against expulsion decision**

Students and their parents/guardians/carers/relevant persons have the right to appeal the expulsion decision. This is done through a MACS Regional General Manager from a different region as designated by the Director, Learning and Regional Services.

### **Authority for expulsion**

Only the Principal has the authority to expel a student from the school. A Principal may not delegate their power to expel a student.

The Principal holds the ultimate responsibility for ensuring all processes and procedures associated with expulsion are followed correctly.

The Principal must consult with the MACS Regional General Manager about a student's expulsion. However, a Principal must not proceed to expel a student who is aged eight years or less, unless approval has first been obtained from the MACS Director, Learning and Regional Services.

The Principal is required to inform and seek guidance or assistance from the MACS Regional General Manager regarding an expulsion decision.

### **Grounds for expulsion**

The Principal has authority to expel a student if the student:

- behaves in such a way as to pose a danger whether actual, perceived or threatened to the health, safety or wellbeing of any person
- causes significant damage to or destruction of property
- commits, attempts to commit or is knowingly involved in theft of property • possesses, uses or sells, or deliberately assists another person to possess, use or sell illicit substances or weapons
- 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
- consistently engages in behaviour that vilifies, defames, degrades or humiliates another
- consistently behaves in an unproductive manner that interferes with the wellbeing, safety or educational opportunities of any other student.

### **Application**

Expulsion will be considered if the student is engaged in the behaviour referred to above while at school, travelling to or from school, is identifiable as a member of the school community, or while engaged in any school activity away from school (including travel to and from that activity).

### **Criminal offences**

Some wrongful behaviours of a serious nature are by definition criminal offences. These may include criminal damage of property, possession of a weapon, theft, assault with weapons, use, possession or distribution of drugs, sexual assault. The list above is indicative only and not exhaustive.

When the Principal determines that a serious criminal offence has occurred, the Principal needs to be mindful of the school's and MACS' duty of care, including those owed to students who are victims or offenders, and staff.

The incident should be reported to the police at the earliest opportunity.

## Procedures

This section should be read in conjunction with *Flowchart for Expulsion of Students* and *Checklist for Expulsion of Students*.

### PRIOR TO EXPULSION

#### 1. Prior to expulsion

- 1.1 The Principal must notify the student and their family/parents/guardians/carers/relevant persons and the MACS Regional General Manager. Any verbal notification must be confirmed in writing or by email within 24 hours.
- 1.2 The Principal is required to notify the MACS Regional General Manager when an expulsion is being considered for a student belonging to one or more of the following cohorts:
  - a) is of Aboriginal or Torres Strait Islander descent
  - b) has a disability
  - c) is from a CALD background
  - d) lives in out-of-home care
  - e) presents with mental health issues.
- 1.3 If the student is an overseas (international) student as defined by their visa subclass, the Principal must inform the MACS Regional General Manager and seek any necessary guidance.

#### 2. Behaviour Support and Intervention Meeting

- 2.1 The Principal must convene a Behaviour Support and Intervention

Meeting. 2.2 The purpose of the Behaviour Support and Intervention Meeting

is to:

- a) advise the student and their family/parents/guardians/carers/relevant persons that the Principal is considering the expulsion of the student
- b) ensure all available supports and interventions to support the behaviours of concern are considered for the student
- c) outline the grounds for expulsion that are being considered and the evidence to support a finding that the student has engaged in relevant conduct
- d) ensure the student and their family/parents/guardians/carers/relevant persons have the opportunity to be heard
- e) consider the impact of the behaviour of the student on other affected parties
- f) 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.

#### 3. MACS Regional General Manager engagement and support

- 3.1 The Principal must seek support from the MACS Regional General Manager, or their delegate, to:
  - a) attend the Behaviour Support and Intervention Meeting, where appropriate
  - b) ensure all available supports and interventions to support the behaviours of concern are considered for the student
  - c) ensure that alternative disciplinary measures are considered for the student
  - d) ensure that the appropriate education, training and/or employment options are considered for the student
  - e) assist in implementing the course of action agreed to at the Behaviour Support and Intervention Meeting.



#### 4. Prior to the Behaviour Support and Intervention Meeting

- 4.1 Prior to the Behaviour Support and Intervention Meeting, the Principal must contact the student and their family/parents/guardians/carers/relevant persons and provide them with or advise them of the following:
- a) a copy of *Expulsion of Students: Information for Parents/Guardians/Carers/Relevant Person*
  - b) the date, time and place for the Behaviour Support and Intervention Meeting
  - c) that they are encouraged to attend the Behaviour Support and Intervention Meeting
  - d) that if the student's family/parents/guardians/carers/relevant persons is unable or unwilling to attend, the student may nominate another adult to attend the Behaviour Support and Intervention Meeting
  - e) the matters to be discussed at the Behaviour Support and Intervention Meeting, including the impact of key issues on the affected parties
  - f) the family/parents/guardians/carers/relevant persons and/or the student may be accompanied at the Behaviour Support and Intervention Meeting by an independent support person of their choice who is not acting for fee or reward
  - g) that if the student and their family/parents/guardians/carers/relevant persons do not attend the Behaviour Support and Intervention Meeting, the meeting may proceed in their absence and, if expulsion is decided, the course of action may be determined without the benefit of hearing from the student and their parents/guardians/carers/relevant persons.
- 4.2 The Principal should determine whether the assistance of an interpreter in any language (including Auslan) is required by any person who is to attend the Behaviour Support and Intervention Meeting and arrange for such assistance to be present at the meeting.
- 4.3 When conducting a Behaviour Support and Intervention Meeting, the Principal must ensure that the meeting is conducted in a manner that allows all parties to be heard.
- 4.4 If the student and their family/parents/guardians/carers/relevant persons do not attend the Behaviour Support and Intervention Meeting, the Principal must ensure that key points discussed at the meeting are recorded in writing and sent to the student and their family/parents/guardians/carers/relevant persons.
- 4.5 Where requested, the Principal should provide access to counselling for the student and/or their family/parents/guardians/carers/relevant persons with assistance from the MACS Regional General Manager.

#### 5. Decision regarding expulsion

- 5.1 Before deciding to expel a student, the Principal must:
- a) properly, fairly and without bias, consider all of the relevant matters, including the impact of the behaviour of the student on other affected parties, in making their decision
  - b) determine whether the expulsion is appropriate when compared to:
    - 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 cultural and linguistic background of the student
- c) ensure that principles of procedural fairness are followed in the decision-making process, including that the student and their family/parents/guardians/carers/relevant persons have the opportunity to be heard, any information or documentation provided by the student or their family/parents/guardians/carers/relevant persons has been taken into account when making the decision regarding expulsion, and other forms of action to address the behaviour for which the expulsion is considered
- d) seek approval to expel the student, where the student is eight years of age or less, from the MACS Director, Learning and Regional Services. The Principal must seek any necessary guidance from the MACS Regional General Manager.
- 5.2 The Principal must notify the student and their family/parents/guardians/carers/relevant persons of the Principal's decision to expel or not expel the student:
- a) where the student is nine years of age or more, within two business days of the conclusion of the Behaviour Support and Intervention Meeting
  - b) in any other case, within 10 business days of the conclusion of the Behaviour Support and Intervention Meeting.
- 5.3 If the Principal decides to expel the student, they must provide the student and their family/parents/guardians/carers/relevant persons with the following documentation:
- a) *Notice of Expulsion of Students* which 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.
  - b) A copy of *Expulsion of Students Appeal Information and Form*.
- 5.4 The Principal must prepare an *Expulsion of Students Report* which must be in writing and contain:
- a) a short statement of the history of the student's time at school
  - b) the ground/s for the expulsion
  - c) the reason/s for the expulsion
  - d) considerations in support of the expulsion, including a comprehensive range of strategies which might have been employed
  - e) any considerations of the impact of the behaviour on other affected parties
  - f) any representation made by the student or their relevant person
  - g) a summary of the options considered at the Behaviour Support and Intervention Meeting and why the expulsion was considered necessary
  - h) details of the arrangements that have been made for continuing education, training and/or employment of the student
  - i) recommendations on whether any further action at the school, local, regional or system

level is required, including strategies at the school level to prevent the repeat of similar circumstances.

5.5 Within one business day of the expulsion taking effect, a copy of the *Notice of Expulsion of Students* and *Expulsion of Students Report* must be provided to the MACS Regional General Manager.

## **FOLLOWING EXPULSION**

### **6. Process following expulsion**

- 6.1 The Principal must ensure that the student is provided with other educational and development opportunities as soon as practicable after the expulsion, with the assistance of the MACS Regional General Manager. When identifying appropriate educational and development opportunities, consideration must be given to the particular circumstances of the student, including where the student is vulnerable or comes from a culturally or linguistically diverse background.
- 6.2 In the case of a student of compulsory school age, the Principal, with the assistance of the MACS Regional General Manager, must ensure that the student is participating in one or more of the following as soon as practicable:
- a) enrolment at another registered school
  - b) enrolment at a registered training organisation
  - c) engagement with an employment agency or other organisations that provide services that support the future employment of the student.
- 6.3 In the case of a student of compulsory school age, the Principal must provide the student with meaningful work from the time of the expulsion until the student is participating in one or more of the options specified in 6.2, and monitor the completion of that work.
- 6.4 The obligations in 6.2 and 6.3 do not apply if an exemption to compulsory school age under section 2.1.5 of the *Education and Training Reform Act 2006* (Vic.) applies.
- 6.5 In the case of a student who is beyond compulsory school age, the Principal, with the assistance of the MACS Regional General Manager, must provide the student and their family/parents/guardians/carers/relevant persons with information about other schools or registered training organisations that may provide suitable opportunities for the student, or employment agencies or other organisations that support the future employment of the student.
- 6.6 The Principal may seek assistance from the MACS Regional General Manager with any aspect of the process following an expulsion decision.

## **APPEAL PROCESS**

### **7. Appeal process for the review of an expulsion decision**

- 7.1 The Director, Learning and Regional Services will designate a Regional General Manager from a different region to oversee the appeal process.
- 7.2 Students and their family/parents/guardians/carers/relevant persons have the right to request a review of the expulsion and have a right of appeal to the designated MACS Regional General Manager.
- 7.3 Any review of a decision to expel a student will reference all relevant records to determine if principles of procedural fairness were followed in the decision-making process.

## **EXPULSION APPEAL PROCEDURES**

### **8. Procedure for appealing the Expulsion decision**

- 8.1 A student and their family/parents/guardians/carers/relevant persons should contact the designated MACS Regional General Manager for further advice regarding lodging an expulsion appeal and the procedure to be followed.
- 8.2 A student and/or their family/parents/guardians/carers/relevant persons may appeal a Principal's decision to expel the student to the designated MACS Regional General Manager on the following grounds:
- a) there have not been sufficient interventions and strategies used prior to the decision to expel where the student has a history of behavioural issues
  - b) it is considered that the grounds on which the student has been expelled are unfair
  - c) the expulsion process was not followed by the Principal
  - d) other extenuating circumstances.
- 8.3 The *Expulsion of Students Appeal Information and Form* must be received by the designated MACS Regional General Manager within 10 business days of the student and their family/parents/guardians/carers/relevant persons receiving the *Notice of Expulsion of Students*.
- 8.4 The designated MACS Regional General Manager must contact the Principal and obtain a copy of the following documents within one business day of receiving the *Expulsion of Students Appeal Information and Form*:
- a) *Notice of Expulsion of Students*
  - b) *Expulsion of Students Report*.
- 8.5 The designated MACS Regional General Manager may appoint an Expulsion Review Panel to review the Principal's decision to expel the student. They must notify the MACS Director, Learning and Regional Services that a review panel is being formed.
- 8.6 The designated MACS Regional General Manager will determine to either:
- a) uphold the decision made by the Principal to expel the student
  - b) overturn the decision made by the Principal to expel the student.
- 8.7 The designated MACS Regional General Manager will notify the MACS Director, Learning and Regional Services of the decision.
- 8.8 The MACS Director, Learning and Regional Services retains the right to overturn any expulsion decision made.

## **9. Expulsion Review Panel**

- 9.1 Where an Expulsion Review Panel is appointed by the designated MACS Regional General Manager, the panel must:
- a) provide an opportunity for the student and their family/parents/guardians/carers/relevant persons to be heard
  - b) provide an opportunity for the Principal to be heard (either in person or by some other means considered appropriate by the Expulsion Review Panel)
  - c) consider the safety and wellbeing of affected parties, including where the expulsion decision may be overturned, where relevant to the grounds of the appeal
  - d) provide an Expulsion Review Panel Report to the designated MACS Regional General Manager outlining the relevant facts and considerations, and recommending the decision that should be made in relation to the expulsion appeal.
- 9.2 If the designated MACS Regional General Manager determines to appoint an Expulsion Review Panel, it must be ensured that the panel:

- a) comprises at least three persons who are independent and not associated with the school, and have no knowledge or other connection to the circumstances of the expulsion
- b) does not include a person who participated in the Behaviour Support and Intervention Meeting prior to the expulsion.

9.3 The designated MACS Regional General Manager must appoint an Executive Officer to assist the Expulsion Review Panel.

9.4 The role of the Executive Officer is to:

- a) liaise with the panel members to determine an appropriate date, time and place to convene an Expulsion Review Panel meeting
- b) contact the family/parents/guardians/carers/relevant persons and student and advise them of the following:
  - the date, time and place for the Expulsion Review Panel meeting
  - that the student and their family/parents/guardians/carers/relevant persons are encouraged to attend the meeting
  - that the student and/or family/parents/guardians/carers/relevant persons may be accompanied at the meeting by an independent support person of their choice who is not acting for fee or reward
  - that if the student and their family/parents/guardians/carers/relevant persons do not attend the Expulsion Review Panel meeting, the meeting may proceed in their absence, and that the Expulsion Review Panel Report to the designated MACS Regional General Manager may be prepared without the benefit of hearing from the student and their relevant person
- c) determine whether the assistance of an interpreter in any language (including Auslan) is required by any person who is to attend the Expulsion Review Panel meeting and arrange for such assistance to be present at the meeting
- d) ensure that the panel members receive the following documents prior to the Expulsion Review Panel meeting:
  - *Notice of Expulsion of Students*
  - *Expulsion of Students Appeal Information and Form*
  - *Expulsion of Students Report*
- e) ensure panel members are fully informed of their role.

9.5 The Expulsion Review Panel must provide a completed Expulsion Review Panel Report to the designated MACS Regional General Manager within three business days of the conclusion of the Expulsion Review Panel meeting.

9.6 The designated MACS Regional General Manager must consider the Expulsion Review Panel Report prior to making a determination, but is not bound to follow the recommendations made by the Expulsion Review Panel.

9.7 The designated MACS Regional General Manager should use best endeavours to make a determination within 10 business days of receiving the expulsion appeal.

9.8 The designated MACS Regional General Manager or delegate must verbally notify the student, their family/parents/guardians/carers/relevant persons and the Principal of the outcome of the appeal within two business days of the decision being made.

9.9 The designated MACS Regional General Manager must also provide written notification to the student, their family/parents/guardians/carers/relevant persons and the Principal of the determination made in relation to the appeal.

- 9.10 A copy of the Expulsion Review Panel Report must be sent to the student, their family/parent(s)/guardian(s)/carer(s)/relevant person and the Principal.
- 9.11 If the designated MACS Regional General Manager overturns the Principal's decision to expel the student, the Principal must ensure that the following actions are implemented as soon as possible:
- a) the student must be re-enrolled in the school
  - b) the Principal must work with the student, their family/parents/guardians/carers/relevant persons, and the student's teacher/s to develop a *Return to School Plan – Expulsion* c) the Principal must ensure that the record of expulsion is removed from the student's permanent record
  - d) the Principal must notify the student and their relevant person in writing once the expulsion is removed from the student's record.
- 9.12 The designated MACS Regional General Manager will notify the MACS Director, Learning and Regional Services of the expulsion decision. The MACS Director, Learning and Regional Services retains the right to overturn any expulsion decision.

## RECORD KEEPING

### 10. Record keeping

- 10.1 The Principal is responsible for ensuring all records pertaining to any incident involving expulsion are carefully recorded, filed and retained on the school records, in accordance with [Public Record Office Victoria Recordkeeping Standards](#).
- 10.2 The Principal should ensure records are kept on the number, reasons and frequency of expulsions pertaining to students in order to be able to track the occurrence and nature of expulsions at any point in time.
- 10.3 The Principal must report to the MACS Regional General Manager prior to any expulsion. The MACS Regional General Manager will notify the MACS Director, Learning and Regional Services.

## Support documents

- Student Absence Learning Plan
- Suspension of Students – Return to School Plan
- Notice of Suspension of Students
- Flowchart for Suspension of Students
- Checklist for Suspension of Students
- Notice of Negotiated Transfer of Students
- Flowchart for Negotiated Transfer of Students
- Checklist for Negotiated Transfer of Students
- Expulsion of Students: Information for Parents/Guardians/Carers/Relevant Person

- Notice of Expulsion of Students
- Expulsion of Students Appeal Information and Form
- Expulsion of Students Report
- Flowchart for Expulsion of Students
- Checklist for Expulsion of Students
- Expulsion of Students – Return to School Plan

## Resources

CECV [\*Guidelines to the Minimum Standards and Requirements for School Registration and other Commonwealth Requirements for Victorian Catholic Schools\*](#) (2021)

CECV [\*Positive Behaviour Guidelines\*](#) (2018)

CECV [\*Safe and Sound Practice Guidelines\*](#) (2014)

Catholic Education Melbourne [\*eXcel: Wellbeing for learning in Catholic school communities\*](#)

(2018) Catholic Education Melbourne [\*Horizons of Hope: Learning Diversity in a Catholic School\*](#)

(2017) Catholic Education Melbourne [\*Horizons of Hope: Vision and Context\*](#) (2016)

Catholic Education Melbourne [\*Horizons of Hope: Wellbeing in a Catholic School\*](#)

(2017) MACS [\*Pastoral Care of Students Policy\*](#) (2021)

NCEC [\*Privacy Compliance Manual\*](#) (2020)

### Public Record Office Victoria Recordkeeping Standards

Responsible director	Director, Learning and Regional Services
Policy owner	General Manager, Student Wellbeing
Approving body/individual	MACS Board
Risk Rating	High
Approval date	April 2022
Date of next review	April 2024

POLICY DATABASE INFORMATION	
Assigned Framework Suspension, Negotiated Transfer and Expulsion of Students	
Related documents	Expulsion of Students Policy (School) Negotiated Transfer of Students Policy (School) Suspension of Students Policy (School)
Superseded documents	MACS Guidelines for Schools – Suspension, Negotiated Transfer and Expulsion of Students
New policy	

