

Effective governance

The board's role in effective student behaviour management processes

Learning objectives

After attending this workshop participants will have an understanding of:

- The purpose of the student stand downs, suspensions, exclusions and expulsions legislation
- The board's student behaviour management process
- The board's required documentation



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Legislation

What is the purpose of the legislation regarding stand downs, suspensions, exclusions and expulsions?

Section 13 Education Act 1989

1. Provide a range of responses for cases of varying degrees of seriousness
2. Minimise disruption to a student's attendance at school and facilitate their return when that is appropriate
3. Ensure that individual cases are dealt with in accordance with the principles of natural justice

Section of The Act:	Relating to:	Explanation	Relevance for the board:
Section 3	Right to education	States that every person who is not an international student is entitled to free enrolment and free education at any State school or partnership school kura hourua during the period beginning on the person's fifth birthday and ending on 1 January after the person's 19th birthday.	
Section 77	Right to counselling	Requires principals of state schools to take reasonable steps to ensure that all students get good guidance and counselling. This implies that behavioural matters that may lead to stand down or suspension have previously been acted on in other ways by the school.	
Section 77	Obligation to parents	Requires principals of state schools to take all reasonable steps to ensure that parents are told of matters which, in the principal's opinion, are preventing or slowing the student's progress through school or are harming the student's relationships with teachers or other students.	
Section 13 (c)	Natural justice	The purpose of the provisions is in part to ensure that individual cases of the stand down, suspension, exclusion or expulsion of a student from a state school are dealt with in accordance with the principles of natural justice.	
Section 60 A (1) (c)	NAG 5	Each board of trustees is required to provide a safe physical and emotional environment for students.	

These sections apply to all state and state integrated schools.

Definitions

Term	Definition
<p>Stand down Formal removal of a student from school for a specified period.</p>	<p>Principal of the school, or, in the absence of the principal, a person delegated by the board of trustees to act as the principal, is the only person who can make the decision to stand down a student</p> <p>1–5 days at a time</p> <p>No more than 5 school days in a term or 10 school days in a school year</p> <p>Principal or family may ask for a meeting to discuss the stand down. Principal must make themselves available if asked</p> <p>Student may be required to go to school for guidance and counselling during stand down</p> <p>Student automatically back in school at end of stand down</p> <p>No need to report individual cases to the board</p> <p>Board not directly involved</p> <p>No permanent school record attached to student's records</p>
<p>Suspension Formal removal of a student from school until the board of trustees decides the outcome at a suspension meeting.</p>	<p>Principal of the school, or, in the absence of the principal, a person delegated by the board of trustees to act as the principal, is the only person who can make the decision to suspend a student.</p> <p>The board is required to hold a suspension meeting within 7 school days of the suspension or 10 calendar days if the suspension is imposed within 7 school days of the end of the term, to decide the outcome</p> <p>Student cannot return to school until board decides the outcome, however:</p> <ul style="list-style-type: none"> • Student may be required to go to school for guidance and counselling during suspension • Student may attend school during suspension if a reasonable request is made • Principal must consider particular needs of a course of study or for a student to sit an exam
<p>Exclusion The formal removal of a student aged under 16 from the school.</p>	<p>For the most serious cases only</p> <p>Student required to enrol elsewhere</p> <p>Assistance of the principal required</p> <p>MoE assistance may be sought in enrolling elsewhere</p>
<p>Expulsion The formal removal of a student aged 16 or over from the school.</p>	<p>For the most serious cases only</p> <p>If the student wishes to continue schooling, they may enrol elsewhere</p>
<p>Gross misconduct</p>	<p>Must be striking and reprehensible to a high degree and sufficient to justify suspension</p>
<p>Harmful or dangerous example</p>	<p>If other students were to know about it, would it undermine discipline and safety standards for that behaviour to go unpunished?</p>

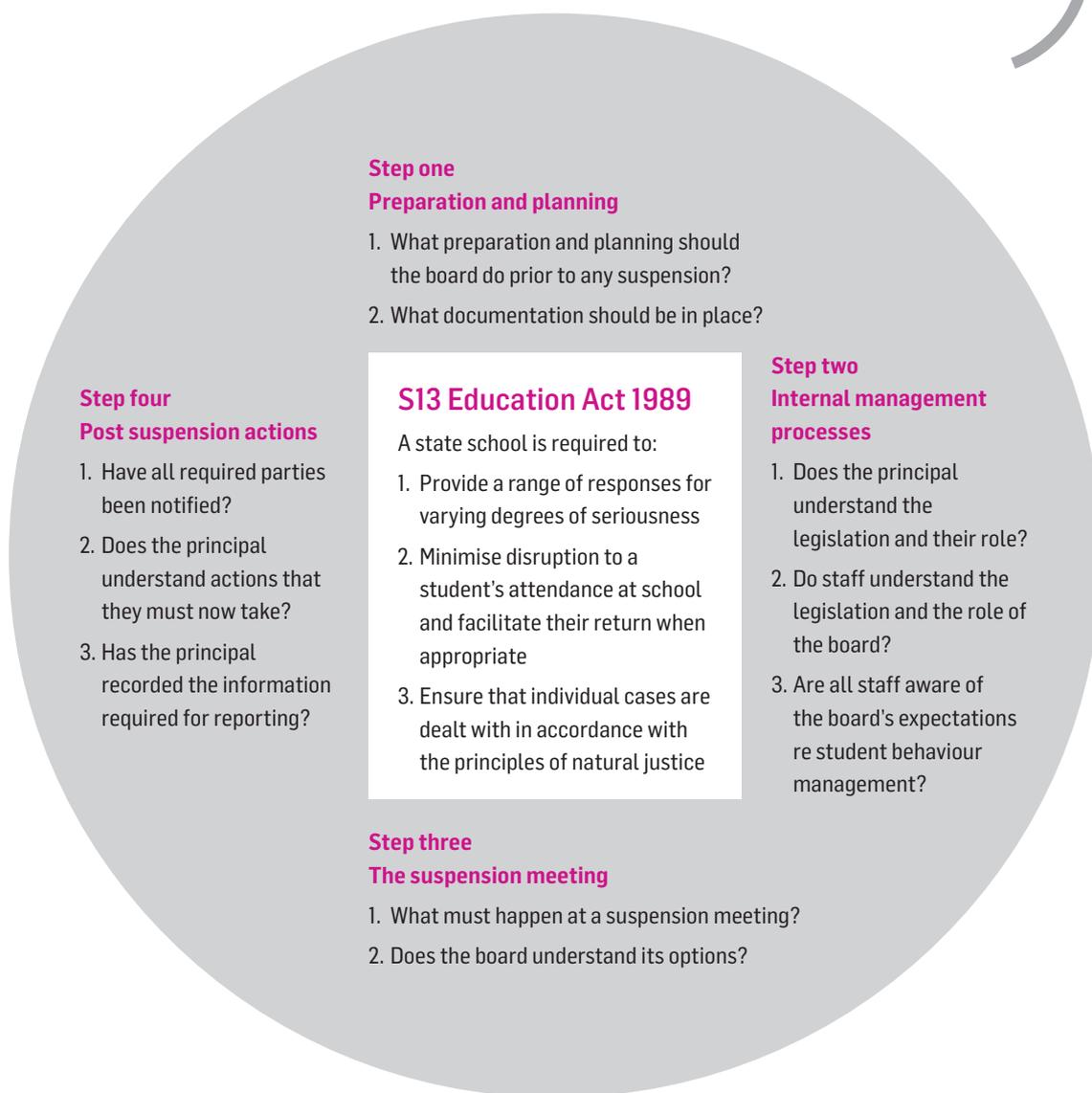
Term	Definition
Serious harm	This is about distress or injury to the student or other students. It is only concerned with student safety, in contrast with the more discipline orientated categories of gross misconduct and continual disobedience
Zero tolerance	A board can have zero tolerance to a behaviour but cannot predetermine a disciplinary outcome
Natural justice	This can be defined as the obligation to act fairly and reasonably in the circumstances. What is required will vary according to the situation
Conditions	<p>Allow the school to formally manage the student's behaviour and provide pastoral assistance. The board may impose any condition that is reasonable, aimed at facilitating the return of the student to school (if it is extending the suspension)</p> <p>Conditions should be related to the behaviour or cause of behaviour that led to the suspension. A student cannot be expected to meet conditions that they have no direct influence upon or control over</p>
Adjournment	A suspension meeting can be adjourned to consider new information however the board must make a final decision before the applicable date. If it does not the suspension expires and the student must return to school
Extend the suspension	Where the student remains out of school for a set period of time in order to fulfil specific responsibilities placed on them which are aimed at facilitating their return to school. The student returns to school once either the conditions are met or the extended suspension expires (whichever occurs first). Appropriate guidance and counselling and an educational programme must be provided by the principal while the student is out of school
Predetermination	Decisions cannot be predetermined. That is made in advance. Each case must be heard on its own merits considering all the facts related to that student
Reconsideration meeting	Where a student fails to comply with any conditions imposed by the board the principal may request a reconsideration meeting where the board will reconsider its initial decision

Section 14 Education Act 1989

Principal may stand-down or suspend students—

- (1) The principal of a state school may stand-down or suspend a student if satisfied on reasonable grounds that—
- (a) The student's gross misconduct or continual disobedience is a harmful or dangerous example to other students at the school; or
 - (b) Because of the student's behaviour, it is likely that the student, or other students at the school, will be seriously harmed if the student is not stood—down or suspended.

The student behaviour management process for the board



Step	Actions for the board	Actions for the principal
Step one Preparation and planning		
Step two Internal management processes		
Step three The suspension meeting		
Step four Post suspension meeting		

The board's documentation

Student Behaviour Management Committee Terms of Reference

Purpose:

To ensure that all processes relating to the suspensions of students adhere to the requirements of Education Act 1989, Education Rules 1999 and Ministry of Education Guidelines.

Committee members:

All members of the board excluding the principal. The chair of the committee is the board chair or in the chair's absence will be determined by the committee. The quorum for the committee shall be three trustees.

Delegated Authority:

That under Schedule 6, Sections 17 of The Education Act 1989 certain powers of the board shall be delegated to the Discipline Committee of the board of trustees. The committee will:

- act in fairness, without bias or prejudice and with confidentiality
- act within legislation and the MoE guidelines
- act only on written and agreed information, not verbal hearsay
- use processes of natural justice in discipline hearing procedures
- make recommendations on discipline matters to the board as necessary
- OR decide the outcome of any student disciplinary meeting.

The board will be kept informed of the number of stand-downs, suspensions, exclusions and expulsions at each board meeting by the principal.

Committee folder

1. Delegations
2. Meeting minutes where delegations made
3. Terms of Reference for Student Disciplinary Committee
4. Possible conditions
5. MoE Guidelines
6. MoE Good Practice Guidelines

Delegations				
Date [of minuted delegation]	Date letter sent [outlining delegation to committee members]	Personnel [delegations can be to a person or committee. Committees minimum of 2 persons, at least one must be a trustee.]	Delegated authority [see individual Committee Terms of Reference in the board's Governance Manual]	Term of delegation [note: delegation ceases at the date below, by earlier resolution of the board or if no date, is ongoing]
XX-XX-XXXX	XX-XX-XXXX	All trustees bar the principal.	That the personnel mentioned are delegated authority to be members of the Student Behaviour Management Committee and implement the Student Behaviour Management Committee Terms of Reference.	
XX-XX-XXXX	XX-XX-XXXX	[DP] [AP]	That, except where the board at its discretion, otherwise determines, the deputy principal (and in the absence of the deputy principal the assistant/associate principal) shall, in the absence of the principal from duty for up to two weeks, perform all the duties and powers of the principal.	



Natural justice

Natural justice can be defined as the obligation to act fairly and reasonably in the circumstances. What is required will vary according to the situation. The principles of natural justice must guide the making of any decision that will affect a person's rights, obligations or interests.

The principal's decision

From the time the principal begins considering if a student should be stood down or suspended, the principles of natural justice apply. In other words the principal must act fairly and reasonably in the circumstances.

The principal has to consider the circumstances of each situation and be satisfied that it warrants standing down or suspending the student.

So what does this mean?

The principal cannot automatically stand down or suspend a student just because that student has broken a school rule. The principal must carefully consider the evidence and all the circumstances prevailing at the time.

The board's actions

Suspension must be followed by a meeting of the board (or its delegated committee as set out in the board's policy) to decide what the outcome will be.

The board must also act fairly and reasonably.

The board must receive the principal's report and hear with an open mind what the student, their parent and/or their representative have to say.

The chairperson of the committee must be prepared to rule whether specific information or material presented by either the principal or the student, parent or representative is relevant in considering the suspension.

The rules allow for the board to decide on the process it will use to arrive at its decision on the outcome of a suspension meeting.

However, to meet the principle of natural justice that the person "bringing the charge" (the principal who suspended the student) shall not also be the final arbiter, the board should make its decision without the recommendation or vote of the principal.

The principal may be asked to leave the meeting while the board makes its decision. If the principal stays the student and family may stay.

Members of the board with a potential conflict of interest should declare this at the outset of the meeting and be excluded from the meeting.

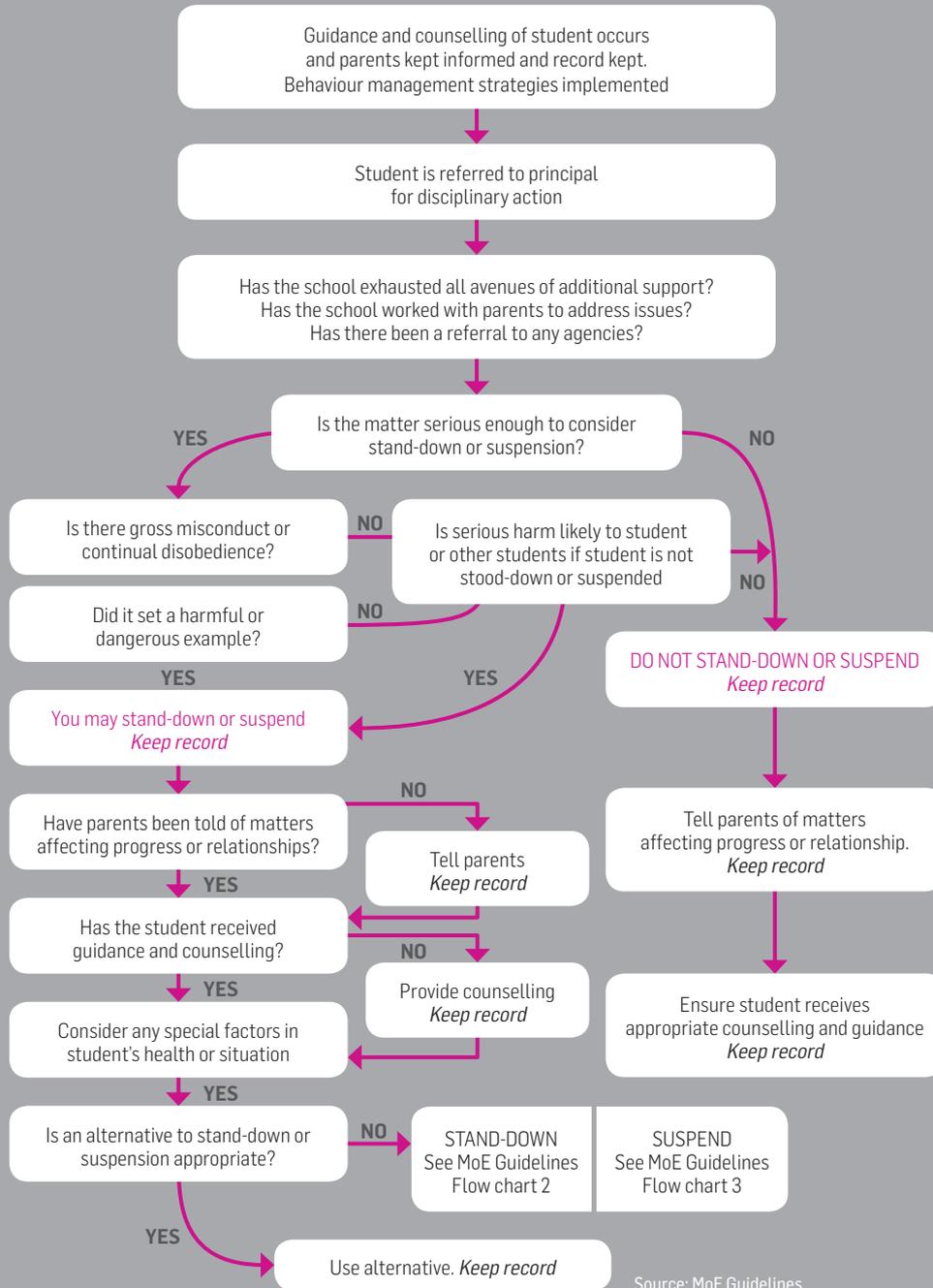
The student's rights

A student has the right to:

- Remain on the school's register
- Have the stand down/suspension procedures consistently applied
- Be given notice of possible outcomes (as this could help determine the nature of representation)
- Know the reason for the stand down/suspension (know the case or charge)
- Know all the information (evidence) on which the principal's decision to suspend was based
- Be able to comment on/challenge that information (be heard)
- Be able to correct adverse or biased material and challenge irrelevant material (defend oneself)
- Have time to prepare a response to the information—therefore the information and the principal's report is to be given so that they are available at least 48 hours before the meeting
- Be represented at any meeting about the stand down/suspension

Principal considers possible stand-down or suspension

At all times, the principles of natural justice apply – act fairly and reasonably in the circumstances.



Does the principal's report clearly show the processes that the school has put in place to support the student and change behaviours?

Has the board considered investigating a restorative justice approach as an alternative to more punitive disciplinary systems and procedures?

Jurisdiction or not?

Principals must take great care when deciding to stand down or suspend a student if the incident that led to the stand down or suspension was not during school time or school events. Below is a list of incidents. Determine whether you believe the principal has jurisdiction or not, and what other actions could be taken.

Incident	Yes	Grey area	No	Alternative action
School grounds 15 minutes after school				
School grounds 40 minutes after school				
On the way to school reasonable distance away				
Within sight of the school gate 15 minutes after school				
At a school camp				
Member of school sports team on Saturday morning				
On the school bus				
Local shopping centre in uniform 15 minutes after school				
Local shopping centre 40 minutes after school, in school uniform, 5 kms from school				
At the park across from school, 15 minutes after school, not in school uniform				

The suspension meeting

You will need:

- The committee folder
- The principal's report and any other relevant information, such as incident reports or a record of continual disobedience
- To verify facts
- To ask for, and consider, the family's perspective
- To keep in mind that principals are required to inform parents of matters that may impede a student's progress, and ensure guidance and counselling.

Environment

Consider:

- Who is attending?
- Privacy
- Informal/formal
- Comfort
- Seating arrangements
- Heating
- Refreshments
- Withdrawal room
- Tissues

Agenda

1. Introductions
2. Explain process and gain acceptance
3. Check information was given at least 48 hours before the meeting
4. Principal presents report with no recommendations
5. Family/support/legal adviser make submissions, present evidence
6. Discussion
7. Adjournments may be called to consider any new material
8. Board considers the facts presented and makes decision with or without parties present
9. Communication of decision
10. If conditions are deemed necessary discussion may take place
11. Documentation completed

Consider:

- Who is taking the minutes?

SUSPENSION OUTCOMES

- **Lifted** without conditions
- **Lifted** with reasonable conditions
- **Extended** with reasonable conditions for a reasonable period (If longer than four weeks the principal must monitor student's progress and report to the board at each regular meeting. Copies of reports go to family)
- **Exclusion** for a student under 16 (only in most serious cases). NB principal must make efforts to find another school or tell MoE if unsuccessful
- **Expulsion** for a student 16 and over (only in most serious cases).

RECONSIDERATION MEETING

- Not a rehearing of the original evidence
 - Not a re-trial
 - Not an appeal
 - Parents do not request a reconsideration meeting by the board
 - Principal requests reconsideration meeting by the board
 - Must be held within seven school days or 10 days at end of the term
- ONLY APPLIES WHEN SUSPENDED STUDENTS FAIL TO COMPLY WITH CONDITIONS SET BY THE BOARD
- Same rules of supply of information to family apply as for a suspension hearing

Procedural questions

Question	Yes	No	Don't know
Can the board view a student's discipline record and/or school academic record as part of evidence when considering gross misconduct suspensions?			
Can the board view a student's discipline record and/or school academic record as part of evidence when considering a continual disobedience suspension?			
Can the school management attend suspension meetings and speak to reports?			
When conditions are imposed as part of a student's re-entry to school, can the board refer these to be set by the school principal and/or management?			
When the board is holding multiple suspension meetings for the same incident, can the board defer making decisions on the individual suspensions until all the cases have been heard?			
Are the staff and board aware of, and implementing legally, surrender, retention of property and searches legislation?			

What are the board's obligations under the surrender, retention of property and searches legislation?

Ensure that:

1. Your policies and procedures have been checked for consistency with the Guidelines and amended if necessary.
2. There are management procedures in place regarding the retention, storage, return and disposal of items and devices.
3. Relevant staff (other than teachers) have been authorised by the board in writing, and have also acknowledged the authorisation in writing. This could be done by a joint letter signed by both parties. The board can delegate this task to the principal.
4. The names and positions of authorised staff members are available to the school community.
5. If appropriate, the board has put restrictions in place around the exercise of the powers e.g. restricting searches to senior staff members.
6. A system for keeping written records of searches and of items retained is in place and meets the requirements in the Rules.
7. The terms and conditions of using school lockers specify that the school reserves the right to search them and any bags or containers stored inside. Students are aware of these terms and conditions.
8. All staff members are familiar with the Guidelines and your policies and procedures. For example, a staff meeting could be held on the topic.

Monitoring

Stand-downs per 1000 students

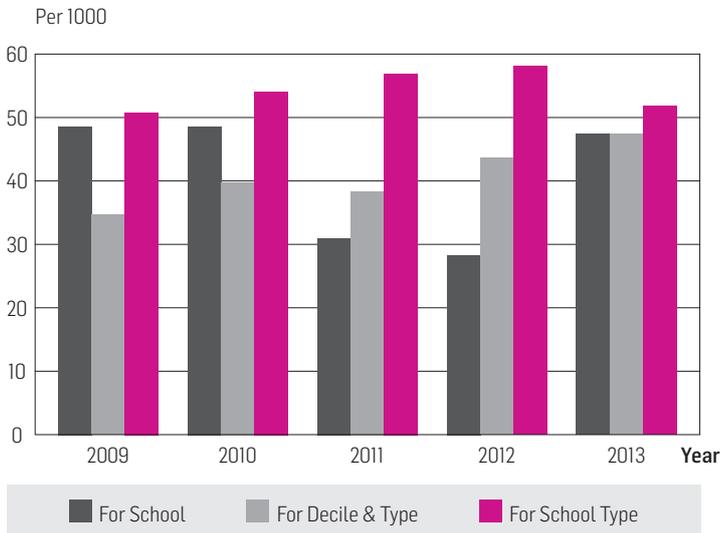


Table : Stand-downs per 1000 Students

Year	Your Decile	Number of Standdowns	Number for Your Type & Decile	Number for Your Type
2009	9	48.6	34.7	50.8
2010	9	49.1	39.9	54.3
2011	9	31.0	38.7	56.7
2012	9	28.4	44.1	57.9
2013	9	47.0	47.0	51.9

1. Explain THREE findings from these figures.
2. Identify THREE factors that make this data useful.
3. Identify what extra data would be useful to give a more complete picture.
4. Give THREE other areas of regular measurement that a board would find useful.

Table : Stand-downs and Suspensions 20xx/20xx

Year Level	Stand downs						Suspensions						
	This period	Same period last year	This year	Last year	Reasons this year	Reasons last year	This period	Same period last year	This year	Last year	Reasons this year	Reasons last year	Outcome
9	Gender, ethnicity Repeat												
10													
11													
12													
13													





Support and resources



NZSTA

www.nzsta.org.nz

Governance Advisory & Support Centre

govadvice@nzsta.org.nz

0800 782 435 (option 1)

Professional development

pdadvice@nzsta.org.nz

Ministry of Education

www.education.govt.nz

Guidelines for principals and board of trustees on stand-downs, suspensions, exclusions and expulsions – Part 1 Legal options and duties

Good practice guidelines for principals and board of trustees for managing behaviour that may or may not lead to stand-downs, suspensions, exclusions and expulsions – Part 11

Guidelines for the surrender and retention of property and searches