



Disclaimer: the material in this fact sheet is intended as a general guide only. You should not act on the basis of the information in this fact sheet without first getting legal advice about your own particular reason. The information is based on the laws in Victoria as of July 2020.

EXPULSION FROM SCHOOL

Strict time limits may apply so you should seek legal advice as soon as possible.

INCLUDED IN THIS FACT SHEET ARE:

Government and State schools

Can I be thrown out of a state school?

What can I get expelled for?

What happens if the school wants to expel me?

What is a Behaviour Support and Intervention Meeting?

Who is a 'relevant person'?

What happens at the Behaviour Support and Intervention Meeting?

How is a decision made?

What happens if I am expelled?

What if I don't agree with the expulsion?

What are grounds for appealing an expulsion?

What happens after I put in my appeal form?

What is an Expulsion Review Panel?

Does the Education Department have to appoint an Expulsion Review Panel?

What happens at an Expulsion Review Panel meeting?

What does the Panel then do?

Who makes the final decision about my appeal?

When do I find out if my appeal was successful?

What happens if I win the appeal?

What happens if I lose the appeal?

Is there anything else I can do?

Private schools

Can I be thrown out of a private school?

What can I do if I am expelled from a private school?

Taking legal action

More Information

Getting legal help

GOVERNMENT AND STATE SCHOOLS

Can I be thrown out of a state school?

Yes, you can be excluded for a short period of time (suspended) or permanently excluded (expelled). Only the principal has the power to expel you.

What can I get expelled for?

Examples of matters that you can get expelled for are if you do any of the following things at school, on your way to or from school or at a school-related activity:

- behave in a dangerous or threatening way towards others;
- damage or destroy property;
- steal or attempt to steal things, or help someone to do so;
- carry, use or sell illegal drugs, alcohol or weapons or help someone to do so;
- discriminate against or degrade others based on differences being gender, disability, sexuality, physical features, age, breastfeeding, identity, impairment, industrial activity, lawful sexual activity, marital status, parent or carer status, political belief or activity, pregnancy, race, religious belief or activity, sex, or personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above attributes; or
- be unproductive in a way that interferes with the wellbeing, safety and education of others.

The school must believe that expelling you is the only option they have to manage your behaviour.

What happens if the school wants to expel me?

If you live with your parents, the principal must notify them that you may be expelled.

If you are not living with either of your parents (whether by court order or just informally) the principal must notify the Regional Director of the Department of Education and Training (the Education Department).

If you are an overseas student, the principal must notify the International Education Division of the Education Department.

The principal must then organise a meeting called a "Behaviour Support and Intervention Meeting".

What is a Behaviour Support and Intervention Meeting?

A Behaviour Support and Intervention Meeting is a meeting where the principal explains why you are being considered for expulsion and gives you and your parent or 'relevant person' (see below) or 'support person' the chance to explain why you shouldn't be expelled. The meeting is also an opportunity to discuss supports for the child to remain at the school or suitable future education, training and/or employment options if the principal decides you should be expelled. The principal must notify you and your parent/relevant person of the date, time and location for the meeting.

Who is a 'relevant person'?

A 'relevant person' is a person who can come with you to the Behaviour Support and Intervention Meeting. If you are over 18 or the school thinks you're mature enough, you can choose an adult other than your parent to be there, or you can ask the school to organise another person chosen by the Education Department.

If you are under 18 and the school doesn't think you're mature enough, you can't choose your own relevant person. You must have either a parent, an adult chosen by your parent, another adult you live with or a person chosen by the Education Department.

If you are in out of home care, your carer can come with you to the Behaviour Support and Intervention Meeting. Otherwise, your parent or a person chosen by the Education Department can come.

What happens at the Behaviour Support and Intervention Meeting?

The principal will be at your Behaviour Support and Intervention Meeting and they will invite you and your parent or relevant person to be there. You can bring another support person there but they cannot be paid a fee or reward to be there. The principal must have another person oversee the process, chosen by the Education Department, and that person might also be at the Behaviour Support and Intervention Meeting.

Before the Behaviour Support and Intervention Meeting, the principal must contact you and your parent/relevant person and:

- tell you they are considering expelling you;
- tell you the date, time and place for the meeting;
- give you a 'Information for parents and carers about school expulsions' brochure
- encourage you and your parent/relevant person to attend the meeting and, if your parent/relevant person can't attend, allow you to nominate another adult to attend;
- tell you the things they want to discuss at the meeting, including why they want to expel you, the evidence they have of your misconduct and the impact of your conduct on other people;
- give you a 'Information for parents and carers about school expulsions' brochure; and
- organise an interpreter to be there if you need one.

At the Behaviour Support and Intervention Meeting, the principal must:

- give you and your parent or relevant person the opportunity to respond;
- give you and your parent or relevant person the opportunity to provide any further information to the principal to help them make a decision whether or not to expel you; and
- discuss alternatives if you are expelled, such as further education, training or employment options.

If you or your parent/relevant person don't go to the Behaviour Support and Intervention Meeting, the meeting can go ahead and a decision can be made without you. The principal must record what was discussed and send a record to you and to your parent or relevant person.

How is a decision made?

After the Behaviour Support and Intervention Meeting, the principal must make a decision that takes into account:

- your behaviour;
- your educational needs;

- any disabilities you have;
- your age;
- the magnitude and the impact of your actions;
- your residential and social circumstances; and
- any further information you and your parent or relevant person have given them.

If you are 9 years of age or older, the principal must then notify you and your parent or relevant person of their decision within 2 business days.

Special rules apply to children younger than 9 years of age. If you are under 9 years of age, then the principal needs to seek approval from the Secretary of the Education Department to expel you. They have 10 business days after the conclusion of the Behaviour Support and Intervention Meeting to notify you and your relevant person of their decision.

What happens if I am expelled?

If the principal decides to expel you, they must give you and your parent or relevant person a written Notice of Expulsion and Expulsion Report. The Notice will state the reason why you were expelled, the date of expulsion and your right to appeal. They must also give you an Expulsion Appeal Form.

The Expulsion Report must be in writing and state:

- your history of your time at the school;
- the grounds for the expulsion;
- the reasons for the expulsion;
- the way the school tried to manage your behaviour before the decision to expel you;
- the impact of your behaviour on other people;
- a summary of the options considered at the Behaviour Support and Intervention Meeting and why expulsion was necessary;
- details of your continuing education, training or support; and
- recommendations for further action, including recommendations for your new school to prevent the repeat of the circumstances.

If you are under age 17: the principal and the Education Department must make sure you are enrolled in another school or registered training organisation, or that you have a job or are engaged with an employment agency that will help you find a job. The school must give you schoolwork to do from the time you are expelled until you are enrolled to study somewhere else or you get a job.

If you are 17 or over: the principal should give you and your parent/relevant person information about other schools, registered training organisations or employment agencies. They do not have to organise your enrolment in another school or training organisation or that you have a job.

What if I don't agree with the expulsion?

You or your parent/relevant person must submit an Expulsion Appeal Form to the principal not more than 10 business days after you receive the Notice of Expulsion.

What are grounds for appealing an expulsion?

You can appeal the principal's decision to expel you on the grounds that either:

- the reasons for expelling you were unfair;
- the school knew you had behavioural problems but didn't do enough to support you;
- the principal did not follow the proper procedures;
- there were other ways the school could have managed your behaviour; or
- there were other circumstances that meant your expulsion was unreasonable or unfair.

What happens after I put in my appeal form?

The principal must then forward your Expulsion Appeal to the Education Department, along with the Notice of Expulsion and the Expulsion Report. The Education Department may then organise an Expulsion Review Panel to help them make a decision about your appeal.

What is an Expulsion Review Panel?

If the Education Department thinks it is necessary, they may call together a panel of people to meet with you and advise them about your appeal. The panel is made up of people appointed by the Education Department and some may be selected by the principal, but the principal can't pick someone who participated in the Behaviour Support and Intervention Meeting. The Education Department will invite you and your parent or relevant person to attend the meeting.

Does the Education Department have to appoint an Expulsion Review Panel?

No. The Education Department does not have to appoint an Expulsion Review Panel if it does not think it is necessary. It may make a decision about your appeal without appointing a panel or meeting with you.

What happens at an Expulsion Review Panel meeting?

If the Education Department holds an Expulsion Review Panel meeting, they must notify you and your parent or relevant person of the time, date and location of the meeting. The panel must give you and your parent or relevant person an opportunity to explain why you should not be expelled.

You or your parent/relevant person can bring a support person with you to the meeting as long as they are not paid to be there. The Education Department must organise an interpreter to be there if you need one.

What does the Panel then do?

The panel must then write up a report and submit the report to the Education Department within one business day. The report may either support the principal's decision to expel you or it may agree with your appeal and recommend you be allowed to go back to the school.

Who makes the final decision about my appeal?

It is up to a delegate of the Education Department, usually the Regional Director, to make a final decision about your appeal. He or she does not have to agree with the panel's recommendations in their report.

When do I find out if my appeal was successful?

The Education Department should make a decision within 15 business days of receiving your Expulsion Appeal forms from the principal. However, they may take more time to make a decision if they need to.

Once the Education Department makes a decision about your appeal, they must tell you what their decision is within 2 business days. They must then provide a notice to you in writing.

What happens if I win the appeal?

If the Education Department agrees with you and grants your appeal, the school must:

- re-enrol you;
- draw up a Return to School Plan; and
- remove the record of expulsion from your permanent record and notify you of this in writing.

What happens if I lose the appeal?

If the Education Department rejects your appeal, your expulsion goes ahead and you must leave the school.

Is there anything else I can do?

If you're not happy about a decision by the Education Department or a government school, you can contact the Victorian Ombudsman. The Ombudsman is independent of government and can investigate decisions made by government schools or officials.

The Ombudsman can recommend that different action be taken. For more information about making a complaint, contact Youthlaw or go to the Ombudsman home page at: www.ombudsman.vic.gov.au.

PRIVATE SCHOOLS

Can I be thrown out of a private school?

Yes, you can be excluded for a short period of time (suspended) or permanently excluded (expelled). Each private school may have different rules or procedures for suspensions and expulsions.

What can I do if I am expelled from a private school?

Private schools have greater freedom in excluding students as they are not regulated by the government. Make sure you get a copy of the school's disciplinary procedures. The school may have an internal procedure for challenging an expulsion.

TAKING LEGAL ACTION

If you are expelled, you may be able to take legal action if:

- you weren't allowed to tell your side of the story;
- you were expelled for something very minor; or
- you were expelled because of your gender, disability, sexuality, physical features, age, breastfeeding, identity, impairment, industrial activity, lawful sexual activity, marital status, parent or carer status, political belief or activity, pregnancy, race, religious belief or activity, sex, or personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above attributes

Strict time limits may apply so you should seek legal advice as soon as possible.

MORE INFORMATION

You can contact the following services for further information and support:

Information for Parents and Carers About Expulsion:

<https://education.vic.gov.au/Documents/school/teachers/studentmanagement/expulsionsparentsandcarersaboutschoo%28PDF%29.pdf>

Kids Helpline

www.kidshelpline.com.au

Tel: 1800 551 800

Parents Victoria (for state schools)

www.parentsvictoria.asn.au

Tel: 0419 716 171 or 1800 032 023

Parentline

8am to midnight, every day of the year.

Tel: 13 22 89

Victorian Parents' Council (for private/ independent schools)

Tel: (03) 9592 0894

www.vicparentscouncil.vic.edu.au

Independent Schools Victoria

Tel: (03) 9825 7200

www.is.vic.edu.au

GETTING LEGAL HELP

Youthlaw

If you are a young person up to age 25, you can contact Youthlaw (Vic) for further information and advice.

Phone: (03) 9113 9500 (9am-5pm Monday-Friday)

Email: info@youthlaw.asn.au

Web: www.youthlaw.asn.au

Visit our website: www.youthlaw.asn.au

Chat to us: 03 9113 9500

Email your questions: legal@youthlaw.asn.au

YOUTHLAW

Young Peoples Legal Rights Centre

Inc No A0041616E

ABN 12 794 935 230