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Governance support resources

Boards may review their student suspension meeting decision

As with any board decision, the board can review its suspension meeting decision.

There are several reasons why a board might consider reviewing the decision it has made at a suspension meeting. Sometimes it is asked to do so if a student's parent or whānau are unhappy with the process or outcome, or it receives a complaint which triggers a review. Sometimes a board member requests a review because, on reflection, they have concerns about the board's process and outcome at the suspension meeting.

This is different from a reconsideration request, even though the request or complaint often asks the board to "reconsider its decision". A reconsideration meeting, per se, can only be requested by the principal and only if a student fails to comply with any conditions imposed by the board in its original decision.

This is a review of the board's process and the decision it made as a result of this process.

A fair process

The board should inform its insurer.

The request or complaint should be dealt with in public excluded business ("in committee"). The board tables the request or complaint, looks at the reasons for requesting the review and decides whether, or not, a review is needed.

If the board decides there is to be a review process it should decide who is most appropriate person to carry out that process. This could be:

- the original decision makers
- a committee of board members not involved in the suspension meeting
- an external person engaged to conduct the review, with terms of reference that could also include making recommendations to the board for future suspension meetings

The board must follow the principles of natural justice in its review process. This is not only because the board is a public authority decision maker, and bound by the [New Zealand Bill of Rights Act 1990](#), but because the review requires the board to make a decision that involves the rights and interests of the student and others within the school community. As with the original suspension meeting, a case-by-case approach which takes into account all relevant circumstances, is needed.

The board should ensure:

- There is no bias. No one undertaking the review has a conflict of interest or a perceived conflict of interest. Even if there is no actual conflict of interest, it might seem like there is to the student and their family if the original decision-makers are involved in the review
- It informs everyone affected about the review and review process, including key dates set within reasonable timeframes
- It gives everyone affected the chance to be heard (in person, in writing, or by electronic means)
- It gives everyone affected reasonable notice of any meeting where they are to be heard (if there is to be one)
- There is no predetermination - it keeps an open mind
- That everything relevant is considered - it asks have we heard, discussed and thought about everything relevant to why we are doing this review?
- It considers giving affected people a chance to comment its preliminary decision before making its final decision

The board's review process does not have to adhere to the timelines for the original suspension meeting process set out in the Education and Training Act 2020, nor the meeting processes in the [SSEE Rules](#) and Guidelines.

However, both documents are useful guides and help the board in reviewing its original suspension meeting and decision making processes. This includes a review of its process when deciding if the principal's decision to suspend was correct.

In addition, the board may consider the health and wellbeing of the student and anyone else affected by the review process and take steps to manage this as best it reasonably can. This might include giving thought to methods of communication and the timing, location and culturally-appropriate support available for any in-person meetings.

Outcomes

There are no prescribed outcomes for a board's review of its suspension meeting process and decision. The board is not bound by the options set out for a reconsideration meeting.

The board could decide that its process and original decision were correct. In which case it will uphold the original suspension meeting decision and say why (give reasons & reasoning).

If the board decides to set aside the original suspension meeting decision (again, giving reasons & reasoning), its options are guided by what is reasonable and fair in the particular circumstances.

The outcome must reflect the findings of the review - it would not be reasonable and fair if the board imposed a harsher penalty/ consequence because it found that its original process was flawed.

Options if the board sets aside its previous decision because of a flawed process could be:

- enable the student to return to school / offer the student the opportunity to return the school, without conditions or requirements
- set in place conditions for a student previously excluded or expelled
- set in place a plan, or direct that one be put in place to ensure the student is supported on their return
- some other option, such as a restorative process which might be appropriate if the board decides the circumstances are appropriate, such as a gross injustice has happened to the student and their whānau

The affected people can be given a chance to comment the board's preliminary decision before it makes its final decision. Again, methods of communication and the timing, location and support available for any in-person meetings should be carefully considered.

The board's preliminary and final decisions are made by resolution and recorded in the minutes of the relevant meetings.

Note: if the board decides to set aside its original decision, the student's record would then need to be amended to show any dates on which, for example, the student was excluded, and the date on which the Board decided to change their decision and the student began attending again. This will be important because the student will have been out of school for the intervening period.

The Office of the Ombudsman agency assistance team provides advice to an agency, like a board, before it makes a decision on the review.



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For further advice please contact the *Advisory and Support Centre* on

0800 782 435, option 1 or

govadvice@nzsta.org.nz