



Te Tāhuhu o
te Mātauranga
Ministry of Education

Guidelines

for principals and school
boards on stand downs,
suspensions, exclusions
and expulsions



New Zealand
Government
Te Kāwanatanga
o Aotearoa

These guidelines are designed to assist school boards, principals, and teachers with their legal options and duties and meet their obligations under:

- › Sections 79-89 of the Education and Training Act 2020, and
- › The Education (Stand-down, Suspension, Exclusion and Expulsion) Rules 1999.

These guidelines are not legal advice and are designed for information purposes only. For specific advice tailored to your situation, seek professional legal advice. Stand down, suspension, exclusion and expulsion processes and decision-making powers is strictly limited and carefully governed by legislation. Use of these powers are subject to review by the Ombudsman and can be judicially reviewed.

All other obligations under the Education and Training Act 2020 apply, including for school boards to ensure that schools are physically, emotionally and culturally safe for all students and staff, inclusive of students with differing needs, seek to achieve equitable outcomes for ākonga Māori and take reasonable steps to ensure that the school policies and practices reflect New Zealand's cultural diversity. All children and young people have the right to an education, and principals and boards making stand down, suspension, exclusion and expulsion decisions must apply a considered and cautious approach as they are actions of last resort.

These guidelines apply across all state and state-integrated schools, as well as to charter schools.

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About these guidelines

How they help you

1. These Guidelines:
 - a. describe the process for stand downs, suspensions, exclusions and expulsions as set out in legislation
 - b. take you through these processes from beginning to end
 - c. incorporate guidance from courts, and
 - d. provide model letters and templates you may use to meet your requirements.
2. These Guidelines are designed to help you:
 - a. act legally
 - b. make good decisions
 - c. act fairly
 - d. understand your options and duties; and
 - e. minimise the risk of complaints, litigation or review by the Ombudsman.

Guidelines and legislation

3. Section 78 of the Education and Training Act states that the purpose of a stand down, suspension, exclusion or expulsion of a domestic student from a state school or charter school is to:
 - › provide a range of responses for cases of varying degrees or seriousness; and
 - › minimise the disruption to student attendance at school and facilitate the return of the student to school when that is appropriate; and
 - › ensure that individual cases are dealt with in accordance with the principles of natural justice.
4. The stand down, suspension, exclusion and expulsion legislation is outlined in:
 - a. Sections 79-89 of the Education and Training Act 2020 (the Act); and
 - b. The Education (Stand down, Suspension, Exclusion and Expulsion) Rules 1999 (the Rules).
5. A consolidated summary of the legislation is available on the Ministry of Education's website: <http://www.education.govt.nz/ssee>, alongside further information available for school principals and boards, including:
 - › model letter templates
 - › incident report template
 - › flow chart toolkit
 - › information sheets for parents.

Getting further advice

6. Principals can contact their local Education Advisor for additional support on matters related to stand down and suspension procedures:
<https://www.education.govt.nz/our-work/about-us/contact-us/regional-offices>
7. Board members can contact Te Whakarōpūtanga Kaitiaki Kura o Aotearoa | New Zealand School Boards Association (NZSBA) for all matters relating to school governance. This service is funded by the Ministry of Education and is available regardless of NZSBA membership:
phone: 0800 782 435 (8.30am-5pm, Monday-Friday) or
email: govadvice@tewhakaroputanga.org.nz
website: <https://www.resourcecentre.org.nz/helpforboards>

Definitions

8. **Stand down** means the formal removal of a student from school for a specified period. Stand downs of a particular student can total no more than five school days in a term or ten school days in a year.
9. **Suspension** means the formal removal of a student from school until the school board decides the outcome at a suspension meeting.
10. **Parents** means the student's mother and/or father or legal guardian.¹
11. **Exclusion** means the formal removal of a student aged under 16 from the school and the requirement that the student enrolls elsewhere.
12. **Expulsion** means the formal removal of a student aged 16 or over from the school. If the student wishes to continue schooling, they may enrol elsewhere.



Exclusion and expulsion are for the most serious cases only.

¹ Note that for schooling matters this may include caregivers assuming the role of a parent or guardian.

Overview: Natural justice

Summary

13. Natural justice refers to fundamental principles of fairness that underpin the stand down, suspension, exclusion and expulsion legislation and decision-making processes. You are required to follow the principles of natural justice.
14. Common expectations of natural justice are that a person will have adequate notice of a situation that may affect them, they will have an opportunity to be heard and respond, and that a decision will be made by an unbiased decision maker. Where possible, accommodations should be made to support participation, such as facilitating access for students or family with disabilities. When dealing with serious misbehaviour or serious risks to student safety you must be **fair and flexible**.
15. The stand down and suspension process will help you apply the principles of natural justice. You will find advice about those principles throughout the Guidelines. For the moment, note that:
 - a. the Rules already incorporate the principles of natural justice. For example, they already establish procedures for giving adequate notice and having an opportunity to be heard. Following the process carefully will help you to act, and be seen to act, fairly.
 - b. parts of the process are very flexible; you have a lot of discretion about your decisions. Whatever decisions you make, they should be based on all of the facts, in their proper context and making allowance for individual circumstances. Good decision-making will help you act fairly.
 - c. records must adequately explain your decision. They do not have to be complicated, but must set out your conclusions on all the main issues. They must be clear and complete, showing what you did and why. Keeping full and accurate records will help you to act fairly and show others what you did.
 - d. your procedures do not need to be elaborate. The principles of natural justice have to be applied in schools by busy teachers, principals and board members. The emphasis is on a prompt, considered and fair resolution.

Being fair and flexible

16. Being fair, at its simplest, involves treating people with respect. In part that will mean taking account of people's knowledge, abilities, culture, and considering any disability needs. Everyone should know what is happening and what is at stake.
17. Being fair also means both following the rules and considering the purpose and principles behind them. Some rules are very specific; for example, there are clear rules about when the board may meet and what information people must have. Other matters to consider are more general. They include your responsibility to maintain a safe and effective learning environment and guidance contained in your Strategic Plan.
18. Being flexible means considering all your options. Some situations will be more serious than others; you may respond to different situations in different ways.



You should consider all of the circumstances and weigh up all of the factors before you make a decision.



Exclusive reliance on zero-tolerance policies is unlawful. Every situation must be considered on its own merits, and you need to consider all circumstances before deciding whether or not to stand down or suspend a student.

Rule 7 Education (Stand-down, Suspension, Exclusion and Expulsion) Rules 1999

Principles applying to processes, practices and procedures

Every participant in the processes, practices, and procedures dealt with in sections 80 to 88 of the Act and these rules should be guided by the following principles:

- (a) the need for every participant to understand the processes, practices, and procedures:
- (b) the need for every participant to treat every other participant with respect, which includes recognising and respecting New Zealand's cultural diversity:
- (c) the need to recognise the unique position of Māori:
- (d) the need for every participant to be guided by the charter of the student's school:
- (e) the need for every participant to recognise that the board or sponsor has a responsibility to maintain a safe and effective learning environment at the student's school.

Investigation

School principal
and staff



Investigation

Principal and staff obligations

19. A principal or a staff member should look into an incident and ask:
 - a. What happened?
 - b. How serious was it?
 - c. What needs to be done about it?
20. There is no set process, though the principles of natural justice apply. Set out below is a guide:

Act fairly

21. Principals and staff members should avoid acting in ways that could be perceived as heavy-handed or oppressive. In some circumstances, it might be necessary to involve a parent, or other suitable adult, in the interests of fairness (though this will not normally be necessary). Even if the principal or a staff member has no intent to act in such a way, claims of this nature can distract everyone from resolving the issues at hand.

Involve the student

22. The person investigating should put the facts as they understand them to the student and record the response. The student should be invited to comment on all the facts. The student has the right to be heard. This is a requirement of natural justice.
 - a. The student might admit responsibility or involvement in an incident.
 - b. Alternatively, the student might deny responsibility or involvement. Any denial should be fairly considered; principals and staff members have the discretion to believe whether or not they are plausible.

HINT Silence does not stop a staff member from forming a view about what happened and drawing inferences from what is known about an incident. If a staff member draws inferences, these should ideally be put to the student for comment.

Resolve major disputes and uncertainties if possible

23. An investigation must be fair and thorough. The principal will base their decision on the evidence. The principal must have confidence in that evidence before standing down or suspending (and cannot suspend on suspicion and leave the matter to the board to resolve). Errors at this stage might mean any decision by the principal is challenged. Staff members should try their best to come to a view regarding any significant disputes or uncertainties. If it is not possible to come to a view it will be important to record this so that the principal can take this into account when making any decision.

Summary

- 24.** You will ideally be able to answer at least one of these questions with a “yes” before a decision to stand down or suspend is considered:
- a.** Was the student caught in the act? or
 - b.** Was the incident seen by someone you think is credible? or
 - c.** Was the student implicated by other significant circumstantial evidence? or
 - d.** Did the student freely admit involvement or responsibility?

Documenting the investigation

- 25.** Incident report template contains a sample incident report principals or staff members might wish to use to document the investigation.



Documentation must be complete and accurate. Documenting the incident and investigation confirms the integrity of the process you have undertaken and can help protect against potential legal challenges to your process.

Stand down and suspension decisions

Principal obligations

- 26.** Only the principal may make the decision to stand down or suspend. This includes someone who is formally delegated in writing by the board, to act as the principal in your absence. Such delegation can only take effect when the principal is not on duty.



It is unlawful to use stand downs or suspensions as a mechanism for getting additional support. If you require support, contact your local Education Advisor.

- 27.** You must ask these questions about the facts from the investigation:
- a.** Did the student's behaviour constitute gross misconduct, continual disobedience or behaviour risking serious harm²? and
 - b.** If the incident was gross misconduct or continual disobedience, did it set a harmful or dangerous example to other students at school? and
 - c.** What part did the student's individual circumstances play and are there mitigating factors to consider? and
 - d.** What action is appropriate in these circumstances?
- 28.** These questions will help you to understand your legal options and duties in Section 80 of the Education and Training Act 2020.
- 29.** It is important for you to complete a fair and thorough investigation before coming to a decision about whether or not to use a stand down or suspension.



It is unlawful to use a stand down or suspension to investigate the incident.

- 30.** Your decision must also be prompt, well considered and fair. What is a reasonable timeframe for the investigation will depend on the complexity of the circumstances. A student is required to attend school³ during an investigation. You cannot ask that they absent themselves from school.



It is unlawful to send a student home for disciplinary reasons (see Rule 8) unless using a stand down or suspension.⁴

- 31.** If the Police are also involved, you must undertake your investigation and make your decision independent from any Police matters, using the information that is available to you to inform your decision in a timely way.

² Serious harm is harm that is significant and has an adverse effect to the ongoing welfare of the student or other students.

³ [Section 36](#): Students of registered schools required to attend whenever schools are open

⁴ [CAC-v-Fenton-2018-40.pdf](#)

- 32.** If the incident does not fit into one of the three categories (gross misconduct, continual disobedience or behaviour risking serious harm) then you may not stand down or suspend.



It is unlawful to change a stand down decision to a suspension decision after it has come into effect, as a student cannot receive an additional stand down or suspension for the same incident.

Section 80 Education and Training Act 2020

Principals of State schools or persons responsible for teaching and learning in charter schools may stand down or suspend students

- (1)** The principal of a State school or the person responsible for teaching and learning in a charter 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.

Was the student's behaviour gross misconduct?

- 33.** You should ask: Is any misconduct:
- a.** significantly blameworthy and remarkable? and
 - b.** serious enough to justify removing the student from school, even though it might damage the student's education?
- 34. Gross misconduct is never trivial and requires a high threshold.** Whether an incident constitutes gross misconduct will always depend on the particular situation. You must weigh up all the factors. A decision may never be pre-determined by school policies or breaking a school rule. The courts have established that you cannot automatically label a particular action or behaviour as gross misconduct.

GUIDANCE FROM THE COURTS

The High Court has said that "gross misconduct" means misconduct that is "striking and reprehensible to a high degree".⁵

⁵ *M & Anor v S & Board of Trustees of Palmerston North Boys' High School* [2003] NZAR 705, 712 (decided 5 December 1990).

- 35.** You must also be satisfied that the gross misconduct is a harmful or dangerous example to other students at your school. You should ask: If other students were to know about it, would it undermine discipline and safety standards if that behaviour were not addressed appropriately?

..... **OR**

Is there continual disobedience?

- 36.** You should ask: Is there a pattern of entrenched misbehaviour?⁶
- 37.** You must be satisfied that the continual disobedience is a harmful or dangerous example to other students at your school. You may ask yourself: If other students were to know about it, would it undermine discipline and safety standards if that behaviour were not addressed appropriately?

..... **OR**

Is there behaviour risking serious harm to the student or other students if the student is not stood down or suspended?

- 38.** You should ask: Because of the student's behaviour, is it likely that the student, or other students at the school, will likely be seriously harmed if the student is not stood down or suspended?
- 39.** This category is about risk of serious harm, ie, 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.
- 40.** You can only use this category where a stand down or suspension is the only valid response to a safety concern. This ground is truly a last resort. If you can manage the safety concern in other ways you may not stand down or suspend using this ground.

What part have the student's individual circumstances played?

- 41.** You must consider the student's individual circumstances and the context of the incident. This does not have to be exhaustive: the Act requires prompt action. If you only have limited information within your school, you might choose to consult a parent. You may ask yourself:
- a.** does anything change my perception about the seriousness of the incident or the part the student played?
 - b.** are there any pastoral concerns or mitigating factors? Is the behaviour out of character? If so, can you identify why and does this change your view of the situation?
 - c.** does the student have specific learning challenges or disabilities to consider? What are the student's strengths?

⁶ *J suing by his litigation guardian v Bovaird & Anor* [2007] NZAR 660, 669 (decided 7 June 2007).

42. Whether the student has been in trouble or been stood down or suspended in the past is only one factor for you to weigh up; it cannot pre-determine what you decide to do.

HINT If you have a school rule or policy about something this can guide but not predetermine your response. You must think through each and every possible stand down or suspension decision.

What action is appropriate?

43. Finally, you must weigh up all of the factors and decide on a course of action. You should ask: What would be the right response in the circumstances?

HINT Even if you have decided that you could stand down or suspend, **you must still decide if you should**. Considering all the circumstances, there may be a better option.

44. Consider that:
- a. The consequences are serious. Both stand down and suspension interrupt the student's right to attend school. Suspended students might have their suspension extended by the board, or even be excluded or expelled.
 - b. The student should already have received appropriate guidance and counselling or other pastoral support if issues were known to the school.⁷ A parent should already have been informed of matters affecting the student's relationships or progress.⁸ Stand downs and suspensions remain a last resort.
 - c. You must consider the student's individual circumstances as well as the facts of the particular incident. Both are important.

GUIDANCE FROM THE COURTS

"There may be cases where the severe consequences for a child of suspension..., and removal or potential removal, would be disproportionate...There might well be need for flexibility to cater for children with special individual problems, whether psychological or material. A child suddenly violent at school towards a teacher might simply be repeating violence at home, not his fault, and not be capable of control. A child who behaves destructively or irrationally might be calling for help, and deserve help rather than punishment. A child who steals might be from a disadvantaged background and be hungry or lack essential clothing items. The list could be prolonged. There is a statutory discretion conferred upon principals not to suspend, despite gross misconduct and harmful or dangerous example, most obviously exercisable where there are special circumstances, or a need for mercy and compassion."⁹

⁷ Section 103(a) Education and Training Act 2020.

⁸ Section 103(c) Education and Training Act 2020.

⁹ *M and R v S and Board of Trustees of Palmerston North Boys' High School* 2003 NZAR 705, 718 (decided 5 December 1990).

Documenting your decision

- 45.** If you decide to stand down or suspend, your decision and the reasons for it should be accurately recorded in writing. Your records need to be complete. There should be enough information in the report to show that you turned your mind to the criteria you had to apply. Document why you made the decision and how you arrived at the decision.



Documentation must be complete and accurate. Documenting all decisions and their rationale confirms the integrity of the process you have undertaken and can help protect against potential legal challenges to your decision-making.

Record what your decision is and why

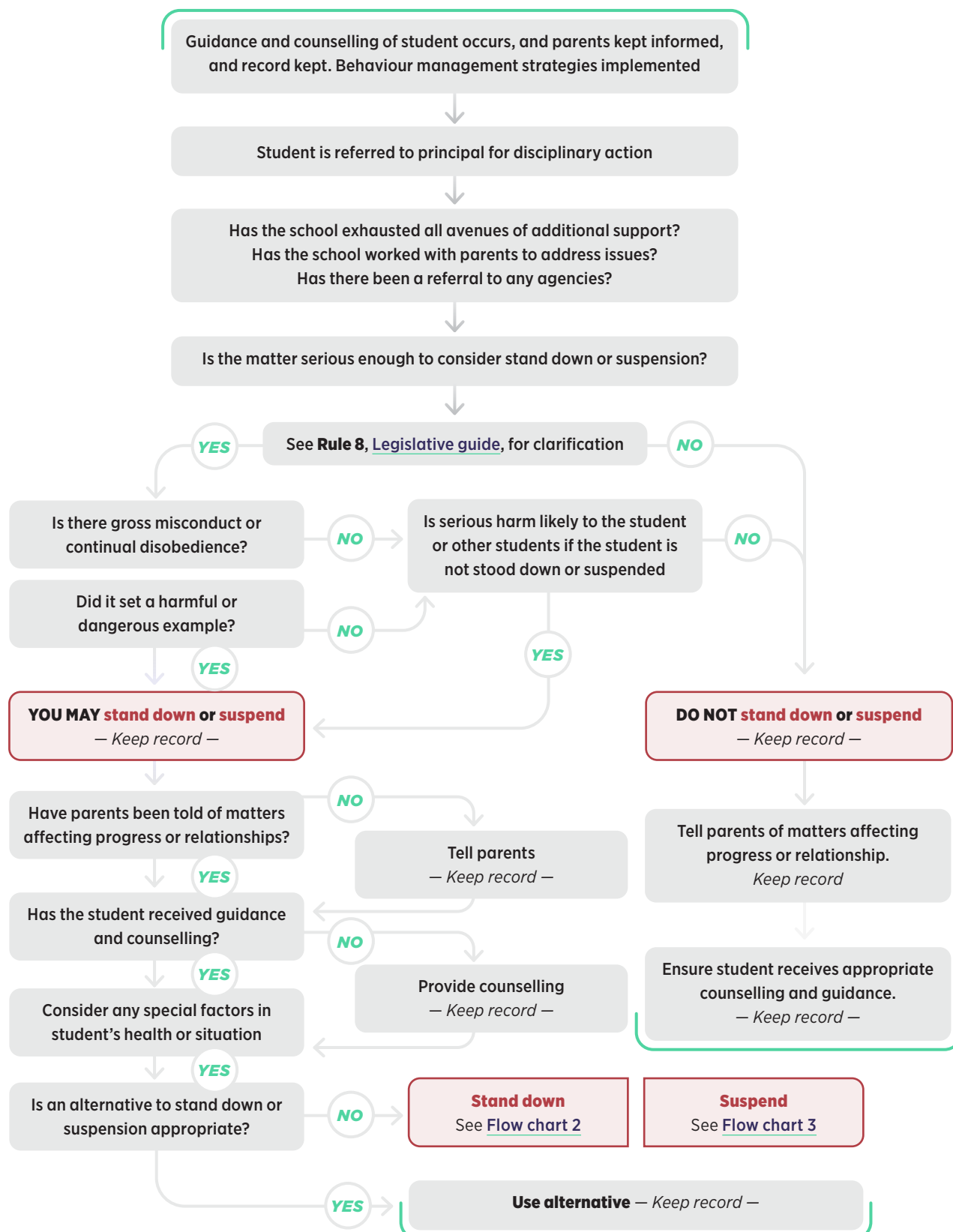
- a.** If you stood down, written reasons will help you explain the stand down if a stand down meeting is held. *[Refer Stand down meeting, para 59]*
- b.** If you suspended, it will help you prepare the principal's report. *[Refer Report for board, paras 74-75]*
- c.** In both cases, good documentation will help show that you followed a fair process and lower the risk of a challenge.



It is unlawful to recommend particular actions or decisions for the board in a Principal's report. The report must be factual and not leading or misleading.

Flow chart 1

Principal – considers possible stand down or suspension (at all times, the principles of natural justice apply – act fairly and reasonably in the circumstances).



Stand downs

School principals



During a stand down

Principal obligations¹⁰

Consider sending the student home



Do this immediately

- 46.** A stand down starts on the day after the decision is made. You may decide to send the student home on the day the decision is made if it is reasonable to do so. If it is not advisable or possible to send the student home, they should be supervised at the school until the end of the school day. Consider the age of the student and the circumstances of the parent/s when making this decision.
- 47.** From the next school day, the student may only attend if you agree.
[Refer *Consider attendance during stand down*, paras 56-58]

Calculate the length of the stand down



Do this immediately

- 48.** A stand down may be for one or more specific periods. You must decide how long that will be. However, a stand down may not exceed five school days per term. A student may only be stood down for a total of ten school days in a year. Do not count the day you stood the student down or any day the school is closed during the stand down.
- 49.** To help you do this, ENROL records the number of days a student has been stood down per term and per year (including previous schools in the current year).

Tell a parent



Do this immediately

- 50.** You must tell the student's parent:¹¹
- a.** that the student has been stood down
 - b.** the reasons for your decision to stand down; and
 - c.** how long the student is being stood down for.

To help you do this, you may wish to use a model letter template.

[Refer to [Model letters](#): Letter 1 Notifying parent/s or caregivers of stand down]

You should also consider calling a parent.

¹⁰ This includes someone who is formally delegated in writing by the board, to act as the principal in your absence. Such delegation can only take effect when the principal is not on duty.

¹¹ Unless the student has turned 20.

Tell Ministry of Education



Do this immediately

- 51.** You must submit the “advice of stand down” electronic form in ENROL.

Provide stand down pamphlet



Do this as soon as practicable

- 52.** You must give the student and a parent the Ministry of Education pamphlet: <https://www.education.govt.nz/education-professionals/schools-year-0-13/administration-and-management/stand-downs-suspensions-exclusions-and-expulsions-guidelines-part-1/appendices/appendix-4-information-for-parents-and-guardians>

Keep student on the school roll

- 53.** The student must remain on your school roll. They may only be removed if they:
- a.** enrol at another school; or
 - b.** are granted an exemption from enrolment; or
 - c.** leave the school system altogether (if over 16).

Guidance and counselling



Do this as soon as practicable

- 54.** You must take all reasonable steps to ensure that the student gets guidance and counselling that is:
- a.** reasonable; and
 - b.** practicable in all the circumstances of the stand down.
- 55.** To help you do this, consider:
- a.** one of your aims must be to minimise the disruption to a student’s attendance at school and facilitate the return of the student to school; and
 - b.** what will help reduce the chance of incidents re-occurring.

Consider attendance during a stand down

- 56.** The student may attend school if the student or a parent asks you to allow that for whatever reason; and you consider that the request is reasonable.

57. The student must attend school if you reasonably consider that it is appropriate because:
- a. of the student's educational programme (the student might need to fulfil course requirements for a qualification or sit an examination); or
 - b. the student needs to receive guidance and counselling.
58. Otherwise, the student must not attend.

Stand down meeting



If a student or parent asks you for a stand down meeting, you must hold one as soon as is practicable for the student, a parent and you. You must make yourself available.

59. You may call a stand down meeting, or the student or a parent may request one. The purpose of a stand down meeting is to discuss the stand down and share information about what led to it and how to resolve the situation. It may also be useful to discuss school expectations for the student.

Lifting a stand down

60. You may lift a stand down at any time before it expires for any reason. This might be as a result of a stand down meeting. You must lift the stand down if you discover that reasonable grounds for the stand down did not actually exist. To lift a stand down you must:
- a. let the student return to school and attend full-time
 - b. withdraw the stand down in ENROL; and
 - c. tell the student and a parent that stand down has been withdrawn.

To help you communicate your decision to parents you may wish to use a model letter template. [Refer to [Model letters: Letter 6 – Notifying parent/s or caregiver of lifting of a stand down](#)] You should also consider calling a parent.

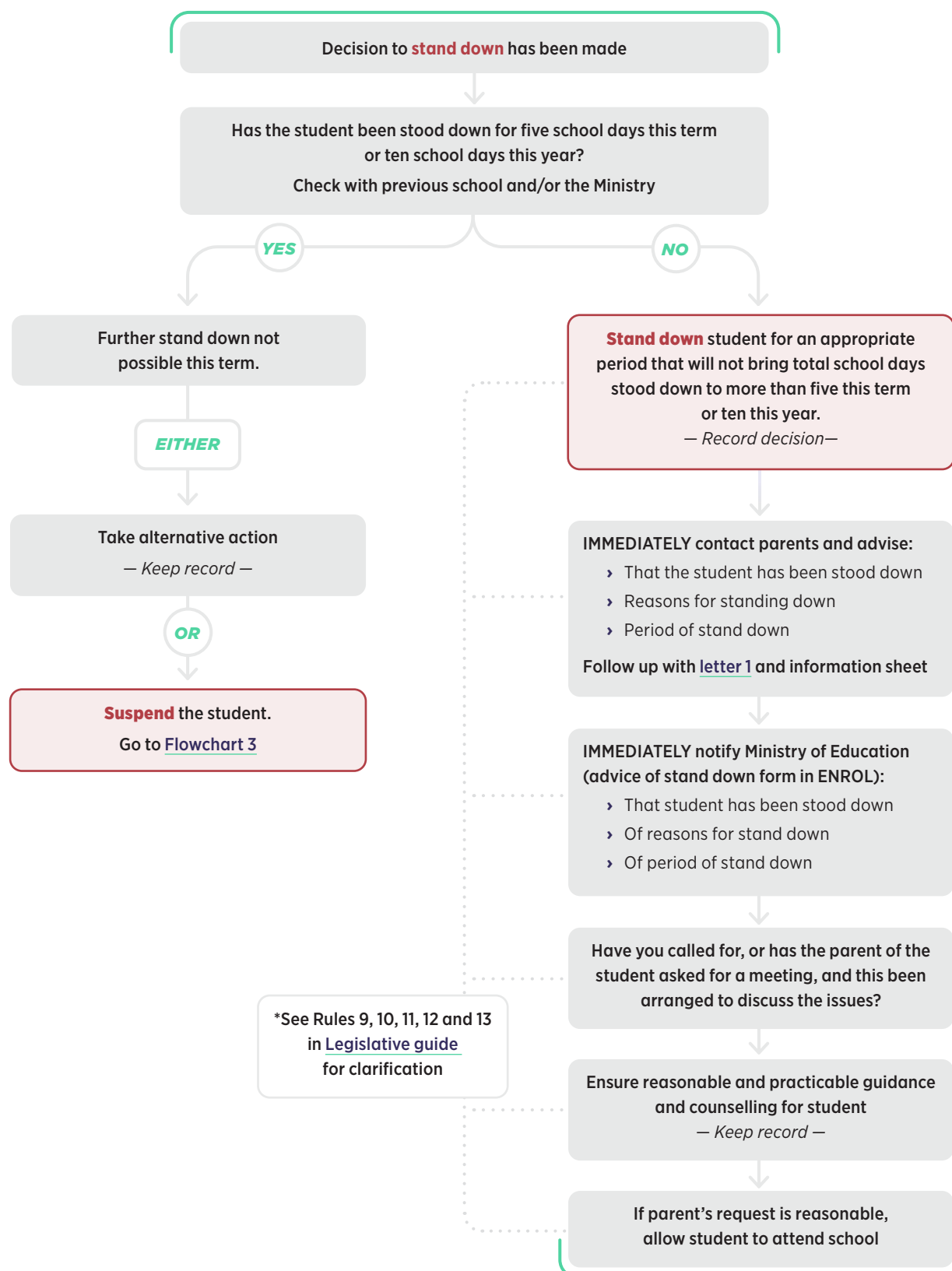
Shortening a stand down

61. You may shorten a stand down at any time before it expires for any reason. This is at the principal's discretion and depends on individual circumstances and might be as a result of a stand down meeting. To shorten a stand down, you must:
- a. shorten the stand down through the ENROL process; and
 - b. tell the student and a parent that stand down has been shortened.

To help you communicate your decision to parents you may wish to use a model letter template. [Refer to [Model letters: Letter 7 – Notifying parent/s or caregivers of shortening of stand down](#)] You should also consider calling a parent.

Flow chart 2

Stand downs: Action by principal following decisions to stand down



Suspensions

School principals



During a suspension

Principal obligations¹²

Tell a parent



Do this immediately

- 62. You must tell the student's parent.¹³
- 63. You may do this in any way that seems best.

To help you do this, you may wish to use a model letter template.

[Refer to **Model letters: Letter 2 – Notifying parent/s or caregivers of suspension**] You should also consider calling a parent.

Tell the board



Do this immediately

- 64. You must tell the board:
 - a. that the student has been suspended; and
 - b. the reasons for your decision to suspend.
- 65. You may do this in any way that seems best.

Tell Ministry of Education



Do this immediately

- 66. You must submit the “advice of suspension” electronic form in ENROL.

Provide suspension pamphlet



Do this as soon as practicable

- 67. You must give the student and a parent the Ministry of Education pamphlet: Information for Parents: www.education.govt.nz/parents-and-caregiverssecondary-school/your-child-at-school/standdowns-suspensions-exclusions-expulsions#parent-information-sheets-3

¹² This includes someone who is formally delegated in writing by the board, to act as the principal in your absence. Such delegation can only take effect when the principal is not on duty.

¹³ Unless the student has turned 20.

Keep the student on the school roll

- 68.** The student must remain on your school roll. They may only be removed if they:
- a.** enrol at another school; or
 - b.** are granted an exemption from enrolment; or
 - c.** leave the school system altogether (if over 16).

Guidance and counselling



Do this as soon as practicable

- 69.** You must take all reasonable steps to ensure that the student gets guidance and counselling that is:
- a.** reasonable; and
 - b.** practicable in all the circumstances of the suspension.
- 70.** To help you do this, consider that one of your aims must be to minimise the disruption to a student's attendance at school and facilitate the return of the student to school when that is appropriate.

Consider attendance during a suspension

- 71.** The student may attend school if the student or a parent asks you to allow that for whatever reason; and you consider that the request is reasonable.
- 72.** The student must attend school if you reasonably consider that it is appropriate because either:
- a.** the student's educational programme requires it (the student might need to fulfil course requirements for a qualification or sit an examination); or
 - b.** the student needs to receive guidance and counselling.
- 73.** Otherwise, the student must not attend.

Report for board



The principal must be able to give this report to the board, student and a parent at least 48 hours before the suspension meeting.

- 74.** You must write a report for the board that contains all information relevant to the suspension. Your report should be specific about:
- a.** what happened; and
 - b.** when and where it happened; and
 - c.** why it constitutes grounds for suspension under the Act.

75. To help you do this, consider that:

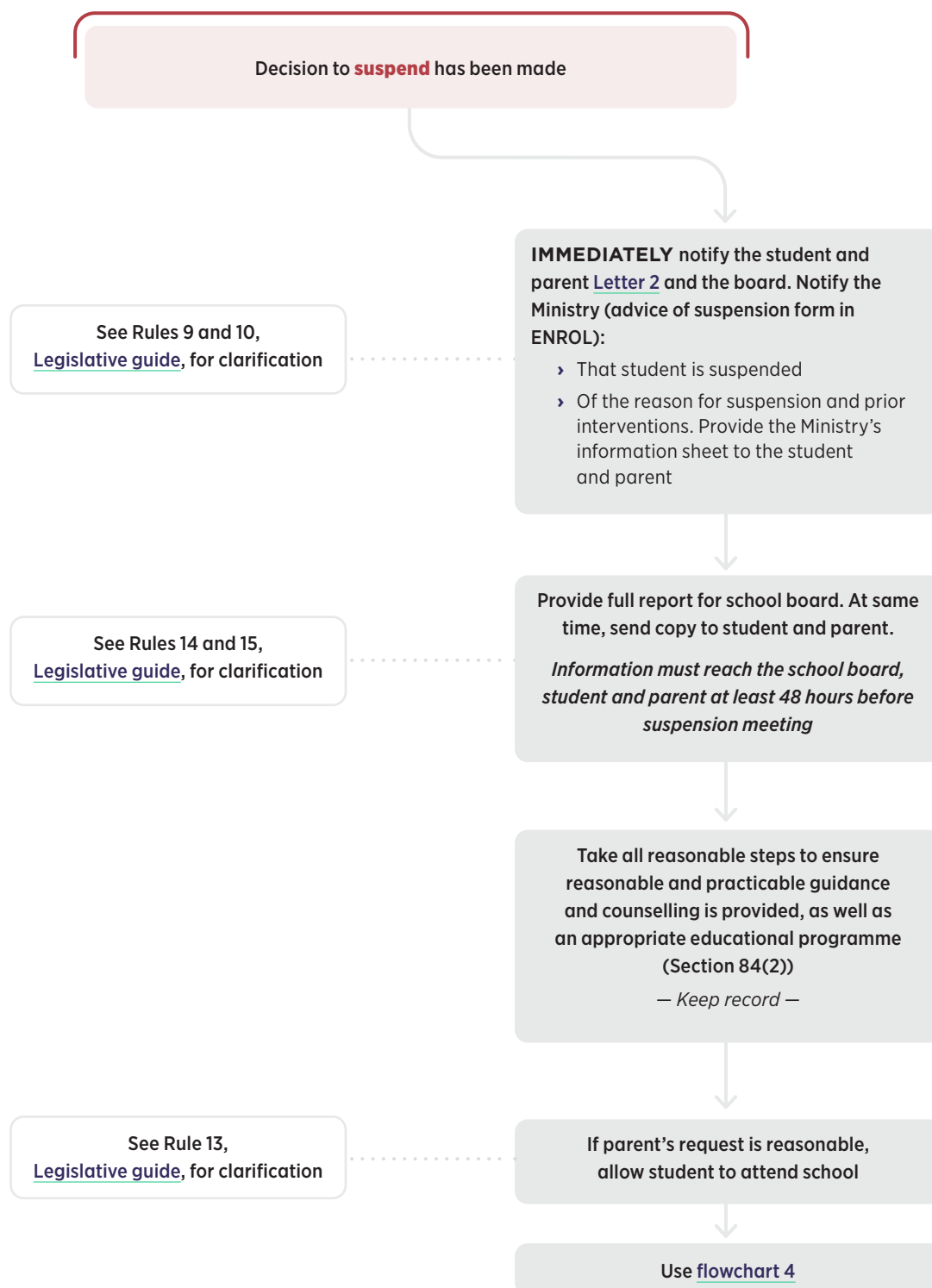
- a.** the language should be simple, factual and neutral;
- b.** it should contain all relevant information:
 - i.** There can be no surprises for the board or student – your report will be the basis for the board’s discussion at the suspension meeting.
 - ii.** If there are significant disagreements over the facts it should make clear which version you prefer and why.
 - iii.** It must state why you decided to suspend; giving reasons and citing the ground for suspension (ie, you consider that there has been gross misconduct, continual disobedience or behaviour risking serious harm).
[Refer paras 33-40 for an explanation of the thresholds]
 - iv.** The student and a parent should be able to understand it so they can comment and participate at the suspension meeting.
 - v.** It may include background information about the student’s history, including discipline and pastoral support, taking care not to confuse this background with your reasons for suspension.
 - vi.** It must be accurate, up to date, note the decision, be complete, be relevant and not be leading or misleading.



The principal’s report cannot include your opinion on what outcome would be appropriate. The board’s decision is independent from the principal.

Flow chart 3

Action by principal following decision to suspend



Suspension meetings

School boards



Suspension meetings

Board obligations

Information about suspension meeting



The board must do this as soon as practicable after the suspension.

- 76.** The board must give the student and a parent this information in writing:
- a.** when and where the suspension meeting will be (so they can make arrangements to attend); and
 - b.** what options the board has at that meeting for dealing with the suspension (so they know the possible serious consequences).
- 77.** The board must give the student and a parent in writing:
- a.** information about the procedures that it follows at suspension meetings (so they know what to expect)
 - b.** advice that the student and their parents and their representative may attend the meeting and speak at it about the suspension (so they know how to prepare)
 - c.** the principal's report to the board on the suspension (so they know the case they have to answer); and
 - d.** any other material about the suspension that the principal or board are going to present at the meeting (so there are no surprises).



The board must ensure, however it gives this information, that it is able to reach the student and their parent at least 48 hours before the suspension meeting (allow for the post). If all the parties agree, this time may be reduced.

***NOTE Giving a document**

If you have to give a document to a student or a parent, you must use the method below that you think will most likely cause the document to reach them. You must either:

- › personally deliver it to them; or
- › post it to their usual address (it will be considered to be delivered at the time it would have been delivered in the ordinary course of post); or
- › send it by fax or email (it will be considered to be delivered on the day after the day on which it was sent); or
- › provide it to them in some other way that they approve.

Proving you gave a document is covered in Rule 4. A call or message to confirm receipt of the document can help prove this.

- 78.** Information given to the student and parent must be as complete as possible. This is a requirement of natural justice. Nevertheless, the board might be concerned that some of the principal's report or other material might deal with the privacy of other people. For example, another student might have spoken in confidence to a staff member about an incident or be worried about bullying. In these cases, boards should seek professional advice about how to fairly withhold limited details while still disclosing as much as possible to the student and parent. Boards should be mindful of the Privacy Act 2020 and the Official Information Act 1982.

To help you communicate this information to parents you may wish to use a model letter template. [Refer to [Model letters: Letter 2 – Notifying parent/s or caregivers of suspension](#)] You should also consider calling parents.

Timing of the suspension meeting



The board must make sure that it holds a suspension meeting before the applicable date below. If it does not, the suspension expires, the student must return to school and the board loses the power to lift the suspension with or without conditions, extend it, exclude or expel the student.

- 79.** The board must have the suspension meeting ¹⁴ before either:
- the close of the seventh school day ¹⁵ after the day the decision is made to suspend the student; or
 - if the end of the term occurs less than seven school days after the suspension takes effect, then the meeting must be held by the end of the tenth calendar day after the day the decision is made to suspend the student.



The seven-day (or ten-day) rule is absolute. A suspension cannot be delayed, even by agreement. It may proceed without the parent being present. The Ministry of Education has no discretion to change the date. If a board wants to lift the suspension with or without conditions, extend it, exclude or expel it must hold the meeting and make a final decision by the applicable date.

HINT You may wish to seek professional advice from NZSBA if you are uncertain about your options. [Refer para 7: *Getting further advice*]

¹⁴ The board may make the decision after the suspension meeting, as long as it is made before the applicable date.

¹⁵ A school day means a day the school is open for instruction. The close of this day is 12 midnight.

Board's authority

- 80. To hold a suspension meeting enough board members must attend for the board to have a quorum. The principal has a different role and therefore is not counted when considering whether you have a quorum. Alternatively your board may have delegated the power to make decisions about suspension outcomes to a committee of at least two people. As with all committees, there must be a written board resolution establishing the committee and delegating the power to act on the board's behalf in suspension outcome decisions.
- 81. Decisions cannot be made in relation to prospective students, former students or students enrolled at another school.



Board members should recuse themselves if there is any perceived or actual conflict of interest with the suspension.

Board's role

- 82. A board suspension meeting is an automatic review of the suspension process. At the suspension meeting, the principal has a completely different role from the rest of the board, which independently reviews the principal's decision to suspend. While the board may end up agreeing with the principal, it must be sure itself that the incident was fairly investigated, and was of a nature where suspension was an option (ie it amounted to gross misconduct, continual disobedience or behaviour risking serious harm).
[Refer paras 33-40 for an explanation of the thresholds]

Flexibility

- 83. How a suspension meeting is run is a matter for each board and the format does not have to be overly formal or court-like. The Act does not provide for the calling of witnesses at a suspension meeting, this is not appropriate. Significant disputes about facts should have already been raised, decided upon and recorded by the principal in their report. Instead, the focus is on reviewing the principal's decision, hearing from everyone and finding a way forward.

Hearing from the student

- 84. The student, the student's parents, and their representatives are entitled to attend the meeting, speak at it, and have their views considered by the board before it makes its decision.
- 85. Students and parents may request to join the meeting remotely. If they choose not to attend or participate you may proceed with considering the suspension as you are required to make a decision before the suspension expires.

Adjournment to consider new information



In deciding on how long to adjourn for, you must consider the amount of time that the person making the request needs, in their particular circumstances, to consider the new information.

- 86.** You must adjourn the meeting if:
- a.** a student, parent, principal or board member requests an adjournment; and
 - b.** the adjournment is to consider new information, which either:
 - i.** was not given to the student and parent prior to the meeting; or
 - ii.** is new to the student, parent, principal or board member for some other reason.



Even if you adjourn, you must still make a decision before the applicable date.

[Refer Timing of the suspension meeting, para 79] If you do not, the suspension expires, the student must return to school and the board loses the power to lift the suspension with or without conditions, extend it, exclude or expel.

- 87.** The purpose of the adjournment is to consider new information (not to create it).

Withdrawal

- 88.** While you are deliberating and making your decision, you must either:
- a.** require all the other parties to withdraw from the meeting; or
 - b.** ask all the other parties to stay at the meeting.
- 89.** If the student and parents are asked to withdraw from a meeting then the principal must withdraw too. This is because the principal has a different role from other board members at a suspension meeting and is not there as a decision maker. If board members deliberate in private with the principal or ask the principal questions in the absence of the student and parents, this may lead to accusations of bias.

Understanding the board's options

- 90.** The board must make only one of the following four decisions:

If you think the student should:	then you must:
attend your school again full-time	lift the suspension without conditions
attend your school again full-time but have specific conditions placed on them	lift the suspension with conditions for a reasonable timeframe
remain out of your school for a set timeframe in order to fulfil specific conditions placed on them	extend the suspension with conditions for a reasonable timeframe
leave your school	exclude the student if they are under 16 or expel the student if they are over 16

Understanding conditions

- 91.** Conditions allow you to formally manage the student's behaviour and provide pastoral assistance. You may impose any condition that is:
- a.** reasonable; and
 - b.** aimed at facilitating the return of the student to your school (if you are extending a suspension).
- 92.** To help you do this, you should ask: Is a condition:
- a.** related to the incident or causes behind the incident?
 - b.** achievable by the student (within their abilities)?
 - c.** within the control of the student?
- 93.** You may decide on a plan for supporting the student to comply with conditions and return to school. However, a support plan is separate to suspension conditions. You can only require the student to comply with any conditions that are: reasonable, achievable by the student, related to the incident, within the student's abilities and control, and for extended suspensions, aimed at facilitating their return to your school.
- 94.** There are consequences for not complying with conditions; the principal, if they think it is appropriate, may ask the board to reconsider your decision at a reconsideration meeting. If that happened, you would be able to confirm, reverse or modify your initial decision. All of your options would be open.
[Refer At the reconsideration meeting, paras 143-151]

Understanding lifting the suspension without conditions

- 95.** This means the student must return to school and attend full time. The formal disciplinary process ends and the board is no longer involved.
[Refer When the suspension is lifted without conditions, paras 108-111]

Understanding lifting the suspension with conditions

- 96.** This means the student must return to school and attend full time. However, the student must comply with conditions for a reasonable timeframe. If the student does not, the principal may request a reconsideration meeting.
[Refer When the suspension is lifted with conditions, paras 112-117]

Understanding extending the suspension with conditions

- 97.** This means the student must not attend school (unless permitted by the principal) and must comply with conditions aimed at facilitating their return to school once either:
- a.** the conditions are met, or
 - b.** the extended suspension expires (whichever occurs first).



Conditions for an extended suspension can only be in place during the extension, not on the student's return to school.

- 98.** While a student is out of school on an extended suspension the principal must provide appropriate guidance and counselling to the student. The principal must also provide an appropriate educational programme for the student to facilitate their return to school and minimise the educational disadvantages that occur due to absence from school. The principal may request a reconsideration meeting only if the student fails to comply with the conditions.
- 99.** The board must take appropriate steps to facilitate the student's return to school. If the extended suspension is for four weeks or more the board must monitor the progress of the student and must receive written updates about the student's progress at each regular board meeting. *[Refer When the suspension is extended with conditions, paras 118-133]*



You cannot extend a suspension for an unlimited time or convenient time e.g. until the end of the schooling year or until a particular action is taken.

Understanding exclusion

- 100.** This means the student (under 16) must not attend your school (unless permitted by the principal). This is the most serious response. An exclusion means that the suspension is extended, and the student is required to be enrolled at another school.¹⁶
- 101.** During the exclusion the principal must provide appropriate guidance and counselling for the student and an appropriate educational programme for the student to minimise the educational disadvantages that occur due to absence from school.¹⁷ The principal must try to arrange for the student to attend another reasonably convenient school. The board may refuse to re-enrol the student (unless the Ministry of Education lifts the exclusion). The board of any other state school may refuse to enrol the student (unless the Ministry of Education directs that school¹⁸ to enrol the student). *[Refer When the student is excluded, paras 160-162]*



The decision to exclude a student is only to be made in circumstances that justify the most serious response.

Understanding expulsion

- 102.** The student (16 or over) must not attend your school and may be removed from the school roll. The student may try to enrol at another school but does not have to. The board may refuse to re-enrol the student. *[Refer When the student is expelled, paras 160-162]* The board of any other state school may refuse to enrol the student (unless the Ministry of Education directs that school to enrol the student). The Ministry of Education is unable to lift an expulsion.



The decision to expel a student is only to be made in circumstances that justify the most serious response.

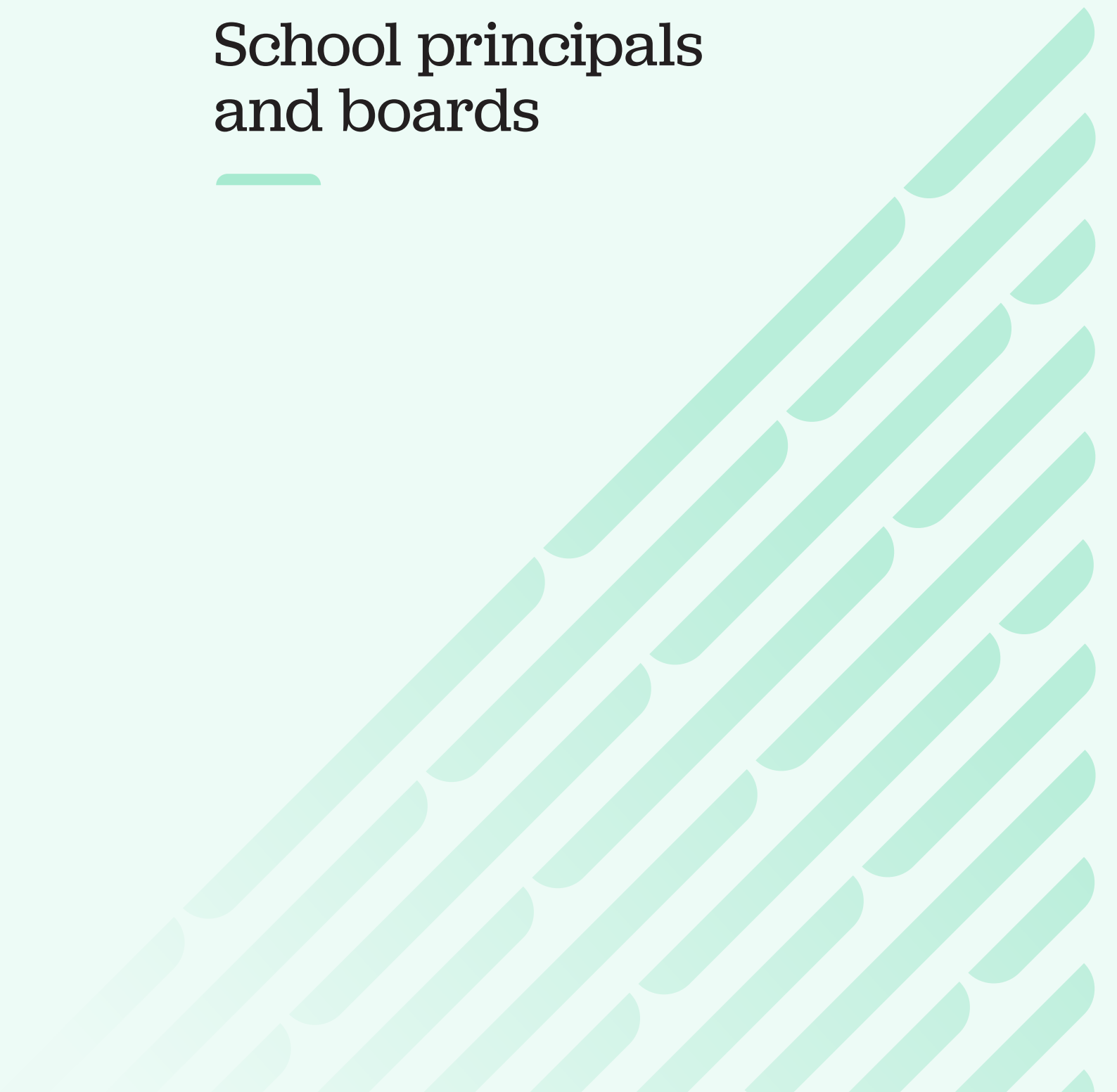
¹⁶ Section 81(1)(c) of the Education and Training Act 2020

¹⁷ Section 84 of the Education and Training Act 2020

¹⁸ Unless the school is an integrated school.

Suspension outcomes

School principals
and boards



Suspension outcomes

Board obligations

Involving the student and parent

- 103.** Before you make your decision, you may try to get all the parties at the meeting to agree on what the decision should be. You may suggest a possible outcome to the student and invite comment. Involving everyone increases the chances of achieving a fair and workable outcome. You do not however, need agreement to make your decision.
- 104.** When making your decision, you must apply exactly the same tests as the principal [*Refer Stand down and suspension decisions, paras 33-40*]:
- a.** Was the incident gross misconduct, continual disobedience or behaviour risking serious harm? and
 - b.** If the incident was gross misconduct or continual disobedience, did it set a harmful or dangerous example to other students at school? and
 - c.** What part did the student's individual circumstances play? and
 - d.** What further action is appropriate?
- 105.** This is a balancing exercise and you must take into account all relevant circumstances. To help you do this, you may consider:
- a.** how other students have been affected
 - b.** whether leniency would be appropriate
 - c.** your obligations regarding natural justice
 - d.** your obligations to provide a range of responses for cases of varying degrees of seriousness, and
 - e.** the availability of other local schooling options if you are considering an exclusion or expulsion.

Guidance from the courts

The obligations to think through all your options and consider all the circumstances"... are designed for the protection of children. They are not to be sacrificed to administrative or disciplinary efficiency, or some supposed need for absolute certainty. Results must not be fixed: they must instead be fair."¹⁹

¹⁹ *M and R v S and Board of Trustees of Palmerston North Boys' High School* 2003 NZAR 705, 718 per McGechan J (decided 5 December 1990), p725.

Recording your reasons

106. You must record your decision, and the reasons for it, in writing. You must explicitly consider each option open to you. Your records need to be complete. There should be enough information in the report to show that you turned your mind to the criteria you had to apply. Document why you made the decision and how you arrived at the decision.

Communicating your decision

107. To help you communicate your decision in writing, you may wish to use a model letter template. *[Refer to Model letters: Letter 3 – Notifying parent/s or caregivers of outcome of suspension meeting]*

When the suspension is lifted without conditions

Principal obligations²⁰



The student must return to school on the first day following the board decision.
The board cannot set another date for the student to return to school.

108. The student returns to school immediately and attends full time.

Principal and board obligations

Tell a parent



Do this immediately

109. You must tell the student's parent that the suspension has been lifted without conditions and the reasons for the board decision.²¹

110. To help you do this, you may wish to use the model letter template.
[Refer to [Model letters](#): Letter 3 – Notifying parent/s or caregivers of outcome of suspension meeting] You may also consider calling a parent.

Tell the Ministry of Education



Do this immediately

111. You must submit the “advice of outcome of suspension meeting” electronic form in ENROL.

²⁰ This includes someone who is formally delegated in writing by the board, to act as the principal in your absence.

Such delegation can only take effect when the principal is not on duty.

²¹ Unless the student has turned 20.

When the suspension is lifted with conditions

Principal obligations²²



The student must return to school the day following the board decision.

The board cannot set another date for the student to return to school.

- 112.** The student returns to school immediately and attends full time. The board has set reasonable conditions that the student must meet.
- 113.** While monitoring the conditions, if you believe the conditions are not being met you may request the board meet to reconsider its earlier decision.

Consider guidance and counselling

- 114.** You must provide guidance and counselling to the student as appropriate upon their return to school. This may be part of the conditions set by the board.

NOTE Under Section 103 of the Education and Training Act 2020, the principal of a state school shall take all reasonable steps to ensure that students get good guidance and counselling.

Principal and board obligations

Tell a parent



Do this immediately

- 115.** You must tell the student's parent that the suspension has been lifted with conditions and the reasons for the board decision.²³
- 116.** To help you do this, you may wish to use the model letter template.
[Refer to [Model letters](#): Letter 3 – Notifying parent/s or caregivers of outcome of suspension meeting] You may also consider calling a parent.

Tell the Ministry of Education



Do this immediately

- 117.** You must submit the “advice of outcome of suspension” electronic form in ENROL.

²² This includes someone who is formally delegated in writing by the board, to act as the principal in your absence.

Such delegation can only take effect when the principal is not on duty.

²³ Unless the student has turned 20.

When the suspension is extended with conditions

Principal obligations²⁴

Keep the student on the school roll

- 118.** The student must remain on your school roll. They may only be removed if they:
- a.** enrol at another school; or
 - b.** are granted an exemption from enrolment; or
 - c.** leave the school system altogether (if over 16).

Provide an educational programme

- 119.** You must take all reasonable steps to ensure that an appropriate educational programme is provided to the student. The purpose of the programme is to facilitate the return of the student to school and to minimise the educational disadvantages that occur from absence from school.

Consider guidance and counselling



Do this as soon as practicable

- 120.** You must take all reasonable steps to ensure that the student gets guidance and counselling that are reasonable and practicable in all the circumstances.
- 121.** To help you do this, consider that one of the aims of the suspension process is to “minimise the disruption to a student’s attendance at school and facilitate the return of the student to school when that is appropriate.”

Consider attendance during an extended suspension

- 122.** The student may attend school if the student or parent asks you to allow that for whatever reason; and you consider that the request is reasonable.
- 123.** The student must attend school if you consider that it is appropriate because either:
- a.** the student’s educational programme requires it (the student might need to fulfil course requirements for a qualification or sit an examination); or
 - b.** the student needs to receive guidance and counselling.
- 124.** Otherwise, the student must not attend.

²⁴ This includes someone who is formally delegated in writing by the board, to act as the principal in your absence. Such delegation can only take effect when the principal is not on duty.

Monitor the student's progress

- 125.** You must take steps to ensure that the student's progress is monitored when conditions have been set. The purpose of the conditions is to assist and support the student to return to school.
- 126.** If an extended suspension is for four weeks or more a report will need to be provided to the board at each regular board meeting. This report must comment on whether the student is meeting the conditions imposed and how they are progressing with the education programme you are providing for them.
- 127.** You must allow the student to return to school once either they have met the conditions set by the board or the extended suspension expires (whichever occurs first).

HINT It is important to communicate timelines to the parent.

Principal and board obligations

Tell a parent



Do this immediately

- 128.** You must tell the student's parent that the suspension has been extended with conditions and the reasons for the board decision.²⁵
- 129.** To help you do this, you may wish to use the model letter template.
[Refer to [Model letters: Letter 3 – Notifying parent/s or caregivers of outcome of suspension meeting](#)] You may also consider calling a parent.

Tell Ministry of Education



Do this immediately

- 130.** Once the period of extended suspension has ended and the student has returned to school you must submit the "notification following extended suspension or following exclusion" electronic form in ENROL.

Help the student return to school

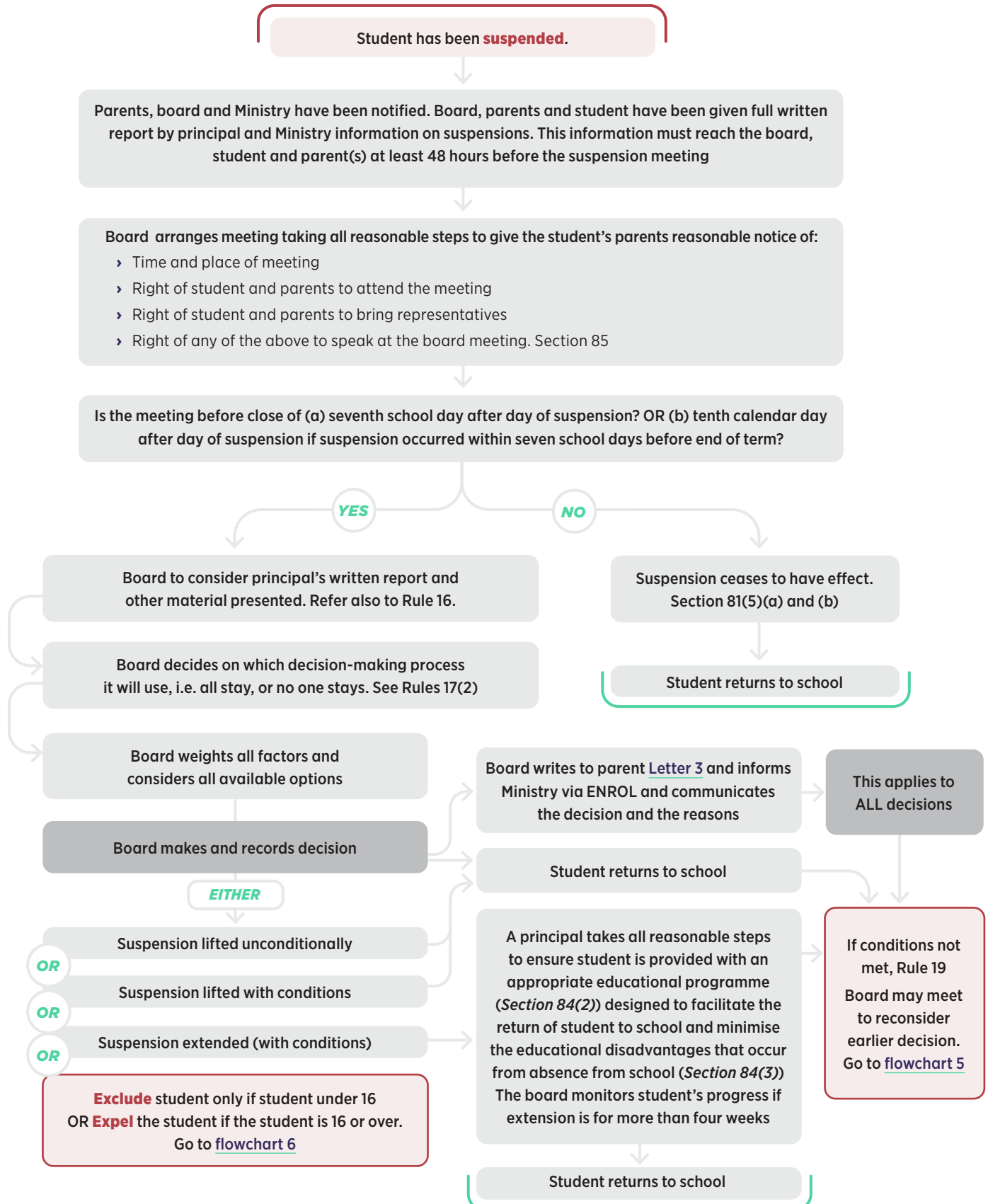
- 131.** The student remains the responsibility of the board while suspended.
- 132.** The student may only be removed from the school roll if they enrol at another school, are granted an exemption from enrolment; or leave the school system altogether (if over 16).
- 133.** You must take appropriate steps to help the student return to school. What those steps are will depend on the particular situation. This is an obligation of the board, rather than individual members, and it is expected that in most cases your staff will carry out the required steps on your behalf.

HINT Other government or non-government agencies may assist the board to take appropriate steps to help the student return to school.

²⁵ Unless the student has turned 20.

Flow chart 4

Action by school board following decision to suspend



Requesting a reconsideration

Principal obligations²⁶

Principal's decision

- 134.** If a student fails to comply with any conditions imposed by the board, you may request the board to hold a meeting to reconsider its initial decision. You are not required to request a meeting if you do not wish to. If it was a decision to lift the suspension with conditions, then the student is required to continue to attend school. You cannot ask the student to absent themselves.
- 135.** You may wish to investigate a possible failure to comply with conditions. [*Refer Investigation, paras 16-22*] In particular you should consider taking care to act fairly, consider involving the student and resolve major disputes and uncertainties (if possible).
- 136.** The board must hold a reconsideration meeting about the student's case:
- a.** within seven school days of the request; or
 - b.** if the request is made within seven school days of the end of term, within ten calendar days of the request.
- 137.** If you have requested a reconsideration meeting for a student whose suspension was lifted with conditions, the student must remain at school until the meeting.
- 138.** If an incident has occurred that you think is sufficiently serious to justify a new suspension, you may choose to suspend the student rather than call a reconsideration meeting. In such cases you will need to take care to follow the suspension process from the beginning.

HINT Care will need to be taken to distinguish a reconsideration meeting request from a new suspension. You may wish to seek advice from the Ministry if you are uncertain.

How to request a reconsideration

- 139.** The request for a reconsideration meeting should be documented. You will also need to prepare a report for the board to consider, which states why you believe specific conditions have not been complied with.



The board must notify a parent of the reconsideration meeting as soon as practicable after deciding to hold a reconsideration meeting.

[Refer to [Model letters](#): Letter 4 – Reconsideration of suspension letter]

²⁶ This includes someone who is formally delegated in writing by the board, to act as the principal in your absence. Such delegation can only take effect when the principal is not on duty.

Board obligations

Information about reconsideration meeting

140. The board must tell the student and their parents in writing:

- a.** when and where the reconsideration meeting will be (so they can make arrangements to attend); and
- b.** what options the board has at that meeting for dealing with the suspension (so the student and their parents know the possible repercussions of failing to meet the conditions and the options available for the board to decide upon).



The board must ensure, however it gives this information, that it is able to reach the student and their parent at least 48 hours before the reconsideration meeting.

[Refer to “Giving a document” hint, page 13]

141. The board must also give the student and their parent in writing:

- a.** information about the procedures that it follows at reconsideration meetings (so they know what to expect)
- b.** advice that the student and their parent and their representative may attend the meeting and speak at it about the reconsideration of the suspension (so that they know how to prepare)
- c.** the principal’s report to the board on the reconsideration of the suspension (so they know the case they have to answer); and
- d.** any other material about the reconsideration of the suspension that the principal or board are going to present at the meeting (so there are no surprises).

142. Information given to the student and parent must be as complete as possible. This is a requirement of natural justice. Boards should seek professional advice about how to protect the privacy of other students when providing information to the student and parent.

At the reconsideration meeting

143. At a reconsideration meeting, the board has a completely separate role from the principal. The board reviews the principal’s report and decides whether the student has failed to comply with the conditions.

144. If the board agrees that the student has failed to comply with the conditions, it may then reconsider the original decision.

NOTE The reconsideration meeting relates to considering a possible failure to comply with conditions and finding a way forward. It is not a new suspension meeting or an appeal process. The original incident is not revisited. The board may decide to undertake a review of its previous process, but this is not a reconsideration, new suspension or an appeal process. NZSBA can provide support for boards, should they undertake a review.

- 145.** Reconsideration meetings cannot be held in relation to prospective students, former students or students enrolled at another school.

Flexibility

- 146.** How a reconsideration meeting is run is a matter for each board and the format does not have to be overly formal or court-like. The Act does not provide for the calling of witnesses at a reconsideration meeting; this is inappropriate. Significant disputes about facts should have already been raised, decided upon and recorded by the principal in their report. Instead, the focus is on reviewing compliance with conditions, hearing from everyone and finding a way forward.

Hearing from the student

- 147.** The student, the student's parents, and their representatives are entitled to attend the reconsideration meeting, speak at it and have their views considered by the board before it makes its decision.
- 148.** You may, however, progress with reconsidering the suspension if they choose not to attend or participate.

Withdrawal

- 149.** While you are deliberating and making your decision, you must either:
- a.** require all the other parties to withdraw from the meeting; or
 - b.** ask all the other parties to stay at the meeting.
- 150.** If the student and parents are asked to withdraw from a meeting then the principal must withdraw too. The principal has a different role to other members at a suspension meeting and is not there as a decision maker. If you deliberate in private with the principal or ask the principal questions in the absence of the student and parents this may lead to accusations of bias.

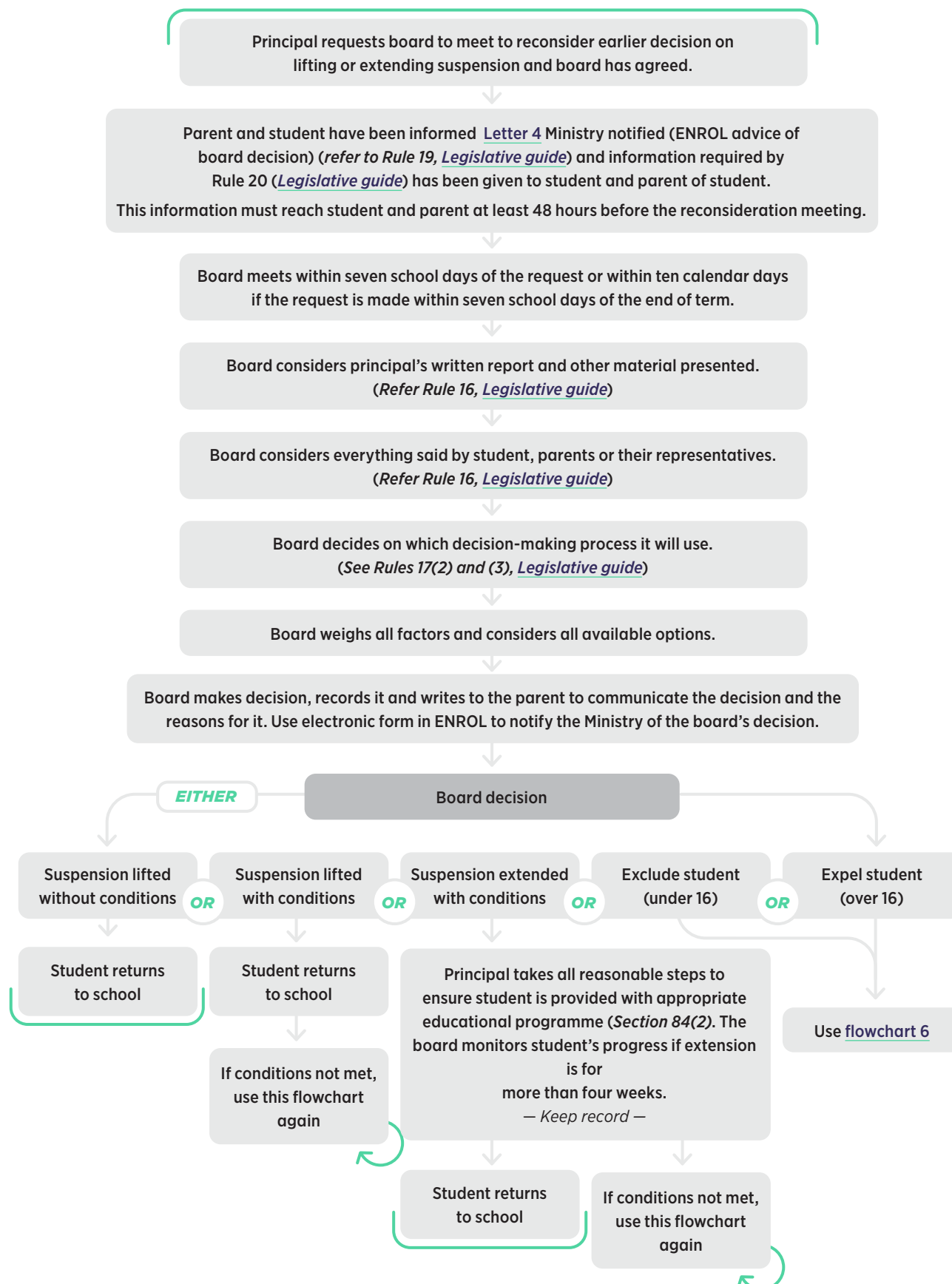
Understanding board's options

- 151.** The board must make only one of the following four decisions:

If you think the student should:	then you must:
attend your school again full-time	lift the suspension without conditions
attend your school again full-time but have specific conditions placed on them	lift the suspension with conditions
remain out of your school for a set timeframe in order to fulfil specific conditions placed on them	extend the suspension with conditions for a reasonable period
leave your school	exclude the student if they are under 16 or expel the student if they are over 16

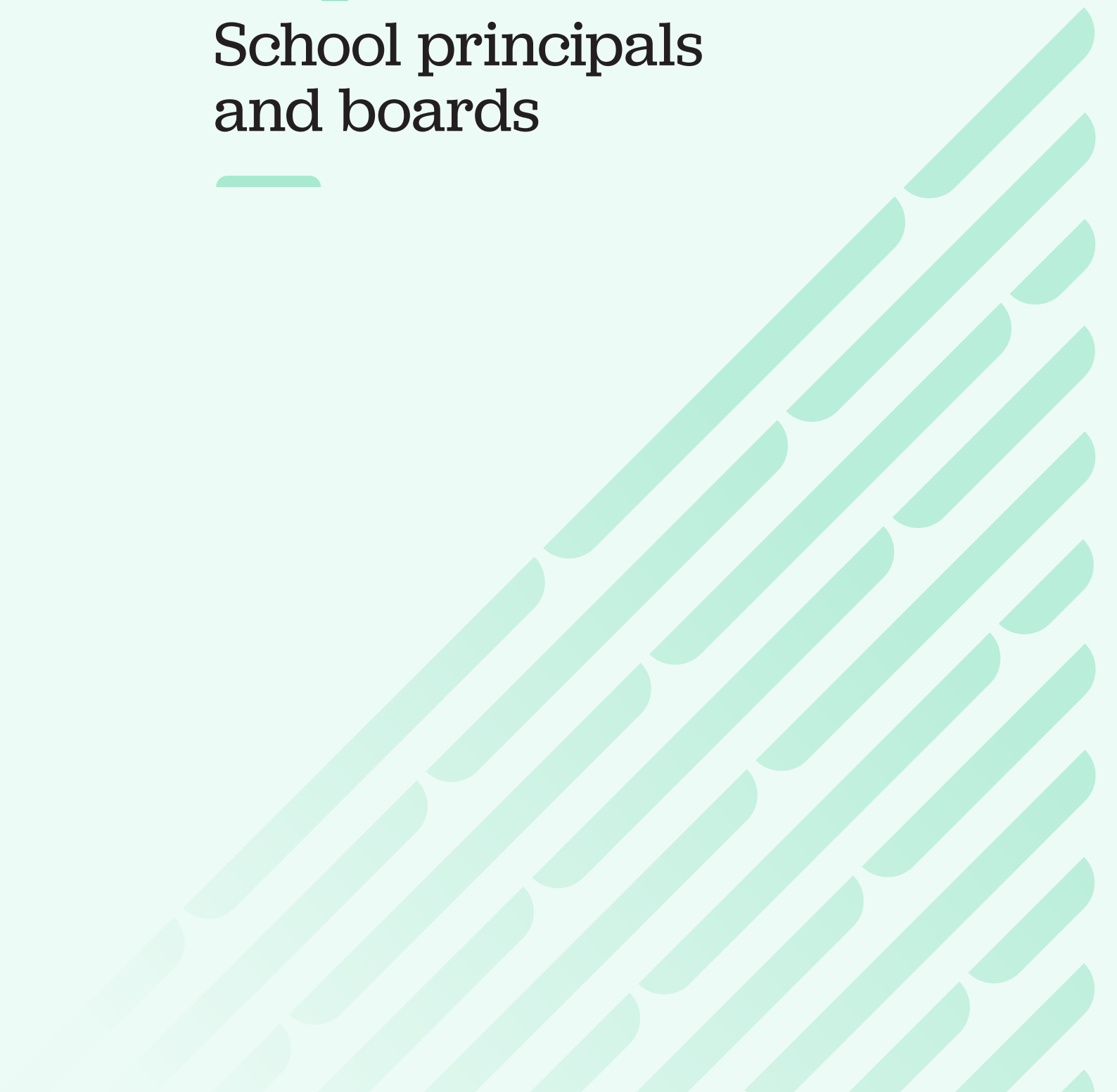
Flow chart 5

Reconsideration of suspension: Action by school board



Exclusion, expulsion

School principals
and boards



When the student is excluded

Principal and board obligations

Tell a parent



Do this immediately

152. You must tell the student's parent that the student has been excluded and the reasons for your decision to exclude.²⁷

153. To help you do this, you may wish to use the model letter template.

[Refer to **Model letters** Letter 3 – Notifying parent/s or caregivers of outcome of suspension meeting] You may also consider calling a parent.

Tell Ministry of Education

154. You must submit the “advice of exclusion” electronic form in ENROL.

Principal obligations²⁸

Provide an educational programme



Do this as soon as practicable

155. You must take all reasonable steps to ensure that an appropriate educational programme is provided to the student. The purpose of the programme is to minimise the educational disadvantages that occur from absence from school.

Consider guidance and counselling



Do this as soon as practicable

156. You must take all reasonable steps to ensure that the student gets guidance and counselling that are reasonable and practicable in all the circumstances.

²⁷ Unless the student has turned 20.

²⁸ This includes someone who is formally delegated in writing by the board, to act as the principal in your absence. Such delegation can only take effect when the principal is not on duty.

Try to arrange for a new enrolment



Do this as soon as possible.

- 157.** You must try to arrange for the excluded student to be enrolled at another convenient school. If you arrange for a placement at another school and the student is 'out of zone', the Ministry can endorse the proposed enrolment.



You must take all reasonable efforts to facilitate a new enrolment for an excluded student. Sending a generic email to your closest schools is not sufficient.

NOTE Contact your local Education Advisor to ask for an endorsement under section 74(2)(c) of the Education and Training Act 2020 if the student is out of zone for the new school.

Tell Ministry of Education



Do this immediately

- 158.** If you are unable to arrange for the student to enrol in another school within ten school days you must tell the Ministry of this and the steps taken in trying to arrange placement.
- 159.** You should only remove an excluded student from the roll when a new school has been found. This is covered in Section 86(1) of the Education and Training Act 2020 which states that excluded students must stay on the school roll until they enrol somewhere else.

When the student is expelled

Principal and board obligations

Tell a parent



Do this immediately

160. You must tell the student's parent that the student has been expelled; and the reasons for your decision to expel.²⁹

161. To help you do this, you may wish to use a model letter template.

[Refer to [Model letters](#) Letter 3 – Notifying parent/s or caregivers of outcome of suspension meeting] You may also consider calling the parent.

Tell Ministry of Education



Do this immediately

162. You must submit the “notification following exclusion” electronic form in ENROL.

Re-enrolment of excluded student

Ministry of Education's obligations

163. If the principal of the excluding school has not been able to arrange enrolment, the Ministry will make all reasonable attempts to consult the student's parents, the board and any other person or organisation that may be interested in, or able to advise on or help with, the student's education or welfare.

164. The Ministry may:

- › if satisfied that it is appropriate for the student to return to the excluding school, lift the exclusion; or
- › arrange for enrolment and, if necessary, direct the board of any other state school (that is not an integrated school) or sponsor of any other charter school to enrol the student; or
- › arrange for the student to enrol at Te Aho o Te Kura Pounamu (the Correspondence School).

²⁹ Unless the student has turned 20.

Board's obligations

- 165.** A board must comply with a direction to enrol a student from the Ministry of Education. A direction cannot be refused for any reason. A direction overrides the provisions of any enrolment scheme the school may have in place.
- 166.** If the exclusion is lifted, or a direction to enrol is made, the student is able to enrol and attend school immediately.

Re-enrolment of expelled student

Ministry of Education's obligations

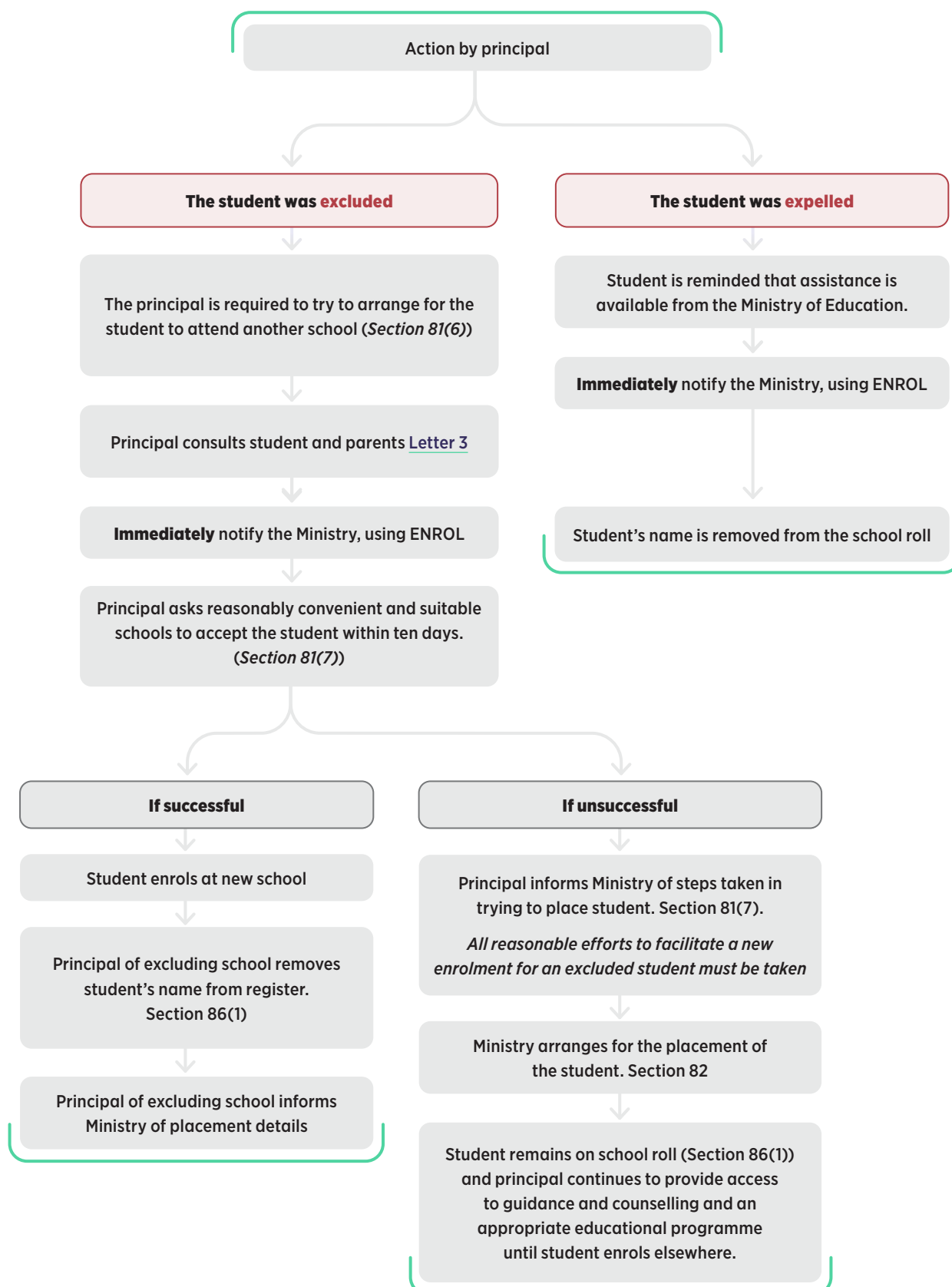
- 167.** The Ministry may arrange for, and direct the board of any state school (that is not an integrated school) to enrol an expelled student at their school. The Ministry must first take all reasonable attempts to consult the student's parents, the board, and any other person or organisation that may be interested in, or able to advise on or help with, the student's education or welfare. The Ministry cannot lift an expulsion.

Board's obligations

- 168.** A board must comply with a direction to enrol a student from the Ministry of Education. A direction overrides the provisions of any enrolment scheme the school may have in place.
- 169.** If a direction to enrol is made the student is able to enrol and attend a new school immediately.

Flow chart 6

Action by principal when student excluded or expelled



Further reading

Crown Law resource for good-decision-making and the law in New Zealand:

<https://www.crownlaw.govt.nz/publications/judge-over-your-shoulder>

UN Convention on the Rights of the Child:

<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

Privacy Commissioner: Your privacy responsibilities:

<https://www.privacy.org.nz/responsibilities/your-obligations/>

Case notes and opinions:

526391_Board of Trustees decision to expel student on basis of gross misconduct not justified (2021):

<https://www.ombudsman.parliament.nz/resources/board-trustees-decision-expel-student-basis-gross-misconduct-not-justified>

557444_Omission by school board to follow due process before excluding student for gross misconduct:

<https://www.ombudsman.parliament.nz/resources/omission-school-board-follow-due-process-excluding-student-gross-misconduct>

595185_School Board decision to exclude student unreasonable:

<https://www.ombudsman.parliament.nz/resources/school-board-decision-exclude-student-unreasonable>

596810_School Board acted unreasonably by failing to adequately communicate reasons (2024) <https://www.ombudsman.parliament.nz/resources/school-board-acted-unreasonably-failing-adequately-communicate-reasons>

560447_Omission by school board to consider behavioural support prior to exclusion of student:

[https://www.ombudsman.parliament.nz/sites/default/files/2022-09/Omission by school board to consider behavioural support prior to exclusion of student.pdf](https://www.ombudsman.parliament.nz/sites/default/files/2022-09/Omission%20by%20school%20board%20to%20consider%20behavioural%20support%20prior%20to%20exclusion%20of%20student.pdf)

533782; 542721; 542757 and 542864_Inadequate record-keeping and unreasonable decisions by school board: Student discipline:

<https://www.ombudsman.parliament.nz/resources/inadequate-record-keeping-and-unreasonable-decisions-school-board-student-discipline>



**Te Tāhuhu o
te Mātauranga**
Ministry of Education

He mea tārai e mātou te mātauranga
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