

# **Building Respectful Relationships: Student Suspension and Cancelling Enrolment**

## **Procedure**



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## 1 Purpose

The purpose of this document is to provide Catholic school communities in South Australia with procedures that guide and inform student suspension and cancelling enrolment in their local setting.

## 2 Scope

The Building Respectful Relationships: Student Suspension and Cancellation of Enrolment Procedure applies to all Catholic Schools and Catholic Education Offices in South Australia.

## 3 Policy Supported

This document directly supports, and should be read in conjunction with, the Building Respectful Relationships: Behaviour Education and Student Support Policy.

## 4 Introduction

Catholic schools are committed to the safety, wellbeing and learning of all students in their care. Schools provide learning opportunities for students to become thriving people, capable learners and leaders for the world God desires. Schools provide behaviour education and student behaviour support that enables young people to be active participants in the life of their learning community.

The procedures for suspension and cancelling enrolment address legal and organisational requirements. Any actions that are taken must be based on deep respect for the dignity of each individual student in Catholic schools.

The procedures are divided into four parts:

- Legal issues
- Procedures for Suspension
- Procedures for Cancelling Enrolment
- Appendices and Schedules
  - Appendix 1 – Checklist for Principals /School Leaders– suspension
  - Appendix 2 – Checklist for Principals/School Leaders – cancelling enrolment
  - Schedule 1 – Proforma letter – suspension
  - Schedule 2 – Proforma letter – cancelling enrolment

## 5 Legal Issues

### 5.1. Definitions

5.1.1. Suspension means that a student is precluded from attending school and school activities for a specified period of time. Suspension in these procedures does not include internal withdrawal of students from class.

5.1.2. Cancelling enrolment means that the school terminates the contract between the school and the enrolling parents/guardians, concerning the education of a particular student.

## 5.2. Enrolment

5.2.1. Principals and school leaders need to be aware that when a child is enrolled, the school is entering into a contractual relationship with the enrolling parents/guardians of the student. [For students who no longer live with a parent/guardian, see paragraphs 5.2.3 and 5.2.4 below.]

5.2.2. The right to suspend or cancel enrolment needs to be expressed in clear, unambiguous language in the enrolment contract so that the enrolling parents/guardians clearly understand that the school has the right to terminate the contract.

The school needs to have a contractual basis for implementing suspension and/or cancelling the enrolment of a student. A clause on enrolment forms, such as 'The school reserves the right to suspend or cancel the enrolment of a student for serious or continued breaches of school rules' is likely to be sufficient to allow suspension and cancelling enrolment in the circumstances described in these procedures.

5.2.3. While contracts cannot normally be made with minors (i.e. a person under 18 years) there are exceptions, one being if it is for the benefit of a minor. Education is considered to be a benefit. Hence, if an independent student under the age of 18 years enters into an enrolment contract then:

- the enrolment contract between the school and the student is binding and
- the contract can be terminated by the school if the student is in breach of the contract eg by repeatedly breaking school rules.

5.2.4. If the original contract is made with the parents/guardians and the student subsequently moves out of the parental home, the contract continues to be binding on the enrolling parents/guardians and the school's obligation to the parents/guardians endures. In these situations it is important to contact the Catholic Education Office and/or equivalent in a separately governed school.

## 5.3. Natural Justice

5.3.1. The rules of natural justice are principles developed from common law to ensure the fairness of decision making. The expression in Australia is used interchangeably with procedural fairness.

5.3.2. In the school context, a decision regarding the suspension or cancelling of enrolment of a student could have a significant impact on the student's future. Rules of procedural fairness apply to these situations.

5.3.3. The rules consist broadly of two principles:

- The 'hearing rule' requires that the decision maker gives a person whose interests will be adversely affected by a decision an opportunity to present his or her case.
- The 'bias rule' requires the decision maker to bring an unprejudiced, impartial mind to the matter. For example, where the student conduct was directed at or involves the decision maker personally, the decision maker should disqualify her or himself from making the decision.

Principals and school leaders in any doubt should contact their Principal Consultant or equivalent in a separately governed school.

Hence, in a school setting:

- the student, against whom allegations have been made, has a right to know the matters alleged against them
- the student must be given an opportunity to respond to the allegations

- the student has a right to hear what evidence there is to substantiate the allegations against them (if the school intends to rely on that evidence) and to respond to that evidence, and
- the decision maker must base the decision to suspend or cancel the enrolment, only on the evidence that is relevant to the matters alleged against the student, and not on unrelated and/or extraneous information.

#### 5.4. Anti-discrimination legislation

When considering suspension and/or cancellation of enrolment, Principals and school leaders should seek advice via the Principal Consultant or equivalent in a separately governed school.

5.4.1. When deciding to suspend or cancel the enrolment of a student, consider whether anti-discrimination legislation should be considered and whether legal advice should be sought about its impact.

5.4.2. As a general principle, it is unlawful to suspend or cancel the enrolment of a student for a reason which falls into any one of the grounds covered by the various South Australian and Federal Anti-discrimination Acts, if this causes any detriment to the student. A student who is suspended or has their enrolment cancelled normally would be able to show detriment. However, suspension and/or cancellation of enrolment may become appropriate when the behaviour of the student is so extreme that it cannot be managed in the school community without compromising the learning and/or safety rights of others.

5.4.3. It is also discriminatory to limit or deny access of a student to any benefit provided by the school if the reason relates to one of the prohibited grounds.

5.4.4. The prohibited grounds include disability, age, race, sex, chosen gender, sexuality, pregnancy and marital status (some very limited exceptions apply). Disability is very broadly defined, and includes a disorder or malfunction that results in a person learning differently from a person without the disorder or malfunction, and a disorder illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour. This means that a diagnosed behavioural disability, for example, constitutes a disability under the anti-discrimination legislation.

## 6 Procedures for Suspension

6.1 Suspension should not be applied in an unreasonable or arbitrary manner.

6.2. A student should only be suspended from a Catholic school when serious or exceptional circumstances exist and/or after other reasonable methods have been used to modify that student's behaviour.

These methods may include but are not limited to:

- a family meeting
- in-class strategies and support facilitated by the teacher
- out-of-class action involving the teacher and Principal, school leader, designated staff member or student behaviour support team
- counselling by school counsellor or by Principal, school leader or designated staff member
- alternative program and setting

- involvement of an Inclusion and Learning Consultant in the development of an individual student behaviour plan.  
The plan may include:
- small group intervention (for example social skills/anger management program) and
- school-home agreement

### 6.3. Reasons for suspension

It would be appropriate for a Catholic school to consider suspension where:

- the student is, or has been, guilty of gross insolence(s), serious irresponsible behaviour(s) or other serious breach(es) of school rules
- the presence of the student is prejudicial to the learning environment, and/or the safety and wellbeing of other students or staff at the school.

### 6.4. Process for suspension

If suspension is being considered, it is essential that:

- the student and the enrolling parents/guardians of the student are fully informed of the matters alleged against the student. (It may be necessary, in some cases, to organise interpreter services).
- the student and the parent/guardian of the student have had ample opportunity to respond to the allegations against the student
- the principal (or delegate) is accompanied in any interviews with the student and/or with the enrolling parents/guardians
- the student should be accompanied in meetings by his or her parent/guardian or other support person
- the enrolling parents/guardians are informed in writing (Schedule 1 Proforma Letter – Suspension) by the principal or school leader (or delegate):
  - that the Principal or school leader proposes to suspend the student
  - of the behaviour which has led to the proposed suspension and
  - of the evidence upon which the principal or school leader has relied
  - that relevant staff members have been consulted, and
  - where applicable, that a personalised learning program will be negotiated.

6.4.1. Note: In cases where there exists a risk of injury to students or staff from the student concerned, it may be necessary to preclude the student from the school for a short time pending the implementation of the above procedures. However, no student should be sent home without prior notification to the enrolling parents/guardians. Parents/guardians need to acknowledge that they have received the notification.

### 6.5. Before suspending

The school must ensure that it makes a written record of the:

- events leading up to the suspension,
- evidence on which the decision was based, and
- in-school interventions tried by the school prior to making the decision to suspend.

### 6.6. Duration of suspension

6.6.1. Suspension of a student should be of minimum duration so that a learning program can be maintained.

6.6.2. Suspension should not normally exceed 5 days. Suspension beyond a total of 5 school days is at the principal's discretion and requires careful consideration by the principal after consultation with the Principal Consultant or the Senior Education Adviser in Inclusion and Learning or equivalent in a separately governed school as to:

- the purpose of the extended suspension
- its duration
- likely influence of the extended suspension to effect change in student behaviour and learning opportunity
- a clear and documented intervention plan that:
  - involves ongoing liaison with the enrolling parents/guardians and student
  - involves negotiation of a learning program with the family
  - involves ongoing discussion with and, where feasible, support from Catholic Education Office or Congregational Office
  - involves personnel from appropriate agencies which may include Centacare, and/or Child Adolescent Mental Health Service (CAMHS)
  - documents the expectations and responsibilities of all parties (student/parent/guardian/school) during the period of suspension, and
  - documents a review and return-to-school date.

## 7 Procedures for Cancelling Enrolment

7.1 Cancelling enrolment is a serious measure and is only to be used as a last resort and in extreme circumstances.

7.2. There is no common law justification for cancelling enrolment of a reasonably conscientious student on the grounds that the student's academic performance is poor.

7.3. Reasons for cancelling enrolment.

Cancelling enrolment may be exercised in the case of:

- a serious and intentional breach of a major school rule; or
- repeated acts of disobedience which separately are insufficient to warrant cancelling enrolment and for which suspension has been tried and has been ineffective; or
- a persistent disregard for school rules and repeated unacceptable conduct following warnings and suspensions; or
- student conduct of such a serious nature that the student can no longer be permitted to remain at the school without danger to the school community; or
- student conduct of such a serious nature that there is a well-founded concern regarding the safety and welfare of other students or staff at the school.



#### 7.4. Processes for cancelling enrolment.

##### 7.4.1. It is essential that prior to cancelling enrolment:

- the student and the enrolling parents/guardians of the student are fully informed in writing of the matters alleged against the student. (It may be necessary, in some cases, to organise interpreter services).
- the student and the enrolling parents/guardians of the student have had ample opportunity to respond to the allegations against the student
- the principal (or delegate) has been accompanied in any interviews with the student and/or with the student's enrolling parents/guardians
- the student has been given the opportunity and encouraged to be accompanied by his or her parent/guardian or other support person at formal interviews
- the relevant staff members have been consulted
- the Parish Priest has been consulted if the school is a parish school
- if the school is a Diocesan school, the Diocesan Director through the Principal Consultant, has been informed and the Director has given permission for the cancellation of enrolment to proceed
- if the school is a separately governed school, that consent for cancelling an enrolment has been obtained from that school's governing body and that the Director of Catholic Education has been informed (this can occur via the Principal Consultant or Congregational leader for the school)
- the process has been thoroughly documented. Written records of the interviews that have taken place with the student, the enrolling parents/guardians, staff and any other witnesses should be kept confidential and stored in a secure location. If at all possible, the notes should be signed by the participants as an accurate record. Relevant documentation should be provided to the enrolling parents/guardians. Specifically, this should include notes of any meetings at which the student or parents were present. These need to have been dated, signed and record the names of those present at the meeting.

##### 7.4.2. When a decision is made that cancelling the enrolment is the likely outcome, the Principal or school leader (or delegate) should inform the enrolling parents/guardians in writing:

- that the principal or school leader proposes to cancel the enrolment of the student
- of the reasons for the proposed cancellation of enrolment and of the evidence upon which the principal has relied
- that the family has 48 hours (or more, but clearly specify a deadline up to 5 working days) to put to the principal any information or materials which they consider to be relevant to the student's conduct and which they consider may change the principal's mind regarding enrolment cancellation
- that during this period, the family has the option of voluntarily withdrawing their child from the school by informing the school of their intention to withdraw the child from the school prior to the specified deadline, thus avoiding enrolment cancellation (See attached Schedule 2 Proforma Letter – Proposed Exclusion)
- that where possible (at the principal's discretion) during this period, the principal would be willing to try to arrange enrolment at another Catholic school for the student rather than cancel the enrolment (See below Student Transfer)



- that, if the principal has not heard from the family within the stipulated time, or if the principal is not persuaded by the material provided, the principal should confirm the cancellation of enrolment in writing (see Schedule 2 Proforma Letter – Confirmation of Exclusion) upon the expiry of the stipulated deadline and
- that the principal should ensure that assistance is provided to the family regarding schooling options for the student's ongoing education as well as options regarding counselling services.

7.4.3. Note: In cases where there exists a risk of injury to students or staff from the student concerned, it may be necessary to preclude the student from the school for a short time pending the implementation of the above procedures. However, no student should be sent home without prior notification to parents/guardians. Parents/guardians need to acknowledge that they have received the notification.

## 8 Appendices and Schedules

### Appendix 1:

#### CHECKLIST FOR PRINCIPALS SUSPENSION PROCESS

|   |        |   |
|---|--------|---|
| 1. Is it necessary to preclude the student immediately pending the implementation of the process? | Yes/No | Note: See clause 4.4.1  |
| 2. Are the student and parent/guardian fully aware of the matters alleged against the student?    | Yes/No | Note: Preferable to provide the allegations in writing.   |
| 3. Has the process been explained to the student?   | Yes/No | Note: Student needs access to information about process and advocacy.   |
| 4. Has the student been interviewed and provided with an opportunity to respond to allegations?   | Yes/No | Note: Student/parent/guardian has a right to the notes from this interview. If the student admits to alleged conduct you do not need to obtain statements about that conduct from witnesses.  |
| 5. Has the parent/guardian been interviewed and provided with an opportunity to respond?          | Yes/No | Note: Parent/guardian has a right to the notes from this interview. Principal or delegate should be accompanied at this interview.  |
| 6. Have witnesses been interviewed?   | Yes/No | Note: Interview witnesses individually, not in groups. You can only rely on witness evidence of a student's poor conduct if those allegations have been put to the student concerned for comment.   |
| 7. Before deciding to suspend, have you considered alternative strategies?                        | Yes/No | Note: Suspension should only be used when all other strategies have been tried unsuccessfully, or in extreme circumstances.   |
| 8. Have you considered the antidiscrimination legislation?  | Yes/No | Note: Special care must be taken to ensure that a student is not suspended for a reason which is a prescribed prohibited ground in anti-discrimination (including behavioural disability). Legislation applies even if the disability (or other prohibited ground) is only ONE of the reasons. It is suggested in these cases that advice be sought from the CEO. |
| 9. If you decide to suspend, have you provided the student/parent/guardian with the reasons?      | Yes/No | Note: These reasons can be included in the written notification (see proforma).   |

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| 10. Is the duration of the suspension longer than 5 days?  | Yes/No | Note: If yes, have you discussed the matter with the Principal Consultant and/or Senior Education Adviser – Behaviour Education?                                  |
| 11. Have arrangements been made to arrange a learning program for the student during the time s/he is suspended? | Yes/No | Note: Arrangements should be in place to minimise educational detriment to the student.   |
| 12. Has formal written notice of suspension been provided to parent/guardian?                                    | Yes/No | Note: Proforma (Schedule 1). No essential details should be deleted from proforma but it can be supplemented with additional comments at the school's discretion. |

## Appendix 2:

### CHECKLIST FOR PRINCIPALS CANCELLING ENROLMENT PROCESS

|   |        |  |
|---|--------|--|
| 1. Is it necessary to preclude the student immediately pending the implementation of the process? | Yes/No | Note: See clause 5.4.3   |
| 2. Are the student and parent/guardian fully aware of the matters alleged against the student?    | Yes/No | Note: Provide the allegations in writing.  |
| 3. Has the student been interviewed and provided with an opportunity to respond to allegations?   | Yes/No | Note: Student/parent/guardian has a right to the notes from this interview.<br>Note: If the student admits to alleged conduct you do not need to pursue that admission further with witnesses.   |
| 4. Has the parent/guardian been interviewed and provided with an opportunity to respond?          | Yes/No | Note: Parent/guardian has a right to the notes from this interview.<br>Note: Principal or delegate should be accompanied at this interview.  |
| 5. Have witnesses been interviewed?   | Yes/No | Note: Interview witnesses individually, not in groups.<br>Note: Notes of witness interviews only available to witness.<br>Note: You can only rely on witness evidence of negative conduct by the student concerned if those allegations have been put to the student and parent for comment.<br>Note: If the student raises an issue that can be investigated or names a witness who the student says can provide evidence favourable to the student's case, those issues should be pursued if possible. |
| 6. In forming a conclusion about the allegations, have you considered all relevant evidence?      | Yes/No | Note: Can only consider admissions by the student and allegations which have been put to the student for comment.<br>Note: Avoid taking into account in your conclusions irrelevant information, or matters which have not been specifically put to the student.   |
| 7. Has the process been thoroughly documented?  | Yes/No | Note: Keep all documentation confidential and in a secure location.  |
| 8. Before deciding to cancel the enrolment, have you considered alternative strategies?           | Yes/No | Note: Cancelling enrolment should only be used as a last resort or in very extreme circumstances.  |

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| 9. Have you considered the antidiscrimination legislation?                                    | Yes/No | Note: Special care must be taken before cancelling the enrolment of a student on a prescribed prohibited ground in the legislation such as behavioural disability. Legislation applies even if the disability is only ONE of the reasons. It is suggested that advice be sought from the CEO.  |
| 10. Do you wish to offer negotiated student transfer?   | Yes/No | Note: If yes, discuss with parent/guardian.  |
| 11. Have you consulted with the Parish Priest?  | Yes/No | Note: Applicable to diocesan schools only. Separately governed schools should ensure that they have consulted with the relevant equivalent.  |
| 12. Have you consulted with relevant staff members?   | Yes/No |  |
| 13. Have you sought the Director's permission to cancel the enrolment?                        | Yes/No | Note: Applicable to diocesan schools only. Non diocesan principals are requested to inform the Director in case parent/guardian contact CEO.   |
| 14. Have you put the cancellation of enrolment to student/parent/guardian as a proposal only? | Yes/No | Note: This should be done in writing (proforma – Schedule 2) which should include:<br><input type="checkbox"/> evidence relied upon<br><input type="checkbox"/> reasons for proposed cancellation<br><input type="checkbox"/> statement that the family has 48 hours or more (specify deadline up to 5 days) to put to principal any additional relevant material or mitigating factors<br><input type="checkbox"/> statement that the parent/guardian have the option of voluntarily withdrawing their child from the school by informing the school prior to the specified deadline<br><input type="checkbox"/> where possible, a statement that the principal would be willing to try to negotiate a student transfer if the parent/guardian so wishes<br><input type="checkbox"/> statement that if the principal has not heard from the enrolling parents/guardians within the stipulated time, or is not persuaded by additional information, or mitigating factors, the principal will formally confirm the cancellation of enrolment upon the expiry of the stipulated deadline. |
| 15. Has the cancellation of enrolment been confirmed in writing?                              | Yes/No | Note: Proforma – Schedule 3  |

|   |        |  |
|---|--------|--|
| 16. Has the parent/guardian been provided with educational options for future schooling and counselling options or other assistance as appropriate? | Yes/No | This may be details such as the names and phone numbers of other appropriate schools. Phone numbers of Centacare Counselling Service etc. Crisis family counselling may be available by contacting Catholic Education Office – Behaviour Education Team. |
|---|--------|--|

## Schedule 1

### Proforma letter – Suspension

(School letterhead)

Name  
Address

Dear \_\_\_(name)\_\_\_

I refer to our discussion on \_\_\_(time and date)\_\_\_ regarding \_\_\_(name of student)\_\_\_  
behaviour in relation to \_\_\_(give details)\_\_\_.

I am writing to formally confirm that he/she will be suspended from \_\_\_(name of school)\_\_\_  
from \_\_\_(date)\_\_\_ until \_\_\_(date)\_\_\_ inclusive.

The following measures have been taken to assist (name of student) \_\_\_\_\_  
with his/her education while this suspension is in force. (Detail arrangements for student  
work during absence).

An appointment has been made to meet with you and (student name)\_\_\_\_\_ at \_\_\_(time  
and date)\_\_\_ regarding re-entry. If this time is not suitable, could you please contact  
\_\_\_\_\_ as soon as possible to arrange an alternative time.

Yours sincerely

PRINCIPAL

Date

.....

We ..... acknowledge receipt of the school letter dated .....

We are able/not able to attend the proposed meeting.

..... signature ..... date (parent/care giver)



## Schedule 2

### Proforma letter – Proposed cancellation

(School letterhead)

Name  
Address

Dear \_\_\_(name)\_\_\_

I refer to our previous discussion with you and \_\_\_(student name)\_\_\_ regarding \_\_\_(name of student)'s\_\_\_ involvement in \_\_\_(set out details of the allegations)\_\_\_.

I have considered this matter at length, including yours and \_\_\_(student name)'s\_\_\_ responses and all of the evidence available to me.

I have concluded in relation to the allegations that \_\_\_(state your conclusion in relation to each of the allegations)\_\_\_.

I now write to advise you that my proposal at this time is to terminate the enrolment of \_\_\_(student name)\_\_\_ at \_\_\_(name of school)\_\_\_ . I have taken this step because \_\_\_(state reasons why the behaviour is unacceptable)\_\_\_.

Before I make a final decision in relation to the cancellation, however, I would like to provide you with 48 hours (or longer time up to 5 days) until \_\_\_(time and date)\_\_\_ to put to me any further material which you consider relevant and which you think I should take into account before making my final decision. This period of time will also provide you with an opportunity to put to me any mitigating factors in relation to \_\_\_(student name)\_\_\_ and this matter.

Also, I wish to let you know that during this 48 hour (or longer) period, you have the option to voluntarily withdraw \_\_\_(student name)\_\_\_ from the school thus avoiding the issue of the formal notice of cancellation if that transpires. Please ensure that you inform the school prior to the specified deadline if you wish to take up this option.

(optional) If you choose the above option, please let me know if you would like me to try to arrange for \_\_\_(student name)\_\_\_ to be enrolled at another Catholic school.

If I have not received any communication from you by the stipulated deadline (or if any additional material which you may provide is not compelling), the cancellation will be confirmed in writing at that time.

If you wish to clarify any aspects of this letter, please do not hesitate to contact me as soon as possible.

If you or \_\_\_(student name)\_\_\_ think it would be helpful to discuss recent events with a trained counsellor, it would be possible to arrange this through Centacare. Please let me know if you would like me to organise this support.

Yours sincerely

PRINCIPAL

Date

.....

We ..... acknowledge receipt of the school letter dated .....

We are able/not able to attend the proposed meeting.

..... signature ..... date

### Schedule 3

#### Proforma letter – Confirmation of Cancellation

(School letterhead)

Name

Address

Dear \_\_\_(name)\_\_\_

I refer to my previous letter to you of \_\_\_(date)\_\_\_ regarding the proposed enrolment cancellation of [student's name].

(If family has provided additional information or has claimed mitigating circumstances) I have taken into account the additional material which you have provided to me. After careful consideration of this additional material, I have formed the view that my earlier decision should stand. Accordingly, I wish to advise that the enrolment of \_\_\_(student name)\_\_\_ has been cancelled with effect from \_\_\_(date)\_\_\_, for the reasons stated in my previous correspondence.

(If NO additional information provided) After careful consideration of all relevant factors, and for the reasons stated in my previous correspondence, I now wish to confirm that the enrolment of \_\_\_(student name)\_\_\_ has been cancelled with effect from \_\_\_(date)\_\_\_.

I have enclosed information regarding schooling options and counselling options which I hope will be helpful.

Yours sincerely

PRINCIPAL

Date

## 9 References

9.1 Catholic Education South Australia Vision and Values

<http://www.cesa.catholic.edu.au/about/what-we-believe>

9.2 Catholic Education South Australia Learning Statement

<http://www.cesa.catholic.edu.au/news/catholic-education-week/learning-statement>

9.3 Why a Catholic Education Matters

<https://thesoutherncross.org.au/opinion/2018/08/01/2848/>

9.4 Circle of Security International

<http://circleofsecurity.net/about-us/originators-and-trainers/>

## 10 Revision Record

|                           |  |
|---------------------------|--|
| <b>Document Title</b>     | Building Respectful Relationships: Student Suspension and Cancelling Enrolment   |
| <b>Document Type</b>      | Procedure  |
| <b>Document Date</b>      | February 2019  |
| <b>Process Owner</b>      | Education Standing Committee   |
| <b>Contact</b>            | Mary Carmody, Senior Education Adviser<br>☎ 8301 6616 ✉ mary.camody@cesa.catholic.edu.au                                   |
| <b>Approval Authority</b> | SACCS  |
| <b>Review Date</b>        | February 2024  |
| <b>Revision History</b>   | Procedures for Dealing with Suspension and Expulsion (2012)<br>Procedures for Dealing with Suspension and Expulsion (2006) |