

Subject:**PROMOTING AND SUSTAINING GOOD BEHAVIOUR IN SCHOOLS: SUMMARY OF NEW LEGISLATIVE PROVISIONS****Circular Number:**

1998/25

Date of Issue:
24 September 1998**Audience:**

- Principals;
- Boards of Governors of all Grant-aided schools;
- Council for Catholic Maintained Schools;
- Education and Library Boards;
- Association of Governing Bodies of Voluntary Grammar Schools;
- Northern Ireland Council for Integrated Education; and
- Teachers' Unions.

Summary of Contents:

New legislation to require the implementation of discipline policies in schools and to provide additional support to schools in the matter of suspensions and expulsions.

Enquiries:

Any enquiries about the contents of this Circular should be addressed to Pupil Support Unit (telephone: 028 9127 9749).

Governor Awareness:
Essential**Status of Contents:**
Advice
Information for Schools**Related Documents:****Superseded Documents:****Expiry Date:**
Not applicable**DENI Website:**
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PROMOTING AND SUSTAINING GOOD BEHAVIOUR IN SCHOOLS: SUMMARY OF NEW LEGISLATIVE PROVISIONS

1. The School Improvement Programme, which was launched in February 1998, included a discipline strategy for schools. This stated that the Department would be introducing new legislation in 1998 to require the implementation of discipline policies in schools and to provide additional support to schools in the matter of suspensions and expulsions.
2. This circular is to advise you, in brief terms, about the legislative changes which have been introduced. Guidance on suspension and expulsion arrangements and the best practice guidelines on successful discipline policies and practices are currently being drawn up by a Working Group comprising representatives from schools, the education and library boards, CCMS and the Department. These will be circulated to all schools in the new year.
3. Articles 3, 4, 5 and 6 of the Education (Northern Ireland) Order 1998 came into operation on 21 August 1998. They contain the following provisions:

Article 3 – Responsibility of Board of Governors and Principal for Discipline

4. This Article places a new duty on the Board of Governors, as well as that which is already placed on the principal, to ensure that policies and procedures designed to promote good behaviour and discipline are pursued at the school. In doing so the Board of Governors must have regard to any guidance given by the Department, the education and library board and, in the case of a Catholic maintained school, by CCMS.
5. Although Article 3 came into operation on 21 August 1998, the new duty on Boards of Governors will be effected through the scheme of management of the school when this is amended accordingly. The Department will be writing separately to the appropriate school authorities to make arrangements for amending all schools' schemes of management to take account of recent legislative changes. In the meantime, principals should ensure that their Board of Governors is fully aware of, and in agreement with, the school's discipline/behaviour policy. Some explanatory notes, and a copy of Article 3 are attached as Appendix A.

Article 4 – Power of Member of Staff to Restrain Pupils

6. This Article enables a member of staff of a grant-aided school to use, in relation to any pupil at the school, such force as is reasonable in the circumstances to prevent a pupil from:
 - a. committing an offence;
 - b. causing personal injury to, or damage to the property of, any person (including the pupil himself); or
 - c. engaging in any behaviour prejudicial to the maintenance of good order and discipline at the school or among any of its pupils whether during a teaching session or otherwise.
7. The right of a member of staff to use reasonable force in the circumstances described above applies to teachers at the school **and** to any other members of staff, who with the authority of the principal, have lawful control or charge of pupils – this might for example include classroom assistants, midday supervisors, caretakers or voluntary helpers accompanying pupils on school visits or holidays. The key issue is that any persons other than teachers must be specifically authorised by

the principal to supervise pupils and therefore to have power, where necessary, to use reasonable force. The Department will shortly be issuing detailed guidance on the use of reasonable force.

Article 5 – Detention of Pupils Outside School Hours

8. The Article gives schools specific authority to detain pupils after the end of a school session without the parents' consent providing that the following conditions have been met:

- a. the principal must have previously determined that detention is one of the disciplinary measures to be used in the school and must have made that decision known generally within the school and taken steps to make it known to the parents of all pupils at the school;
- b. the detention must be imposed by the principal or another teacher authorised by the principal;
- c. the detention must be reasonable in all the circumstances, ie its use and duration must be proportionate to the offence and applied on a consistent basis **and** appropriate regard must be given to the age of the pupil, any religious or special education needs he/she may have, and, where necessary, to the parents' ability to arrange suitable alternative transport home;
- d. the parent must have been given at least 24 hours' written notice that the detention is to be imposed.

Guidance on the use of detention as a disciplinary measure will be included in the guidance on disciplinary measures referred to in paragraph 2.

Article 6 – Duty of Education and Library Boards to Prepare Plan for Children with Behavioural Difficulties

9. This Article requires each education and library board to prepare a statement setting out the arrangements it has made or proposes to make for the education of children with behavioural difficulties, including arrangements for the provision of advice and support to schools, both on behavioural matters generally and in relation to individual pupils. Each education and library board is required to consult all schools in its area when preparing its statement and to send a copy of the current statement to the Board of Governors of each school in its area.

Suspension and Expulsion of Pupils

10. The Department made the following regulations on 21 July 1998. They came into force on 1 September 1998.

Schools (Suspension and Expulsion of Pupils) (Amendment) Regulations (Northern Ireland) 1998 – SR 1998 No 255

11. These regulations amend the existing Schools (Suspension and Expulsion of Pupils) Regulations (Northern Ireland) 1995 to enable grant-aided schools to suspend pupils up to a maximum of 45 school days in any school year, rather than 15 school days in any school term as at present.

The education and library boards, the Council for Catholic Maintained Schools and the Boards of Governors of grant-maintained integrated schools, voluntary grammar schools

and voluntary maintained schools, other than Catholic maintained schools, should now amend their schemes for the suspension and expulsion of pupils to reflect the provisions of SR 1998 No 255.

Schools (Expulsion of Pupils) (Appeal Tribunals) (Amendment) Regulations (Northern Ireland) 1998 – SR 1998 No 256

12. These regulations amend the existing Schools (Expulsion of Pupils) (Appeal Tribunals) Regulations (Northern Ireland) 1994 to extend to the Board of Governors of a controlled school, the same rights as the expelling authority (ie the education and library board – the Board of Governors of any other grant-aided school is itself the expelling authority) to make written and oral representations to an expulsion appeal tribunal. In addition these regulations require that in making its decision an expulsion appeal tribunal shall also have regard to the interests of other pupils and teachers in the school.

13. Education and library boards should ensure that the procedure to be followed by expulsion appeal tribunals is revised to meet the provisions of SR 1998 No 256.

14. A copy of each of the amending Regulations may be purchased from the Stationery Office, 16 Arthur Street, Belfast BT1 4GD.