



Circular 1998/25

To: Principals and Boards of Governors of all
Grant-Aided Schools, Education and Library Boards,
Council for Catholic Maintained Schools, Association of
Governing Bodies of Voluntary Grammar Schools,
Northern Ireland Council for Integrated Education,
Teacher Unions

24 September 1998

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 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. This Article gives schools specific authority to detain pupils after the end of a school session without the parents' consent provided 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 - S.R. 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 at a cost of £0.65 (Regulation No. 255) and £1.10 (Regulation No. 256).



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School Performance Branch



**ARTICLE 3 OF EDUCATION (NI) ORDER 1998:
RESPONSIBILITY OF BOARDS OF GOVERNORS AND PRINCIPAL
FOR DISCIPLINE**

General

1. Article 3 defines the duties and powers of the Board of Governors and the principal of a grant-aided school to promote good behaviour and discipline on the part of pupils. These requirements do not apply to a school established in a hospital.

Detailed commentary on Article 3

2. Article 3 replaces Article 124 of the Education Reform (NI) Order 1989 (Discipline in grant-aided schools) and also modifies the provisions previously contained in that Article.

3. A new duty is placed on the Board of Governors of every grant-aided school, through the scheme of management, to ensure that policies designed to promote good behaviour and discipline on the part of pupils are pursued at the school. The Department will be writing to appropriate school authorities about the arrangements for making the amendments to their schemes of management.

4. The scheme of management of every grant-aided school will require the Board of Governors to have a written statement of general principles in respect of discipline and, from time to time, to review that statement. This statement of general principles must be taken into account by the principal in determining the school's discipline policy - see below. There are certain procedural steps which must be followed in relation to the preparation and revision of the statement:

- the Board of Governors is required to consult the principal and the parents of pupils attending the school before making or revising its statement of principles. It is a matter for the Board of Governors to decide how this requirement should be met. In the case of parents such consultation could be done in writing; alternatively a meeting with parents could be arranged;
- the Board of Governors is also required to consider any advice on discipline received from the Department, the relevant education and library board and, in the case of a Catholic maintained school, CCMS;
- where the Board of Governors considers it desirable to delegate to the principal responsibility for determining particular matters relating to discipline or to specify the approach he should use on a particular matter, it is required to notify the principal of such matters and to give the principal guidance.

5. Article 3(3) requires that the scheme of management of every grant-aided school should set out the duties of the principal in respect of discipline: the principal will be required to determine measures, which may include rules and the means of enforcing them, which will :-

- promote self discipline and regard for authority;
- encourage good behaviour and respect for others on the part of pupils;
- secure a standard of pupil behaviour which is acceptable; and
- otherwise regulate the conduct of pupils.

6. When drawing up measures to promote good behaviour principals are required to :-

- act within the current written statement of general principles provided by the Board of Governors; and
- have regard to any guidance given to him by the Board of Governors on specific matters.

7. The principal is required to prepare a written statement of the measures he or she has determined to secure good behaviour and to ensure that a copy is given, free of charge, to the parents of all pupils registered at the school and that copies of the statement are available for inspection at the school.

8. It will be a matter for the principal to determine the standard of behaviour which is acceptable at the school except in those areas or matters which have been determined by the Board of Governors.

9. The new requirements will not come into effect until schools' schemes of management have been amended to reflect them. This will be carried out during 1999. By that time, schools will have received guidance on the preparation by Boards of Governors of their statements of general principles and on other aspects of discipline policies in schools. In the interim, the provisions of Article 124 of the 1989 Order will continue to apply, but Boards of Governors should ensure that they are familiar with, and in agreement with, the statement of school policy on discipline and behaviour prepared by the principal.

