



STATE SCHOOL EXCLUSIONS

This sheet is intended to provide **general legal information** about the law in Queensland. It is not legal advice. If you have a particular legal problem you should contact a solicitor for legal advice. At the end is a list of agencies that might be able to assist you, including legal agencies.

*Please note: the information in this sheet applies to **state schools only**. If you are attending a private school, the school will have its own processes for exclusion and you should ask for a copy of these.*

When can I be excluded?

You can be excluded from school for:

- persistent disobedience (not doing what the teacher or principal asks you to do but not just a one off incident)
- misbehaviour
- conduct, even things done outside of school, that effects other students or that is harmful to the proper running of the school such as being disruptive in class, damaging school property, fighting in the playground or possessing or dealing in drugs in or outside of school.
- being a risk to the safety or wellbeing of other students or staff

AND

- your behaviour is so serious that being suspended is not enough.

You can also be excluded if you are **convicted** of an offence (it doesn't matter if the offence has nothing to do with the school or if it happened outside of school hours or even if it did not happen in Queensland) **and** it would **not be in the best interests** of other students and staff for you to be enrolled at the school.

Usually principals will do exclusions but if the principal thinks someone else needs to make the decision, they can ask the head of Education Queensland, the Chief Executive, to consider excluding you.

Exclusion is a last resort and should only be used where other ways to try and address your behaviour have failed. However, if you are charged with a very serious offence you may be suspended or excluded as the first option because, for example, they think you may be a risk to other students or staff.

What happens if the Principal or the Chief Executive wants to exclude me?

You cannot be excluded without warning. You must first be given a written notice (*Proposed Exclusion Notice*) telling you that they intend to exclude you. This is usually a letter from the school, but the letter could come from the Chief Executive. If you have not already been suspended the notice will also say that you

are suspended until a decision is made whether to exclude you or not.

A principal can only exclude you from their school. A principal can exclude you for either up to 1 year or permanently. The Chief Executive can exclude you from all state schools or specific state schools for up to 1 year or permanently. You cannot be excluded for longer than the period set out in the written notice/letter.

Once you have been given the *Proposed Exclusion Notice*, if you haven't already been suspended, you will be immediately suspended. The suspension lasts until a final decision of the proposed exclusion is made.

Do I have to do school work while I am suspended while waiting for an exclusion decision?

The principal or Chief Executive must arrange for you to be able to access an educational program so you can continue with your education during the suspension. You will be assigned a Regional Case Manager who will support you to engage in another education or training program.

What happens next?

If you have been given a *Proposed Exclusion Notice* threatening to exclude you from your school, the person sending the notice has up to 20 days to make a decision about excluding you from that school. If the Chief Executive is considering excluding you from all state schools or specified state schools they have 30 days from when they send the *Proposed Exclusion Notice* to you to make a decision.

The principal or Chief Executive must consider your reasons properly before making a final decision. If you want help to write a letter it is best to seek legal advice as soon as you get the *Proposed Exclusion Notice*.

Do I have to put my reasons in writing?

Usually your reasons need to be in writing. You can see if someone (like the guidance officer, or one of the agencies under 'Who can help?' below) can meet with you so you can explain why you shouldn't be excluded. The guidance officer can help you write up the list

of reasons you shouldn't be excluded. If you do not agree with what has been written down DO NOT sign it. You should ask the guidance officer to change anything you don't agree with before you sign it.

Can I have more time to write my reasons for not being excluded?

You can ask for more time to prepare your letter. You will only be given more time if you have good reasons. If they decide to give you more time it will usually only be a few days.

What if the decision is not to exclude me?

If the principal or Chief Executive decides not to exclude you, they must tell you this as soon as they can and advise you that your suspension is over and you can come back to school. You will be sent a letter which tells you this and the reasons for it. You may be put on a behaviour plan which you should follow or you will risk further suspensions and possible exclusion.

Returning to school

If you are not excluded or your exclusion was not permanent, the principal may meet with you (and your parents) to talk about a plan for when you return to school. If you were already on a behaviour plan you will need to do what is in the plan when you return to school.

What if the Principal or Chief Executive decides to exclude me?

If you are excluded from a school you can ask the Chief Executive to review the decision. You must do this in writing. You have 30 days to make the submission starting from when you were given the written notice of your exclusion. You must clearly set out the reasons why you say the decision is wrong and any other information that supports your side of the story. Also look at the procedures about exclusion set out in the "Safe, Supportive and Disciplined School Environment Procedure" document on Education Queensland's website at www.det.qld.gov.au to see if the principal or Chief Executive has followed them. If the principal or Chief Executive have not followed those procedures you should include that information in the letter. Contact one of the agencies under 'Who can help?' below if you want help with the letter.

You can also make an application to the Supreme Court for Judicial Review but you should talk to a lawyer if you are considering this.

What can the Chief Executive do?

The Chief Executive can:

- confirm you are excluded
- exclude you but make different decisions about how long you are excluded for OR where you are excluded from
- cancel/set aside the decision (which means you are not excluded) and possibly make a different decision (such as suspend rather than exclude you).

Once the Chief Executive makes a decision they must tell you as soon as they can. Within 7 days of telling you, they must also give you a written notice including the reasons for their decision.

If you are allowed back at school, they will arrange for you to return to school. This can include an interview with the principal and your parents.

What if I disagree with the decision of the Chief Executive?

If the Chief Executive excludes you from one or some specific state schools (whether permanently or not) you can ask the Chief Executive to review that decision (consider everything everyone concerned has to say and to make a decision). You have 30 days to ask for the review and then the Chief Executive has 40 days from when they receive your letter to make a decision. While you are waiting you may be able to enrol in the School of Distance Education.

If the Chief Executive excludes you from all state schools (whether permanently or not) you can apply to QCAT to have the decision reviewed. If the Chief Executive excludes you from one or some particular state schools (whether permanently or not) you can make an application to the Supreme Court for Judicial Review but you should talk to a lawyer if you are considering this.

How does QCAT work?

QCAT's job is to review decisions made by government departments like the Department of Education. QCAT can review the decision by the Chief Executive to exclude you. You have 28 days after you get the notice telling you that you're excluded to apply to QCAT for them to look at your case again.

You will need to use QCAT Form 23 which you can find on the QCAT website www.qcat.qld.gov.au/ or by calling the number below. For help with filling out the form contact one of the people below. Once you

send the form to QCAT they will send you a letter to let you know what is happening. QCAT might decide to contact Education Queensland to invite them to have another look at the decision to exclude you. Contact a lawyer who can help you with this review to QCAT.

What do I have to do if I am not going to school?

If you are excluded from all state schools, the Chief Executive has to arrange for you to have access to an educational program. This is usually called an 'alternate education program'.

What else can I do?

You could contact the Queensland Ombudsman. It is their job to investigate complaints about Queensland Government Departments like Education Queensland. The Ombudsman may make recommendations to Education Queensland after their investigation of your complaint.

If you are permanently excluded from school you can also write to the Chief Executive each year up until you turn 24 asking for the decision to be revoked. You may be able to go back to school if you are able to show that your behaviour has improved or you are no longer a risk to school staff or students. The Chief Executive has forty (40) days to consider your submission and tell you the decision.

Who can help?

Youth Advocacy Centre (YAC) www.yac.net.au **3356 1002**

Hub Community Legal www.communitylegal.org.au **3372 7677**

YFS Legal www.yfs.org.au **3826 1500**

Legal Aid Queensland www.legalaid.qld.gov.au **1300 651 188**

Youth Legal Advice Hotline..... **1800 527 527**

Aboriginal & Torres Strait Islander Legal Service www.atsils.org.au **3025 3888**
or **1800 012 255**
(24hrs 7 days a week)

Queensland Civil and Administrative Tribunal www.qcat.qld.gov.au **1300 753 228**

Queensland Ombudsman www.ombudsman.qld.gov.au **1800 068 908**

Community Legal Centres (CLCs) see www.naclc.org.au for your nearest CLC

Youth Support Co-ordinator, School Chaplain or Guidance Officer at your school. See school office.

This information was last reviewed and updated in January 2020. The Youth Advocacy Centre does not accept responsibility for any action or outcome as a result of anyone relying on the information provided.