

Managing Trespass and Misbehaviour Policy and Procedures

July 2022

Summary

This policy applies to Community Language Schools SA and all member schools.

Table 1: Document Details

Policy Number	ES25
Related Policies	ES01: Child Safe Environments Policy and Procedures ES02: Risk Management Policy ES02C: Risk Management Checklist ES04: Grievance and Complaints Policy and Procedures ES04A: Complaints Form ES08: Emergency and Critical Incident Policy and Procedures ES08A: Incident, Injury, Trauma, and Illness Form ES22: School Safety and Security Policy and Procedures ES22A: Security Checklists ES22B: Security Breach Report ES24: Visitor and Parental Volunteer Policy ES35: Behaviour Support Policy and Procedures ES36: Excursion and Incursion Policy and Procedures
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Table 2: Revision Record

Date	Version	Revision Description
30 th June 2019	1.0	New Policy Developed
18 th January 2021	1.0	<ul style="list-style-type: none"> Added Policies to Related Policies (Table 1)
December 2021	1.1	<ul style="list-style-type: none"> Changed policy names in 'Related Policies' (Table 1) Added content in 'Summary Offences'
July 2022	1.1	<ul style="list-style-type: none"> Administrative updates only

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Managing Trespass and Misbehaviour Policy and Procedures

Introduction

Community Language Schools takes the well-being and safety of all members of the school community seriously. Community Language Schools have developed the following policy and procedures for managing situations when a person(s) trespasses and/or misbehaves on school premises or premises used in connection with the school.

This policy is based on information from the Department for Education and Child Development Procedure for managing trespass and misbehaviour; South Australian Education Regulations 2012; and the *South Australian Summary Offences Act 1953*

Definitions

Authorised Person(s) refers to a member of the police force, school principal or teaching staff, or the occupier, or a person acting on the authority of the occupier.

Misbehaviour occurs when a person on school premises uses offensive language; or risk (or threaten to put at risk) the safety or welfare of another person; or behave (or threaten to behave) in an offensive, disorderly, intimidating or violent manner (Education Regulations 2012 – Regulation 6).

Occupier, in relation to premises, refers to a person in possession or entitled to immediate possession of the premises

Offensive language includes language which is threatening, abusive or insulting.

Premises refer to any land; building or structure used by the school and includes premises that are used by the school and not on school property including any vehicles.

Policy

A person is deemed to be trespassing if they fail to provide sufficient reason for being on the premises after being requested to do so by the school principal or authorised person. In addition, a person is deemed to be trespassing if the nature of the trespass is such as to interfere with the activities and enjoyment of the premises.

Community Language Schools operating on Department of Education premises will consider a person trespassing as: A person is also trespassing if they are on the school premises between 12:00 midnight and 7:00 am without:

- A security pass issued by the Department of Education Chief Executive authorising them to be on the premises at that time; or

- A security pass issued by the Commissioner for Police authorising them to be on the premises at that time; or
- Written permission from the site leader (the Department of Education site Principal or leader) to be on the premises at that time.

A person is also trespassing if they are on the premises without:

- A security pass issued by the Commissioner for Police authorising them to be on the premises at that time; or
- Written permission from the Community Language School Principal; site leader; occupier; owner; or landlord to be on the premises at that time.

Procedure

Managing trespass and misbehaviour on school premises

When the behaviour of trespassers or bona fide visitors poses an immediate threat to any member of Community Language School, it is considered an emergency situation and emergency services (South Australian Police, Ambulance, etc.) will be contacted immediately. Community Language Schools have a dedicated policy outlining the procedures for intruders and lockdown procedures. Please refer to **ES08: Emergency and Critical Incident Policy and Procedures** for further details.

The school principal and staff at an Community Language School will make reasonable attempts to resolve conflicts and disagreements involving bona fide visitors calmly and amicably. All staff will follow the procedures outlined in **ES04: Grievance and Complaints Policy and Procedures**. If a complaint is made, the **ES04A: Complaints Form** will be completed. When an incident of trespass or misbehaviour occurs, the Principal of an Community Language School must:

- Report the incident to the mainstream school Principal; occupier; site leader; owner; or landlord
- Document the action taken to manage the incident, for example:
 - Verbal request to leave the school premises
 - South Australian Police contact
- Document whether the person/people complied or fail to comply with a direction
- Gather witness information and statements
- To the best of their ability, inform the trespasser of the *South Australian Summary Offences Act 1953*

Any person responding to a trespass or misbehaviour incident is required to record the incident using the **ES08A: Incident, Injury, Trauma and Illness Form**. A written description outline the incident is also required. The information recorded should be factual, descriptive, objective and

unambiguous. It is recommended that staff describe what they observed and not draw conclusions outside their professional scope. It is also recommended that staff write down direct conversations and quote any abusive comments made by the person trespassing or misbehaving.

If the incident involved the South Australian Police, then the Principal of an Community Language School must provide the police, upon request, copies of the incident form and report, and correspondence given to the person in relation to their inappropriate conduct (such as warning letters) and the school's response.

Requesting a person to leave school premises

An authorised person may request a person leave the premises of an Community Language School if they have reasonable suspicion that the person is:

- Trespassing; or
- Misbehaving; or
- Committing or threatening to commit any other offence

The person who is trespassing, misbehaving, committing or threatening to commit an offence must not remain on the premises or return or attempt to return to the premises within 24 hours. If a person refuses to leave the authorised person will call the Police for assistance and/or attendance.

Summary Offences Act

In general, these offences are less serious than *indictable offences* and the penalties that can be imposed are not as great. These are crimes which can only be heard and decided by a *magistrate* in the magistrates court are called *summary offences*. Summary offences make up the majority of the so-called common offences.

Under the *Summary Offences Act 1953* several penalties may apply to a person who is trespassing. Staff at Community Language Schools will attempt to inform the person trespassing of the penalties as a means of conveying the seriousness of the act of trespassing. It is not expected that all staff be familiar with the penalties but can be mentioned to incentivise or encourage a person to leave the school premise. The Summary Offences Act 1953 section 17A – Trespasses on premises states:

- The trespasser if, he or she fails to leave the premises forthwith or again trespasses on the premises within 24 hours of being asked to leave, guilty of an offence. Maximum penalty: \$2 500 or imprisonment for 6 months
- A person who, while trespassing on premises, uses offensive language or behaves in such a manner is guilty of an offence. Maximum penalty: \$1 250

- A person who trespasses on premises must, if asked to do so by an authorised person, give his or her name and address to the authorised person. Maximum penalty: \$1 250.
- including most dishonesty offences involving \$2 500 or less (even if the maximum imprisonment is more than two years), but not including robbery, or offences of violence, or an offence that is one of a series of offences of the same or a similar character involving more than \$2 500 in aggregate; and
- Also not including offences of arson or causing a bushfire.

Other examples of summary offences are disorderly behaviour, driving under the influence of alcohol or a drug and minor criminal damage to property. People charged with summary offences cannot be tried by juries even if they would prefer it.

Lockdown Procedures

Lockdown procedures will be implemented in the event that a person refuses to leave the school premises during school hours. Refer to policy **ES08: Emergency and Critical Incident Policy and Procedures** for procedures. In the event of a school lockdown due to a person or persons trespassing, the Principal will complete the **ES08A: Incident, Injury, Trauma and Illness Form**.

Physical Force

Staff will avoid using physical force or attempt to restrain a person who is trespassing or misbehaving. Community Language Schools will implement the procedures for using physical force or physical restraint as outlined in **ES08 Emergency and Critical Incident Policy and Procedures**. Community Language Schools recommends staff to use physical intervention strategies.

References and Further Documentation

- Department for Education (January 2018): Procedure Managing Trespass and Misbehaviour.
- Legal Services Commission: Summary Offences - [Australian Human Rights Commission Act 1986 \(legislation.gov.au\)](#)
- Government of South Australia: Attorney-General's Department (13.2.2018); South Australian Legislation: Education Regulations 2012 - [Summary Offences \(lawhandbook.sa.gov.au\)](#)
- Government of South Australia: Attorney-General's Department (23.1.2018); South Australian Legislation: Summary Offences Act 1953 - [Summary Offences Act 1953 \(legislation.sa.gov.au\)](#)