



## KENORA CATHOLIC DISTRICT SCHOOL BOARD

### 200 Educational Programs & Materials Procedures

#### AP 211: Suspension Appeals and Expulsion of Pupils

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#### 1.0 Suspension Appeal Process

1.1 The adult pupil or parent/guardian may appeal a suspension.

All suspension appeals will be received by the Superintendent of Education.

- An appeal of a suspension does not stay the suspension.
- A person who intends to appeal a suspension must give written notice of his/her intention to appeal the suspension within ten (10) school days of the commencement of the suspension.
- The Board must hear and/or determine the appeal within fifteen (15) school days of receiving the notice of intention to appeal (unless the parties agree to an extension).

1.2 Upon receipt of written notice of the intention to appeal the suspension, the Superintendent of Education:

- Will Promptly advise the school principal of the appeal;
- Will Promptly advise the adult pupil or the parent/guardian that a review of the suspension will take place and invite the appellant to contact the Superintendent of Education to discuss any matter respecting the incident and/or appeal of the suspension; (see the template letter as Appendix 3)
- Will review the suspension (reason, duration, any mitigating or other factors);
- May consult with the principal and Superintendent of Education regarding modification or expunging the suspension;
- Will request a meeting with the adult pupil or the parent/guardian and the principal to narrow the issues and try to effect a settlement, and arrange a date for the appeal before the Discipline Committee;
- Will, where a settlement is not effected, provide notice of the review decision to the adult pupil or parent/guardian.

1.3 Where the suspension is upheld on review and the parent chooses to continue with the appeal, the Superintendent of Education will:

- 1.4 Coordinate the preparation of a written report for the Board. This report will contain at least the following components:
- A report of the incident and rationale for suspension prepared by the principal;
  - A copy of the original suspension letter;
  - A copy of the letter requesting the Suspension Appeal; and
  - A copy of the correspondence with respect to the decision of the Superintendent of Education regarding the suspension review.
- 1.5 Inform the adult pupil or the parent/guardian of the date of the Suspension Appeal; provide a guide to the process for the appeal, and a copy of the documentation that will go to the Discipline Committee. (**See letter template Appendix E**).
- 1.6 Ensure that the item is placed on the Discipline Committee's agenda. The parties in an appeal to the Discipline Committee shall be:
1. The Principal; and
  2. The adult pupil or the parent/guardian, if the appealed the decision.
- 2.0 Student Discipline Suspension Appeal Guideline
- 2.1 The Suspension Appeal shall be held in accordance with the Education Act, The Board's Student Discipline Policy and Student Discipline Procedures.
- 2.2 Appeals of Suspensions will be heard by the Discipline Committee sitting as a committee of three (3) Trustees appointed by the Board. One of the appointed Trustees shall act as Chair of the Discipline Committee. Appeals will be scheduled by the Superintendent Responsible for Discipline.
- 2.3 An adult pupil is a pupil who is 18 years old or older who is 16 or 17 years old and has withdrawn from parental control.
- 2.4 A suspension may be appealed by an adult pupil or the pupil's parent/guardian (the "Appellant").
- 2.5 Parties to a Suspension Appeal shall include the adult pupil or the pupil's parent(s)/guardian(s) and the Principal. The pupil may also attend the Suspension Appeal.
- 2.6 The Superintendent Responsible for Discipline will act as Secretary to the Discipline Committee to facilitate the Appeal, ensure that a copy of the

Principal's Report is forwarded to the Appellant prior to the Appeal and provided to the Discipline Committee at the beginning of the Appeal, and to ensure that any documents, reports, and/or submissions prepared by the Appellant are provided to the Principal at the earliest opportunity and to the Discipline Committee at the beginning of the Appeal.

- 2.7 A lawyer or agent may represent the Appellant. Prior notice of a lawyer's or agent's attendance at the Appeal must be provided to the Superintendent Responsible for Discipline. If prior notice is not provided, the Suspension Appeal may be rescheduled.
  - 2.8 The Discipline Committee and /or the Principal may exercise the right to legal counsel.
  - 2.9 The Principal will prepare a report summarizing the incident, the evidence relied upon, and the rationale for the discipline imposed, including the pupil's disciplinary and academic history, any progressive discipline strategies that have been used, and any mitigating and other factors that may be applicable.
- 3.0 The Discipline Committee of the Board may decide that:
- the Suspension was justified and should be upheld; or
  - the Suspension was justified but that the number of days imposed was too many, in which case the Discipline Committee may reduce the length of the Suspension and amend the record of suspension accordingly.
  - the Suspension was justified, but that the record of Suspension be removed after a period of time if there are no further incidents requiring discipline;
  - the Suspension was not justified, in which case the record of Suspension will be expunged, and the pupil will be permitted to return to school, if the Suspension remains outstanding; or
  - such other order as the Discipline Committee considers appropriate.
- 3.1 When making their determination the Discipline Committee considers appropriate.
- the Principal's Report and submissions;
  - the submissions and any other information provided by the Appellant and the student; and
  - the application of an applicable mitigating and other factors.
- 3.2 The Discipline Committee may give such directions or make such orders at a Suspension Appeal as it considers necessary for the maintenance of order at

the Appeal. Should any person disobey or fail to comply with any such order and direction, a Trustee may call for the assistance of a police officer to enforce the direction.

- 3.3 The Discipline Committee will wait for thirty (30) minutes after the time communicated for the commencement of the Suspension Appeal. If the Appellant(s) and/or their representative have not yet attended and notice that they may be late has not been provided, the Discipline Committee may proceed to hear the Appeal or dismiss the Appeal in their absence.
- 3.4 The Superintendent Responsible for Discipline will invite the parties into the Discipline Committee meeting room and will introduce the parties to the Discipline Committee
- 3.5 The Superintendent Responsible for Discipline will introduce the Discipline Committee and will indicate:
  - that they have been appointed by the Board to hear the matter;
  - that they are not connected as Trustees to the school in question;
  - that they have had no prior involvement with the matter that has come before them;
  - that this matter will be heard In Camera (in private); and
  - that the decision of the Discipline Committee is final.
- 3.6 The Superintendent Responsible for Discipline will call the Suspension Appeal to order.
- 3.7 The Superintendent Responsible for Discipline will outline:
  - the process to be followed during a Suspension Appeal;
  - the matter on appeal before the Discipline Committee, including the Suspension that was imposed and the infraction for which the pupil was suspended.
- 3.8 The Superintendent Responsible for Discipline will distribute copies of the Principal's Report and any documents submitted by or to be submitted by the Appellant to the Discipline Committee. The Discipline Committee may choose to have a brief recess in order to read the reports and document.
- 3.9 The Administration will be invited to make a presentation.
  - Trustees may ask questions of clarification through the Chair.

- 4.0 The Appellant will be invited to make an oral presentation.
- The Appellant will be invited to respond to Administration's presentation.
  - Trustees may ask questions of clarification through the Chair.
- 4.1 The pupil will be invited to make a statement on his/her own behalf to the Discipline Committee.
- 4.2 Trustees may ask questions of clarification through the Chair.
- 4.3 The Administration will be invited to respond to the Appellant's and pupil's presentation, but only with respect to issues the Administration has not previously addressed.
- 4.4 At the conclusion of both presentations, the Appellant and the Administration will be invited to make summary statements but may not introduce new issues. The Discipline Committee may choose to have a brief recess prior to hearing the summary statements.
- 4.5 Trustees may ask final questions of clarification.
- 5.0 The Superintendent Responsible for Discipline will explain that:
- all persons, except the Discipline Committee, will be asked to leave the room while the Trustees deliberate and make their decision;
  - the Superintendent Responsible for Discipline will be informed of the decision by the Discipline Committee and will relay this decision to the parties orally at the earliest opportunity.
- 5.1 Written notice shall be provided to the Appellant informing them of the decision of the Discipline Committee.
- 5.2 The decision of the Discipline Committee is final.

## 6.0 Electronic Hearings

The Committee may hold a hearing by telephone conference or video conference or other automated means for the determination of any or all issues, in the same manner as an oral hearing

The Committee shall not hold an electronic hearing if a party satisfies the Committee that holding an electronic rather than oral hearing is likely to cause the party significant prejudice.

Notwithstanding the above, in exceptional circumstances, the Chair of the Committee may order at any time prior to the commencement of the hearing that the hearing proceed by way of telephone or video conference if a member or members of the Committee are not able to attend in person due to inclement weather or personal exigencies which prevent the member or members from attending in person at the hearing. Nevertheless, at least one member of the Committee should be physically present for the hearing.

The Discipline Committee will consider based on the written and/or oral submissions of both parties, whether the decision to discipline and the discipline imposed was reasonable in the circumstances, and shall either:

- Confirm the suspension and its duration; or
- Confirm the suspension but shorten its duration and amend the record, as necessary; or
- Quash the suspension and order that the record be expunged.

The decision of the Discipline Committee is final. The decision shall be communicated to the appellant in writing (see the template letters as **Appendix F1**).

## 7.0 Re-Entry

Following a suspension of six (6) or more **school** days, a re-entry meeting will be held with school and board staff, the pupil, and the pupil's parent/guardian if possible to provide positive and constructive redirection for the pupil. Where the pupil has participated in an ASP, the pupil's success in achieving the goals outlined in the SAP will be reviewed with the adult pupil or the parent/guardian of the pupil. Further programs and services might be recommended by the principal for the purpose of achieving additional or greater success in meeting the goals outlined in the SAP.

## 8.0 Expulsion of Pupils

- 8.1 **Subject to the Factors to Consider Before Deciding to Impose a Suspension Below**, reasonable grounds to believe that a pupil has committed one or more infractions outlined below on school property, during a school-related activity or event, and/or in circumstances where the infraction has an impact on the school climate, the principal **will suspend the pupil. (See Appendix D – Suspension Pending Expulsion)**

The principal will also contact the police consistent with the Police and School Response Protocol if the infraction the pupil is suspected of committing requires such contact. When in doubt, the principal will consult with his or her Superintendent.

The enumerated activities are:

1. Possessing a weapon, including possessing a firearm;
2. Using a weapon to cause or to threaten bodily harm to another person;
3. Committing physical assault on another person that causes bodily harm requiring treatment by a medical practitioner;
4. Committing sexual assault;
5. Trafficking in weapons illegal and/or restricted drugs;
6. Committing robbery;
7. Giving alcohol to a minor;
8. An act considered by the principal to be significantly injurious to the moral tone of the school and/or the physical or mental well-being of others;
9. A pattern of behavior that is so inappropriate that the pupil's continued presence is injurious to the effective learning and/or working environment of others;
10. Activities engaged in by the pupil on or off school property that cause the pupil's continuing presence in the school to create an unacceptable risk to the physical or mental well-being of other person(s) in the school or Board.
11. Activities engaged in by the pupil on or off school property that have caused extensive damage to the property of the Board or to goods that are/were Board property;

12. The pupil has demonstrated through a pattern of behavior that s/he has not prospered by the instruction available to him or her and that s/he is persistently resistant to making changes in behavior which would enable him or her to prosper; or
13. Any act considered by the principal to be a serious violation of the Board or school Code of Conduct.

#### 9.0 Factors to Consider Before Deciding to Impose a Suspension

When deciding whether or not to impose a suspension pending a possible recommendation for expulsion, the principal will make every effort to consult with the pupil, where appropriate, and the pupil's parent/guardian, if the pupil is not an adult pupil, to identify whether any mitigating factors might apply in the circumstances.

#### 9.1 Mitigating Factors

The mitigating factors to be considered by the principal before deciding whether to impose a suspension are:

- Whether the pupil has the ability to control his or her behavior;
- Whether the pupil has the ability to understand the foreseeable consequences of his or her behavior; and
- Whether the pupil's continuing presence in the school does or does not create an unacceptable risk to the safety of any other individual at the school.

If a pupil does not have the ability to control his or her behavior and does not understand the foreseeable consequences of his/her behavior, the principal will not suspend the pupil. Alternative discipline and/or other intervention may be considered by the principal in such circumstances.

If the pupil does not have the ability to control his or her behavior and does not understand the foreseeable consequences of his/her behavior, but poses an unacceptable risk to the safety of others in the school, the principal will consult with his/her Superintendent regarding appropriate accommodations and/or strategies that might be instituted to ensure pupil and staff safety.

## 9.2 Suspension Pending Recommendation for Expulsion

If the pupil is to be suspended pending an investigation, the pupil should be suspended up to twenty (20) school days. If the pupil has been suspended pending an investigation to determine whether the pupil will be recommended for expulsion, the principal must assign the pupil to a program for suspended pupils (ASP).

If the pupil has been suspended for twenty (20) school days, the principal must undertake an investigation to determine whether to recommend to the Discipline Committee that the pupil be expelled.

## 9.3 Procedural Steps When Imposing a Suspension

When imposing a suspension the principal is required to affect the following procedural steps:

- Within 24 hours of the decision, the principal must make all reasonable efforts to orally inform the adult pupil or the parent/guardian of the suspension;
- The principal must inform the pupil's teacher(s) of the suspension;
- The principal must provide written notice of the suspension to the adult pupil or the parent/guardian and pupil and the Superintendent of Education. The written notice of suspension will include:
  1. The reason for suspension;
  2. The duration of the suspension;
  3. Information about the program for suspended pupils the pupil is assigned to;
  4. Information about the investigation the principal is conducting to determine whether to recommend expulsion;
  5. A Statement that there is no immediate right to appeal the suspension. Any appeal must wait until the principal decides whether to recommend an expulsion, and if the principal decides not to recommend an expulsion, a statement that the suspension may be appealed to the Discipline Committee, and if the principal decides to recommend an expulsion that the suspension may be addressed at the expulsion hearing.
- Every effort should be made to include the school work (unless the pupil is an adult pupil) with the letter of suspension to the pupil and the pupil's parent/guardian (unless the pupil is an adult pupil) on the day the pupil is suspended if the letter is provided to the pupil to take

home. If this is not possible because the pupil and/or his/her parent/guardian is not available, the letter should be mailed, couriered, faxed or e-mailed to the home address that day;

- If notice is sent by mail, fax or e-mail, the principal will ensure that the work provided to the pupil will be available for the pupil's parent/guardian (unless the pupil is an adult pupil) or designate to pick-up from the school the day the pupil is suspended or the following school day, if the suspension is between two (2) and five (5) school days.
- If notice is sent by mail or courier, it will be deemed to have been received on the fifth school day after it was sent.
- If notice is sent by fax or e-mail, it is deemed to have been received the first school day after it was sent.
- The principal will ensure that the school work will be available on the day the pupil is suspended or on the following school day.
- Where the incident is a serious violent incident such as possession of weapons, physical assault causing serious bodily harm, sexual assault, robbery, extortion or hate motivated violence; consideration should be given to filling out and filing a Violent Incident Form in the pupil's Ontario Student Record. **(See the Board Violent Incident Form 57)**

#### 9.4 Alternative Suspension Program

Where a pupil has been suspended pending an investigation to determine whether to recommend an expulsion the pupil will be assigned to an alternative program for pupils subject to lengthy suspension (Alternative Suspension Program or ASP).

A pupil cannot be compelled to participate in an ASP. Should the adult pupil or the parent/guardian choose not to have the pupil participate in an ASP, the pupil will be provided with school work consistent with the Ontario curriculum or that pupil's modified and or alternative curriculum to be completed at home for the duration of his/her suspension. This school work will be available at the school for pick-up by the adult pupil's designate or the parent/guardian or a designate at regular intervals during the suspension period beginning the school day after the adult pupil or the parent/guardian refuses to participate in as ASP.

A Student Action Plan (SAP) will be developed for every pupil who agrees to participate in an ASP.

Agreement or refusal to participate in an ASP may be communicated to the school orally by the adult pupil or the parent/guardian. Where the pupil or his/her parent/guardian declines the offer to participate in an ASP, the principal shall record the date and time of such refusal.

#### 9.5 Planning Meeting

For pupils subject to a suspension pending an investigation to determine whether to recommend an expulsion that choose to participate in an ASP, the principal of the school or designate will hold a planning meeting for the purpose of developing the SAP.

- The adult pupil or the parent/guardian and pupil (where appropriate) as well as any appropriate teaching and support staff will be invited to participate in the planning meeting.
- The planning meeting will be scheduled to occur within two (2) school days of the pupil or the parent/guardian informing the school that the pupil will participate in an ASP.
- If the adult pupil or the parent/guardian is not available to participate in the planning meeting, the meeting will proceed in their absence and a copy of the SAP will be provided to them following the meeting.
- During the planning meeting the principal or designate will review the issues to be addressed in the pupil's SAP.

#### 9.6 Student Action Plan

A pupil subject to suspension pending an investigation to determine whether to recommend an expulsion will be provided with both academic and non-academic supports, which will be identified in the pupil's SAP.

- The SAP will be developed under the direction of the principal of the school with assistance, as appropriate, from the principal of alternative programs, vice-principal of the school, guidance counselor, special education teacher, classroom teacher, CYW and/or social worker.
- The principal will make every effort to complete the SAP within five (5) school days following the adult pupil or the parent/guardian informing the school that the pupil will participate in an ASP.

- This timeline will be communicated to the adult pupil or the parent/guardian if they are unable to attend the planning meeting for the purpose of providing input.
- Once completed, the SAP will be shared with the adult pupil or the parent/guardian and pupil and all necessary staff to facilitate implementation.
- A copy of the SAP will be stored in the pupil's Ontario Student Record until such time as it is no longer conducive to the improvement of instruction of the pupil.
  
- The SAP will identify:
  1. The incident for which the pupil was suspended;
  2. The progressive discipline steps taken prior to the suspension, if any;
  3. Any alternative discipline measures imposed in addition to the suspension;
  4. Any other disciplinary issues regarding the pupil that have been identified by the school;
  5. Any learning needs or other needs that might have contributed to the underlying infraction resulting in discipline;
  6. Any program(s) or services(s) that might be provided to address those learning or other needs;
  7. The academic program to be provided to the pupil during the suspension period and details regarding how the academic program will be accessed by the pupil;
  8. Where the pupil has an IEP, information regarding how the accommodations/modifications of the pupil's academic program will be provided during the period of suspension;
  9. The non-academic program and services to be provided to the pupil, if applicable, during the suspension and details regarding how that non-academic program and those services will be accessed; and
  10. The measurable goals the pupil will be striving to achieve during the period of suspension.

#### 9.7 Principal's Investigation

The principal will conduct an investigation promptly following the suspension of the pupil to determine whether to recommend to the Discipline Committee that the pupil be expelled. As part of the investigation, the principal will consult with the Superintendent of Education regarding any issues of process and/or timing for conducting the

investigation which must be completed at the earliest opportunity as well as the substantive decisions whether or not to recommend that the pupil be expelled. Should the decision be made to refer to the pupil to the Discipline Committee with a recommendation for expulsion, the pupil must be referred to and dealt with by the Discipline Committee within twenty (20) school days from the date of suspension (unless timelines are extended on consent).

Any police investigation will be conducted separately from the principal's inquiry.

As part of the investigation, the principal will:

1. Make all reasonable efforts to speak with the adult pupil or the parent/guardian and pupil;
2. Include interviews with witnesses who the principal determines can contribute relevant information to the investigation;
3. Make every reasonable effort to interview any witnesses suggested by the pupil, or the parent/guardian; and
4. Consider the mitigating and other factors when determining whether to recommend to the Discipline Committee that the pupil be expelled.

## 9.8 Mitigating Factors

The Mitigating factors to be considered by the principal before deciding whether to recommend an expulsion are:

1. Whether the pupil has the ability to control his or her behavior;
2. Whether the pupil has the ability to understand the foreseeable consequences of his or her behavior; and
3. Whether the pupil's continuing presence in the school does or does not create an unacceptable risk to the safety of any other individual at the school.

## 9.9 Other Factors to be Considered

Where the pupil is able to control his/her behavior and/or is able to understand the foreseeable consequences of his/her behavior, the principal will consider whether the following factors mitigate the length of a suspension and whether further investigation should be undertaken to recommend that the pupil be expelled.

1. The pupil's academic, discipline and personal history;
2. Whether progressive discipline has been attempted with the pupil, and if so, the progressive discipline approach(es) that has/have been attempted and any success or failure;
3. Whether the infraction for which the pupil might be disciplined was related to any harassment of the pupil because of race, ethnic origin, religion, creed, disability, gender or gender identity, sexual orientation or to related harassment for any other reason;
4. The impact of the discipline on the pupil's prospects for further education;
5. The pupil's age; where the pupil has an IEP or disability related needs,
  - Whether the behavior causing the incident was a manifestation of the pupil's disability;
  - Whether appropriate individualized accommodation has been provided; and
  - Whether a suspension is likely to result in aggravating or worsening the pupil's behaviour or conduct or whether a suspension is likely to result in a greater likelihood of further inappropriate conduct; and
6. Whether or not the pupil's continuing presence at the school creates an unacceptable risk to the safety of anyone in the school.

## 9.10 Progressive Discipline

In reviewing whether progressive discipline approach(es) has/have been attempted with the pupil, and if so, the progressive approach(es) that has/have been attempted and any success or failure, the principal will consider the following:

1. Whether the teacher, principal or designate has utilized early and/or ongoing intervention strategies to prevent unsafe or inappropriate behaviours, such as: contact with parent(s), oral reminders, review of

expectations, written work assignments with a learning component, assigning the pupil to volunteer services to the community, conflict mediation and resolution, peer mentoring, referral to counseling, and/or consultation.

2. In appropriate circumstances, whether the principal or designate has used a progressive discipline approach to address inappropriate behaviour for which a suspension could have been imposed, such as meeting(s) with the parent(s), pupil, and principal, referral of pupil to a community agency for anger management or substance abuse, detentions, withdrawal of privileges, withdrawal from class, restitution for damages, restorative practices, and/or transfer.

#### 9.11 Consultation

Before making a decision, the principal will make every effort to consult with the pupil and the pupil's parent/guardian (unless the pupil is an adult pupil).

### 10.0 Decision Not to Recommend Expulsion

- 10.1 Following the investigation and consideration of the mitigating and other factors, if the principal decides not to recommend to the Discipline Committee that the pupil be expelled, the principal must:

1. Consider whether alternative discipline is appropriate in the circumstances;
2. Uphold the suspension and its duration;
3. Uphold the suspension and shorten its duration and amend the record accordingly; or
4. Withdraw the suspension and expunge the record.

If the Principal has decided not to recommend an expulsion of the pupil, the principal will provide written notice of this decision to the adult pupil and the parent/guardian and pupil. The notice shall include:

1. A statement of the principal's decision not to recommend expulsion to the Discipline Committee;
2. A statement indicating whether the suspension has been upheld and shortened, or withdrawn;

3. If the suspension has been upheld or upheld and shortened, information about the right to appeal the suspension to the Discipline Committee, including:
  - a. A copy of the Board policies and procedures regarding suspension appeals; (See the template letter Appendix E)
  - b. Contact information for the Superintendent of Education;
  - c. A statement that written notice of an intention to appeal must be given with five (5) school days following receipt by the party of notice of the decision not to recommend expulsion; or
  - d. If the length of the suspension has been shortened, notice that the appeal is of the shortened length of the suspension. (See the template letter as Appendix F2)

#### 10.2 Recommendation to the Board for an Expulsion Hearing

If a principal, in consultation with the Superintendent of Education, determines that a referral for expulsion is warranted, the principal must refer the recommendation for expulsion to the Discipline Committee to be heard within twenty (20) school days from the date the principal suspended the pupil, unless the parties to the expulsion hearing agree upon a later date.

For the purposes of the expulsion proceeding, the principal will:

- 10.3 Prepare a report to be submitted to the Discipline Committee and provide the report to the pupil, the pupil's parent or guardian (unless the pupil is an adult pupil) prior to the hearing. The report will include;
  - a. A summary of the findings the principal made in the investigation;
  - b. An analysis of which, if any, mitigating or other factors might be applicable.
  - c. A recommendation of whether the expulsion should be from the school or from the Board; and
  - d. A recommendation regarding the type of school that would benefit the pupil if the pupil is subject to a school expulsion, or the type of program that might benefit the pupil if the pupil is subject to a Board expulsion.

- 10.4 Provide written notice of the expulsion hearing to the adult pupil or the parent/guardian. The notice shall include:
- a. A statement that the pupil is being referred to the Discipline Committee to determine whether the pupil will be expelled for the activity that resulted in suspension;
  - b. A copy of the Board's policies and procedures governing the hearing before the Discipline Committee;
  - c. A copy of the Board Code of Conduct and School Code of Conduct;
  - d. A copy of the suspension letter;
  - e. A statement that the pupil and /or his or her parent/guardian has the right to respond to the principal's report in writing;
  - f. Information about the procedures and possible outcomes of the expulsion hearing, including that:
    1. If the Discipline Committee does not expel the pupil they will either confirm, confirm and shorten, or withdraw the suspension; (See letter templates Appendix F1, F2, G & J)
    2. Parties have the right to make submissions with respect to the suspension;
    3. Any decision with respect to the suspension is final and cannot be appealed;
    4. If the pupil is expelled from the school, they will be assigned to another school; (See letter template Appendix H)
    5. If the pupil is expelled from the Board, they will be assigned to a program for expelled pupils; (See letter template Appendix I)
    6. If the pupil is expelled there is a right of appeal to the Child and Family Services Review Board.
- 11.0 The Superintendent of Education will:
1. Arrange a meeting with the adult pupil or the parent/guardian and pupil and the principal, as appropriate.
    - a. If a meeting is arranged, the Superintendent of Education will review the Discipline Committee process for expulsion hearings, as well as respond to any questions or concerns the pupil or the parent/guardian may have regarding the process or incident; and

- b. If a meeting is arranged, during the meeting the Superintendent of Education may assist to narrow the issues and identify agreed upon facts.
2. Will prepare a package of documents for the Discipline Committee, which will include at least the following components:
  - a. a copy of the Principal's Report; and
  - b. a copy of the original suspension letter and the notice of expulsion sent to the adult pupil or pupil's parent/guardian.
3. Will inform the adult pupil or the pupil's parent/guardian of the date and location of the expulsion hearing will provide a copy of the Expulsion Hearing Rules, and a copy of the documentation to go to the Discipline Committee.
4. Will ensure that the item is placed on the Discipline Committee agenda.

12.0 Hearing before the Discipline Committee (See Appendix H)

- 12.1 If the principal recommends expulsion, the Discipline Committee shall hold a hearing. Parties before the Discipline Committee will be:
  1. The principal; and
  2. The adult pupil or the parent/guardian.
- 12.2 If a pupil is not a party. S/he has the right to be present at the expulsion hearing and to make submissions on his/her own behalf.
- 12.3 The hearing will be conducted in accordance with the Rules of the Discipline Committee and the Guideline for Expulsion Hearings:
  1. The Discipline Committee shall consider oral and written submissions, if any, of all parties;
  2. The Discipline Committee shall solicit and consider the views of all parties with respect to whether, if an expulsion is imposed, the expulsion should be a school expulsion or a Board expulsion;
  3. The Discipline Committee shall solicit and consider the views of all parties with respect to whether, if an expulsion is not imposed, the suspension should be confirmed, shortened or withdrawn; and
  4. Such other matters as the Discipline Committee considers appropriate.

- 12.4 In determining whether to impose an expulsion the Discipline Committee shall consider the following factors:
- 12.5 The mitigating and other factors:
- a. Whether the pupil has the ability to control his or her behavior;
  - b. Whether the pupil has the ability to understand the foreseeable consequences of his or her behavior;
  - c. Whether the pupil's continuing presence in the school does or does not create an unacceptable risk to the safety of any other individual at the school;
  - d. The pupil's academic, discipline and personal history;
  - e. Whether progressive discipline has been attempted with the pupil, and if so, the progressive discipline approach(es) that has/have been attempted and any success or failure;
  - f. Whether the infraction for which the pupil might be disciplined was related to any harassment of the pupil because of race, ethnic origin, religion, creed, disability, gender or gender identity, sexual orientation or to related harassment for any other reason;
  - g. The impact of the discipline on the pupil's prospects for further education;
  - h. The pupil's age;
  - i. Where the pupil has an IEP or disability
    - i. Whether the behavior causing the incident was a manifestation of the pupil's disability;
    - ii. Whether appropriate individualized accommodation has been provided; and
    - iii. Whether an expulsion is likely to result in aggravating or worsening the pupil's behavior or conduct or whether an expulsion is likely to result in a greater likelihood of further inappropriate conduct; and
  - j. Whether or not the pupil's continuing presence at the school creates an unacceptable risk to the safety of anyone in the school.

Where there is a conflict in the evidence presented by the parties on the issue of whether the pupil committed the infraction, the Discipline Committee may request further evidence as set out in the Expulsion Hearing Rules, subject to the requirements that the hearing take place within 20 school days, or the Discipline Committee may assess the evidence and determine whether, on a balance of probabilities, it has been established that it is more probable than not that the pupil committed the infraction.

### 13.0 No Expulsion

13.1 If the Discipline Committee decides not to expel the pupil, the Board shall take the submissions of the parties into account, including mitigating and other factors, in determining whether to:

1. Consider whether alternative discipline is appropriate in the circumstances
2. Uphold the suspension and its duration;
3. Uphold the suspension and shorten its duration and amend the record accordingly; or
4. Quash the suspension and expunge the record such that no record of the suspension remains in the Ontario Student Record.
5. Make such other orders as the Discipline committee considers appropriate.

The Discipline Committee shall give written notice to all parties of the decision not to impose an expulsion and the decision with respect to the suspension.

The Discipline Committee's decision with respect to the suspension is final.

### 14.0 Expulsion

14.1 In the event the Discipline Committee decides to impose an expulsion on the pupil, the Discipline Committee must decide whether to impose a Board expulsion or a school expulsion. In determining the type of expulsion, the Discipline Committee shall consider the following factors:

14.2 The mitigating and other factors:

- a. Whether the pupil has the ability to control his or her behavior;
- b. Whether the pupil has the ability to understand the foreseeable consequences of his or her behavior;
- c. Whether the pupil's continuing presence in the school does or does not create an unacceptable risk to the safety of any other individual at the school;
- d. The pupil's academic, discipline and personal history;
- e. Whether progressive discipline has been attempted with the pupil, and if so, the progressive discipline approach(es) that has/have been attempted and any success or failure;
- f. Whether the infraction for which the pupil might be disciplined was related to any harassment of the pupil because of race, ethnic

- origin, religion, creed, disability, gender or gender identity, sexual orientation or to related harassment for any other reason;
  - g. The impact of the discipline on the pupil's prospects for further education;
  - h. The pupil's age;
  - i. Where the pupil has an IEP or disability related needs,
    - i. Whether the behavior causing the incident was a manifestation of the pupil's disability;
    - ii. Whether appropriate individualized accommodation has been provided; and
    - iii. Whether a school or Board expulsion is likely to result in aggravating or worsening the pupil's behavior or conduct or whether it is likely to result in a greater likelihood of further inappropriate conduct; and
  - j. Whether or not the pupil's continuing presence at the school creates an unacceptable risk to the safety of anyone on the school.
- 14.3 All submissions and views of the parties;
- 14.4 Any written response to the principal's report provided before the completion of the hearing; and
- 14.5 Such other matters as the Discipline Committee considers appropriate.
- 14.6 Where the Discipline Committee decides to impose a school expulsion, then the Discipline Committee must assign the pupil to another school.
- 14.7 Where the Discipline Committee decides to impose a Board expulsion, then the Discipline Committee must assign the pupil to a program for expelled pupils. (See Procedure Home Instruction for Expelled and Suspended Students)
- 14.8 The Discipline Committee must promptly provide written notice of the decision to expel the pupil to all parties, and the pupil, if he or she was not a party. The written notice shall include:
- 1. The reason for the expulsion;
  - 2. A statement indicating whether the expulsion is a school expulsion or a Board expulsion;
  - 3. Information about the school or program to which the pupil has been assigned; and

4. Information about the right to appeal the expulsion, including the steps to be taken. (See the template letters as Appendix 10A and Appendix 10B)

Once the principal has received notice that a pupil has been expelled, s/he must create a SAP in a manner consistent with the Board's policy and procedures for programs for expelled pupils.

An expelled pupil is a pupil of the Board, even where s/he attends a program for expelled pupils at another school board, unless s/he does not attend the program or registers at another school board.

#### 15.0 Re-entry Requirements Following and Expulsion

- 15.1 A pupil who is subject to a Board expulsion is entitled to apply in writing for re-admission to a school of the Board once s/he has successfully completed a program for expelled pupils and has satisfied the objectives required for completion of the program, as determined by the person who provides the program.
- 15.2 The Board shall re-admit the pupil and inform the pupil in writing of the re-admission.
- 15.3 A pupil who is subject to a school expulsion may apply in writing to the Board to be re-assigned to the school from which s/he was expelled.
  1. The Board will consider whether re-attendance will have a negative impact on the school climate, including on any victims, where applicable;
  2. The pupil will be required to demonstrate that they have learned from the incident and have sought counseling, where appropriate;
  3. The pupil will be required to sign a Declaration of Performance form provided by the Board (Appendix 11);
  4. The Board, in its sole discretion, may determine that a different school than the one from which the pupil was expelled is a more appropriate placement for the pupil.

16.0 Appeal of the Board Decision to Expel

16.1 The adult pupil or the parent/guardian may appeal a Board decision to the Child and Family Services Review Board.

16.2 The Child and Family Services Review is designated to hear and determine appeals of the school Board decisions to expel pupils.

16.3 The decision of the Child and Family Services Review Board is final.

Legal Reference:

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