



## **KENORA CATHOLIC DISTRICT SCHOOL BOARD**

### **300 Student Procedures**

#### **AP 310: Safe Schools – Student Expulsion**

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The Kenora Catholic District School Board believes it is important that all pupils must have a safe, caring accepting and faith-filled school environment in order to maximize their learning potential and to ensure a positive school climate for all members of the school community.

Pursuant to the Education Act, principals are required to maintain proper order and discipline in schools, and pupils are responsible to the principal for their conduct and are required to accept such discipline as would be exercised by a reasonable, kind, firm and judicious parent. A principal may delegate some disciplinary responsibilities to a vice-principal and/or teacher of the school in accordance with the Education Act, Ministry of Education policies and board procedures. In such circumstances, the delegation of authority and the authority delegated will be clearly identified in board procedures, as well the supports available to individuals in receipt of the delegated authority.

To meet the goal of creating a safe, caring, and accepting school environment, the Kenora Catholic District School Board supports the use of positive practices as well as consequences for inappropriate behavior, including progressive discipline, which includes suspension and expulsion where necessary.

The Board considers homophobia, gender based violence, and harassment on the basis of sex, gender identity, sexual orientation, race, colour, ethnicity, disability and/or any other immutable characteristic or ground protected by the Human Rights Code, as well as inappropriate sexual behaviour unacceptable. Further, the Board supports the use of positive practices to prevent such behaviour and authorizes principals, or their delegates, to impose consequences in appropriate circumstances, up to and including a referral to the Discipline Committee of the Board for expulsion from all schools.

In accordance with the Education Act, the Board, on principal recommendation, may expel a student from its schools on the grounds that the conduct of the student is so refractory that the presence of the student is injurious to other students or individuals in the school or school system.

#### **1. Activities Leading to Possible Expulsion**

- 1.1** Possessing a weapon, including possessing a firearm
- 1.2** Using a weapon to cause or to threaten bodily harm to another person
- 1.3** Committing physical assault on another person that causes bodily harm requiring treatment by a medical practitioner

- 1.4 Committing sexual assault
- 1.5 Trafficking in weapons or possessing illegal drugs
- 1.6 Committing robbery
- 1.7 Giving alcohol to a minor
- 1.8 An act considered by the principal to be significantly injurious to the moral tone of the school and/or to the physical or mental well-being of others
- 1.9 A pattern of behaviour that is so inappropriate that the pupil's continued presence is injurious to the effective learning and/or working environment of others
- 1.10 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 persons in the school or Board
- 1.11 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 on board property
- 1.12 The pupil has demonstrated through a pattern of behaviour 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 behaviour which would enable him or her to prosper
- 1.13 Any act considered by the principal to be a serious violation of the board or school Code of Conduct

## **2. Mitigating Factors**

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

- 2.1 Whether the pupil has the ability to control his or her behaviour
- 2.2 Whether the pupil has the ability to understand the foreseeable consequences of his or her behaviour
- 2.3 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.

### **3. Other Factors to be Considered**

In considering whether to recommend to the Board that the student be expelled, the principal will take into account the following other factors as prescribed by the regulations:

- 3.1** The student’s academic, discipline and personal history
- 3.2** Whether a progressive discipline approach has been used with the student
- 3.3** Whether the infraction for which the student may be or is being expelled was related to any harassment of the student because of his/her race, ethnic origin, religion, disability, gender or sexual orientation or to any other harassment
- 3.4** How the expulsion would affect the student’s education
- 3.5** The age of the student
- 3.6** Whether or not the student’s continuing presence at the school creates an unacceptable risk to the safety of anyone in the school
- 3.7** Where the student has an IEP:
  - (1) whether the behaviour causing the incident was a manifestation of the student’s disability
  - (2) whether appropriate individualized accommodation has been provided
  - (3) whether an expulsion is likely to result in aggravating or worsening the student’s behaviour or conduct or whether an expulsion is likely to result in a greater likelihood of further inappropriate conduct

### **4. Administrative Procedures**

- 4.1** Students being considered for expulsion shall be suspended until such time as the principal’s investigation is completed and /or an expulsion hearing is held.
- 4.2** The principal will inform the police of the violation, where appropriate.
- 4.3** In accordance with the Education Act the principal shall in consultation with the Superintendent of Education complete his/her investigation and implement a decision/recommendation, or the Board shall, complete its expulsion hearing and implement its decision within 20 school days following the date of suspension by the principal. The deadline may be extended upon agreement of all parties.

**4.4** As part of the principal's investigation, the principal will:

- (1) Make all reasonable efforts to speak with the following persons:
  - the student
  - the student's parent/guardian, unless the student is at least 18 years old or 16 or 17 years old and has withdrawn from parental control
  - any other person who can contribute relevant information to the investigation
- (2) In the presence of a staff member chosen by the principal, question any witnesses who have any direct knowledge of the circumstances at issue
- (3) Examine any pertinent documentation or other physical evidence
- (4) Ensure that the student has a fair opportunity to respond to all allegations and evidence against him/her.

**4.5** If on concluding the investigation, the principal decides not to recommend to the Board that the student be expelled, the principal will:

- (1) Consider whether alternative discipline is appropriate in the circumstances
- (2) Confirm the suspension and the duration of the suspension
- (3) Confirm the suspension but shorten its duration, even if the suspension has already been served, and amend the record of the suspension accordingly
- (4) Withdraw the suspension and expunge the record of the suspension, even if the suspension has already been served
- (5) Provide written notice of this decision to:
  - The student's parent /guardian, unless the student is at least 18 years old or the student is 16 or 17 years old and has withdrawn from parental control
  - The adult student, if the student is at least 18 years old or the student is 16 or 17 years old and has withdrawn from parental control

**4.6** If the principal decides not to recommend expulsion of the student, the written notice of this decision will include:

- (1) A statement of the principal's decision not to recommend expulsion
- (2) A statement indicating whether the suspension has been confirmed, confirmed and shortened, or expunged

- (3) If the suspension has been confirmed or confirmed and shortened:
  - a copy of the board policy regarding suspension appeals
  - contact information for the Superintendent of Instructional Services/designate

**4.7** If the principal decides to recommend expulsion of the student to the Board, the principal will prepare a report for the Board that will include the following:

- (1) A summary of the findings the principal made in the investigation
- (2) An analysis of which, if any, mitigating or other factors might be applicable
- (3) A recommendation of whether the expulsion should be from the school or from the board
- (4) A recommendation regarding the type of school that would benefit the student, if the student is subject to a school expulsion, or the type of program that would benefit the student, if the student is subject to a board expulsion.

## **5. Expulsion Hearing**

5.1 The Discipline Committee of the Board shall conduct an Expulsion Hearing in private session in accordance with the Education Act and the Statutory Powers Procedure Act (S.P.P.A.). The principal, supervisory officer and/or the Board may be represented by counsel at a hearing.

5.2 Parties before the Discipline Committee will be:

- (1) The principal
- (2) The adult pupil or the pupil's parent/guardian
- (3) 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. The Discipline Committee may grant a person with daily care authority to make submissions on behalf of the pupil.

5.3 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
  - (4) Such other matters as the Discipline Committee considers appropriate
- 5.4 The principal will ensure that written notice containing the following is given to every person to whom the principal was required to give notice of the suspension at the same time as the principal's report is provided to that person:
- (1) A statement that the student will be subject to an expulsion hearing for the activity that resulted in the suspension
  - (2) A copy of the board policies and procedures governing the expulsion hearing for the activity that resulted in the suspension
  - (3) The pertinent section of the Education Act under which the inquiry will be held
  - (4) A statement indicating the right of the parent/guardian or the adult student to make representations at the expulsion hearing
  - (5) A statement that the person has the right to respond, in writing, to the principal's report
  - (6) A statement that the person has the right to appeal the principal's decision for expulsion to the Board
  - (7) The time and place of the expulsion hearing
  - (8) Detailed information about the procedures and possible outcomes of the expulsion hearing, including, but not limited to, information explaining that:
    - If the Board does not expel the student, it will confirm the suspension, shorten its duration or withdraw it
      - The parties will have the right to make submissions during the expulsion hearing as to whether, if the student is not expelled, the suspension should be confirmed, reduced or withdrawn
      - Any decision of the Board with respect to the suspension made at the expulsion hearing is final and not subject to appeal
      - If the Board expels the student from his/her school only, the Board will assign the student to another school
      - If the Board expels the student from all schools of the board, the Board will assign the student to a program for expelled students

- 5.5 The principal will promptly provide a copy of the report to the Board and to every person to whom the principal was required to give notice of the suspension, including:
- (1) The name and contact information of the Superintendent of Education whom the person may contact to discuss any matter respecting the expulsion hearing
  - (2) The understanding that, if the party notified fails to attend the Board may proceed in its absence and the party will not be entitled to any further notice of the proceedings
- 5.6 The parties to the expulsion hearing are:
- (1) The principal
  - (2) The adult student
  - (3) The student’s parent/guardian, unless the student is a least 18 years old or 16 or 17 and has withdrawn from parental control
  - (4) Such other persons as may be specified by board protocol
- 5.7 Expulsion hearings will be conducted as follows:
- (1) A Discipline Committee of no fewer that three (3) trustees will be appointed by the Board to decide appeals of principal suspension and principal recommendations for expulsion.
  - (2) For these purposes, the Discipline Committee will conduct the suspension appeals and expulsion hearings in accordance with Board Policy 13: Appeals Regarding Student Matters and Student Procedures AP 309: Safe Schools - Student Suspension and AP 310: Safe Schools – Student Expulsion.
  - (3) The Superintendent of Education/designate will act as a resource person to the Discipline Committee.
  - (4) The parties may be represented, if they choose, by an agent or counsel.
- 5.8 The Superintendent of Education will forward all pertinent documents surrounding the recommendation for expulsion to the parties to the expulsion prior to the hearing. If the Discipline Committee decides not to expel the pupil, the Discipline Committee shall upon taking the submissions of the parties into account, including mitigating and other circumstances:
- (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

- (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
- 5.9 Where the Discipline Committee decides to impose a school expulsion, then the Discipline Committee must:
- (1) Assign the pupil to another school
- 5.10 Where the Discipline Committee decides to impose a board expulsion, then the Discipline Committee must:
- (1) Assign the pupil to a program for expelled pupils
- 5.11 The Discipline Committee must promptly provide written notice of the decision to expel the pupil to all parties, and the pupil, if s/he 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
  - (4) Information about the right to appeal the expulsion, including the steps to be taken.
- 5.12 Once the principal has received notice that a pupil has been expelled, s/he must create a SAP (Student Action Plan) in a manner consistent with the board's policy and procedures for programs for expelled pupils
- 5.13 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.

## **6. Re-entry Requirements Following an Expulsion**

- 6.1 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
- 6.2 The Board shall re-admit the pupil and inform the pupil in writing of the re-admission.
- 6.3 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, wherein:

- (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 s/he has learned from the incident and has sought counseling, where appropriate
- (3) 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

**7. Appeal of Board Decision to Expel**

- 7.1 The adult pupil or the pupil’s parent/guardian may appeal a board decision to expel the pupil to the Child and Family Services Review Board in accordance with the procedures set out by the Ministry of Education.
- 7.2 The Child and Family Services Review Board is designated to hear and determine appeals of school board decisions to expel pupils
- 7.3 The decision of the Child and Family Services Review Board is final

Forms Associated with this Procedure:

- Form #052 - Notice of Expulsion Infraction
- Form #054- Notice of Limited Expulsion by Principal
- Form #055 - Notice of Suspension Not Expulsion
- Form #056 - Outline of Allegations

Legal References:

1. Education Act Part XIII Behaviour, Discipline and Safety
2. Ontario Regulation 37/01 Expulsion of a Pupil
3. Ontario Regulation 106/01 Suspension of a Pupil
4. Guideline—Ontario Schools Code of Conduct
5. Statutory Powers Procedure Act

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