



KENORA CATHOLIC DISTRICT SCHOOL BOARD

Policy 13: Appeals Regarding Student Matters

1. Suspension

1.1 Effort to Resolve Dispute

1.1.1 The board recognizes that from time to time, a student may be suspended from a school in accordance with the terms outlined in the *Education Act*, Sections 306 and 307 and the terms of the board's administrative procedures.

1.1.2 Although the *Education Act* makes provision for the parent, guardian or the pupil, if the pupil is an adult, to appeal to the board against a suspension, every reasonable effort should be made to resolve such a dispute before it is formalized in a request to the board.

1.1.3 Prior to an appeal of a suspension, a review of the decision to suspend a student must be held, according to the terms of the *Education Act*, Section 308 and administrative procedures.

1.1.4 A suspension of one day or less cannot be appealed.

1.2 Powers of the Board

1.2.1 The board may, after hearing the appeal, confirm, modify or remove the suspension. The board may also order that any record of the suspension be expunged.

1.2.2 This policy outlines the process to be followed when an appeal for a suspension is received.

1.3 Notice of Appeal

1.3.1 Who May Appeal

The student, if 18 years or older, or the parent or guardian of the student, if less than 18 years of age, (hereafter "appellant") may appeal to the board the suspension imposed by the principal.

1.3.2 Notice Process

1.3.2.1 The appeal must be made in writing and directed to the secretary of the board within 7 school days of receipt of the notice of the suspension review decision.

1.3.2.2 The suspension review notice is deemed to be delivered:

- by regular, registered or certified mail on the fifth day after the day of mailing.
- by fax, on the same day of the transmission.
- by overnight courier, on the second day after the document was given to the courier by the party providing notice.

1.4 Suspension Appeal Hearing Committee

1.4.1 The powers and the duties of the board under the Education Act and Regulations, in dealing with an appeal of a suspension shall be exercised and performed by a committee of three or more members of the board, as designated by the chair of the board.

1.4.2 Quorum for this committee is 2 members.

1.4.3 The Supervisory Officer or designate will act in an advisory role to the committee on procedural matters during the suspension hearing and the committee's subsequent deliberations.

1.5 Parties

The parties to the appeal shall be the parent/legal guardian or student if aged 18 years or older and the principal and such other parties whom the committee may direct.

1.6 Pre-hearing Disclosure

1.6.1 Within five (5) days after delivery of the notice of appeal, the parties shall disclose to each other and provide to the Suspension Appeal Hearing Committee, through the secretary of the board, a written statement setting out the following with particularity.

1.6.2 The appellant will disclose

- the nature of the appellant's disagreement with the principal's decision,
- the appellant's position on the events which gave rise to the suspension and whether those events justified suspension of the student, and
- the appellant's position on the duration of the suspension.

- 1.6.3 The appellant will also disclose in writing
 - whether he/she seeks to call witnesses,
 - a list of the witnesses whom the appellant seeks to call, and
 - a brief outline of what each witness would say.
- 1.6.4 The Principal must provide
 - the Principal's findings in respect of the events, which gave rise to the suspension,
 - why those events justified the suspension imposed,
 - a brief outline of what each witness interviewed stated
- 1.6.5 Each party must provide the other with copies of any documents which the party proposes to submit at the hearing.

1.7 Pre-appeal Hearing Conferences

- 1.7.1 A pre-appeal hearing conference will be held no later than 5 school days prior to the appeal hearing (and, following the date by which the parties should have completed pre-hearing disclosure under this policy).
- 1.7.2 The pre-appeal hearing conference will be conducted by the Suspension Appeal Hearing Committee or alternatively by the chair of the Suspension Appeal Hearing Committee or any member of committee designated by the chair.
- 1.7.3 The pre-appeal hearing conference may be held by teleconference.
- 1.7.4 The purpose of this pre-appeal hearing conference is to ensure that all procedural issues or any other issues which may assist in the just and expeditious disposition of the proceeding are dealt with in advance of the appeal hearing. Accordingly, any issue which either party has regarding disclosure, the length of time set for the hearing, the conduct of an electronic hearing, any other procedural issue which may properly be dealt with in advance of the hearing.
- 1.7.5 Where the appellant wishes to call witnesses at the hearing, it will be determined at the pre-appeal hearing conference whether a statement of facts can be agreed to by the parties which would eliminate the need to call witnesses or, alternatively, reduce the number of witnesses which either side might otherwise call.
- 1.7.6 Each party must notify the other party and the supervisory officer in advance of the pre-appeal hearing conference of any issues which the party wishes to raise at the pre-appeal hearing conference.

- 1.7.7 Each party shall have the opportunity to state his/her position on any issue which either raises at the pre-appeal hearing conference. However, if a party raises an issue at the pre-appeal hearing conference, but did not provide sufficient notice of the issue to other party in advance of the pre-appeal hearing conference, the other party may request an opportunity to respond to the issue in writing within one school day following the pre-appeal hearing conference to the issue.
- 1.7.8 Should any issue arise which requires a decision by the Suspension Appeal Hearing Committee, or the person who presided over the pre-hearing conference, the parties will be advised of the decision by the supervisory officer and the decision will be subsequently confirmed in writing.
- 1.7.9 If the supervisory officer determines that neither party has any issue which requires a pre-appeal hearing conference, no conference will be set up. If either party declines to participate in a pre-appeal hearing conference which has been set up, that party will be deemed to have waived any procedural issues which the party might otherwise have raised at the pre-appeal hearing conference, unless the party can satisfy the Suspension Appeal Hearing Committee that there was a reasonable excuse for the party's failure to participate in the pre-appeal hearing conference.

1.8 Hearing Procedures

- 1.8.1 The hearing will be conducted in accordance with this policy, the board's administrative procedures and the *Statutory Powers Procedure Act*.
- 1.8.2 **Electronic Hearing**
- 1.8.2.1 The hearing may be conducted electronically, in whole or in part unless one of the parties satisfies the committee that holding an electronic rather than an oral hearing is likely to cause the party significant prejudice.
- 1.8.2.2 Should either party seek to have an oral hearing rather than an electronic hearing, that party must advise the committee and the other party within two school days from the date of receipt of the notice of the hearing by providing written notice setting out the reasons why an electronic hearing would cause significant prejudice.

1.8.2.3 The other party shall have an opportunity to respond in writing to the request for an oral hearing.

1.8.2.4 The committee shall make its determination based on these written submissions.

1.8.3 The Suspension Hearing Committee shall review the decision of the principal and shall consider whether the principal considered all relevant criteria and information in reaching his/her.

1.8.4 The committee shall consider any representations made by the parties.

1.8.5 In Camera Hearing

1.8.5.1 Since intimate personal matters involving the student and, in some cases, other persons, will be disclosed at the hearing, the interests of the privacy of the student and such other persons outweigh the desirability of holding a public hearing and require that the hearing be conducted in camera.

1.8.5.2 This may be reconsidered by the committee in any particular case and the committee may direct that the hearing be opened to the public where the committee determines that the holding of an open public hearing outweighs the interests of the students or other persons' concerns to privacy.

1.9 Timing

Timing of the appeal hearing: The committee will make all reasonable efforts to commence an appeal hearing within 20 days from the date of receipt of the notice of appeal by the board in accordance with the board's administrative procedures.

2. Appeal of the Principal's Decision to Expel

The principal or the board may expel a student for the reasons set out in the *Education Act, Sections 309 and 310* and in the board's administrative procedures.

2.1 Who May Appeal

Where the Principal has expelled a student, the student, if 18 years or older, or the Parent/Guardian of the student, if less than 18 years of age, (hereafter "appellant") may appeal the expulsion to the board.

2.2 Notice of Appeal

2.2.1 The appeal must be made in writing and delivered to the secretary of the board in accordance with the boards' administrative procedures within 10 days of receipt of the notice of expulsion by the appellant.

2.2.2 The expulsion notice is deemed to be delivered:

- by regular, registered or certified mail on the fifth day after the day of mailing.
- by fax, on the same day of the transmission.
- by overnight courier, on the second day after the document was given to the courier by the party providing notice.

2.2.3 The notice of appeal must specify:

- the nature of the appellant's disagreement with the principal's decision (i.e. whether the appellant disagrees with the principal's finding that the student committed an infraction for which the student must be expelled, or with the type and/or duration of the expulsion imposed by the principal, or both.) ;
- the reasons why the appellant disagrees with the decision of the principal;
- whether the appellant seeks to call witnesses at the appeal hearing.

2.3 Expulsion Appeal Hearing Committee Members

2.3.1 The powers and the duties of the board under the *Education Act* and *Regulations*, in dealing with an appeal of a principal's decision to expel shall be exercised and performed by a committee of three or more members of the board, as designated by the chair of the board.

2.3.2 Quorum

Quorum for this committee is 2 members.

2.3.3 Advisor

The appropriate supervisory officer or designate will act in an advisory role to the committee on procedural matters during the expulsion hearing and the committee's subsequent deliberations.

2.4 Parties

The parties to the appeal shall be the parent/legal guardian or student if aged 18 years or older and the principal and such other parties whom the committee may direct.

2.5 Pre-hearing Disclosure

2.5.1 Within five (5) days after delivery of the notice of appeal, the parties shall disclose to each other and provide to the Expulsion Appeal Hearing Committee, through the secretary of the board, a written statement setting out the following with particularity.

2.5.2 The appellant will disclose

- the nature of the appellant's disagreement with the principal's decision,
- the appellant's position on the events which gave rise to the expulsion and whether those events justified expulsion of the student, and
- the appellant's position on the type and duration of the expulsion.

2.5.3 The appellant will also disclose in writing

- whether he/she seeks to call witnesses,
- a list of the witnesses whom the appellant seeks to call, and
- a brief outline of what each witness would say.

2.5.4 The Principal must provide a written statement setting out

- the Principal's findings in respect of the events, which gave rise to the expulsion,
- why those events justified the expulsion imposed,
- a brief outline of what each witness interviewed stated

2.5.5 Each party must provide the other with copies of any documents which the party proposes to submit at the hearing.

2.6 Pre-appeal Hearing Conferences

2.6.1 A pre-appeal hearing conference will be held no later than 5 school days prior to the appeal hearing (and, following the date by which the parties should have completed pre-hearing disclosure under this policy).

2.6.2 The pre-appeal hearing conference will be conducted by the Expulsion Appeal Hearing Committee or alternatively by the chair of the Expulsion Appeal Hearing Committee or any member of the committee designated by the chair.

2.6.3 The pre-appeal hearing conference may be held by teleconference.

- 2.6.4 The purpose of this pre-appeal hearing conference is to ensure that all procedural issues or any other issues which may assist in the just and expeditious disposition of the proceeding are dealt with in advance of the appeal hearing. Accordingly, any issue which either party has regarding disclosure, the length of time set for the hearing, the conduct of an electronic hearing, any other procedural issue which may properly be dealt with in advance of the hearing.
- 2.6.5 Where the appellant wishes to call witnesses at the hearing, it will be determined at the pre-appeal hearing conference whether a statement of facts can be agreed to by the parties which would eliminate the need to call witnesses or, alternatively, reduce the number of witnesses which either side might otherwise call.
- 2.6.6 Each party must notify the other party and the supervisory officer in advance of the pre-appeal hearing conference of any issues which the party wishes to raise at the pre-appeal hearing conference.
- 2.6.7 Each party shall have the opportunity to state his/her position on any issue which either raises at the pre-appeal hearing conference. However, if a party raises an issue at the pre-appeal hearing conference, but did not provide sufficient notice of the issue to other party in advance of the pre-appeal hearing conference, the other party may request an opportunity to respond to the issue in writing within one school day following the pre-appeal hearing conference to the issue.
- 2.6.8 Should any issue arise which requires a decision by the Expulsion Appeal Hearing Committee, or the person who presided over the pre-hearing conference, the parties will be advised of the decision by the supervisory officer and the decision will be subsequently confirmed in writing.
- 2.6.9 If the supervisory officer determines that neither party has any issue which requires a pre-appeal hearing conference, no conference will be set up. If either party declines to participate in a pre-appeal hearing conference which has been set up, that party will be deemed to have waived any procedural issues which the party might otherwise have raised at the pre-appeal hearing conference, unless the party can satisfy the Expulsion Appeal Hearing Committee that there was a reasonable excuse for the party's failure to participate in the pre-appeal hearing conference.

2.7 Hearing Procedures

2.7.1 The hearing will be conducted in accordance with this policy, the board's administrative procedures and the *Statutory Powers Procedure Act*.

2.7.2 Electronic Hearing

2.7.2.1 The hearing may be conducted electronically, in whole or in part unless one of the parties satisfies the committee that holding an electronic rather than an oral hearing is likely to cause the party significant prejudice.

2.7.2.2 Should either party seek to have an oral hearing rather than an electronic hearing, that party must advise the committee and the other party within two school days from the date of receipt of the notice of the hearing by providing written notice setting out the reasons why an electronic hearing would cause significant prejudice.

2.7.2.3 The other party shall have an opportunity to respond in writing to the request for an oral hearing.

2.7.2.4 The committee shall make its determination based on these written submissions.

2.7.3 The Expulsion Appeal Hearing Committee shall review the decision of the principal and shall consider whether the principal considered all relevant criteria and information in reaching his/her.

2.7.4 The committee shall consider any representations made by the parties.

2.7.5 In Camera Hearing

2.7.5.1 Since intimate personal matters involving the student and, in some cases, other persons, will be disclosed at the hearing, the interests of the privacy of the student and such other persons outweigh the desirability of holding a public hearing and require that the hearing be conducted in camera.

2.7.5.2 This may be reconsidered by the committee in any particular case and the committee may direct that the hearing be opened to the public where the committee determines that the holding of an open public hearing outweighs the interests of the students or other persons' concerns to privacy.

2.8 Disposition:

2.8.1 The appeal committee may:

- a) confirm the principal's decision;
- b) modify the type or duration of the expulsion;
- c) impose, charge or remove conditions that must be satisfied if the student is to return to school following and expulsion; or
- d) overrule the decision of the principal and reinstate the student.

2.8.2 If the committee finds that the student has engaged in conduct which does not require mandatory expulsion to be imposed or would not otherwise merit expulsion, but also concludes that discipline of some nature is appropriate, the committee may:

- a) find that the suspension, if any, served by the student is appropriate discipline; or
- b) refer the matter back to the principal to be dealt with at the school level.

2.9 Timing

Timing of the appeal hearing: The committee will make all reasonable efforts to commence an appeal hearing within 20 days from the date of receipt of the notice of appeal by the board in accordance with the board's administrative procedures.

3. Referral by Principal to the Board for an Expulsion Hearing

3.1 Where the principal decides to refer a matter to the board for an expulsion hearing, the principal will provide written notification to the parent/guardian of the student, or the student if aged 18 years or older that the matter has been so referred.

3.2 Expulsion Hearing Committee Members

3.2.1 The powers and the duties of the board to conduct an expulsion hearing and make a decision on the expulsion of a student following such hearing shall be exercised and performed by a committee of three or more members of the board, as designated by the chair of the board.

3.2.2 Quorum for this committee is 2 members.

3.2.3 The supervisory officer or designate will act in an advisory role to the committee on procedural matters during the expulsion hearing and the committee's subsequent deliberations.

3.3 Parties to the Hearing

The parties to the hearing will be the Parent/Guardian or student, if aged 18 years or older and the Principal or designate.

3.4 Timing of the Hearing

A hearing will be held by the hearing committee and a decision on the expulsion will be given within 20 school days of the date on which the Principal expelled the student, unless the parties to the hearing agree to extend this deadline.

3.5 In Camera Hearing

3.5.1 Since intimate personal matters involving the student and, in some cases, other persons, will be disclosed at the hearing, the interests of the privacy of the student and such other persons outweigh the desirability of holding a public hearing and require that the hearing be conducted in camera.

3.5.2 This may be reconsidered by the committee in any particular case and the committee may direct that the hearing be opened to the public where the committee determines that the holding of an open public hearing outweighs the interests of the students or other persons concerned to privacy.

3.6 Pre-hearing Disclosure

The parties shall exchange the following at least 5 days prior to the hearing:

- an outline of the party's position, setting out with particularity the party's position on the circumstances which gave rise to the expulsion and the party's position on the discipline imposed;
- copies of any documents which the party proposes to submit at the hearing; and
- where the party proposes to call witnesses, a list of the witnesses whom the party intends to call and a brief outline of what the witness will say.

3.7 Pre-hearing Conferences

3.7.1 Where possible, a pre-hearing conference will be held within 5 school days prior to the hearing (i.e. following the date by which the parties should have completed pre-hearing disclosure under this policy)

3.7.2 The pre-hearing conference will be conducted by the Expulsion Hearing Committee, or alternatively by the chair of the Expulsion Hearing Committee or a member of the committee designated by the chair.

3.7.3 The pre-hearing conference may be held by teleconference.

- 3.7.4 The purpose of this pre-hearing conference is to ensure that all such issues are dealt with in advance of the hearing. Accordingly, any issue which either party has regarding disclosure, the length of time set for the hearing, the conduct of an electronic hearing, any other procedural issue which may properly be dealt with in advance of the hearing or any other matter which may assist in the just and expeditious disposition of the proceeding should be raised at the pre-hearing conference.
- 3.7.5 Each party must notify the other and the supervisory officer in advance of the pre-hearing conference of any issues which the party wishes to raise at the pre-hearing conference;
- 3.7.6 Each party shall have the opportunity to state his/her position on any issue which either raises at the pre-hearing conference.
- 3.7.7 If a party raises an issue at the pre-hearing conference, but did not provide sufficient notice of the issue to the other party in advance of the pre-hearing conference, the other party may request an opportunity to respond to the issue in writing within 1 school day following the pre-hearing conference to the issue.
- 3.7.8 Should any procedural issue arise in the pre-hearing conference which requires a decision by the Expulsion Hearing Committee or the person who presided over the pre-hearing conference, the parties will be advised of the decision by the supervisory officer and the decision will be subsequently confirmed in writing.
- 3.7.9 If the Supervisory Officer determines that neither party has any issue which requires a pre-hearing conference, the pre-hearing conference may be cancelled.
- 3.7.10 If either party declines to participate in the pre-hearing conference, that party will be deemed to have waived any procedural issues which the party might otherwise have raised at the pre-hearing conference regarding disclosure or any other procedural issue, unless the party can satisfy the Expulsion Hearing Committee that there was a reasonable excuse for the party's failure to participate in the pre-hearing conference.

3.8 Electronic Hearing and Pre-Hearing Conference and Meetings

3.8.1 The hearing may be conducted electronically, in whole or in part unless one of the parties satisfies the committee that holding an electronic rather than an oral hearing is likely to cause the party significant prejudice.

3.8.2 This issue as well as any other preliminary issues which either party wishes to have determined prior to the hearing, may be determined at a pre-hearing conference involving the committee and both parties prior to the hearing.

3.9 Disposition

3.9.1 If the Expulsion Hearing Committee is satisfied that the student has committed an infraction for which expulsion is mandatory, the committee shall impose a limited expulsion or a full expulsion on the student.

3.9.2 If the Expulsion Hearing Committee is satisfied that the student has committed an infraction for which expulsion is discretionary, the committee may:

- a) impose a limited expulsion;
- b) impose a full expulsion;
- c) find that, in the circumstances of the particular case, an expulsion would be excessive but that the suspension, if any, served by the student is appropriate discipline; or
- d) refer the matter back to the principal to be dealt with at the school level.

3.9.3 If the Expulsion Hearing Committee finds that the student has engaged in conduct which does not require mandatory expulsion to be imposed or would not otherwise merit expulsion, but also concludes that discipline of some nature is appropriate, the committee may:

- a) find that the suspension, if any, served by the student is appropriate discipline, or
- b) refer the matter back to the Principal to be dealt with at the school level.

4. Appeal of a Board Decision to Expel a Student

A parent may appeal a board's decision to expel a student to the Child & Family Services Review Board in accordance with the procedures set out by the Ministry of Education.

Forms associated with this policy:

<i>F13A Notice of Suspension Appeal Hearing</i>	<i>F13H Notice of Discipline Other Than Expulsion</i>
<i>F13B Notice of Pre-appeal Hearing Conference</i>	<i>F13I Notice of Expulsion Appeal Hearing</i>
<i>F13C Decision of Suspension Appeal Hearing Committee</i>	<i>F13J Notice of Appeal Pre-Hearing Conference</i>
<i>F13D Notice of Expulsion Hearing</i>	<i>F13K Decision of Expulsion Appeal Committee to Uphold Expulsion</i>
<i>F13E Notice of Pre-Hearing Conference</i>	<i>F13L Decision of Expulsion Appeal Committee to Uphold Appeal</i>
<i>F13F Notice of Limited Expulsion by Expulsion Committee</i>	
<i>F13G Notice of Full Expulsion by Expulsion Committee</i>	

Legal References:

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

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