

# **Suspension and Expulsion Policy OPERATIONAL PROCEDURES**

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# **SECTION A**

## **Protocol to Suspension Activities Leading to Possible Suspension**

## **SECTION A**

### **Protocol to Suspension Activities Leading to Possible Suspension**

In accordance with *the Act* section 306 (1) a principal shall consider whether to suspend a pupil if the principal that the pupil has engaged in any of the following activities while at school, at a school related activity, or in other circumstances where engaging in the Activity will have an impact on school climate:

1. Uttering a threat to inflict serious bodily harm on another person
2. Possessing alcohol, illegal drugs or, unless the pupil is a medical cannabis user, cannabis.
3. Being under the influence of alcohol or, unless the pupil is a medical cannabis user, cannabis.
4. Swearing at a teacher or at another person in a position of authority
5. Committing an act of vandalism that causes extensive damage to school property at the pupil's school or to property located on the premises of the pupil's school
6. Bullying
7. Any other activity that is an activity for which a principal may suspend a pupil under the policy of the board.

### **Suspension under Board Policy**

Under clause 306. (1) 7 of *the Act*, a pupil may be suspended if the pupil in an activity that is an activity for which a principal may suspend a pupil under a policy of the board.

Under Board policy, activities for which a principal may suspend a pupil include:

- (1) Persistent opposition to authority;
- (2) Habitual neglect of duty;
- (3) Use of profane or improper language;
- (4) Theft;
- (5) Aid/incite harmful behaviour;
- (6) Physical assault;
- (7) Being under the influence of illegal drugs;
- (8) Harassment;
- (9) Fighting;
- (10) Extortion;
- (11) Inappropriate use of electronic communications/media equipment; and/or
- (12) Other – defined as any conduct injurious to the moral tone of the school or to

the physical or mental well-being of others.

### **Suspensions Related to Junior Kindergarten to Grade 3 Pupils**

O. Reg 440/20 removes the principal's discretion to suspend pupils in junior kindergarten to Grade 3 for activities listed in subsection 306(1) of the *Education Act*. Serious activities listed in subsection 310(1) will continue to require mandatory suspension.

### **Activities Leading to a Suspension Pending Possible Expulsion**

Under subsection 310. (1) of *the Act*, a principal shall suspend a pupil if the principal believes that the pupil has engaged in any of the following activities while at school, at a school-related activity or in other circumstances where engaging in the Activity will have an impact on the school climate:

- (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 a sexual assault
- (5) Trafficking in weapons or in illegal drugs
- (6) Committing robbery
- (7) Giving alcohol or cannabis to a minor

#### **7.1 Bullying, if,**

- (i) the pupil has been previously suspended for engaging in bullying, and
- (ii) the pupil's continuing presence in the school creates an unacceptable risk to the safety of another person.

#### **Mandatory Suspension of Junior Kindergarten to Grade 3 Pupils Related to Bullying**

Where a principal is suspending a student for bullying under s. 310(1)(7.1), the requirement that "the pupil has previously been suspended for engaging in bullying" ***no longer applies*** to students in junior kindergarten to Grade 3. The remaining requirement, that "the pupil's continuing presence in the school creates an unacceptable risk to the safety of another person" remains in effect.

#### **7.2 Any activity listed in subsection 306. (1) of *the Act* that is motivated by bias,**

prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, gender identity, gender expression, family status, marital status, or any other similar basis.

8. Any other activity that, under a policy of a board, is an activity for which a principal must suspend a pupil and, therefore in accordance with this Part, conduct an investigation to determine whether to recommend to the Board that the pupil be expelled.

### **Suspension Pending Expulsion under Board Policy**

Under clause 310. (1) 8 of *the Act*, a pupil must be suspended if the pupil engages in an activity that is an activity for which a principal must suspend a pupil under a policy of the board including.

- (1) Possession of explosive substance;
- (2) Refractory conduct;
- (3) Serious or repeated misconduct;
- (4) Conduct injurious to the moral tone of the school or to the physical or mental well-being of others.

### **Mandatory Investigation before Mandatory Suspension Pending Possible Expulsion of Pupils in Junior Kindergarten to Grade 3**

Principals are now required to conduct an investigation respecting the allegations before imposing a mandatory suspension pending possible expulsion on a student in junior kindergarten to Grade 3 under subsection 310(1).

### **Suspension Duration and Scope**

The minimum duration of a suspension is one school day and the maximum duration is 20 school days.

In considering how long the suspension should be, a principal will take into account any mitigating and/or other factors prescribed by the regulations.

A principal may not suspend a pupil more than once for the same occurrence.

If a principal decides to suspend a pupil for engaging in an activity described in subsections 306. or 310. of *the Act*, the principal will suspend the pupil from the pupil's school and from engaging in all school-related activities.

## **Mitigating Factors**

In recognizing the uniqueness of each child and applying a trauma-informed lens of pastoral care, the principal will consider the following mitigating factors in reaching a final determination:

- The pupil does not have the ability to control their behaviour.
- The pupil does not have the ability to understand the foreseeable consequences of the pupil's behaviour.
- The pupil's continuing presence in the school does not create an unacceptable risk to the safety of any person.

## **Other Factors**

Similarly, the principal will consider the following other factors in reaching a final determination, once again in recognition of the uniqueness of each child and applying a trauma-informed lens of pastoral care:

- The pupil's history.
- Whether a progressive discipline approach has been used with the pupil.
- Whether the activity for which the pupil may be suspended was related to any harassment of the pupil because of the pupil's race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, gender identity, gender expression, family status, marital status, or to any other form of harassment.
- How the suspension or expulsion would affect the pupil's ongoing education.
- The age of the pupil.
- In the case of a pupil for whom an individual education plan has been developed,
  - (i) whether the behaviour was a manifestation of a disability identified in the pupil's individual education plan.
  - (ii) whether appropriate individualized accommodation has been provided, and
  - (iii) whether the suspension or expulsion is likely to result in an aggravation or worsening of the pupil's behaviour or conduct.
- Whether the pupil has a history of marginalization or trauma.

## **Notice of Suspension**

A principal who suspends a pupil under S. 306 or S. 310 of the *Act* shall,

- (a) inform the pupil's teacher(s) of the suspension; and
- (b) make all reasonable efforts to inform the pupil's parent or guardian of the suspension within 24 hours of the suspension being imposed, unless,
  - (i) the pupil is at least 18 years old, or
  - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.
- (c) ensure that written notice is given promptly to the following persons:
  - (1.) the pupil
  - (2.) the pupil's parent or guardian unless,
    - (i.) the pupil is at least 18 years old, or
    - (ii.) the pupil is 16 or 17 years old and has withdrawn from parental control.

### **Contents of the Notice of Suspension under S. 306 and S. 310 of the Act**

The notice of suspension will include the following:

- (1) The reason for the suspension;
- (2) The duration of the suspension;
- (3) Information about any program for suspended pupils to which the pupil is assigned;
- (4) Information about the right to appeal the suspension under section 309. of *the Act* including,
  - (i) a copy of the Board policies and guidelines governing the appeal process established by the Board under subsection 302. (6) of *the Act*, and;
  - (ii) the name and contact information of the appropriate superintendent of education to whom notice of the appeal must be given under subsection 309. (2) of *the Act*.

### **Additional Contents of the Notice of Suspension under S. 310 of the Act**

In addition to the contents of the Notice of Suspension described immediately above under S. 306 and S. 310 of the *Act*, a notice of suspension under S. 310 of the *Act* must also include:

1. Information about the investigation the principal will conduct under S.



311.1 of the Act to determine whether to recommend that the pupil be expelled; and

2. A statement indicating that,
  - (i) There is no immediate right to appeal the suspension,
  - (ii) If the principal does not recommend to the board that the pupil be expelled following the investigation under subsection 311.1, the suspension will become subject to appeal under subsection 311.2, and
  - (iii) If there is an expulsion hearing because the principal recommends to the board that the pupil be expelled, the suspension may be addressed by parties at the hearing.

## **Suspension Program**

When a Principal suspends a pupil, the principal shall assign the pupil to a program for suspended pupils in accordance with policies and guidelines issued by the Minister, under sections 306 (5) and 310.(4) of *the Act*.

### **Receipt of Notice**

Where notice is given, it shall be considered to have been received by the person in accordance with the following rules:

- (1) If the notice is sent by mail or another method in which an original document is sent, the notice shall be considered to have been received by the person to whom it was sent on the fifth school day after the day on which it was sent.
- (2) If the notice is sent by fax or another method of electronic transmission, the notice shall be considered to have been received by the person to whom it was sent on the first school day after the day on which it was sent.

## **Suspension Appeal**

Under section 309. of *the Act*, the parent, guardian or adult student may appeal the decision to suspend a student. (See Section E)

## **Procedures for Suspension**

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- (i) Where a concern arises regarding possible student discipline, a principal will conduct an investigation and consider mitigating factors and other factors.
- (ii) With respect to serious infractions, the principal will consult with the appropriate superintendent of education.
- (iii) Following an investigation, if it is considered necessary to suspend a student, a principal/designate should contact the student's parent/guardian/adult student in order to discuss reasons for the suspension and engage them in becoming part of the plan to change behavior, consistent with our desire for faith-based reconciliation, reformation and restorative practices.
- (iv) If the principal/designate has imposed a suspension pending possible expulsion under section 310. of *the Act*, the principal will conduct a principal investigation in order that a final determination can be made.

### **Procedures for Safe Schools Transitions**

**The *Education Act* provides that a student has the right to attend a school, but not the right to attend a particular school. When deciding on the new school location for a student who has been approved for a School Expulsion, the following criteria will be considered:**

- a. Distance from student's home to the new school;**
- b. Availability of academic and social-emotional supports at the new school;**
- c. Compliance with a court order or undertaking or conditions agreed to by the student and/or student's parent/legal guardian;**
- d. Fair and equitable distribution of students subject to Safe Schools transitions amongst the schools of the Board;**
- e. Previous Safe Schools transitions of the student;**
- f. Presence of student(s) or staff at school(s) under consideration who were previously the victim of, or in conflict with, the student;**
- g. Presence of student(s) at school(s) under consideration who may have been involved in previous serious incidents with the student;**
- h. Other Factors: Additional factors that may compromise the student's safety and well-being, such as but not limited to, geographical/demographic considerations (e.g. concerns related to**

gangs, family circumstances, etc.).

## DEFINITIONS

**Bullying** – Aggressive and typically repeated behaviour (physical, verbal, electronic, written or other means) by a student where,

(a) the behaviour is intended to have the effect of, or the student ought to know that the behaviour would likely have the effect of,

- i. causing harm, fear or distress to another individual, including physical, psychological, social or academic harm, harm to the individual's reputation or harm to the individual's property, or
- ii. creating a negative environment at a school for another individual, and

(b) the behaviour occurs in a context where there is a real or perceived power imbalance between the student and the individual based on factors such as size, strength, age, intelligence, peer group power, economic status, social status, religion, national or ethnic origin, sexual orientation, family status, marital status, sex, gender,

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gender identity, gender expression, race, colour, language, mental or physical disability or the receipt of special education.

**Cyber-bullying**—This is a form of bullying that occurs through the use of technology, including the use of a computer, cellular phone or other electronic devices, using instant/text messaging, social networks, e-mail, websites or any other electronic activities, and includes:

- (a) creating a web page or blog in which the creator assumes the identity of another person;
- (b) impersonating another person as the author of content or messages posted on the internet; and
- (c) communicating material electronically to more than one individual or posting material on a website that may be accessed by one or more individuals.

**Cannabis Legislation** - The legalization of cannabis in Canada comes with restrictions. Students under 19 years of age must not be in possession of or be under the influence of cannabis at school. In addition, it is a serious activity to give cannabis to a minor which may result in possible expulsion. If the student is a medical cannabis user, specific documentation will be required including, but not limited to, use/dosage/frequency/and location of administration. It is unlawful to smoke or hold lit cannabis within 20 metres of the perimeter of school property.

**Explosive Substance** – includes anything used to create an explosive device or is capable or causing an explosion.

**Extortion** – using threats, accusations or violence or threats of violence to induce any person to do anything or cause anything to be done.

**Firearm** – any barreled weapon from which any shot, bullet or other projectile can be discharged and that is capable to causing serious bodily injury or death to a person.

**Harassment** – harassment is ongoing conduct or communication in any form, of attitudes, beliefs, or actions towards an individual or group which might reasonably be known to be unwelcome. A single act or expression can constitute harassment, for example, if it is a serious violation. Harassment may be either subtle or blunt.

This may include harassment based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, gender identity, gender expression, family status, or marital status.

**Hate Material** – includes literature, leaflets, posters, graffiti distributed (or sent by electronic means) to incite violence or hatred against a member of an identifiable group and/or their property. The incitement of hatred or bias-motivated incidents against an identifiable group may include persons distinguished by their race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, gender identity, gender expression, family status, marital status, or other similar factor.

**Inappropriate Use of Electronic Communications/Media** – the intentional use of an electronic device or communication medium, such as, but not limited to, all features of a phone, a cell phone, digital camera, blackberry, e-mails, school hotlines, Web-based communication sites and print material, such as flyers, school newspapers and brochures, that negatively impact on the well-being of another person and/or the learning environment in accordance with the definition of Harassment (as set out above).

**Non Consensual Sharing of Intimate Images** – Knowingly publishing, distributing, transmitting, selling, making available, or advertising an intimate image of another person while knowing that the person depicted in the image did not give their consent, or being reckless as to whether the person gave their consent. The term “intimate image” refers to a visual recording such as a photograph, film, or video recording of a person in which the person is nude or engaged in explicit sexual activity and which was created in circumstances that gave rise to a reasonable expectation of privacy.

**Physical Assault** – the intentional application of force directly or indirectly in any degree at all, to a person without the person’s consent.

**Physical Assault Causing Bodily Harm** – physical assault is the intentional application of force in any degree at all to a person without that person’s consent. Bodily harm refers to any hurt or injury that is more than merely transient or trifling in nature which interferes with the health or comfort of the person, and includes but is not limited to injuries that receive medial attention. Any cut that requires stitches

or any broken or fractured bone should be considered a serious injury. Serious injury could also include multiple minor injuries.

**Possession of a Weapon** – means anything used, designed to be used or intended for use in causing death or injury to any person, or to threaten or intimidate any person. It can include objects which can be used as weapons. Objects such as a pen, or a screwdriver, if displayed to threaten or intimidate, become weapons under this definition. A weapon includes a firearm and any device that is designed or intended to resemble a weapon.

**Racial Harassment** – means engaging in a course of vexatious comment or conduct pertaining to a person's race which is known, or reasonably ought to be known, to be offensive, inappropriate, intimidating, hostile and unwelcome. Race refers to a group of people of common ancestry, distinguished from others by physical characteristics, such as colour of skin, shape of eyes, hair texture or facial features. The term is also used to designate social categories into which societies divide people according to such characteristics.

**Refractory Conduct** – means resisting control or discipline, unmanageable, rebellious refusal to comply with or flagrant disregard of Board policy. A single act itself can constitute refractory conduct.

**Replica Firearm** – is any device that is designed or intended to resemble a firearm.

**Robbery** – a robbery occurs where a person uses violence or threats of violence to steal money or other property from a victim.

**Sexual Assault** – a sexual assault occurs where a person, without consent, intentionally applies force to another person in circumstances of a sexual nature such as to violate the sexual integrity of the victim.

**Sexual Harassment** – sexual harassment occurs when a person receives unwelcome sexual attention from another person, whose comments or conduct are known or should reasonably be known to be offensive, inappropriate, intimidating, hostile and unwelcome. It also includes sexist, homophobic, transphobic, or gender identity-based jokes or materials.

**Threat to Inflict Serious Bodily Harm** – a threat to cause death or serious bodily harm to a person.

**Trafficking in Drugs and/or Harmful Substances** – means to sell, administer, transfer, transport, send or deliver any harmful substance, illicit drug or narcotic as set out in the Controlled Drugs and Substance Act.

# **SECTION B**

## **Guidelines to Long-Term Suspension Program (TIPSS)**



## **SECTION B**

### **Guidelines to Long-Term Suspension Program (TIPSS)**

Our Gospel Values ground us in the belief that every individual has God-given talents and abilities, and the potential for redemption and reconciliation when we err.

In accordance with *the Act* and Program Policy Memorandum 141, the Board will offer the Transitional Intervention Program for Suspended Students (TIPSS).

Parents of students under the age of 18, students over 18, students 16/17 years of age who have withdrawn from parental control who receive a suspension greater than 5 days or a suspension pending possible expulsion must indicate by written signature their desire to participate in the program knowing that it has the following obligations:

- i) For students on longer than a 5 day suspension a teacher will be assigned by the St. Martin Principal/Vice Principal to work with the student for a two hour session 3 or 4 days a week. This schedule may alter due to PD days, conferences or other Safe Schools events.
- ii) A Student Action Plan (SAP) will be developed by the home school principal in collaboration with appropriate staff to delineate the academic and non-academic program needs/goals of the student.
- iii) The TIPSS teacher will meet the suspended student in a Toronto Public Library (TPL) site.
- iv) The student will identify himself/herself to the TPL staff.
- v) The student will wear appropriate attire for the TIPSS session including the school uniform if it is part of the home school's expectation.
- vi) The student will conduct himself/herself in a manner that is congruent with the expectations of the Board's Code of Conduct, as well as the expectations of the Public Library. If the TIPSS teacher or library staff feel that their safety or ability to carry on with their work is compromised by the student's behavior, then the student will forfeit the right to the program. The St. Martin Principal/Vice Principal will be informed when such a situation occurs and will inform the school principal who will note this on the Student Action Plan (SAP).

vii) For students on greater than 10 day suspension or suspension pending possible expulsion a social worker will be assigned to meet with the student to address nonacademic needs. This is a mandatory expectation of the program. The TIPSS social worker will follow up with the home school social worker to support the student's transition back to community once the suspension has been served.

**The TIPSS Program will be reviewed every three years.**

**SECTION C**  
**Guidelines to Expulsion Program**  
**(St. Martin Catholic School)**

## SECTION C

### **Operational Procedures: Guidelines to Expulsion Program St. Martin Catholic School**

Our Gospel Values ground us in the belief of the fundamental goodness of each person. It is our intent through our Expulsion Programs to support students in their journey back to community schools and the fulfilment of our Catholic Graduate School Expectations. Our goal is to nurture their personal development and growth, based on redemption, reconciliation, and a teaching of positive pro-social behaviours rooted in our Catholic Social Teachings.

In accordance with *the Act* and Program Policy Memorandum 142, the Toronto Catholic District School Board will offer the Program for Students on Expulsion.

Parents of a student, or students over 18, students 16/17 years of age who have withdrawn from parental control who receive expulsions from all schools of the Board must indicate by written signature their desire to participate in the TCDSB Expulsion Program knowing that it has the following obligations:

- a) Secondary and elementary students will attend the expulsion program and follow the structure of the program as determined by the principal and staff of St. Martin Catholic School.
- b) A Student Action Plan (SAP) will be developed to delineate the academic and non-academic program needs of the student. It must indicate goals, objectives and learning expectations; measures of success; strategies and types of support. When a student has successfully met the objectives of the program for expelled students and is considered ready to be readmitted to another school of the board, a re-entry plan must be developed as part of the SAP to assist with the student's transition and successful integration.
- c) Students attending the program are expected to follow the T.C.D.S.B. Code of Conduct and are subject to progressive disciplinary measures. In the event that an expelled student's conduct at the program is so detrimental to the program staff or other students that there is a safety risk or complete inability to teach and learn, the student forfeits the right to attend the program. This will be noted on the student's

SAP. Ongoing social work assistance will be provided the youth with his/her social/emotional needs. Alternative academic programming will be provided.

d) A student who has been expelled from all schools of a board and/or the student's parents may apply in writing to The Associate Director of Academic Affairs to request that the student be readmitted to a school of the board. For Students subject to a school expulsion, where the student and/or the student's parent(s) wish that the student return to the original school, the student and/or parent may also apply in writing to the Associate Director of Academic Affairs and must provide a specific rationale.

e) The decision as to whether a student has successfully met the objectives of the program as outlined in the SAP rests with the principal and staff of St. Martin Catholic School.

f) In keeping with our faith based belief that we are all members of one community in Christ, the re-entry plan must include a meeting that includes the principal of the receiving school, expulsion program staff, the student, and staff at the receiving school. Where possible the student's parents or other significant family members should be present. Community agency staff relevant to the situation should be included.

~~The program for students on expulsion will be reviewed every three years.~~

**The *Education Act* provides that a student has the right to attend a school, but not the right to attend a particular school. When deciding on the new school location for a student who has successfully met the demission requirements of the Expulsion Program, the following criteria will be considered:**

- a. Distance from student's home to the new school;**
- b. Availability of academic and social-emotional supports at the new school;**
- c. Compliance with a court order or undertaking or conditions agreed to by the student and/or student's parent/legal guardian;**
- d. Fair and equitable distribution of students subject to Safe Schools transitions amongst the schools of the Board;**
- e. Previous Safe Schools transitions of the student;**
- f. Presence of student(s) or staff at school(s) under consideration who were previously the victim of, or in conflict with, the student;**
- g. Presence of student(s) at school(s) under consideration who may have been involved in previous serious incidents with the student;**

- h. Other Factors: Additional factors that may compromise the student's safety and well-being, such as but not limited to, geographical/demographic considerations (e.g. concerns related to gangs, family circumstances, etc.).**

**The Expulsion Program will be reviewed every three years.**

# **SECTION D**

## **Protocol for Suspension Appeals and Expulsion Hearings**

## **SECTION D**

### **Operational Procedures: Protocol for Suspension Appeals and Expulsion Hearings Safe Schools Legislation**

*The Act* determines the way in which schools respond to objectionable behaviour of Ontario students while on school property, engaged in school activities or behaviour that impacts on school climate. All students, teachers, school staff and parents are subject to the Provincial Code of Conduct mandated by the Ministry of Education and defined by each School Board. *The Act* and the Board's Code of Conduct Policy require that a student be considered for suspension or expulsion for certain activities that, by definition, are unacceptable.

#### **Purpose of this Guide**

The purpose of this guide is to assist students and their parents/guardians to understand their rights and obligations if a suspension is issued or an expulsion is recommended due to an infraction listed in *the Act*.

#### **Cautionary Note**

This guide is a simplified summary of the law, Board Policy, and the Board's Rules of Procedure. For accurate reference, further information, and more detail, please contact the principal or superintendent of your school. You may also obtain further information from the Board's Web Site "[www.tcdsb.org](http://www.tcdsb.org)", by clicking on "Safe Schools".

#### **Suspensions (Section 306. of *the Act*)**

It is the responsibility of the school Principal to uphold the Code of Conduct. It is at the discretion of the Principal that a pupil may be suspended for those activities listed in "Guidelines to Suspension".

#### **Mitigating Factors**

In recognizing the uniqueness of each child and applying a trauma-informed lens of pastoral care, a Principal must consider all mitigating factors before a suspension is issued including the following:

The pupil does not have the ability to control the pupil's behaviour.

- (i) The pupil does not have the ability to understand the foreseeable consequences of the pupil's behaviour.



(ii) The pupil's continuing presence in the school does not create an unacceptable risk to the well-being or safety of any other person.

- Other factors that must be taken into account are: the pupil's history; the use of a progressive discipline approach; whether the activity for which the pupil may be suspended is related to any harassment of the pupil because of the pupil's race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, gender identity, gender expression, family status, marital status, or to any other form of harassment; how the suspension would affect the pupil's ongoing education; the age of the pupil; whether the behaviour was a manifestation of a disability identified in the pupil's individual education plan (IEP); whether appropriate individualized accommodation has been provided (IEP); or whether the suspension is likely to result in an aggravation or worsening of the pupil's behaviour or conduct (IEP); or whether the pupil has a history of marginalization or trauma.

A pupil may still be suspended for any such behaviour, or for other behaviour prohibited by the Board.

### **Length of Suspensions**

Principal may suspend a pupil for a minimum of one (1) school day and a maximum of twenty (20) school days. All suspensions may be appealed.

### **Appeal of Suspensions**

If a pupil is suspended, the parents/guardians may request an appeal in writing to the area superintendent within ten (10) school days from the start of the suspension. A pupil, if an adult or 16 or 17 years old and has withdrawn from parental control may also exercise this right to appeal. The area superintendent may contact the parties to the appeal and the principal to discuss the details of the possible appeal hearing. The request to appeal must state the rationale for consideration.

### **Appeal Hearing**

A board must hold a hearing to consider the appeal of the suspension and make a decision within fifteen (15) school days from receipt of the appeal. The board may: confirm the suspension; confirm the suspension, but shorten its duration; or quash and expunge the record. The decision of the board is final.

### **Suspensions Pending Possible Expulsion (Section 310. of *the Act*)**

A Principal shall issue a suspension pending possible expulsion if this pupil engages in an activity listed in “Guidelines to Expulsion”.

A Principal must consider all mitigating factors before a recommendation for expulsion is made to the Safe Schools Hearing Committee.

A Principal must consider all mitigating factors before an expulsion is recommended including the following:

- (i) The pupil does not have the ability to control the pupil’s behaviour.
- (ii) The pupil does not have the ability to understand the foreseeable consequences of the pupil’s behaviour.
- (iii) The pupil’s continuing presence in the school does not create an unacceptable risk to the well-being or safety of any other person.

Other factors that must be taken into account are: the pupil’s history; the use of a progressive discipline approach; whether the activity for which the pupil may be expelled is related to any harassment of the pupil because of the pupil’s race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, gender identity, gender expression family status, marital status, or to any other form of harassment; how the expulsion would affect the pupil’s ongoing education; the age of the pupil; whether the behaviour was a manifestation of a disability identified in the pupil’s Individual Education Plan (IEP); whether appropriate individualized accommodation has been provided (IEP); whether the expulsion is likely to result in an aggravation or worsening of the pupil’s behaviour or conduct (IEP); or whether the pupil has a history of marginalization or trauma.

A pupil may still be expelled for any such behaviour, or for persistent violation of Board standards of behaviour, or for other refractory conduct.

### **Suspension Pending Possible Expulsion**

If the principal believes that an infraction listed under section 310 of *the Act* has occurred, the pupil is immediately suspended pending possible expulsion. The principal notifies the parents/guardians, and then conducts an investigation. At the end of the investigation, the Principal completes a report with a decision to confirm the suspension; confirm the suspension, but shorten its duration; quash and expunge the record; or recommend to the Discipline Committee that a school expulsion or a board expulsion be imposed.

The Board may not impose an expulsion if more than twenty (20) school days have lapsed since the suspension pending possible expulsion was issued unless all parties agree to extend the date beyond the 20th day.

## **Expulsion Hearing**

If a school or board expulsion is recommended by the principal, an expulsion hearing must be held by the board within twenty (20) days after the issuing date of the Suspension Pending Possible Expulsion unless all parties agree to extend the date beyond the 20th day.

If there is a recommendation for expulsion, the Discipline Committee will decide to impose an expulsion; or confirm the suspension; or confirm but shorten its duration; or quash and expunge the record at the expulsion hearing.

The decision of the board is final.

An expulsion hearing can be waived by the parent/guardian if the parent/guardian and the principal agree to Minutes of Settlement.

## **Appeal of Decision to Expel**

If the Safe Schools Hearing Committee imposes a school or board expulsion, the parents, guardians, adult pupil, or a pupil who is 16 or 17 year old and who has withdrawn from parental control can appeal the decision to the Child and Family Services Review Board. The Child and Family Services Review Board decision is final and binding.

## **Appeal of a Suspension When Expulsion is not Recommended (section 310. of the Act)**

This type of suspension may not be appealed until the Principal delivers a final decision in a report following an investigation.

Written notice of appeal of the suspension must be received by the area Superintendent within five (5) days of receipt of report decision. The notice must include a written statement setting out all the reasons for the appeal, and a copy of the Notice of Suspension Pending Expulsion. The Board will hear the appeal of the suspension within fifteen (15) days after receipt of the written notice to appeal the suspension.

## **Procedure for the Appeal of an Expulsion**

Written notice must be given to the Child and Family Services Review Board within thirty (30) days after the expulsion hearing. The Appeal Notice must include a

written statement setting out all the reasons for the appeal, and a copy of the expulsion decision by the Committee. The Child and Family Services Review Board will hear the expulsion appeal within thirty (30) days of receiving the notice to appeal the expulsion. The decision of the Child and Family Services Review Board is final.



## Safe Schools Department SUSPENSION APPEAL PROCESS



### SUSPENSION NOTICE §. 306

Issued to parent/guardian/adult student (+16 years)

**T**

### DECISION TO APPEAL THE SUSPENSION

Complete **Notice of Intention to Appeal Form** - sent to Field Supervisor by parent/guardian/adult student. This Form must be sent within 10 days of receipt of **Notice of Suspension**.

Note: This form must be sent within 5 days of receipt of the **Parental Report Package** (cases involving a Suspension Pending Possible Exclusion, 310)

**T**

Suspension Appeal Hearing is held within 15 days of receipt of **Notice of Intention to Appeal Form** unless an agreement is reached during a **Pre-Suspension Appeal Hearing Meeting**.

**T**

### PRE-SUSPENSION APPEAL HEARING MEETING

Supervisor conducts the "Pre-Suspension Appeal Hearing" Meeting with parent/guardian/adult student and principal to review suspension as soon as possible.

Possible outcomes of the meeting:

1. RESCIND the Request for an Appeal,
2. EXTEND the Hearing timelines for further consideration
3. PROCEED to a Suspension Appeal Hearing

Field Supervisor completes the "Pre-Suspension Appeal Hearing" Meeting Form outlining the meeting's result and provides parent/guardian/adult student with a copy.

**!**

### RESOLUTION OF APPEAL

Parties agree to:  
Confirm Suspension  
**or**  
Reduce Suspension  
**or**  
Expunge Suspension  
**or**  
Modify language  
**or**  
Withdraw the  
**Appeal**

### PROCEED TO APPEAL

No Agreement to Rescind or Extend  
Proceed to Suspension Appeal Hearing

### EXTENSION

Parties agree to extend  
the Appeal Hearing date  
beyond 15 days

**T**

### EXECUTIVE OFFICE

Arrange Suspension Appeal Hearing Date  
"  
Suspension Appeal Hearing Notice sent  
to Parent/Guardian/Adult Student  
  
*If parent/guardian/adult student retains  
a lawyer, a lawyer is also retained for  
the principal.*

PROCEED TO APPEAL	RESOLUTION OF APPEAL
See <b>Proceed to Appeal</b> process	See <b>Resolution of Appeal</b> process

**T**

### SUSPENSION APPEAL HEARING

**Decision of Suspension Appeal Hearing is FINAL**



## Safe Schools Department EXPULSION HEARING PROCESS



### SUSPENSION PENDING POSSIBLE EXPULSION NOTICE §. 310

Issued to parent/guardian/adult student +18 years

### **T**

#### PRINCIPAL INVESTIGATION

Principal conducts a school investigation and reaches a determination by the 6<sup>th</sup> day of suspension.

#### PRINCIPAL DETERMINATION

In reaching a determination, the principal will consider one of the following outcomes after reviewing mitigating and other factors:

1. Recommendation for Board Expulsion
2. Recommendation for School Expulsion
3. Confirmed Suspension
4. Reduced Suspension
5. Expungement

#### **Recommendation for Expulsion (Board or School)**

A pre-expulsion hearing meeting is scheduled. During this meeting the parent/guardian/adult student is provided with the Parental Report Package. An expulsion hearing is scheduled unless the parent/guardian/adult student agrees to sign Minutes of Settlement or to sign an Extension Form.



#### **Confirmed or- Reduced Suspension**

Principal can confirm a suspension of 20 days or reduce the suspension to 1 - 19 days.

Principal provides parent/guardian/adult student with a copy of the Parental Report Package.

#### **Expungement**

Notice of Suspension Pending Expulsion and Principal Investigation documents expunged from OSR and electronically.

#### **Suspension Appeal**

Parent may request to appeal the confirmed or reduced suspension. If a suspension appeal is requested, refer to *Suspension Appeal Process Flowchart*.

#### **Minutes of Settlement**

Agreement that is final and binding signed by the principal and the parent/guardian/adult student

#### **Expulsion Hearing**

Scheduled by the 20<sup>th</sup> day of suspension unless an Extension Form has been signed.

Executive Office arranges a hearing date and sends Hearing Notice to Parent/Guardian/Adult Student.

If parent/guardian/adult student retains a lawyer, a lawyer is also retained for the principal.

# **SECTION E**

## **Statutory Powers Procedure Act**

## **SECTION E:**

### **Operational Procedures: Statutory Powers Procedure Act**

The Board affords the parent (or student if an adult) a hearing following:

- a) a principal's recommendation for the expulsion (School Expulsion or Board Expulsion) of a pupil,
- b) an appeal of the suspension of a pupil

Suspension Appeal Hearings, Expulsion Hearings, and Appeals of Decisions of the Board shall be in accordance with the Rules of Procedures outlined below:  
[References are to sections of Statutory Powers Procedure Act ("SPPA") or Education Act ("ACT")]

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## GENERAL

### 1.1 Proceeding Chair

The Proceeding Chair will be appointed by the Chair of the Board. In the absence of the Chair of the Board, the Safe Schools Hearing Committee members will appoint the Proceeding Chair.

This process for appointing the Proceeding Chair will be followed for each hearing.

### 1.2 Liberal Construction Of Rules

These Rules shall be liberally construed to secure the just, most expeditious and cost-effective determination of every PROCEEDING on its merits. [SPPA §2]

### 1.3 Different Kinds Of Hearings In One PROCEEDING

Except as otherwise provided in these Rules, the BOARD may, in a PROCEEDING, hold any combination of written, electronic and oral hearings. [SPPA § 5.2.1]

### 1.4 Waiver Of Procedural Requirement

Any provision of these Rules, including the time for doing any act or thing, may be waived in the discretion of the BOARD, upon its own motion or upon the application of any party. [SPPA § 4(2)]

### 1.5 Disposition Without Hearing

If the parties consent, a PROCEEDING may be disposed of by a decision of the BOARD without a hearing provided that both parties agree to Minutes of Settlement. [SPPA § 4.1]

## 2. PROVISIONS RESPECTING TRUSTEES

### 2.1 The Safe Schools Hearing Committee for Procedural or Interlocutory Matters

A procedural or interlocutory matter in a PROCEEDING may be heard and determined by a discipline committee consisting of at least three members of the board, as assigned by the CHAIR. [SPPA §4.2(1)]

### 2.2 Decision Of Discipline Committee

The decision of a majority of the members of the Safe Schools Hearing Committee is the BOARD'S decision. [SPPA §4.2(3)]

### 2.3 Expiry Of Term

If the term of office of a member of the BOARD who has participated in a hearing expires before a decision is given, the term shall be deemed to continue, but only for the purpose of participating in the decision and for no other purpose.

[SPPA§4.3]

#### 2.4 Incapacity Of Member

If the term of office of a member of the BOARD who has participated in a hearing becomes unable, for any reason, to complete the hearing or to participate in the decision, the remaining Trustee or Trustees may complete the hearing and give a decision. [SPPA §4.4(1)]

### 3. PROCEEDINGS GENERALLY

#### 3.1 Classes of PROCEEDINGS

There shall be two classes of PROCEEDINGS that come before the BOARD:

3.1.1 an appeal against a decision by a principal to impose a suspension; and

3.1.2 a referral by the principal of a matter of expulsion of a pupil. [SPPA§4.7]

3.2 Parties to All Classes of PROCEEDINGS The parties to any class of PROCEEDING shall be:

3.2.1 the pupil if:

i.) the pupil is at least 18 years old, or

ii.) The pupil is 16 or 17 years old and has withdrawn form parental control

3.2.2 the pupil's parent or guardian, unless:

i.) the pupil is at least 18 years old, or

ii.) The pupil is 16 or 17 years old and has withdrawn form parental control, and

3.2.3 the principal of the school in which the pupil is or was enrolled. [ACT 309(8), 311.3(3)]

#### 3.3 Adding Pupil as a Party

Where the PARENT is a party to any class of PROCEEDING, a pupil who is not a party to the suspension appeal or expulsion hearing has the right to be present at the hearing and to make a statement on their behalf. [ACT 309(9), 311.3(4)]

#### 3.4 Hearings To Be Private

Since intimate personal matters may be disclosed, the public will be excluded from oral, written and electronic hearings, so that undue embarrassment to any of the parties may be avoided. [SPPA §9(1)]

### 3.5 Presence of BOARD Solicitor

In PROCEEDINGS (including deliberations) where the Board Solicitor is not representing the principal, the BOARD Solicitor shall be present to advise the PROCEEDING CHAIR as to any legal and procedural matter that may arise, and to assist the BOARD in the preparation of formal Orders and reasons (if requested). In PROCEEDINGS where the Board Solicitor is representing the principal, an outside solicitor will be retained to be present to advise the PROCEEDING CHAIR as to any legal and procedural matter that may arise, and to assist the BOARD in the preparation of formal Orders and reasons (if requested).

### 3.6 Maintenance Of Order At Hearings

The BOARD may make such orders or give such directions at an oral or electronic hearing as it considers necessary for the maintenance of order at the hearing.

[SPPA §9(2)]

### 3.7 Assistance of Peace Officer

If any person disobeys or fails to comply with any order or direction given at a hearing, the person presiding or any Trustee may call for the assistance of any peace officer to enforce the order or direction. [SPPA§9(2)]

## 4. WITHOLDING COMMENCEMENT OF PROCEEDINGS

### 4.1 Decision Not To Process Commencement Of PROCEEDING

Subject to section 4.3, upon receiving documents relating to the commencement of a PROCEEDING, the DIRECTOR may decide not to process the documents relating to the commencement of the PROCEEDING if,

4.1.1 the documents are incomplete;

4.1.2 the documents are received after the time required for commencing the PROCEEDING has elapsed. [SPPA §4.5(1)]

### 4.2 Notice of Decision Not to Process

The DIRECTOR shall give the party who commences a PROCEEDING notice of the decision under section 4.1 and shall set out in the notice the reasons for the decision and the requirements for resuming the processing of the documents.

[SPPA §4.5(2)]

### 4.3 When Documents Incomplete or Received Late For the purposes section 4.1:

4.3.1 the documents are incomplete if they do not conform to the requirements of

sections 11.2, 12.2, as the case requires;

4.3.2 the documents must be received within the time limits set out in sections 11.3, 12.1, as the case requires. [SPPA §4.5(3)]

#### 4.4 Resumption of Processing

The processing of the documents may be resumed:

4.4.1 when the documents are complete, or

4.4.2 after the CHAIR in the Chair's discretion extends the time for commencing the PROCEEDING, as the case requires.

#### 4.5 Dismissal Of PROCEEDING Without A Hearing

Subject to section 4.9, the BOARD may dismiss a PROCEEDING without a hearing if,

4.5.1 the PROCEEDING is frivolous, vexatious or is commenced in bad faith;

4.5.2 the PROCEEDING relates to matters that are outside the jurisdiction of the BOARD; or

4.5.3 some aspect of the statutory requirements for bringing the PROCEEDING has not been met. [SPPA §4.6(1)]

#### 4.6 Notice Of Intended Dismissal

Before dismissing a PROCEEDING under section 4.5, the BOARD shall give not less than five (5) days notice of its intention to dismiss the PROCEEDING to,

4.6.1 all parties to the PROCEEDING if the PROCEEDING is being dismissed for reasons referred to in subsection 4.5.2; or

4.6.2 the party who commences the PROCEEDING if the PROCEEDING is being dismissed for any other reason. [SPPA §4.6(2)]

#### 4.7 Reasons For Intended Dismissal To Be Set Out

The notice of intention to dismiss a PROCEEDING shall set out the reasons for the dismissal and inform the parties of their right to make written submissions to the BOARD with respect to the dismissal within the time specified in the notice. [SPPA §4.6(3)]

#### 4.8 Right To Make Submissions

A party who receives a notice under section 4.6 may make written submissions to the BOARD with respect to the dismissal before the close of business on the fifth (5th) business day after the date of the notice, which date and time shall be specified in the notice. [SPPA §4.6(4)]

#### 4.9 Dismissal

The BOARD shall not dismiss a PROCEEDING under this section until it has given notice under section 4.6 and considered any submissions made under section 4.8. [SPPA §4.6(5)]

### 5. DISCLOSURE

#### 5.1 Required Disclosure

Unless otherwise ordered by the BOARD, each party to a PROCEEDING shall provide to the other party (or parties if more than one) and to the BOARD not less than two (2) clear days prior to the commencement of the PROCEEDING:

5.1.1 a list of the witnesses that the party intends to call to give evidence in the PROCEEDING;

5.1.2 a summary of the evidence that each such witness will give in sufficient detail to permit the other party (or parties if more than one) and the BOARD to know the nature of the evidence intended to be presented; and

5.1.3 if a witness, other than the principal and any teacher in the school in which the pupil is (or was) enrolled, is to be called to give a professional or expert opinion, full details of the credentials of any such witness as well as the reasons why such professional or expert opinion is required for the appropriate determination of the issues in the PROCEEDING.

#### 5.2 BOARD May Order Disclosure

Subject to the provisions of applicable legislation respecting disclosure of personal information, the BOARD, at the request of a party or on its own motion, and at any stage of the PROCEEDING before a hearing is complete, may make orders for,

5.2.1 the exchange of documents;

5.2.2 the exchange of witness statements and reports of expert witnesses;

5.2.3 the provision of particulars;

5.2.4 any other form of disclosure. [SPPA §5.4(1)]

5.3 Exception to Disclosure of Privileged Information Nothing in section 5.1 authorizes:

5.3.1 the production of an Ontario Student Record for any pupil other than the pupil who is the subject of the PROCEEDING;

5.3.2 the making of an order requiring any disclosure that is contrary to law; and

5.3.3 the making of an order requiring any disclosure of privileged information.  
[SPPA §5.4(2)]

5.4 Where Character, Conduct Or Competence Of A Party Is In Issue  
Where the good character, propriety of conduct or competence of a party is an issue in a PROCEEDING:

5.4.1 the party is entitled to be furnished with reasonable information of any allegations with respect thereto not less than 2 clear days prior to the hearing, failing which, the BOARD shall not consider any evidence of character, propriety of conduct or competence of a party; and [SPPA §8]

5.4.2 in the case of a pupil, the disclosure of the Principal's Investigation shall be deemed to be compliance with the requirements of this section.

## 6. PRE-HEARING CONFERENCES

### 6.1 Pre-Hearing Conferences

The BOARD, at the request of a party or on its own motion, may direct the parties to participate in a pre-hearing conference to consider: [ACT 309(5)] and [ACT 311.1(9) 5]

6.1.1 the settlement of any or all of the issues;

6.1.2 the simplification of the issues;

6.1.3 facts or evidence that may be agreed upon;

6.1.4 the dates by which any steps in the PROCEEDING are to be taken or begun;



6.1.5 the estimated duration of the hearing; and

6.1.6 any other matter that may assist in the just and most expeditious disposition of the PROCEEDING. [SPPA §5.3(1)]

## 6.2 Who Presides At Pre-Hearing Conferences

The DIRECTOR or designate, including a designated superintendent and/or Safe Schools coordinator to preside at any pre-hearing conference. [SPPA §5.3(2)]

## 6.3 Pre-Hearing Conference Without Prejudice Except as reflected in an order under section 6.4:

6.3.1 PROCEEDINGS at a pre-hearing conference are conducted on a "without prejudice" basis, and

6.3.2 Nothing acknowledged or asserted by one party at a pre-hearing conference may be repeated by any other party in any subsequent hearing on the matter.

## 6.4 Orders At Pre-Hearing Conference

The DIRECTOR or designate, including the designated superintendent and/or Safe Schools coordinator, who presides at a pre-hearing conference, may make such orders as the Director or designate considers necessary or advisable with respect to the conduct of the PROCEEDING, including adding parties. [SPPA §5.3(3)]

## 6.5 Disqualification

If a Trustee acquires information related to issues that parties are attempting to settle, such Trustee shall not preside at the hearing of the PROCEEDING on its merits unless the parties consent. [SPPA §5.3(4)]

## 6.6 Application To Electronic Hearings

Where a PROCEEDING is conducted electronically, the provisions of Article 9 apply to a pre-hearing conference, with necessary modifications. [SPPA §5.3(5)]

# 7. NOTICES, AND EFFECT OF NON-ATTENDANCE

## 7.1 Notice Of Written Hearing

The BOARD shall give to the parties to a written PROCEEDING five (5) days prior notice of hearing and such Notice shall include:

7.1.1 a reference to § 309, 310 and/or 311 of the ACT as the statutory authority under which the hearing will be held

7.1.2 a statement of the date and purpose of the hearing, and details about the manner in which the hearing will be held;

7.1.3 a statement that the hearing shall not be held as a written hearing if a party satisfies the BOARD that there is good reason for not holding a written hearing (in which case the BOARD is required to hold it as an electronic or oral hearing) and an indication of the procedure to be followed for that purpose;

7.1.4 a statement to the effect of section 7.2, that if the party notified neither acts under subsection 7.1.3 nor participates in the hearing in accordance with the notice, the Discipline Committee may proceed without the party's participation and the party will not be entitled to any further notice in the PROCEEDING. [SPPA §6(4)]

## 7.2 Effect Of Non-Attendance At Written Hearing After Due Notice

Where notice of a written hearing has been given to a party to a PROCEEDING in accordance with these Rules and the party neither acts under subsection 7.1.3 nor participates in the hearing in accordance with the notice, the BOARD may proceed without the party's participation and the party is not entitled to any further notice in the PROCEEDING. [SPPA §7(2)]

## 7.3 Notice of Electronic Hearing

The BOARD shall give to the parties to an electronic PROCEEDING five (5) days prior notice of hearing and such Notice shall include:

7.3.1 reference to § 309, 310 and or 311 of *the* ACT as the statutory authority under which the hearing will be held

7.3.2 a statement of the time and purpose of the hearing, and details about the manner in which the hearing will be held;

7.3.3 a statement that the only purpose of the hearing is to deal with procedural matters, if that is the case;

7.3.4 if subsection 7.3.3 does not apply, a statement that the party notified may, by satisfying the BOARD that holding the hearing as an electronic hearing is likely to cause the party significant prejudice, require the BOARD to hold the hearing as an oral hearing, and an indication of the procedure to be followed for

that purpose; and

7.3.5 a statement that if the party notified neither acts under subsection 7.3.4, if applicable, nor participates in the hearing in accordance with the notice, the Discipline Committee may proceed without the party's participation and the party will not be entitled to any further notice in the PROCEEDING. [SPPA §6(5)]

7.4 Effect Of Non-Attendance At Electronic Hearings After Due Notice  
Where notice of an electronic hearing has been given to a party to a PROCEEDING in accordance with these Rules and the party neither satisfies the BOARD that holding the hearing as an electronic hearing is likely to cause the party significant prejudice if applicable, nor participates in the hearing in accordance with the notice, the BOARD may proceed without the party's participation and the party is not entitled to any further notice in the PROCEEDING. [SPPA §7(3)]

#### 7.5 Notice Of Oral Hearing

The parties to an oral PROCEEDING shall be given five (5) days prior written notice of hearing, and such Notice shall include:

7.5.1 reference to Sections 309, 310 and or 311 as the statutory authority under which the hearing will be held

7.5.2 a statement of the time, place and purpose of the hearing; and

7.5.3 a statement that if the party notified does not attend at the hearing, the Discipline Committee may proceed in the party's absence and the party will not be entitled to any further notice in the PROCEEDING. [SPPA §6(3)(b)]

#### 7.6 Effect Of Non-Attendance At Oral Hearing After Due Notice

Where notice of an oral hearing has been given to a party to a PROCEEDING in accordance with these Rules and the party does not attend at the hearing, the BOARD may proceed in the absence of the party, and the party is not entitled to any further notice in the PROCEEDING. [SPPA §7(1)]

### 8. WRITTEN HEARINGS GENERALLY

#### 8.1 When Written Hearing Not Permitted

Notwithstanding anything contained in these Rules, the BOARD shall not hold a hearing in writing if a party satisfies the BOARD that there is good reason for not doing so. [SPPA §5.1(2)]

## 8.2 Time Limit For Seeking Electronic Or Oral Hearing

A party who wishes to satisfy the BOARD that there is good reason for not holding a hearing in writing shall provide such reason to the BOARD:

8.2.1 in the case of an appeal against a suspension, at the time of delivering the appeal to the BOARD; and

8.2.2 in all other cases, within five (5) days after a determination by the BOARD to hear the appeal in writing.

## 8.3 Exception

Section 8.1 does not apply if the only purpose of the hearing is to deal with procedural matters. [SPPA §5.1(2.1)]

## 8.4 Determination by the BOARD

The BOARD shall determine whether a party has satisfied the BOARD that there is a good reason not to hold the hearing in writing.

# 9. ELECTRONIC HEARINGS GENERALLY

## 9.1 When Hearing Electronically Not Permitted

Subject to section 9.2, where the BOARD has determined to hold a hearing electronically, the BOARD shall not do so if a party satisfies the BOARD that holding an electronic rather than an oral hearing is likely to cause the party significant prejudice. [SPPA §5.2(2)]

## 9.2 Exception Not Apply Where Procedural Only

Section 9.1 does not apply if the only purpose of the hearing is to deal with procedural matters. [SPPA §5.2(3)]

## 9.3 Determination by the BOARD

The BOARD shall determine whether a party has satisfied the BOARD that holding an electronic rather than an oral hearing is likely to cause the party significant prejudice.

## 9.4 Participants To Be Able To Hear One Another

In an electronic hearing, all the parties and the members of the BOARD participating in the hearing must be able to hear one another and any witnesses throughout the hearing. [SPPA § 5.2(4)]

## 9.5 Procedure At Electronic Hearing

At the commencement of the hearing and so often thereafter as may seem just in

the circumstances:

9.5.1 the PROCEEDING CHAIR shall ascertain who is present electronically;

9.5.2 other than the clerk of the PROCEEDINGS, and except with the prior consent of the presiding chair (which consent may be arbitrarily refused), no participant or other person shall be permitted to make a recording of or broadcast any part of the PROCEEDINGS

9.5.3 the PROCEEDING CHAIR shall require each participant to prohibit any person other than:

- (a) a party,
- (b) such party's counsel or agent as recorded present by the PROCEEDING CHAIR, and

- (c) witnesses while giving evidence,  
from listening to anything disclosed at the hearing without the express prior approval of the PROCEEDING CHAIR;

9.5.4 the PROCEEDING CHAIR shall require all participants to notify the PROCEEDING CHAIR before any person present electronically leaves the electronic hearing, and in default of any such notification, such person shall be deemed for all purposes to have been present throughout the whole of the electronic hearing; and

9.5.5 the procedure followed in an electronic hearing shall comply with the requirements of Article 10, and, as far as is feasible and practical, otherwise follow the same process as would be followed in the case of an oral hearing.

## 10. PROVISIONS AFFECTING BOTH ORAL AND ELECTRONIC HEARINGS

### 10.1 PROCEEDINGS Recorded by the BOARD

Except as otherwise ordered by the PROCEEDING CHAIR:

10.1.1 the PROCEEDINGS shall be recorded by the clerk of the PROCEEDING;  
and

10.1.2 no other recording of the PROCEEDINGS shall be permitted.

### 10.2 Rights of Party at Oral and Electronic Hearings

A party may call and, subject to subsection 10.5, examine witnesses and present

evidence, and present submissions. [SPPA §10.1]

### 10.3 Cross-examination of Witnesses

Subject to section 10.5, all witnesses in an appeal of the suspension of a pupil shall be subject to cross-examination by the party other than the party calling them as may be reasonably required for a full and fair disclosure of all matters relevant to the issues. [SPPA §10.1]

### 10.4 Questions In Reply And From The BOARD

Subject to subsection 10.5, all witnesses in an appeal of the suspension of a pupil shall be subject to questions in reply, and questions by the BOARD.

### 10.5 Limitation on Examination and Cross-examination

The BOARD may reasonably limit the number of witnesses, and further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding. [SPPA §23(2)]

## 11. APPEAL OF A DECISION TO SUSPEND A PUPIL

### 11.1 Who May Appeal a Suspension

The following persons may appeal the decision of a principal to suspend a pupil:

#### 11.1.1 the pupil if:

- i.) the pupil is at least 18 years old, or
- ii.) The pupil is 16 or 17 years old and has withdrawn from parental control

#### 11.1.2 the pupil's parent or guardian, unless:

- i.) the pupil is at least 18 years old, or
- ii.) The pupil is 16 or 17 years old and has withdrawn from parental control [ACT 309(1)]

### 11.2 Appeal Required In Writing, and Minimum Content

An appeal of the decision of a principal to suspend a pupil shall be in writing, and the notice thereof shall contain at least the following:

#### 11.2.1 a copy of the Notice of the Suspension that is the subject of the appeal;

11.2.2 a written statement identifying, with appropriate detail, every reason that the person appealing wishes the BOARD to consider as to why the suspension should not have been imposed, or why the length of the suspension should be altered.

### 11.3 Time For Bringing Appeal

An appeal of the decision of a principal to suspend a pupil shall be delivered to the designated supervisory officer, with a complete copy to the principal who imposed the suspension, not later than the 5th day following the delivery of a Principal's Investigation Report after a suspension pending expulsion imposed under ACT 310 or not later than the 10th day following the delivery of a Suspension Notice imposed under ACT 306.

### 11.4 Response Of Board

The board shall hear and determine the appeal within 15 days of receiving notice unless the parties agree on a later deadline, and shall not refuse to deal with appeal on the ground that there is a deficiency in the notice to appeal.[ACT 309(6)] The board may initiate a pre-hearing conference as stated herein. [6.1]

### 11.5 Hearing In Writing

Subject to Article 8, the hearing of an appeal of the decision of a principal to suspend a pupil shall be held in writing. [SPPA §5.1(1)]

### 11.6 Appellant To Satisfy BOARD That Principal Was Wrong

In an appeal of the decision of a principal to suspend a pupil, the appellant shall satisfy the BOARD that the decision of the principal is wrong.

### 11.7 Appellant Presents First, Principal Second

Where the BOARD hears an appeal of the decision of a principal to suspend a pupil either electronically or orally, the appellant shall proceed first in the calling and examination of witnesses and presentation of evidence and submissions, and the principal shall be the second to do so.

### 11.8 Decision Of The BOARD

The BOARD shall deliver its decision on an appeal of a decision by a principal to suspend a pupil:

11.8.1 in the case of an appeal heard in writing where a party has applied but failed to satisfy the BOARD that there is good reason for not doing so, within ten (10) days after the latest of

- (a) the determination described in section 8.4;
- (b) the delivery or time for delivery of the response of the board described in 11.4

11.8.2 in the case of all other appeals heard in writing, within ten (10) days after receipt of the appeal; and

11.8.3 in the case of an appeal heard orally or electronically, within a reasonable

time after the conclusion of the hearing.

## 12. REFERRAL OF AN EXPULSION MATTER TO THE BOARD

### 12.1 Time For Referral

A principal who refers a matter under 311.3 of the ACT shall do so as soon practicable after the Principal's Investigation Report following the suspension of a pupil pending possible expulsion under § 310 of *the Act*.

### 12.2 Content Of Referral

A principal who refers a matter under §311.3 of the ACT shall prepare a report that contains the following [ACT 311.1(7)]:

12.2.1 A summary of the principal's findings;

12.2.2 The principal's recommendation as to whether the pupil should be expelled from the pupil's school only or from all schools of the board

12.2.3 The principal's recommendation as to,

- i.) the type of school that might benefit the pupil, if the pupil is expelled from all schools only, or
- ii.) the type of program for expelled pupils that might benefit the pupil , if the pupil is expelled from all schools of the board

The principal shall promptly provide a copy of the report to the board and to every person whom the principal was required to give notice of the suspension under section 311.

### 12.3 Hearing Electronically

Subject to Section 9.1, the BOARD may determine to hear electronically the referral of a matter under §309 or §310 of *the Act*. [SPPA §5.2(1)]

### 12.4 Scheduling Of Hearing

Subject to section 12.5, the BOARD shall appoint a day and time for the hearing that is not later than the twentieth (20th) school day following the date when the pupil was suspended pending expulsion under §310 of *the Act*.

### 12.5 Extension Of Deadline

Subject to section 12.6, the BOARD may appoint a day and time for the hearing



that is later than the date prescribed in section 12.4 if the parties consent to such later date. [ACT 311.3(8)]

#### 12.6 PARENT or Pupil Application For Adjournment

Any order of the BOARD upon the application by the PARENT or the pupil for an adjournment of the date and time appointed by the BOARD under section 12.4 or section 12.5

12.6.1 shall be subject to the express condition that the parties consent to the adjourned date as the deadline within which the BOARD may impose an expulsion, and to a continuance of the suspension pending expulsion until the end of the hearing and decision of the BOARD, and

12.6.2 may be subject to such other conditions as the BOARD in its discretion may prescribe.

#### 12.7 Decision Of The BOARD

The BOARD shall deliver its decision on referral of a matter under §310 and §311 of the ACT by a principal not later than:

12.7.1 the twentieth (20th) school day following the date when the pupil was suspended pending expulsion if such deadline has not been extended by agreement of the parties, or

12.7.2 the extended date, as provided in either of section 12.4 or section 12.5 as the deadline within which the BOARD may impose an expulsion, as the case requires. or

12.7.3 time needed to complete the Decision in Order following signing of Minutes of Settlement presented at the pre-hearing conference.

#### 12.8 Appeal of Decision of the Board

The parent/guardian/adult student/student 16/17 years of age and withdrawn from parental control may appeal the board's decision to expel a pupil, whether the pupil is expelled from the pupil's school only or from all schools of the board, to the designated tribunal. The appellant has 30 days from the hearing date and decision to inform the designated tribunal of the intent. The designated tribunal has 30 days to hear the appeal. [ACT 311.7]

The "designated tribunal" means the Child and Family Review Board under section 207 of the Child and Family Services Act. O Reg. 472/07, s.1.

### 13. DEFINITIONS

13.1 Except as required by the context, in these Rules, in addition to the plain meaning of the words in each case:

13.2 "ACT" means *The Act*, R.S.O. 1990, c.E.2, as amended;

13.3 "BOARD" includes the Board of Trustees, a Committee of Trustees (Discipline Committee) to which the holding of a hearing is delegated, a Trustee designated by the CHAIR of the BOARD, or the DIRECTOR of Education or designate, as the context requires;

13.4 "CHAIR" means the CHAIR of the BOARD and includes the CHAIR's delegate;

13.5 "DIRECTOR" means the Director of Education and includes the Director's delegate;

13.6 "PARENT" includes one or both parents, and one or more guardians, of a pupil, as the case requires;

13.7 "PROCEEDING" includes

- (a) an appeal against a decision by a principal to impose a suspension;
- (b) a referral by the principal of a matter of a school or board expulsion of a pupil, and
- (c) a procedural or interlocutory matter as part of any one of the foregoing;

13.8 "PROCEEDING CHAIR" means the chair of the Discipline Committee assigned to hear the PROCEEDING;

**SECTION F**  
Frequently Asked Questions  
for Suspension Appeal  
Hearings

## **SECTION F**

### **Frequently Asked Questions for Suspension Appeal Hearings**

It is a fundamental principle of the common law that persons facing disciplinary consequences be treated fairly. Procedural fairness requires that the disciplinary consequences to a student be administered by a school administrator who conducts an investigation in an impartial and fair manner. Depending on the circumstances, fairness may include:

- giving the student reasonable notice of the rule involved;
- the opportunity to be heard - to tell the student's side of the story; and
- the right to know the case against the student.

Suspension Appeal Hearings will be conducted in accordance with the *Statutory Powers Procedure Act* (R.S.O. 1990, c. S.22). The following is a guideline regarding the rules of procedure for a suspension appeal.

#### **1. If you decide to appeal the suspension, what types of decisions can the Committee make?**

Following the suspension appeal hearing, the Committee can make only one of the following decisions:

- confirm the suspension and the duration of the suspension;
- confirm the suspension, but shorten its duration and order that the record of suspension be amended accordingly; or
- quash the suspension and order that the record of suspension be expunged.

#### **2. Does the appeal of a suspension delay the suspension?**

No. Even if there is an appeal, the suspension must still be served by the student.

#### **3. Who are the parties to the hearing?**

The parties to the hearing are:

- the parent/guardian of a student under the age of 18;
- an adult student;
- a student who is 16 or 17 years old and has withdrawn from parental control;

and/or

- the school principal.

**4. Can the student who has been suspended attend the hearing even if the student is not a party?**

Yes. The student named in the suspension has the right to be present at the hearing and to make a statement on their behalf.

**5. Does every party have a right to representation?**

Yes. A party to a proceeding may be represented by counsel or an agent. Counsel is a lawyer. An agent may be a trusted family friend, a religious advisor or other person who can assist with the presentation of the case.

**6. What is the role of the Committee of the Board?**

The Committee of the Board will consist of at least three members of the Board of Trustees. It will hear and determine an appeal. Members of the Committee who may have had any direct involvement in the matter prior to the commencement of the hearing will disqualify themselves and will not take part in the hearing, the deliberations, the decision or the reasons. Members of the Committee who have not been present through the whole of the hearing will not take part in the deliberations, the decision or the reasons.

**7. Is there a requirement to provide disclosure?**

Yes. Unless otherwise ordered by the Board, prior to the commencement of the Hearing, each party will provide to the other party and to the Board the following information:

- a copy of documents and summary of evidence that each party intends to rely on at the hearing.

Parties will exchange this information no later than 48 (forty-eight) hours in advance of the Hearing, unless there are extenuating circumstances preventing the exchange. Any documents or evidence not disclosed 48 (forty-eight) hours in advance will be presented to the Committee of the Board for review to determine whether they can be referenced at the Hearing.

**8. Will the hearing be held in private?**

Yes. The Committee will order that the hearing will be held in private session.

**9. When will a suspension appeal hearing take place?**

The Committee of the Board will hear and determine a suspension appeal within 15 school days of receiving the notice of appeal, unless the parties agree otherwise.

#### **10. What is the order of presentation at the hearing?**

When the Committee hears an appeal of the decision to suspend a student, the parent or adult student will proceed first in the presentation of evidence and submissions, and the principal will proceed second, unless the parties agree otherwise.

#### **11. How will the suspension appeal hearing be organized?**

Subject to the discretion of the Committee hearing a suspension appeal, the following guidelines will apply:

- (a) Five minute introduction of the parties and the Committee of the Board;
- (b)
  - i. Ten (10) minute presentation by the parent or adult student in presenting evidence and submissions on behalf of the student;
  - ii. Ten (10) minute cross-examination by the Principal (and/or Legal Counsel, if applicable) of the parent and the student [and their witnesses];
- (c)
  - i. Ten (10) minute presentation by the principal in presenting evidence and submissions on behalf of the School;
  - ii. Ten (10) minute cross-examination by the Parent or adult student (and/or their Legal Counsel, if applicable) of the Principal [and the Principal's witnesses];

- (d) Five (5) minute closing arguments by parent or adult student (or their Legal Counsel, if applicable);
- (e) Five (5) minute closing arguments by the Principal (or their Legal Counsel, if applicable);
- (f) Five (5) minute questions and answer session by the Committee. Caucus, deliberations and decision by the Committee. The Committee has the power to reserve its decision.

## **12. What if translation or interpretation services are required?**

If translation or interpretation services are required, the time limit in each step may be altered.

## **13. What will the Committee of the Board consider in making a decision?**

The Committee will assess the evidence as provided by the parties, and determine whether on a balance of probabilities, it is more probable than not that the student committed the infraction. Where the Committee determines that the student committed the infraction, the Committee will determine whether the principal considered the mitigating factors or other factors prescribed by the regulations. If the principal failed to consider the mitigating factors or other factors, then the Committee will do so.

Mitigating factors to be considered are as follows:

- The pupil does not have the ability to control the pupil's behaviour.
- The pupil does not have the ability to understand the foreseeable consequences of the pupil's behaviour.
- The pupil's continuing presence in the school does not create an unacceptable risk to the safety of any person.

Other factors to be considered are as follows:

- The pupil's history.
- Whether a progressive discipline approach has been used with the pupil.
- Whether the activity for which the pupil may be suspended was related to any harassment of the pupil because of the pupil's race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, gender identity, gender expression, family status, marital status, or to any other form of harassment.
- How the suspension or expulsion would affect the pupil's ongoing education.
- The age of the pupil.
- In the case of a pupil for whom an individual education plan has been developed,
  - whether the behaviour was a manifestation of a disability identified in the pupil's individual education plan.
  - whether appropriate individualized accommodation has been provided, and

- whether the suspension or expulsion is likely to result in an aggravation or worsening of the pupil's behaviour or conduct.
- whether the pupil has a history of marginalization or trauma.

**14. Can the Committee reserve its decision?**

Yes. The Committee has the power to reserve its decision; that is, require further time for its deliberations and conclusions.

**15. Will the Committee issue a decision in writing?**

Yes. The decision of the Committee will be in writing and signed by the chair of the Committee. A copy of the decision will be sent to all parties to the proceeding who took part in the hearing at their respective addresses last known to the Board.



# **SECTION G**

## **Frequently Asked Questions for Expulsion Hearings**

## SECTION G

### Frequently Asked Questions for Expulsion Hearings

It is a fundamental principle of the common law that persons facing disciplinary consequences be treated fairly. Procedural fairness requires that the disciplinary consequences to a student be administered by a school administrator who conducts an investigation in an impartial and fair manner. Depending on the circumstances, fairness may include:

- giving the student reasonable notice of the rule involved;
- the opportunity to be heard - to tell the student's side of the story; and
- the right to know the case against the student.

Expulsion Hearings are to be conducted in accordance with the *Statutory Powers Procedure Act* (R.S.O. 1990, c. S.22). The following is a guideline regarding the rules of procedure for an Expulsion Hearing:

#### **1. If you decide to have an Expulsion Hearing, what types of decisions can the Committee make?**

Following the Expulsion Hearing, the Committee can make only one of the following decisions:

- whether to expel the pupil; and
- if the pupil is to be expelled, whether the pupil is expelled from the pupil's school only or from all schools of the Board.

If the Board does not expel the pupil, the Board shall, with respect to the suspension originally imposed under Section 310 of the *Education Act*:

- confirm the suspension and the duration of the suspension;
- confirm the suspension, but shorten its duration and order that the record of suspension be amended accordingly; or
- quash the suspension and order that the record of suspension be expunged.

#### **2. Does the Expulsion Hearing delay the 20-day suspension?**

No. Even if there is a Hearing, the suspension must still be served by the student.

### **3. Who are the parties to the hearing?**

The parties to the hearing are:

- the school principal;
- the pupil, if:
  - the pupil is at least 18 years old (an adult student); or
  - the pupil is 16 or 17 years old and has withdrawn from parental control;
- the pupil's parent/guardian, unless:
  - the pupil is at least 18 years old; or
  - the pupil 16 or 17 years old and has withdrawn from parental control.

### **4. Can the student who has been recommended for expulsion attend the hearing even if the student is not a party?**

Yes. The student named in the suspension pending expulsion has the right to be present at the hearing and to make a statement on their behalf.

### **5. Does every party have a right to representation?**

Yes. A party to a proceeding may be represented by legal counsel or an agent. Legal counsel is a lawyer. An agent may be a trusted family friend, a religious advisor or other person who can assist with the presentation of the case. If a pupil, or parent/guardian (in accordance with #3 above), intends to bring legal counsel to the Hearing, they must inform the Board's legal counsel of this intention at least 10 (ten) days in advance of the Hearing date.

### **6. What is the role of the Committee of the Board?**

The Committee of the Board will consist of at least three members of the Board of Trustees. It will hear and determine the recommendation for expulsion. Members of the Committee who may have had any direct involvement in the matter prior to the commencement of the Hearing will disqualify themselves and will not take part in the Hearing, the deliberations, the decision or the reasons. Members of the Committee who have not been present through the whole of the Hearing will not take part in the deliberations, the decision or the reasons.

### **7. Is there a requirement to provide disclosure?**

Yes. Unless otherwise ordered by the Board, prior to the commencement of the Hearing, each party will provide to the other party and to the Board the following information:

- a copy of documents and summary of evidence that each party intends to rely on at the hearing.

Parties will exchange this information no later than 48 (forty-eight) hours in advance of the Hearing, unless there are extenuating circumstances preventing the exchange. Any documents or evidence not disclosed 48 (forty-eight) hours in advance will be presented to the Committee of the Board for review to determine whether they can be referenced at the Hearing.

**8. Will the hearing be held in private?**

Yes. The Committee will order that the Hearing will be held in private session.

**9. When will an Expulsion Hearing take place?**

The Committee of the Board will hear and determine a recommendation for expulsion within 20 school days of the pupil's suspension pending expulsion under section 310 of the *Education Act*, unless the parties to the Expulsion Hearing have signed an Extension Form and/or the parties to the Expulsion Hearing agree on a later deadline.

**10. What is the order of presentation at the hearing?**

When the Committee hears an Expulsion Hearing, the principal will proceed first in the presentation of evidence and submissions, and the parent or adult student will proceed second.

**11. How will the Expulsion Hearing be organized?**

In an Expulsion Hearing, the following guidelines will apply:

- (a) Five (5) minute introduction of the parties and the Committee of the Board, with discussion on the issues to be addressed by the Committee;
- (b) (i) Twenty (20) minute presentation by the principal/legal counsel in presenting evidence and submissions on behalf of the School, including any witness evidence\*;
  - (ii) Ten (10) minutes total for parent or adult student (and/or legal counsel, if applicable) to ask questions of clarification of the principal (and/or legal counsel, if applicable);
- (c) (i) Twenty (20) minute presentation by the parent or adult student (and/or legal counsel, if applicable) in presenting evidence and submissions on behalf of the student, including any witness evidence\*;
  - (ii) Ten (10) minutes total for principal (and/or legal counsel, if applicable) to

ask questions of clarification of the parent or adult student (and/or legal counsel, if applicable); and

(d) Five (5) minute closing arguments by the Principal (or their Legal Counsel, if applicable);

(e) Five (5) minute closing arguments by parent or adult student (or their Legal Counsel, if applicable);

(f) Ten (10) minute question-and-answer session by the Committee.

\*Note: video evidence, if shown, does not count toward the 20-minute time limit

(g) Caucus, deliberations and decision by the Committee. The Committee has the power to reserve its decision.

## **12. What if translation or interpretation services are required?**

If translation or interpretation services are required, the time limit in each step may be altered.

## **13. What will the Committee of the Board consider in making a decision?**

The Committee will consider:

- all submissions and views of the parties, including their views as to whether the pupil, if expelled, should be expelled from ~~his or her~~ **the pupil's** school only or from all schools of the board;
- (b) any mitigating or other factors prescribed by the regulations and as outlined in TCDSB Policy S.S.01; and
- (c) any written response to the principal's report recommending expulsion that a person gave to the board under subsection 311.1 (10) of the *Education Act* before the completion of the hearing.

## **14. Can the Committee reserve its decision?**

Yes. The Committee has the power to reserve its decision; that is, require further time for its deliberations and conclusions and give its decision at a later date/time.

**15. Will the Committee issue a decision in writing?**

Yes. The decision of the Committee will be in writing and signed by the chair of the Committee. A copy of the decision will be sent to all parties to the proceeding who took part in the hearing at their respective addresses last known to the Board.

# **SECTION H**

## **Principal Investigation Guideline**

## SECTION H

### **Operational Procedures: Principal Investigation Guideline**

We believe that those entrusted with leadership positions in the Catholic Schools must be conspicuous for their goodness, sincerity and attachment to the faith. In other words, they are persons who demonstrate in practice the very reason for the Catholic school's existence: an integrated Christian maturity inspired by the Gospel and lived in authentic freedom and commitment. (Fulfilling the Promise: The Challenge of Leadership, 1993).

As outlined in the TCDSB Suspension and Expulsion Policy S.S.01, it is the policy of the Board that, whenever the principal suspends a student pending possible expulsion, the principal will conduct an investigation under the Board's Suspension and Expulsion Policy S.S. 01 to determine whether to recommend to the Board that the pupil be expelled. The student, and any other person who may reasonably be regarded as having been affected by such activity, shall be given a fair opportunity to promptly furnish information relevant to the principal's investigation, unless it is impractical to do so, eg. the student is in custody.

#### Guidelines:

1. In circumstances where there is police involvement regarding a school related incident and the principal has been given direction by police not to proceed with a school investigation, the principal may exclude the student for the duration of the police investigation according to *Education Act* Section 265 (1) (m). During this time, the principal shall continue to provide academic programming to the student. The principal will also maintain ongoing contact with police to determine when it is permissible for the principal to continue with the school investigation. Once the principal has been granted permission by police to proceed with the school investigation, the principal will conduct an investigation to determine appropriate next steps.

2. Where the principal believes that a student has engaged in activity for which expulsion must be considered, the principal shall suspend the student from school and from all school-related activities. The principal shall discuss with the student and parent/guardian (if minor) the TCDSB long-term suspension program (TIPSS) and will encourage the student's participation in this program. The principal shall conduct an investigation to determine whether to recommend to the Board that the student be expelled.
- a. The investigation shall be considered as a matter of high priority and shall be conducted and completed as soon as reasonably possible. The principal shall endeavor to complete the school investigation within 5 school days from the start of the suspension.
  - b. The investigation shall be conducted by the principal who may request the assistance of a designate(s). It is recommended that interviews be conducted in the presence of another staff person designated by the principal.
  - c. The principal shall remain neutral in attitude and non-judgmental as to the matters disclosed to the principal during the investigation, and shall gather information from students, staff and other persons about the activity that has given rise to the investigation.
  - d. The principal shall inform a student what the allegations are, and shall give the accused student an opportunity to respond to those allegations prior to reaching a final determination unless it is impractical to do so, e.g. the student is in custody.
  - e. During the investigation stage and before being interviewed further by the principal the subject student, and the subject student's parents if the student is a minor, shall be advised of the student's right to have one other adult present with the student ("accompanying person") during the interview. The principal, however, in the principal's sole discretion may permit more than one accompanying person.
  - f. The Principal will document information gathered from the school investigation in the Safe Schools Progressive Discipline Application,



specifically the online Principal Investigation.

- g. Before making a final determination, the principal shall consider mitigating factors and other factors in accordance with the requirements of the Ministry of Education.
- h. Upon reviewing the school investigation and relevant mitigating and other factors, the principal shall make a final determination which will include one of the following:
  - i. Board Expulsion
  - ii. School Expulsion
  - iii. Confirmed Suspension
  - iv. Shortened or Reduced Suspension
  - v. Withdrawal of Suspension and Expungement of the Record
- i. The principal shall provide a written notice outlining details related to the principal's final determination to every person to whom the principal was required to give notice of suspension under Section 311 of *Education Act*. This written notice is entitled "Parent Report Package".

# **SECTION I**

## **Search and Seizure Guideline**

## SECTION I:

### Operational Procedures: Search and Seizure Guideline

1. From time to time, proper investigation of an incident in a school may require a search of a student or his/ her property.

For example,

- a. a principal or a teacher may have reason to suspect that a student is carrying a concealed weapon, or
  - b. a student questioned with regard to a fight may blurt out that one of the antagonists sells drugs and keeps some in the antagonist's locker, or
  - c. a student reports that the student's personal property has been stolen and indicates that the student believes it was taken by another student and may be found in that student's knapsack.
2. The Toronto Catholic District School Board prohibits the possession, on school property or at school functions, of substances or objects which may threaten good order, discipline, decorum, and public safety. Such substances or objects may include, but are not limited to:
    - a) alcoholic beverages;
    - b) cannabis/cannabis products, unless the student is a medical cannabis user;
    - c) illegal or restricted drugs;
    - d) stolen property;
    - e) weapons, either restricted or prohibited by law;
    - f) any object which may be used as a weapon and which may cause serious injury; and
    - g) hate literature, racist material, pornography, etc.

What is the proper procedure to follow in circumstances such as these?

3. Section 8 of the *Canadian Charter of Rights and Freedom* provides that: "Everyone has the right to be secure against unreasonable search and seizure". However, a student's reasonable expectation of privacy is diminished at school because the student knows that principals and teachers are responsible for

providing a safe environment and maintaining order and discipline in the school.

4. Principals and teachers may conduct a search if there are reasonable grounds to believe that a school rule has been violated and that evidence will be found in school property, in student property, or on the person searched. Staff must, where possible, consult with the principal or designate prior to conducting a search of school property, student property, or a person. School property includes, but is not limited to, student lockers, student desks, student cubbies, or any other place on school property. Student property includes, but is not limited to, knapsacks, purses, and personal electronic devices.
5. The following may constitute reasonable grounds:
  - a. information received from one student considered to be credible;
  - b. information received from more than one student;
  - c. a teacher's or principal's own observations; and
  - d. any combination of these pieces of information which the school authority considers to be credible.

Random or arbitrary searches or searches on groundless suspicion are not reasonable and will likely be in contravention of the Charter.

6. All searches of property and persons may only be conducted in the presence of the principal or teacher and one other adult witness.
7. Where need for a personal search is indicated, and where it is safe to do so, all personal searches of a student should be conducted in the privacy of the principal's office or another suitable room.
8. The student involved should be given the opportunity to produce the substance or object which the student is suspected of possessing before a search of the student is conducted. If the student is not cooperative in producing the substance or object, the principal or designate will immediately contact the police.
9. The principal or designate will make all reasonable efforts to contact the parent/guardian of the student (unless the student is 18 years of age and older or the student is 16/17 years of age and has withdrawn from parental control) once the

search has been conducted, unless otherwise directed by Police. The principal will contact the parent/guardian when cleared by Police to do so. In all cases, the principal or designate will document all efforts/attempts to contact the parent/guardian and any instructions received from Police.

10. When a search is conducted, a record of all pertinent information, including action taken, witnesses present, the date, time and place of the search, and results of the search, will be documented as soon as possible. Documents will be filed appropriately and the Area Superintendent will be promptly advised. This information is subject to the provisions of Freedom of Information legislation. Confiscated property will be appropriately secured until removed from school premises by police or by other arrangement as determined by Principal and Area Superintendent.