



REGULAR BOARD

RESPONSE TO THE MOTION FROM THE SPECIAL EDUCATION ADVISORY COMMITTEE (SEAC) REGARDING EXCLUSIONS

*Wisdom is radiant and unfading, and she is easily discerned by those who love her,
and is found by those who seek her. Wisdom 6:12*

Drafted

February 7, 2022

Maria Meehan, Superintendent, Special Services
Michael Caccamo, Superintendent, Safe Schools

Meeting Date

March 24, 2022

INFORMATION REPORT

Vision:

At Toronto Catholic we transform the world through witness, faith, innovation and action.

Mission:

The Toronto Catholic District School Board is an inclusive learning community uniting home, parish and school and rooted in the love of Christ. We educate students to grow in grace and knowledge to lead lives of faith, hope and charity.



Brendan Browne
Director of Education

Adrian Della Mora
Associate Director of Academic
Affairs & Chief Operating Officer

Derek Boyce
Associate Director of Facilities,
Business & Community Development

Ryan Putnam
Chief Financial Officer & Treasurer

A. EXECUTIVE SUMMARY

The TCDSB is committed to maintaining a safe learning environment for all staff and students.

School Principals are required, by law, to comply with the *Education Act* in the exercising of their professional judgement and duties. School Principals are leaders who are responsible for student safety, well-being, and learning.

The *Education Act*, in section 265(1)(m), permits a School Principal to refuse to admit a student to the school or a class. The exclusion of students from school or a class is the focus of this report.

The cumulative staff time required to prepare this report was 40 hours.

B. PURPOSE

This report responds to motions and recommendations from the TCDSB's Special Education Advisory Committee ("**SEAC**"), including but not limited to:

- a **motion** made by the representative of *Autism Ontario*, recommended at the **November 17, 2021, SEAC meeting** and carried at the December 9, 2021, Regular Board meeting;
- a **motion** made at the **March 27, 2019, SEAC meeting** and carried at the April 24, 2019, Regular Board meeting.

November 17, 2021, SEAC Motion:

This report will address the following items from the November 17, 2021, SEAC recommendations. SEAC recommends that:

- a. The TCDSB attendance system be updated to track all exclusions, including Formal and Soft exclusions as previously defined.
 - i. "*Formal Exclusion*" is defined in section 265 (1) (m) of the *Education Act* (see below for definition – Part C).
 - ii. "*Soft Exclusion*" is defined as a School Principal's request to keep a child home for all or part of a day.

- b. The TCDSB Progressive Discipline Application be updated to keep records associated with both types of Exclusions as required for a Ministry audit and those records should also be kept in a Student's Ontario Student Record (OSR);
- c. A Policy be created that will instruct staff on the appropriate use of Exclusions, record keeping and appeal provisions; and
- d. Reporting of both types of Exclusions in the Annual Safe Schools report and it indicate the numbers of special needs students affected along with total students.

March 27, 2019, SEAC Motion:

This report will also address the following items from the March 27, 2019, SEAC recommendations.

The subcategory of students listed as Excluded from: 1) December 2013 up to and including February 2016; and 2) March 2016 up to and including December 2018, as follows:

- a. Students not in receipt of Special Education services;
- b. Students with an Individualized Education Program (IEP);
- c. By exceptionality (using the Ministry's 14 categories of exceptionalities); and
- d. Whether the exclusion was due to police direction/court order or the Principal's discretion;
- e. Whether the students with the listed exclusions had a history of discipline issues prior to the exclusion, including but not limited to warnings, suspensions, and expulsions;
- f. Whether the exclusions listed were documented as "safety" exclusions or "disciplinary" exclusions, in light of page 5 of the Report, excerpted below:

"The Annual Safe School Report is directly linked to Safe School Legislation. However, Safety Exclusions under 265 (1)m of the Education Act are not tracked by the Safe School department as they are not associated with Safe Schools legislation; nor is there any requirement for the Board to report those to the Ministry of Education. Safety exclusions are not considered disciplinary and also include Police exclusions which School Principals are mandated to

adhere to until an active police investigation is complete. In any event, there is an expectation that the student will return to a school of the TCDSB. Exclusions are thus not a metric that is linked to the Safe Schools Annual Report. Instead, Safety Exclusions deal with programming alternatives that support a successful academic and social-emotional transition back to a school.”
(p. 5);

- g. Whether the parents/guardians of the students listed as excluded were provided with a Written Appeal Hearing Policy and/or procedure (the "Policy") regarding the Appeal Hearing Information identified in the chart, and if so to provide a copy of the Policy to SEAC; and to advise whether the Policy is publicly available on the School Board's website and, if so, to provide a copy of the web page;
- h. How a teacher marks a student absent for attendance when the student has been excluded from school for all or part of a school day;
- i. Where and with what service provider(s) an excluded student continues to receive access to their education and uninterrupted learning during the period of exclusion and for how long, i.e., how many hours of academic instruction per day;
- j. Is there a written Policy or procedure for when and how long the Board/Principal may exclude under Section 265(1)(m) – If so provide a copy to SEAC. Is it available on website? If so, provide a copy of webpage.

C. BACKGROUND

- 1. School Principals are required, by law, to comply with the *Education Act* in the exercising of their professional judgement and duties.
- 2. The *Education Act*, in section 265(1)(m), permits a School Principal to refuse to admit a student to the school or a class:
 - subject to an appeal to the Board, to refuse to admit to the school or classroom a person whose presence in the school or classroom would in the Principal's judgment be detrimental to the physical or mental well-being of the pupils.

3. SEAC has requested data, along with detailed operational and student personal information, related to how this section of the *Education Act* is applied at the TCDSB.

D. EVIDENCE/RESEARCH/ANALYSIS

The following is provided in response to the November 19, 2019, and March 27, 2019, SEAC Motions.

1. Duty of the Principal

In addition to the duties of a Principal articulated in the *Education Act*, the Ministry of Education Enrolment Register Instructions for Elementary and Secondary Schools 2021 document further defines the required documentation and data that School Boards are required to record.

2. Attendance Record

Students who are excluded due to section 265(1)(m) of the *Education Act* are documented as “excused” on the daily attendance record collected through the Student Information System application, for the duration of the exclusion. The reason for the student being excused is noted as “exclusion”.

3. Types of Exclusions

The TCDSB generally employs two (2) different types of exclusions.

- a. Exclusion relating to safety of students as a result of an emergency, or an incident (or series of incidents) requiring a “pause”.
 - b. Exclusion as a result of a police investigation.
4. In all circumstances, exclusions are not considered disciplinary.
 5. The TCDSB does not practice “soft exclusion”, as referenced in the 2021 motion, and “disciplinary” exclusions noted in the 2019 motion. These distinctions do not exist in law, and they are not consistent with section 256(1)(m) of the *Education Act*.
 6. At times, School Principals, and parents/guardians, in collaborative dialogue, may determine a plan that has the student home from school for a limited period of time for reasons that are distinct from those that may result in an exclusion (as outlined above).

7. Tracking Exclusions

Although exclusions are not disciplinary and fall outside of the TCDSB's approach to progressive discipline, the TCDSB's online Progressive Discipline application is currently being used to electronically document information related to exclusions.

8. A hard copy of an exclusion letter is kept in the student's Ontario Student Record (OSR) file.

9. TCDSB Exclusion Process

When an exclusion is being considered at the TCDSB, the following steps are taken:

- The School Principal advises the Area Superintendent that an exclusion is being considered.
 - The Area Superintendent, in consultation with the Superintendent of Safe Schools, the Superintendent of Special Services, and, as required, the Superintendent of Equity, Diversity and Indigenous Education, and General Legal Counsel, reviews the circumstances that have resulted in the consideration of an exclusion.
 - Safe Schools, Special Services and Corporate Services staff support the Principal with the school exclusion process as necessary.
 - All exclusion notifications to parents are copied to the Area Superintendent, the Superintendent of Safe Schools and the Superintendent of Special Services, General Legal Counsel, Chief of Communications, Senior Manager of Occupational Health and Safety, and the Director of Education.
10. Exclusion protocols are reviewed with Principals via Principal meetings and email communications.
 11. Principals do not require parental permission to exclude a student. Parents do have the right to appeal an exclusion. The TCDSB present practice is that all exclusion notification letters are accompanied by an explanation of the exclusion appeal process.
 12. An exclusion is a temporary measure. The exclusion notification letter includes the conditions that must be met for the exclusion to end. The conditions for each exclusion are unique and specific to each individual situation. The length of an exclusion reflects the individual conditions that must be met for the student to return to school.

13. The Principal remains in regular communication with the parent(s)/guardian(s) of excluded students throughout the duration of the exclusion, supporting and documenting the articulated steps outlined in the exclusion letter with the goal of returning the student to school as soon as possible.
14. Students are provided work packages by the school so that the student can continue their education during the exclusion.
15. If there is a Social Work referral in place, or if a referral is made during the exclusion, social work services are available to support the student and family.

16. Ministry of Education Reporting Requirements

Pursuant to the Ministry of Education Enrolment Register Instructions for Elementary and Secondary Schools 2021 document, School Boards are responsible for collecting the following information for each exclusion:

- a. Documentation that shows the reason for the exclusion.
 - b. Documentation of successful notification of exclusion and the response between the School Board and the pupil (if the pupil is an adult) or the pupil's parent or guardian.
 - c. Documentation of the plan (signed by the Principal) to re-integrate the pupil into the education system.
 - d. Documentation of communication with other parties involved with re-engaging the pupil (e.g., social agencies).
 - e. Data on the number of students who have been excluded during the school year (including the name of student, OEN, length of exclusion, and reason for exclusion).
17. As school exclusion data is distinct from Progressive Discipline data, it is not included in the Safe Schools Annual Report.
 18. The Ministry of Education *Aggregate Exclusions Reporting Template* was completed by the TCDSB and submitted on November 26, 2021. All required data was provided. Data submitted included the reason for the exclusion, the number of students excluded, total number of days students were excluded, and indication of whether the student was receiving special education services.

19.Data Production

- a. SEAC requested the exclusion data from the 2021 submission to the Ministry of Education. The Superintendent of Special Services consulted with the Senior Manager of Archives and Records Management and determined that the students represented in the data may allow for the identification of individual students, and as such was not shared publicly to protect student privacy.
- b. Through consultation with the Ministry of Education, it has been determined that the Ministry of Education will not be publishing the provincially collected data, at this time.

20.Request for Historical Data

SEAC requested historical data related to exclusions for two time periods:

- a. December 2013 to February 2016
 - There were 21 exclusion records available between December 2013 and February 2016.
 - Of the total, 15 students did not have an Individual Education Plan (IEP) and six students did have an IEP.
 - The exceptionality data was not available.
 - There were four exclusions as a result of a police investigation.
 - There were 17 students who had a progressive discipline record that included suspensions or expulsions.
- b. March 2016 to December 2018
 - There were 172 available exclusion records.
 - The total included 124 students without an IEP and 48 students with an IEP.
 - Exceptionality data was not available.
 - Of the total, 111 were related to police investigations and 169 students had a progressive discipline record that included suspensions or expulsion.

E. METRICS AND ACCOUNTABILITY

- School Boards have been directed to retain records and documentation related to exclusions.
- The Ministry of Education required the submission of *the Aggregate Exclusion Data Template* for the 2020-2021 school year.
- It is anticipated that School Boards will be requested to submit the same data for the 2021-2022 school year.

F. CONCLUDING STATEMENT

This report is for the information of the Board of Trustees.