



Expulsion Administrative Procedures

1. PURPOSE

The purpose of these Administrative Procedures is to provide an outline of the procedures which will apply to processes which may result in the expulsion of a student or the appeal of an expulsion.

2. DEFINITIONS

2.1 ACTIVITIES LEADING TO POSSIBLE EXPULSION

A principal shall consider whether to recommend to the Board that a student be expelled if he or she believes that the student has engaged in any of the activities listed in Policy 324 as leading to expulsion 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, subject to the mitigating and other factors.

3. PROCEDURES: SUSPENSION PENDING EXPULSION

3.1 **Terms of Suspension:** A student may be suspended only once for an incident and may be suspended for a minimum of one (1) school day and a maximum of twenty (20) school days.

3.2 **Mitigating Factors:** In considering whether to suspend a student, and when considering the length of a suspension, a principal must take the following mitigating factors into consideration:

- i) the student does not have the ability to control his or her behaviour;
- ii) the student does not have the ability to understand the foreseeable consequences of his or her behaviour; or
- iii) the student's continuing presence in the school does not create an unacceptable risk to the safety or well-being of any person.

3.3 **Other Factors:** The following other factors shall be taken into account if they would mitigate the seriousness of the activity for which the student may be or is being suspended or expelled:

- i) the student's history;
- ii) whether a progressive discipline approach has been used with the student;
- iii) whether the activity for which the student may be or is being suspended or expelled was related to any harassment of the student because of his or her race, ethnic origin, religion, disability, gender or sexual orientation or to any other harassment;
- iv) how the suspension or expulsion would affect the student's ongoing education;
- v) the age of the student;
 - a) in the case of a student for whom an individual education plan has been developed,
 - b) whether the behaviour was a manifestation of a disability identified in the student's individual education plan;
 - c) whether appropriate individualized accommodation has been provided; and



- d) whether the suspension or expulsion is likely to result in an aggravation or worsening of the student's behaviour or conduct.
- 3.4 **Consultation with Superintendent:** Suspensions of up to 5 days duration are the mandate of the school principal. Suspensions over 5 days must be discussed with and approved by the Superintendent of Education before the student is suspended.
- 3.5 **Restrictions on Suspended Student:** A student who is subject to a suspension is not entitled to attend the school the student was attending when he/she committed the infraction which gave rise to the suspension and is not entitled to engage in school-related activities of that school until the completion of the period of suspension.
- 3.6 **Exception to Restrictions:** A student who is suspended is not considered to be engaged in school-related activities by virtue of using services, taking a course or participating in a program designed to assist such students.
- 3.7 **Suspension Leading to Expulsion Hearing:** When a student is being suspended for activities leading to possible expulsion, the principal shall conduct an investigation to determine whether to recommend to the board that the student be expelled. (see Para. 7 below)
- 3.8 Where a Principal proceeds to suspend a student based on the Principal's belief that the student may have committed an infraction for which the student may be expelled, the Principal will promptly provide written notice of the suspension and the reasons for the suspension to the student, if aged 18 years or older, or otherwise to the student's parent/legal guardian. The form of this notice will be as set out in Appendix C-1 to these procedures.

4. **NOTICE**

- 4.1 **Verbal Notice of Suspension:** A principal who suspends a student shall,
 - a. inform the student's teacher of the suspension; and
 - b. make all reasonable efforts to inform the student's parent or guardian of the suspension within 24 hours of the suspension being imposed, unless,
 - i. the student is at least 18 years old, or
 - ii. the student is 16 or 17 years old and has withdrawn from parental control.
- 4.2 **Written Notice of Suspension:** A principal who suspends a student shall ensure that written notice of the suspension is given promptly to the following persons:
 - a. The student.
 - b. The student's parent or guardian, unless,
 - i. the student is at least 18 years old, or
 - ii. the student is 16 or 17 years old and has withdrawn from parental control.
 - c. Such other persons as may be specified by board policy.
- 4.3 **Contents of Notice:** The written notice shall follow the format of the sample letter set out in Appendix C-1 and must include the following:
 - 4.3.1 **Activities Leading to Possible Expulsion:**
 - a. The reason for the suspension.
 - b. The duration of the suspension.
 - c. Information about any program for suspended students to which the student is assigned (for suspensions of more than 6 days).
 - d. Information about the investigation the principal will conduct to determine whether to



recommend that the student be expelled.

- e. 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 student be expelled following the investigation, the suspension will become subject to appeal under the Board's Suspension Administrative Procedures, and
 - iii) if there is an expulsion hearing because the principal recommends to the Board that the student be expelled, the suspension may be addressed by parties at the hearing.

5. **SUPPORTS FOR SUSPENDED STUDENTS**

- 5.1 **School Work:** A student who is subject to a suspension for less than six days should be provided with school work to help ensure that they do not fall behind while on suspension.
- 5.2 **Programs for Suspended Students:** Where a student has been suspended for six (6) or more days (long-term suspension), the student will be assigned to a Program for Suspended Students.
- 5.3 **Participation in a Program for Suspended Students:** Principals will encourage suspended students to participate in the board Program for Suspended Students; however, boards cannot compel students on long-term suspension to participate in a board program for suspended students.
- 5.4 **Agreement or refusal to participate** in a Program for Suspended Students may be communicated to the school orally by the student or a parent/legal guardian of a student under 18 years of age. The date and time of acceptance or refusal to participate in a Program for Suspended Students shall be recorded by the school.
- 5.5 A **Student Action Plan** will be developed for every student subject to a suspension of six (6) or more days who agrees to participate in a Program for Suspended Students
- 5.6 **Planning Meeting:** For students suspended for 6 or more days, and who chose to participate in a Program for Suspended Students, the Principal or designate will hold a planning meeting for the purposes of:
 - a) identifying the needs of the student;
 - b) identifying the student's risk factors and protective factors;
 - c) clearly identifying any supports that the student may need; and
 - d) establishing the objectives of the Student Action Plan.
- 5.7 **Participants at the Planning Meeting** shall include the student and, when possible, the student's parents/guardians, as well as any appropriate teaching and support staff, counsellors, agency supports, and any other relevant persons.
- 5.8 **Time Frame for Student Action Plan:** The Principal will make every effort to complete the Student Action Plan within five (5) school days following the date of suspension.
- 5.9 **Recordkeeping:** A copy of the Student Action Plan will be placed in the student's Ontario Student Record for a period of time conducive to the improvement of instruction of the student.
- 5.10 **Contents:** The Student Action Plan will contain:
 - a) details of the incident for which the student was suspended;
 - b) progressive discipline steps taken prior to the suspension;
 - c) any other underlying factors that may have contributed to the suspension;
 - d) any special education identification or IEP considerations;



- e) details of the academic program to be provided to the student during the suspension period and details about how that program will be accessible to the student;
- f) for suspensions of more than 10 days, details of the non-academic supports to be provided to the student and details about how those supports will be accessible to the student;
- g) any other supports or services that may be provided to address academic or non-academic needs;
- h) measurable goals and timelines that will be expected for the student while on suspension.

6. **SUSPENSION REVIEWS**

- 6.1 **Making a request for review:** A request that a designated supervisory officer review a decision to suspend must be made by either the student, if aged 18 years or older, or the parent/legal guardian if the student is under 18 years of age, in writing and delivered within 3 school days to the Principal who made the decision or to the supervisory officer who has been designated to conduct suspension reviews for the student's school.
- 6.2 **Notification of Supervisory Officer:** Where the request is delivered to the Principal, the Principal will immediately notify the Supervisory Officer and will ensure that a copy of the written request is delivered to the Supervisory Officer.
- 6.3 **Extension of time limits for request:** A Supervisory Officer may decide that extenuating circumstances exist which justify a period longer than three school days to request a review of a decision to suspend. Examples of such situations include: where the person requesting the review was precluded from doing so as a result of an accident in which the person or a close family member was badly injured, a death in the immediate family, other similar circumstances where intervening events give rise to extenuating circumstances which prevented a timely request for review from being made.
- 6.4 **The Review:** The Supervisory Officer will review the decision of the Principal to determine if the Principal interviewed all relevant and available witnesses, whether the evidence gathered by the Principal supports the conclusion that an infraction was committed by the student and whether the Principal took into account the relevant criteria in determining the nature and length of the suspension. The Supervisory Officer, in conducting his/her review, will meet with the parent/legal guardian if the student is under 18 years of age, the student and the Principal. In the Supervisory Officer's sole discretion, the Supervisory Officer may meet with any other person or persons who the Supervisory Officer believes may contribute relevant information to the review.
- 6.5 **Criteria for Determining Suspension:** In the event the Supervisory Officer determines that the student did commit an infraction for which a suspension must be or should be imposed, the Supervisory Officer may consider the duration of the suspension which the Principal imposed on the student, having regard to the following factors:
- i) the student's history;
 - ii) any factors prescribed by regulation, if any.
 - iii) such other matters as the Supervisory Officer considers appropriate.
- 6.6 **Disposition:** Upon completing the review, the Supervisory Officer may confirm the Principal's decision, modify the duration of the suspension or expunge the student's record. In any event, notice of the Supervisory Officer's decision shall be provided to the student/parent/legal guardian in the format of the sample letter set out in Appendix D-1.
- 6.7 **Time Lines:** The Supervisory Officer shall endeavour to complete his/her review and advise the person making the request within three (3) school days of receipt of the request for review.



7. **PROCEDURES: PRINCIPAL'S INVESTIGATION**

- 7.1 **Activities Leading to Suspension and Possible Expulsion:** When a student is suspended for activities that may lead to expulsion, the principal shall promptly conduct an investigation to determine whether to recommend to the board that the student be expelled.
- 7.2 **Time Lines:** The decision to expel a student must be made within twenty (20) school days of the date on which the principal suspended the student, unless the parties to the hearing agree to extend this deadline.
- 7.3 **Consultation:** The Principal will consult with the Superintendent who is responsible for the school about the process for conducting the investigation.
- 7.4 **Mitigating Factors:** In considering whether to recommend that a student be expelled, a principal must take the following mitigating factors into consideration:
- i) the student does not have the ability to control his or her behaviour;
 - ii) the student does not have the ability to understand the foreseeable consequences of his or her behaviour; or
 - iii) the student's continuing presence in the school does not create an unacceptable risk to the safety or well-being of any person.
- 7.5 **Other Factors:** The following other factors shall be taken into account if they would mitigate the seriousness of the activity for which the student may be recommended for expulsion:
- vi) the student's history;
 - vii) whether a progressive discipline approach has been used with the student;
 - viii) whether the activity for which the student may be or is being suspended or expelled was related to any harassment of the student because of his or her race, ethnic origin, religion, disability, gender or sexual orientation or to any other harassment;
 - ix) how the suspension or expulsion would affect the student's ongoing education;
 - x) the age of the student;
 - e) in the case of a student for whom an individual education plan has been developed,
 - f) whether the behaviour was a manifestation of a disability identified in the student's individual education plan;
 - g) whether appropriate individualized accommodation has been provided; and
 - h) whether the suspension or expulsion is likely to result in an aggravation or worsening of the student's behaviour or conduct.
- 7.6 This section will set out guidelines for investigating incidents, involving police, gathering evidence, decision-making and report preparation with respect to incidents that may result in a recommendation for extended suspension or expulsion being made to the Board. Individual circumstances may vary and require appropriate adjustments to the processes detailed in this document.

It is imperative that investigations of all discipline incidents be conducted in a thorough, professional and sensitive manner that ensures that the rights of every individual involved as a participant or a witness are protected. The investigation should produce evidence that clearly describes the activities of all participants and supports any disciplinary actions that are taken or are recommended to the Board.



The nature and intensity of administrative roles in schools dictates that the majority of day-to-day discipline situations will be dealt with by a principal, vice-principal or a teacher-in-charge. All incidents should be investigated thoroughly in a fair and consistent manner. Minor incidents do not require the use of the following process, however, many of the guidelines outlined demonstrate good investigative practice and may be adapted for use on a day-to-day basis. Any incident that may require action beyond the school level requires a different approach. In all of these situations the principal should actively function as the leader of the team conducting the investigation. He/she should manage the entire investigation. In organizing and directing investigation activities the principal will ensure that the following guidelines are considered:

Conflict of Interest and Bias

- the individual interviewer and those recommending disciplinary action should not be directly connected with the incident. For example, a vice-principal or teacher who has been assaulted by a student should neither conduct the investigation nor make recommendations. On occasion this will mean that the principal will be required to conduct the entire investigation.
- in cases where the principal is directly connected, a vice-principal or teacher-in-charge will manage the process
- in cases where the principal is absent and there is no vice-principal, the Superintendent of Schools will provide on-going support and direction throughout the investigation.

Police Involvement

- all incidents involving weapons, downloading/distributing illegal materials from the Internet, hate-motivated violence, robbery, extortion, vandalism causing extensive damage, serious physical violence, sexual assault, drugs and assault of staff require immediate police involvement consistent with the ***Police and School Response Protocol***. Dangerous situations that require an emergency response will be reported via 911. Others will be handled in the normal manner through a telephone call to the appropriate dispatcher.
- police will conduct their own separate investigation and make decisions with respect to criminal charges based on their view of the circumstances. **Whether or not charges are laid by the police will not alter the school's responsibility under the Education Act to investigate and take appropriate disciplinary action.** The issue of double jeopardy does not apply. Police charges are made under the criminal code and school/board disciplinary decisions and actions are taken under the Education Act.
- schools may have established a working relationship with neighbourhood policing/community officers in their area. These resources are available to schools at any point in an incident or investigation.
- refer to the ***Police and School Response Protocol*** for more specific direction.

Communication

- all serious incidents are reported by the school to the appropriate Superintendent of Schools.
- the Superintendent of Schools will ensure that the trustees for the school involved in the incident are advised. The general details of the incident will be provided at this time, including information that is available concerning actions taken or pending. Details of individual student involvement will be avoided to prevent possible conflict of interest on the part of the trustees if a recommendation for expulsion or an appeal is subsequently presented to the Board.
- the Superintendent of Schools will work with the Principal to provide advice and guidance.
- parents/guardians of those involved (where student is under 18) will be contacted as early as possible to be advised of the situation.
- refer to the Police and School response Protocol for more specific direction.



Collection of Evidence

- once a situation has been stabilized, police called and the risk of imminent danger reduced, the school team headed by the principal will identify staff and students that are witnesses or participants.
- it is necessary for the school to conduct a thorough investigation regardless of police involvement.
- an incident report or violent incident report should be completed.
- all participants and witnesses should be interviewed by a member of the school administration and detailed notes kept for those interviews, including date, time, those present and signed by the administrator doing the interview.
- in the case where school staff are directly involved in the event or situations, especially where witnesses are few or non-existent, one administrator and another staff member should be present during the interview.
- witnesses should be separated following the incident and prior to being interviewed. During this time they should be asked to write out and sign a statement describing the events that have been witnessed. When this is neither possible nor appropriate, a staff can also be interviewed by an administrator who will take detailed notes. They may wish to modify their written statements if they recall additional details. Those alterations should be initiated by the student. It may be necessary to have statements typed, read and signed by the witness. Staff who witness incidents should be requested to provide written and signed statements also. Handwritten statements, typed copies and administrator notes will be retained.
- if the police arrest and remove the participants from the building it may be necessary to wait and get participant statements at a later time.
- if witness statements are clear and complete, they will form the basis of a written report. Consultation will occur at this point between the Principal and Superintendent of Schools
- legal advice will be obtained, as required.

Principal's Report of the Incident

- the Principal will write a draft report in sufficient detail to ensure that all the key elements of the incident are clearly set out. The report should be concise but completed in a logical and sequential manner and provide a factual account of the events as described by witnesses and victims and substantiated by witness, victim and /or participant statements.
- names of individual student witnesses or victims should not be included but rather referred to in a manner so as to distinguish the contributions of each. Editorial comments should be avoided in the report.
- the details of the report should support the recommendations that may be made. At this point the Principal may wish to include draft recommendations or to wait until the consultation process with the appropriate Supervisory Officers have been completed.

Consultation Concerning Outcomes of Incident

- the Superintendent of Schools should convene a meeting with the Principal, and others as required. The Principal will provide those present with a copy of his/her draft report and copies of witness and participant statements. The purposes of this meeting are to review in detail the facts pertaining to the incident and to identify additional information that may be required and to decide collaboratively whether a recommendation to the Board is required and if so the nature of that recommendation. The nature of any recommendation to the Board must reflect the degree of danger and concern to other students and staff that the presence of that individual student would present. Any decision made at this meeting will reflect the need to guarantee the continued safety of other students and staff and the appropriate moral tone of the school environment.

- 7.7 **Burden of Proof:** Where there is a conflict in the evidence collected by the Principal on the issue of whether the student committed a mandatory or discretionary expulsion infraction, the Principal shall assess the evidence and determine whether, on the balance of probabilities, it is more probable than not that the student committed the infraction.



7.8 **Suspension Included in Expulsion:** The period of time during which the student was suspended pending a decision on expulsion shall be deemed to be part of the period of expulsion and the period of expulsion shall not be shorter than 21 days.

8. **DECISION NOT TO RECOMMEND EXPULSION**

8.1 If the principal does not recommend to the board that the student be expelled, the principal shall ensure that written notice containing the following information is given promptly to every person to whom he or she was required to give notice of the suspension (see Appendix E-1):

- a) a statement that the student will not be subject to an expulsion hearing for the activity that resulted in the suspension;
- b) a statement indicating whether the principal has, under Suspension Policy 323, confirmed the suspension and its duration, confirmed the suspension but reduced its duration or withdrawn the suspension;
- c) unless the suspension was withdrawn, information about the right to appeal the suspension, including,
 - i. how to access a copy of the Board policies and guidelines governing the appeal established by the Board, and
 - ii. the name and contact information of the supervisory officer to whom notice of the appeal must be given.

8.2 **Discipline Other Than Expulsion:** When the Principal does not refer the matter to the Board for an expulsion and, the Principal may consider whether alternative discipline is appropriate in the circumstances. Such discipline may include a suspension, in which case the considerations to be taken into account in determining the length of the suspension under the Suspension Policy and Procedures will be taken into account and a notice shall be to the student, and, if the student is under 18 years of age, the parent/legal guardian of the student in the form set out in Appendix E-1. Where the Principal determines that discipline or some step other than a suspension is in order, the Principal shall advise the student and, if the student is under 18 years of age, the parent/legal guardian, and the Principal shall ensure that no record of the suspension remains in the OSR.

8.3 **Appeal of Suspension:** If, after the investigation, the principal does not recommend to the board that the student be expelled, and does not withdraw the suspension, the suspension may be appealed in accordance with the Board's Suspension Administrative Procedures, subject to the following:

- a) a person who is entitled to appeal must give written notice of his or her intention to appeal within five school days of the date on which he or she is considered to have received the written notice of the principal's decision;
- b) if the principal confirmed the suspension but reduced its duration, the appeal is from the reduced suspension and not the original suspension.

9. **DECISION TO RECOMMEND EXPULSION**

9.1 If, on concluding the investigation, the principal decides to recommend to the board that a student be expelled, he or she shall prepare a report that contains the following:

- a) a summary of the principal's findings;
- b) the principal's recommendation as to whether the student should be expelled from his or her school only or from all schools of the board; and



- c) the principal's recommendation as to,
 - i) the type of school that might benefit the student, if the student is expelled from his or her school only, or
 - ii) the type of program for expelled students that might benefit the student if the student is expelled from all schools of the board.

9.2 **Notice:** The principal shall provide a copy of the report and of the principal's decision to the Board and to every person whom the principal was required to give notice of the suspension.

9.3 **Parties may Respond:** A person who is entitled to receive the principal's report and written notice of the principal's decision may respond, in writing, to the principal and the Board.

9.4 **Delegation to Committee:** The powers and the duties of the Board to conduct an expulsion hearing and make a decision on the expulsion of a student following such hearing shall be exercised and performed by a committee of three or more members of the Board, as designated by the Chairperson of the Board. The supervisory officer or designate will act in an advisory role to the committee on procedural matters during the expulsion hearing and the committee's subsequent deliberations.

9.5 **Parties to the Hearing:** The parties to the hearing will be:

- a) the principal;
- b) the student, if,
 - i. the student is at least 18 years old, or
 - ii. the student is 16 or 17 years old and has withdrawn from parental control;
- c) the student's parent or guardian, unless,
 - i. the student is at least 18 years old, or
 - ii. the student is 16 or 17 years old and has withdrawn from parental control;
- d) such other persons as may be specified by board policy.

9.6 **Student May Attend:** The suspended student who is not party to the expulsion hearing has the right to be present at the expulsion hearing and to make a statement on his or her own behalf.

9.7 **Timing of the Hearing:** A hearing will be held by the hearing committee and a decision on the expulsion will be given within twenty (20) school days of the date on which the principal suspended the student, unless the parties to the hearing agree to extend this deadline.

9.8 **In Camera Hearing:** Since intimate personal matters involving the student and, in some cases, other persons, may be disclosed at the hearing, the interests of the privacy of the student and such other persons outweigh the desirability of holding a public hearing and require that the hearing be conducted in camera. However, this may be reconsidered by the committee in any particular case and the committee may direct that the hearing be opened to the public where the committee determines that the holding of an open public hearing outweighs the interests of the students or other persons concerning the matter of privacy.

9.9 **Pre-Hearing Disclosure:** The parties shall exchange the following at least five (5) days prior to the hearing:

- an outline of the party's position, setting out with particularity the party's position on the circumstances which gave rise to the expulsion and the party's position on the discipline imposed;
- copies of any documents which the party proposes to submit at the hearing;



- where the party proposes to call witnesses, a list of the witnesses whom the party intends to call and a brief outline of what the witness will say;
- whether the appellant seeks to call witnesses and, if so, the reasons why and a list of the witnesses whom the appellant seeks to call, including a brief outline of what each witness would say.

9.10 **Pre-Hearing Conferences:**

- i) Where possible, a pre-hearing conference will be held within five (5) school days prior to the hearing (i.e. following the date by which the parties should have completed pre-hearing disclosure under this policy), to deal with procedural issues.
- ii) The pre-hearing conference will be conducted by the Expulsion Committee, or alternatively by the Chair of the Expulsion Committee or a member of the Committee designated by the Chair. The members or member of the committee conducting the Pre-Hearing Conference will not participate in the Appeal Hearing Conference.
- iii) The pre-hearing conference may be held by teleconference.
- iv) The purpose of this pre-hearing conference is to ensure that all such issues are dealt with in advance of the hearing. Accordingly, any issue which either party has regarding disclosure, the length of time set for the hearing, the conduct of an electronic hearing, any other procedural issue which may properly be dealt with in advance of the hearing, or any other procedural matter which may assist in the just and expeditious disposition of the proceeding should be raised at the pre-hearing conference.
- v) Each party must notify the other and supervisory officer in advance of the pre-hearing conference of any procedural issues which the party wishes to raise at the pre-hearing conference.
- vi) Each party shall have the opportunity to state his/her position on any procedural issue which either raises at the pre-hearing conference. However, if a party raises an issue at the pre-hearing conference, but did not provide sufficient notice of the issue to other party in advance of the pre-hearing conference, the other party may request an opportunity to respond to the issue in writing within 1 school day following the pre-hearing conference to the issue.
- vii) Should any procedural issue arise in the pre-hearing conference which requires a decision by the Expulsion Committee, or the person who presided over the pre-hearing conference, the parties will be advised of the decision by the supervisory officer and the decision will be subsequently confirmed in writing.
- viii) If neither party has any procedural issue which requires a pre-hearing conference, the pre-hearing conference may be cancelled by the supervisory officer.
- ix) If either party declines to participate in the pre-hearing conference, the party will be deemed to have waived any procedural issues which the party might otherwise have raised at the pre-hearing conference regarding disclosure or any other procedural issue, unless the party can satisfy the Expulsion Committee that there was a reasonable excuse for the party's failure to participate in the pre-hearing conference.

9.11 **Electronic Hearing and Pre-Hearing Conference and Meeting:** The hearing may be conducted electronically, in whole or in part unless one of the parties satisfies the committee that



holding an electronic rather than an face-to-face hearing is likely to cause the party significant prejudice. This issue, and any other preliminary issues which either party wishes to have determined prior to the hearing, may be determined at a pre-hearing conference involving the committee and both parties prior to the hearing, and this pre-hearing conference may be conducted electronically.

10. PROCEDURES: EXPULSION HEARING

- 10.3 **Setting Dates:** Upon receipt of the notice of referral, the Supervisory Officer will promptly notify both the Director of Education and the Chair, shall arrange to set dates for a pre-hearing conference and the hearing, having regard to the time line stipulated under the *Education Act*.
- 10.4 **Notice of Hearing and Pre-Hearing Conference:** Supervisory Officer shall promptly send to the parties to the hearing a Notice of Hearing in the form set out in Appendix E-2. At the same time, a Notice of Pre-hearing Conference will be sent out in the form set out in Appendix E-3.
- 10.5 **Advance Notice of Issues:** Each party shall advise each other, if possible in writing, prior to the pre-hearing conference of any issue which the party wishes to raise at the pre-hearing conference. As well, each party shall advise the Supervisory Officer of any issue which the party wishes to raise at the pre-hearing conference. If the Supervisory Officer determines that there are no issues to be dealt with at a pre-hearing conference, the Supervisory Officer may notify the parties that the pre-hearing conference is cancelled.
- 10.6 **Amending List of Witnesses:** Under the policy, the parties are required to disclose certain information to each other, including the names of any witnesses to be called and an outline of the evidence to be given. Either party, after receiving this information from the other, may amend his/her list of witnesses, if any, to be called by that party so long as that party provides notice to the other party of this change at least two school days in advance of the hearing. If the change involves calling a witness not mentioned in the initial disclosure, a brief outline of what this witness will say to the other party as soon as possible after making the decision to call the witness.
- 10.7 **Insufficient Notice of Witness:** If party does not provide sufficient notice to the other party that the party wishes to call a witness at the hearing, the party will not be permitted to call the witness unless the Expulsion Committee determines that the other party will not be prejudiced by the short notice if the witness is permitted to testify at the hearing as scheduled. If the Expulsion Committee determines that the other party would be prejudiced by the witness being called on short notice, the witness may not be called at the scheduled hearing; however, if the parties agree to extend the time limit for the Expulsion Committee's decision on expulsion, an additional and subsequent hearing date may be scheduled at which time the evidence of the witness will be received and the hearing completed.
- 10.8 **Agreement on Issues:** The parties are encouraged, where possible, to agree on facts, documents or other evidence which are not in dispute between them.
- 10.9 **Time Limits for Presentations at Hearing:** The maximum time allotted for each hearing will be two hours, with up to an hour allotted to each party. Opening statements, cross-examination of the other party's witnesses and closing comments shall be taken into account in the hour allotted to each party. Where either or both parties persuade the Expulsion Committee that additional time is reasonably required in order to have a fair opportunity to present his/her/their cases in the particular circumstances, the Expulsion Committee may extend the time lines for the presentation, including scheduling additional hearing dates, so long as the parties agree to extend the time limit for the Expulsion Committee's decision where such extension is necessary to permit any additional hearing date to be scheduled.



- 10.10 **Order of Presentation:** The Principal will proceed to make his/her presentation first, commencing with an opening statement. The Student/Parent/Legal Guardian may choose to make an opening statement at this point or may choose to wait until the beginning of his/her case to make an opening statement. If the Principal calls any witnesses the Student/Parent/Legal Guardian will be given an opportunity to cross-examine any such witnesses. Following the completion of the Principal's presentation, the Student/Parent/Legal Guardian will make his/her presentation. If the Student/Parent/Legal Guardian calls any witnesses, the Principal will have an opportunity to cross-examine any such witnesses. Each party may make a closing statement, commencing with the Principal.
- 10.11 **Maintenance of Order at Hearing:** The Expulsion Hearing Committee may make such orders or give such directions at a hearing as it considers necessary for the maintenance of order at the hearing. Should any person disobey or fail to comply with any such order or direction, the Expulsion Hearing Committee or a member may call for the assistance of a peace officer to enforce the order or direction.
- 10.12 **Scope of Cross-Examination:** Cross-examination of witnesses by the opposite party shall be as reasonably required for a full and fair disclosure of all matters relevant to the issues in the hearing.
- 10.13 **Limit on Unduly Repetitious Evidence:** The Expulsion Committee may exclude any evidence which is unduly repetitious.
- 10.14 **Protection for Witnesses:** A witness at an oral or electronic hearing shall be deemed to have objected to answer any question asked him or her upon the ground that the answer may tend to criminate him or her or may tend to establish his or her liability to civil proceedings at the instance of the Crown, or of any person, and no answer given by a witness at a hearing shall be used or be receivable in evidence against the witness in any trial or other proceeding against him or her thereafter taking place, other than a prosecution for perjury in giving such evidence. (*Statutory Power Procedure Act*, s. 14(1)).
- 10.15 **Record of Hearing:** The Expulsion Hearing Committee shall compile a record of the hearing. The record will include the Principal's Referral for an Expulsion Hearing, the Notice of Hearing, any interim decision arising out of the pre-hearing conference, any interlocutory order of the Committee, all documents filed with the Committee during the hearing, the Notice of Decision of the Expulsion Committee, and where they are requested, reasons for the decision.
- 10.16 **Failure of Party to Attend Hearing After Due Notice:** Where a notice of an oral or electronic hearing has been given to a party to the hearing in accordance with this procedure, and that party fails to attend the hearing, the Expulsion Committee may proceed in the absence of the party and the party is not entitled to any further notice of the proceeding.
- 10.17 **Burden of Proof:** Where there is a conflict in the evidence presented by the parties on the issue of whether the student committed a mandatory or discretionary expulsion infraction, the Expulsion Committee shall assess the evidence and determine whether, on the balance of probabilities, it has been established that it is more probable than not that the student committed the infraction.
11. **DISPOSITION:**
- 11.1 After completing the hearing, the Board will decide,
- a) whether to expel the student; and
 - b) if the student is to be expelled, whether the student is to be expelled from his or her school only or from all schools of the board.



- 11.2 In making the decisions required under 11.1 above, the Board shall take into account,
- a) all submissions and views of the parties, including their views as to whether the student, if expelled, should be expelled from his or her school only or from all schools of the board;
 - b) any mitigating or other factors as described above; and
 - c) any written response to the principal's report recommending expulsion that a person who was entitled to give a response gave to the board before completion of the hearing.
- 11.3 If a board does not expel a student, the board shall, with respect to the suspension originally imposed,
- a) confirm the suspension and the duration of the suspension;
 - b) confirm the suspension, but shorten its duration, even if the suspension has already been served, and order that the record of the suspension be amended accordingly; or
 - c) quash the suspension and order that the record of the suspension be expunged, even if the suspension has already been served.
- 11.4 In determining which action to take in 11.3 above, the board shall take into account,
- a) any submissions made by the parties as to whether the suspension and its duration should be confirmed, the suspension should be confirmed but its duration reduced or the suspension should be withdrawn;
 - b) any mitigating or other factors as described above.
- 11.5 If the Board expels a student, the board shall assign the student to,
- a) in the case of a student expelled from his or her school only, another school of the board; and
 - b) in the case of a student expelled from all schools of the board, a program for expelled students.
- 11.6 **Decision Final:** The decision of the board to not expel a student is final.
12. **NOTICE**
- 12.1 Notice of the Board's Expulsion Committee decision shall be provided promptly to:
- a. all parties to the expulsion hearing; and
 - b. the student if the student was not party to the expulsion hearing.
- 12.2 The form of notice provided will be in accordance with the sample provided in Appendix F-1 and must include the following:
1. The reason for the expulsion.
 2. A statement indicating whether the student is expelled from his or her school only or from all schools of the board.
 3. Information about the school or program for expelled students to which the student is assigned.



4. Information about the right to appeal the decision of the board.

13. **STATUS OF EXPELLED STUDENTS**

- 13.1 An expelled student continues to be a pupil of the board if the student attends a program for expelled students offered by the board or offered by another board under an agreement between the boards for programs for expelled students.
- 13.2 An expelled student ceases to be a pupil of the board if the student is assigned to a board program for expelled students and does not attend the program, or the student registers as a pupil of another board.
- 13.3 If a student who has been expelled from one board registers as a pupil of another board, the other board may assign the student to a school of that board, or assign the student to a program for expelled students, unless the student satisfies the requirements of 14. below.
- 13.4 If the board assigns an expelled student to a school without knowing that he or she has been expelled by another board, the board may subsequently remove the student from the school and promptly assign him or her to a program for expelled students, unless the student satisfies the requirements of 14. below.

14. **RETURN TO SCHOOL AFTER AN EXPULSION**

- 14.1 A student who has been expelled from all schools of the board is entitled to be readmitted to a school of the board if the student has, since been expelled, successfully completed a program for expelled students, or has satisfied the objectives required for the successful completion of a program for expelled students.
- 14.2 The determination of whether a student has completed a program for expelled students or has satisfied the requirements of a program for expelled students is to be made by the person who provides the program for expelled students.
- 14.3 A student who has been expelled from all schools of the Board may apply in writing to the Director of Education to be readmitted to a school of the Board, if the student has successfully completed a program for expelled students, or has satisfied the objectives required for the successful completion of a program for expelled students, as determined by the person who provides the program for expelled students.
- 14.4 The Board shall readmit the student to a school of the Board and shall promptly inform the student in writing of his or her readmittance.
- 14.5 A student who has been expelled from one school of the Board but not from all schools of the Board may apply in writing to the Director of Education to be reassigned to the school from which they were expelled.
- 14.6 A student who has successfully completed a program for expelled students provided by any board or has satisfied the objectives for the successful completion of a program for expelled students, as determined by the person who provides the program for expelled students, shall not be required to attend a program provided by the readmitting Board or be refused entry on the basis that the student completed a program for expelled students by another board.



15. **APPEAL OF A BOARD DECISION TO EXPEL A STUDENT**

- 15.1 The following persons may appeal a Board decision to expel a student to the Child & Family Services Review Board in accordance with the procedures set out by the Ministry of Education:
1. the student, if,
 - i. the student is at least 18 years old, or
 - ii. the student is 16 or 17 years old and has withdrawn from parental control;
 2. the student's parent or guardian, unless,
 - i. the student is at least 18 years old, or
 - ii. the student is 16 or 17 years old and has withdrawn from parental control;
 3. such other persons as may be specified by the Child & Family Services Review Board.
- 15.2 **Decision Final:** The decisions of the Child & Family Services Review Board on an appeal shall be final.

16. **RE-ENTRY**

- 16.1 **Re-Entry Meeting:** At the conclusion of an expulsion and prior to resuming and re-entering classes, the returning student is required to attend a re-entry meeting that includes board staff and staff of the school to which the student is seeking readmission. The parent(s)/guardian(s) will be encouraged to attend and participate as well as any other relevant persons who may be seen as ongoing supports for the student. The purpose of the meeting will be the development of the re-entry plan for the student.
- 16.2 **Re-Entry Plan:** The re-entry plan should contain a description of the re-entry process for successful transition back to school and should identify both the academic and non-academic supports that are needed to sustain and support the student in his or her transition back to school.