



Huron-Superior Catholic

DISTRICT SCHOOL BOARD

PROCEDURAL GUIDELINES PUPIL SUSPENSION AND EXPULSION

The Huron-Superior Catholic District School Board is committed to the establishment and maintenance of safe, caring, equitable and inclusive school and workplace environments for all pupils, staff and members of the school community. This positive school environment maximizes pupils' learning potential and ensures a positive climate for all members of the school community.

The board has determined that progressive discipline will be the framework for all discipline in its schools. The board also supports the use of suspension and expulsion in accordance with the Education Act, where a pupil has committed one or more of the infractions described in this *Procedural Guideline for Suspension and Expulsion*, on school property, during a school-related activity or event, and/or in circumstances where the infraction has an impact on school climate.

DEFINITIONS

Suspension

A suspension means a pupil is removed from school temporarily for a specific period of time. A pupil may be suspended for a period of time ranging from one school day to twenty school days. A pupil who is suspended for more than five school days is considered to be on long-term suspension. Pupils cannot take part in school activities or events while suspended.

Expulsion

An expelled pupil is removed from school for an indefinite time period. A pupil is suspended first, while a principal's investigation/inquiry takes place. A pupil can be expelled from his/her own school, or s/he can be expelled from all schools in the board. A pupil expelled from all schools in the board cannot attend a day school program or take part in school activities or events.

This Procedural Guideline addresses:

- Suspension for students in grades K-3 and in grades 4-12
- Suspension pending possible expulsion for students in grades 4-12
- Expulsion for students in grades 4-12

SUSPENSION

The primary purpose underlying the implementation of a suspension is to achieve a positive consequence for the pupil.

In this regard, a suspension:

- Operates as a deterrent by sending a strong signal to the pupil that certain types of behaviour are unacceptable;
- Notifies family and other pupils that the precipitating behaviour is inappropriate and unacceptable;
- Serves as a period of reflection to prepare a climate for conflict resolution where two or more pupils have been involved in a violent incident;

- Encourages a pupil and a pupil's family to seek appropriate assistance themselves; and
- Alerts school personnel to the need for ongoing observation, support and intervention.

Activities Leading to Possible Suspension: Students in grades K-3

Under Regulation 440/20 of the *Education Act*, a pupil in kindergarten or grade 1, 2, or 3 **shall not** be suspended under section 306 of the *Act* for engaging in an activity described in subsection 306 (1) of the *Act*.

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 a policy of the board.

Also under Regulation 440/20 of the *Education Act*, a pupil in kindergarten or grade 1, 2 or 3 shall not be suspended under section 310 of the *Act* for engaging in an activity described in subsection 310 (1) of the *Act* unless the principal has conducted an investigation respecting the allegations. The condition set out in subparagraph 7.1 (i) of subsection 310 (1) of the *Act* does not apply in respect of a suspension under section 310 of the *Act* of a pupil in kindergarten or grade 1, 2 or 3.

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 sexual assault.
5. Trafficking in weapons or in illegal drugs.
6. Committing robbery.
7. Giving alcohol or cannabis to a minor.
- 7.(i) Bullying, if,
 - i. the pupil has previously been 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.
- 7.(ii) Any activity listed in subsection 306 (1) 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, or any other similar factor.
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.

Activities Leading to Possible Suspension: Students in grades 4-12

Under subsection 306 (1) of the *Education Act*, a principal/vice-principal shall consider whether to suspend a pupil if he or she 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. 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 a policy of the board.

Duration of Suspension

If a principal/vice-principal decides to suspend a pupil for engaging in an activity described above, the principal/vice-principal will suspend the pupil from his or her school and from engaging in all school-related activities.

The minimum duration of a suspension is one school day and the maximum duration is twenty (20) school days. A suspension will be in effect on the first school day following the infraction.

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

For serious infractions, the principal/vice-principal will consult with the appropriate supervisory officer.

Where there is a serious violent incident leading to a suspension or expulsion or call to the police, the principal/vice-principal shall complete all applicable forms (e.g., Safe Schools Incident Reporting Form Part II, Workplace Violence Incident Report Form).

A principal/vice-principal may not change or extend a pupil's suspension once a decision is made, for the same incident.

Notice of Suspension

A principal/vice-principal who suspends a pupil shall,

- Inform the pupil's teacher of the suspension; and
- Make all reasonable efforts to inform the pupil's parent or guardian of the suspension, and engage them in becoming part of the plan to change behaviour, within 24 hours of the suspension being imposed, unless,
 - the pupil is at least 18 years old, or
 - the pupil is 16 or 17 years old and has withdrawn from parental control.
- Inform the adult pupil or parent of the pupil of the alternative program for suspended pupils if the pupil is suspended for more than five days.

A principal/vice-principal who suspends a pupil shall ensure that written notice of the suspension is given promptly to the following persons:

- The pupil;
- The pupil's parent or guardian, unless,

- the pupil is at least 18 years old, or
- The pupil is 16 or 17 years old and has withdrawn from parental control;
- School Supervisory Officer;
- Supervisory Officer in charge of Safe Schools; and
- Student and Family Counsellor.
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Contents of the Notice

The notice of suspension will include the following:

- The reason for the suspension;
- The duration of the suspension;
- Information about any program for suspended pupils to which the pupil is assigned; and
- Information about the right to appeal the suspension.

Mitigating Factors

The following mitigating factors shall be taken into account:

- Whether the pupil has the ability to control his or her behaviour.
- Whether the pupil has the ability to understand the foreseeable consequences of his or her behaviour.
- Whether the pupil's continuing presence in the school does or does not create an unacceptable risk to the safety of any person at the school.

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

- The pupil's academic, discipline and personal history;
- Whether a progressive discipline approach has been used with the pupil;
- Whether the activity for which the pupil may be or is being suspended or expelled was related to any harassment of the pupil because of his or her race, ethnic origin, religion, disability, gender or sexual orientation or harassment for any other reason;
- 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 (IEP) has been developed, whether the behaviour was a manifestation of a disability identified in the pupil's IEP, whether appropriate individualized accommodation has been provided, and whether the suspension or expulsion is likely to result in a greater likelihood of further inappropriate conduct.

Student's Return from Suspension

While it may not be practical for principals/vice-principals to meet with every pupil returning from a suspension, a re-entry meeting may be appropriate and should include:

- Reviewing briefly the activity that led to suspension
- Reviewing the school Code of Conduct and expectations for behaviour
- Focusing on a positive transition back to school
- Setting up a support system for the pupil to experience success
- Engaging the pupil in restorative practices to address any unresolved issues with pupils or staff.

SUSPENSION APPEAL PROCESS

Under Section 309 of the Education Act, provisions are made for the pupil's parent/guardian(s), the adult pupil, or the pupil 16 or 17 years old who has withdrawn from parental control to appeal the decision to suspend a pupil.

The suspension appeal process does not stay the suspension.

Step 1: Notice of Appeal

A person who is entitled to appeal a suspension must give written notice of his or her intention to appeal to the superintendent of education of safe schools within 10 school days of the commencement of the suspension. The notice must identify:

- The reason for appealing the suspension
- The remedy sought
- The names and relationships of all persons to be present at the appeal.

The superintendent of education of safe schools shall confirm receipt of this notice.

Step 2: Meeting with the Principal

The person(s) who is/are entitled to appeal must meet with the principal of the school to discuss the suspension. If an agreement is not reached through meeting with the principal, proceed to Step 3.

Step 3: Superintendent Review

The Superintendent of education with responsibility for the school will review the suspension. If an agreement is not reached through the superintendent's review, the person(s) who is/are entitled to appeal and the superintendent with responsibility for the school will notify the superintendent of education of safe schools. The appeal will then be heard by the Committee of the Board.

Step 4: Appeal to the Board

The Superintendent of education of Safe Schools will arrange for the Committee of the Board to hear the appeal, within 15 school days of receiving the notice of appeal, unless the parties agree on a later deadline. The Committee of the Board will consist of at least three members of the board and may include the entire board.

Suspension appeal hearings are governed by the Statutory Powers Procedure Act (SPPA).

Parties to the Appeal shall include:

- Principal and/or designate of the school in which the pupil is registered;
- Superintendent of education responsible for the school in which the pupil is registered;
- Pupil, if 18 years old (or if 16 or 17 and has withdrawn from parental control); and/or
- Pupil's parent/guardian(s)

The Committee of the Board shall take into account:

- Submissions and views of all parties;
- Mitigating and other factors; and
- The discriminatory impacts of disciplinary decisions on pupils protected by the Ontario Human Rights Code.

The Committee of the Board may, in its decision (as per Education Act Section 309 (10)):

- Confirm the suspension and the duration of the suspension;
- Confirm the suspension, but shorten its duration, even if the suspension that is under appeal has already been served, and order that the record of the suspension be amended accordingly; or
- Quash the suspension and order that the record of the suspension be expunged, even if the suspension that is under appeal has already been served.

The decision of the Committee of the Board is final and will be communicated to all parties in writing by the Superintendent of Education – Safe Schools.

EXPULSION (SUSPENSIONS PENDING POSSIBLE EXPULSION): Students in grades 4-12

As per the Education Act, Section 310(1), the infractions for which a principal shall suspend and may consider recommending to the board that a pupil be expelled from the pupil's school or from all schools from the board, include:

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 sexual assault - touching of a sexual nature that is known or should be known to be unwanted
5. * Trafficking in weapons, illegal or restricted drugs
6. * Committing robbery
7. Giving alcohol to a minor
8. Bullying if
 - i. the pupil has previously been 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
9. * Any activity listed in subsection 306 (1) 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, or any other similar factor

**Police must be contacted as per the Ontario Northeast Region Police and School Protocol (2016), and a Workplace Violence Incident Form completed for these incidents (See Related Forms).*

Investigation Following Suspension

1. When the principal/vice-principal believes that an infraction has occurred which may require an expulsion, the principal/vice-principal will:
 - a. follow the Ontario Northeast Region Police and School Protocol (2016) where police are to be involved;
 - b. suspend the pupil pending an investigation;
 - c. conduct an investigation promptly following the suspension to determine whether to recommend to the board that the pupil be expelled;
 - d. take into account any mitigating or other factors prescribed by the regulations;
 - e. consult with the appropriate supervisory officer and determine if the infraction warrants a suspension or referral to the board for an expulsion hearing.2. The principal's/vice-principal's investigation must begin promptly following the suspension. The principal/vice-principal will endeavour to complete his/her investigation within five school days. If that is not possible due to a police investigation, the supervisory officer must be informed at this time.

3. The principal/vice-principal will conduct an investigation, using the Principal's Investigation Form for Possible Expulsion (See Related Forms)

4. In situations requiring police involvement or response, the school principal/vice-principal will comply with the Ontario Northeast Region Police and School Protocol (2016) – See Related Forms.
5. Police will conduct their own investigation and make decisions with respect to criminal charges based on their assessment of the circumstances. Regardless of whether or not charges are laid by the police, the principal/vice-principal is still responsible for conducting an investigation independent of the police and taking appropriate disciplinary action under the *Education Act*. The issue of double jeopardy does not apply because the purpose and nature of actions taken by the police under the *Criminal Code* are different from the purpose and nature of actions taken by the principal/vice-principal under the *Education Act*.
6. During a police investigation at school, it is the responsibility of the police to explain to a pupil his or her rights in a manner that enables him or her to understand them. The principal/vice-principal will inform police of any special circumstances which may impede the pupil in expressing or understanding written/oral communication.
7. When the police have been contacted, the principal/vice-principal should halt his or her review of the incident until the police investigation is complete. There is a concern that if the school official persists in reviewing the incident, the official's actions in interviewing witnesses or seizing property could prejudice the police investigations. Once the police have concluded their investigation, the school can commence its investigation.

Guidance on Police Contact According to Age:

Students under 12 years of age (children) shall have a parent or legal guardian present (or a designated adult acting in *loco parentis* if the parent/guardian is not available) during the interview with the police unless it is determined that this may hinder the investigation or jeopardize the safety of the student.

For students 12-17 years of age, in consultation with the investigating police officer, the parent/legal guardian will be contacted as soon as possible. The final decision as to immediate notification is at the police officer's discretion.

If Expulsion is NOT Recommended

If, on concluding the investigation, the principal/vice-principal decides not to recommend to the board that the pupil be expelled, the principal/vice-principal will:

- Confirm the suspension and the duration of the suspension;
- Confirm the suspension but shorten its duration, even if the suspension has already been served, and amend the record of the suspension accordingly; or
- Withdraw the suspension and expunge the record of the suspension, even if the suspension has already been served.

If the principal/vice-principal does not recommend to the board that the pupil be expelled, the principal/vice-principal will 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.

- A statement that the pupil will not be subject to an expulsion hearing for the activity that resulted in the suspension.

- A statement indicating whether the principal/vice-principal has confirmed the suspension and its duration, confirmed the suspension but reduced its duration or withdrawn the suspension.
- Unless the suspension was withdrawn, information about the right to appeal the suspension; and
- The name and contact information of the supervisory officer to whom notice of the appeal must be given.

If Expulsion IS Recommended

If, on concluding the investigation, the principal/vice-principal decides to recommend to the board that the pupil be expelled, he or she will prepare a report that contains the following:

- A summary of the principal's/vice-principal's findings.
- The principal's/vice-principal's recommendation as to whether the pupil should be expelled from his or her school only or from all schools of the board.
- The principal's/vice-principal's recommendation as to, (i) the type of school that might benefit the pupil, if the pupil is expelled from his/her school 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/vice-principal will promptly provide a copy of the report to the board and to every person whom the principal/vice-principal was required to give notice of the suspension.

EXPULSION HEARING

If a principal/vice-principal recommends to the board that a pupil be expelled, the board will hold an expulsion hearing. The hearing will take place on or before the 20th day of the pupil's suspension.

The board shall authorize an Expulsion Committee of at least three members of the Board of Trustees (but may include up to all members of the Board of Trustees) to exercise and perform powers and duties on behalf of the board, and may impose conditions and restrictions on the committee.

Parties to the Expulsion Hearing shall include:

- Director and/or superintendent of the school in which the pupil is registered
- Principal/vice-principal
- The pupil, if the pupil is at least 18 years old, or the pupil is 16 or 17 years old and has withdrawn from parental control
- The pupil's parent or guardian, unless the pupil is at least 18 years old, or the pupil is 16 or 17 years old and has withdrawn from parental control

A legal representative for any of the parties may be in attendance. Parties must inform all parties of legal representation prior to the formal hearing.

Step 1

The pupil's parent/guardian(s), or the pupil, if 18 or older (or 16 or 17 and has withdrawn from parental control) will receive a notice of the scheduled date and time of the hearing before the Expulsion Committee and a copy of the principal's report recommending expulsion.

Step 2

A written response to the principal's report, or other submission for the purposes of the hearing may be submitted to the Expulsion Committee through the superintendent of education –safe

schools. This written response must be provided to the superintendent at least three days prior to the Expulsion Hearing.

Step 3

During the hearing, the Expulsion Committee will hear submissions from all parties.

Step 4

In making the decisions required, the Expulsion Committee will take into account:

- Submissions and views of all parties;
- Any mitigating or other factors;
- The principal's report and any written responses to the report provided to the Committee before the completion of the hearing; and
- The discriminatory impacts of disciplinary decision on pupils protected by the Ontario Human Rights Code.

Step 5

The Expulsion Committee may, in its decision:

1. Decide not to expel the pupil and to uphold the decision of the principal regarding the suspension; uphold the decision of the principal but decrease the number of days of suspension; or overturn the decision of the principal regarding the suspension and remove it from the pupil's record.
2. Expel the pupil from his/her school only or all schools of the board.

Step 6

The superintendent of the school and the superintendent of safe schools will determine the placement of the pupil should he/she be expelled from his/her school only.

The superintendent of safe schools will communicate the decision of the Expulsion Committee in writing to every person who was entitled to be a party to the expulsion hearing, containing:

If pupil NOT expelled:

- A statement indicating that the pupil is not expelled.
 - A statement indicating whether the board has confirmed the suspension and its duration, confirmed the suspension but reduced its duration or withdrawn the suspension.
- The board's decision on the matter of the suspension is final.

If pupil IS expelled:

- The reason for the expulsion.
- A statement indicating whether the pupil is expelled from his/her school only or all schools of the board.
- Information about the school or program for expelled pupils to which the pupil is assigned.
- Information about the right to appeal, including the steps that must be taken.

Appeal of Expulsion

An appeal of a board's expulsion decision is to The Child and Family Services Review Board (<http://www.cfsrb.ca>)