

THE HURON-PERTH CATHOLIC DISTRICT SCHOOL BOARD

SUBJECT:

SUSPENSION OF STUDENTS

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POLICY STATEMENT:

Pursuant to the *Education Act*, principals are required to maintain proper order and discipline in schools, and students are responsible to the principal for their conduct and are required to accept such discipline as would be exercised by a reasonable, kind, firm and judicious parent. To meet the goal of creating a safe and caring school environment, the Board supports the use of positive practices as well as consequences for inappropriate behaviour, where necessary.

This policy authorizes the implementation of the following procedures for the use of suspension as outlined in Part XIII of the *Education Act* where a student has committed one or more of the infractions outlined below on school property, during a school-related activity or event, and/or in circumstances where the infraction has an impact on the school climate.

PROCEDURE:

1. Definitions:

Suspension: - the temporary removal of a student from his/her school in accordance with one or more reasons outlined in the *Education Act* or in a policy of the Board. Suspension may range from one (1) to twenty (20) school days.

Mitigating and additional factors to be considered:

Before deciding to suspend, the principal shall consider the following mitigating and additional factors. As well, in making its determination, the board's Suspension Appeal Committee shall consider the following mitigating and additional factors:

- whether the student has the ability to control his or her behaviour;
- whether the student has the ability to understand the foreseeable consequences of his or her behaviour; and
- whether the student's continuing presence in the school does or does not create an unacceptable risk to the safety of other individuals at the school;
- the student's academic, discipline and personal history;
- whether progressive discipline has been attempted with the student, and if so, the progressive discipline approach(es) that has/have been attempted and any success or failure;

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- whether the infraction for which the student might be disciplined was related to any harassment of the student because of race, ethnic origin, religion, creed, disability, gender or gender identity, sexual orientation or to related harassment for any other reason;
- the impact of the discipline on the student's prospects for further education;
- the student's age;
- where the student has an IEP or disability related needs:
 - a) whether the behaviour causing the incident was a manifestation of the student's disability;
 - b) whether appropriate individualized accommodation has been provided;
 - c) whether a suspension is likely to result in aggravating or worsening the student's behaviour or conduct or whether a suspension is likely to result in a greater likelihood of further inappropriate conduct;
- whether or not the student's continuing presence at the school creates an unacceptable risk to the safety of anyone in the school.

Violent Incident Form: A Ministry of Education form that documents the relevant information concerning all violent incidents involving police. This form is to be retained in the student's Ontario Student Record (O.S.R.) and shall not be removed unless three consecutive years have passed during which no further suspension for violent incidents have taken place.

2. Actions for which a Student may be Suspended:

- a) A principal shall consider whether to suspend a student if he or she believes that the student 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 or illegal drugs.
 - 3. Being under the influence of alcohol.
 - 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 student's school or to property located on the premises of the student's school.
 - 6. Bullying.
 - 7. Any other activity that is an activity for which a principal may suspend a student under a policy of the Board. For the purpose of this policy, these activities include:
 - i) arson and fire-setting;
 - ii) gang-related incidents;
 - iii) hate and/or bias related incidents;

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- iv) being under the influence of illegal drugs;
- v) persistent truancy;
- vi) persistent opposition to authority;
- vii) habitual neglect of duty;
- viii) use of tobacco;
- ix) theft;
- x) inappropriate use of electronic communications or media;
- xi) conduct injurious to the moral or religious tone of the school or to the physical or mental well-being of others in the school;
- xii) use of profane language or gestures.

b) The *Education Act*, s.310(1), also stipulates that a student shall be suspended for twenty (20) days pending a decision to expell, if the student commits any of the following infractions while he/she is at school, is engaged in school-related activities, or in other circumstances where engaging in the activities will have an impact on the school climate:

- committing a physical assault that causes bodily harm requiring treatment by a medical practitioner;
- committing a robbery;
- committing a sexual assault;
- giving alcohol to a minor;
- possessing a weapon, including but not limited to, firearms;
- trafficking in illegal drugs or weapons;
- using a weapon to cause bodily harm, or to threaten serious harm;
- committing any other activity that is deemed serious enough to warrant expulsion in Board policy; specifically, a pattern of refractory behaviour that is injurious to the effective learning and/or working environment of others.

3. Non-Disciplinary Reason for Suspension:

In accordance with the *Immunization of School Students Act*, s.6(1), (2), a Medical Officer of Health may require the principal to suspend or exclude from school a student who is not immunized as required by legislation and is not legally exempt from being immunized.

4. Notification of Suspension:

A principal who suspends a student shall:

- a) promptly notify the student, the student's teachers, and the parent/guardian (if the student is less than 18 years of age or is 16 or 17 and has withdrawn from parental control) of the suspension;

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- b) complete and distribute the appropriate Notice of Suspension Letter;
- c) notify (or consult) police as per the Police/School Board Protocol;
- d) ensure that suitable arrangements are made for the safe return home of the suspended student.

5. Duration of Suspension:

- a) The minimum duration of a suspension is one (1) school day, and the maximum is twenty (20) school days.
- b) Consultation with the Superintendent of Education is required for suspensions over five (5) school days.

6. Record Keeping:

The principal shall ensure that:

- a) each suspension is recorded and filed in the O.S.R.;
- b) suspensions for violent incidents are recorded on the Violent Incident Form and placed in the student's O.S.R.;
- c) Violent Incident Forms are removed from the student's O.S.R. if three (3) consecutive years have passed during which no further suspensions for violent incidents have taken place.

7. Suspension Review:

- a) A request for a review of a suspension does not cancel the suspension.
- b) The student or the parent/guardian (if the student is less than 18 years of age or is 16 or 17 and has withdrawn from parental control) may request a review of a suspension. This request must be made in writing within three (3) school days from the beginning of the suspension.
- c) The request for a review may be delivered to the principal who made the decision to suspend or to the Superintendent of Education.
- d) Where the request for a review is delivered to the principal, the principal shall immediately notify the Superintendent of Education and shall ensure that the written request is promptly delivered to the Superintendent of Education.
- e) The Superintendent of Education shall endeavour to complete the suspension review within five (5) school days after the student was suspended.
- f) When a suspension is to be reviewed, the Superintendent of Education in consultation with the principal, shall:
 - investigate the facts of the situation;
 - review the situation with the student or with the parent/guardian (if the student is less than 18 years of age or is 16 or 17 and has withdrawn from parental control);
 - consider the terms of the suspension in relation to the infraction;

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- make a decision on the review. (For the purposes of the review, the Superintendent of Education has the authority to confirm, modify, or overturn and remove the suspension.)
- g) The Superintendent of Education shall provide the person making the request for a review a written notice of the suspension review decision and shall outline the procedure to be taken if the person wishes to initiate an appeal if the suspension is upheld.

8. Suspension Appeals:

- a) The following persons may appeal, to the Board, a principal's decision to suspend a student:
1. 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.
 2. 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.

b) 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 appropriate Superintendent of Education within ten (10) school days of the commencement of the suspension. An appeal of the decision to suspend a student will be in writing, and the notice of appeal will include the specific reasons for the appeal, including why the party believes that the suspension should not have been imposed, or why the length of the suspension should be altered. After receiving a notice of intention to appeal, the Superintendent will promptly contact all parties to the appeal and inform them that he/she has received the notice of intention to appeal.

c) Party may Contact Superintendent of Education

A person who has been given notice of intention to appeal as set out above may contact the Superintendent of Education responsible for the relevant school to discuss any matter respecting the appeal of the suspension.

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9. Suspension Appeal Process:**a) Parties to the Appeal**

The parties to the appeal are:

1. The principal who suspended the student.
2. The student, if:
 - i) the student is at least 18 years old, or;
 - ii) the student is 16 or 17 year old and has withdrawn from parental control.
3. The student's parent or guardian, if the student's parent or guardian appealed the decision to suspend the student.

The parties to the appeal shall be entitled to be represented by counsel or an agent.

A student who is not a party to the appeal has a right to be present at the appeal and to make a statement on his or her own behalf.

b) Hearing of the Appeal

The Board will hear and determine the appeal within fifteen (15) school days of receiving notice of suspension, unless the parties agree on a later deadline, and will not refuse to deal with the appeal on the ground that there is a deficiency in the notice of appeal.

The powers and duties of the Board to conduct a suspension appeal hearing and make a decision on the suspension of a student following such hearing, shall be exercised and performed by the Suspension Appeal Committee of three (3) trustees of the Board, as designated by the Chairperson of the Board. Quorum for this committee is three (3) trustees. One (1) member will be appointed chair. The chair shall be the facilitator during the proceedings. The Director of Education, or Superintendent of Education, shall act in an advisory role to the committee on procedural matters during the suspension appeal hearing and the committee's subsequent deliberations.

A member of a Committee who has any direct involvement in a matter prior to the commencement of the hearing shall disqualify himself/herself and will not take part in the hearing, the deliberations, the decision and the reasons.

A member of a Committee who has not been present through the whole of the hearing shall not take part in the deliberations, the decision or the reason.

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In reaching a decision, the Committee shall have regard only to the evidence, argument and submissions made at the hearing and the debate during the deliberations, and not to any information that may have come into its possession prior to or outside the course of the hearing itself.

c) ***In Camera* Hearing**

Since intimate personal matter involving the student and, in some cases, other persons, will be disclosed at the hearing, the hearing may be conducted *in camera*. However, this may be reconsidered by the Suspension Appeal 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 student's or other persons' concern for privacy.

d) **Suspension Appeal Hearing Procedure**

i) The hearing shall be set for a maximum of two (2) hours. Each party will be given up to forty-five (45) minutes to complete his/her presentation. The time frame will only be extended if the Suspension Appeal Committee determines that a party reasonably requires more time.

ii) The Suspension Appeal hearing shall be conducted in accordance with the provisions of the *Statutory Powers Procedure Act*. The parties to the proceeding shall be entitled to:

- call and examine witnesses and present arguments and submissions. If a witness is under age 18, a signed letter of permission from the parent/guardian shall be provided;
- conduct cross-examinations of witnesses at the hearing reasonably required for a full and fair disclosure of the facts in relation to which they have given evidence.

iii) The procedure for the hearing shall be as follows:

- the chair declares hearing *in camera* or not *in camera*;
- the chair determines that all who are present have a right to be present;
- the chair determines the order of presentations;
- the committee considers the submissions of each party in whatever form the party chooses to deliver his or her submissions, whether orally, in writing or both;
- the committee solicits views of all the parties as to whether the Board should confirm the suspension originally imposed, confirm the suspension but reduce its duration or withdraw the suspension.

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e) Disposition

- i) A decision shall be rendered on the day of the hearing. The decision shall be by majority vote if consensus is not reached. The decision of the Suspension Appeal Committee is final.
- ii) In its deliberations, the committee must consider all information and views presented by all parties of the hearing, as well as all mitigating and additional factors.
- iii) If the committee is satisfied that the student has committed an infraction for which suspension is warranted, the committee may uphold or reduce the original suspension.
- iv) If the committee is satisfied that the student's behaviour does not warrant suspension, the committee may overrule the decision to suspend and order the record of suspension expunged.
- v) The Superintendent of Education shall compile a record of the suspension appeal proceedings which will include:
 - the notice of the hearing;
 - all documentary evidence filed with the committee;
 - the decision of the committee;
 - a written record of any conditions made by the committee.
- vi) The Superintendent of Education shall:
 - advise the parties of the decision of the Suspension Appeal Committee orally as soon as possible, and this decision shall be subsequently confirmed in writing;
 - inform the parties of the Board's program for suspended students;
 - inform the student, or the parent/legal guardian, if the student is less than 18 years of age (unless the student is 16 or 17 and has withdrawn from parental control), of the procedure to follow if they wish to appeal the Board's decision to suspend.

10. Report:

An *in-camera* report on the decision of the Suspension Appeal Committee shall be presented to the Board by the Superintendent of Education for receipt at the next meeting of the Board following the suspension appeal hearing.

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11. Explanation of Terms:

For the purpose of this policy:

- a) Notice is deemed to be effective (i.e. received) when delivered by:
- regular, registered or certified mail, on the fifth day after the day of mailing;
 - fax, on the same day of the transmission;
 - courier, on the second day after the document was given to the courier by the party providing notice.
- b) Delivery may be executed by:
- hand delivery to the school or to the Board Office during office hours;
 - regular, registered or certified mail addressed to the principal of the student's school, the Superintendent of Education, or the Director of Education of the Board;
 - fax;
 - courier (when actually signed by a school secretary, or Board Office secretary, or a Supervisory Officer of the Board).

BOARD APPROVAL:

September 24, 2001
February 25, 2002
Reviewed August 2004
January 28, 2008

EFFECTIVE DATE:

September 25, 2001
February 26, 2002
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