



**SUDBURY CATHOLIC
DISTRICT SCHOOL BOARD**

Suspension and Expulsion Manual
2025

Sudbury Catholic District School Board Safe Schools:
Suspension and Expulsion Manual

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SECTION A

Promoting and Supporting Positive Student Behaviour

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A.1 Introduction

Mission Statement

The mission of the Sudbury Catholic District School Board (the “Board”) is to realize each student’s potential within our inclusive Catholic Learning Community by nurturing and developing their mind, body and spirit.

The Board is committed to making each and every one of its schools a caring place that is safe for one’s faith development and learning. The Board has determined that progressive discipline will be the framework for all discipline in its schools within the context of a Catholic community that roots its mission in the partnership between home, school and parish.

The Board is committed to meeting its obligation under the *Canadian Charter of Rights and Freedoms*, the *Ontario Human Rights Code* and the *Municipal Freedom of Information and Protection of Privacy Act* by providing safe schools and workplaces that respect the rights of every individual.

“The building of Catholic education communities has always been a creative endeavour which calls for the best which each one of us has to offer (parents, trustees, supervisory officers, school administrators, school staff members, parish priests). Together we must emphasize and in some cases discover the new responses and new solutions to the specific challenges which this moment offers us.”

This Moment of Promise

Every student, employee, trustee, parent, parish and community member has the right to learn, work and pray in an environment which is safe and reasonably secure from the peril of harm.

The Board acknowledges the importance of actively promoting and supporting appropriate and positive student behaviours that contribute to and sustain a safe learning and teaching environment in which every student can reach his or her full academic and spiritual potential.

The Board will support and maintain positive school climates that enhance safety and focus on prevention and early intervention with opportunities for reconciliation, forgiveness and restoration of the community. The Board will provide direction to its schools with respect to progressive discipline to ensure excellence and accountability in the education system. In this regard, the Board will:

- ensure that all members of the Catholic school community, particularly students and parents, have access to information about progressive discipline;
- require schools to use progressive discipline as a common and standard practice rooted in Catholic teachings of justice, responsibility and reconciliation to build up the reign of God;
- ensure that a Principal conducts an investigation prior to determining the consequences to a student for inappropriate behaviour in accordance with legislated and professional standards which support wise decision making and justice;

- provide support to students and their families affected by bullying or acts of violence (i.e. restorative justice);
- support and protect students who have been bullied or affected by violence;
- ensure that in-school disciplinary alternatives are created as steps in a progressive discipline framework with a goal of avoiding suspensions or expulsions, if possible. Despite this being our goal, there are situations that may require a suspension or expulsion for the learning of the student who committed the unacceptable act and the safety of the Catholic school community. This procedure will be based on the principles of progressive discipline and will include but is not limited to:
 - (a) detention;
 - (b) peer mediation;
 - (c) restorative justice;
 - (d) referrals for consultation; and
 - (e) transfer.

A.2 Support for Student-Led Activities and Organizations

In accordance with subsection 303.1(1) of the *Education Act*, the board will support students who want to establish and lead activities and organizations that promote a safe and inclusive learning environment, acceptance of and respect for others, and the creation of a positive school climate, including activities or organizations that promote gender equity; antiracism; the awareness and understanding of, and respect for, people with disabilities; or awareness and understanding of, and respect for, people of all sexual orientations and gender identities, including organizations with the name “gay-straight alliance” or another similar name.

Neither the board nor school principals will refuse to allow a student to use the name “gay-straight alliance” or a similar name for an organization, as outlined in subsection 303.1(2) of the *Education Act*. Nothing in this section of the *Education Act* shall be interpreted as requiring the board to support the establishment of an activity or organization in a school unless there is at least one student who wants to establish and lead it. The name of an activity or organization must be consistent with the promotion of a positive school climate that is inclusive and accepting of all students.

A.3 Prevention and Awareness Raising

Prevention is the establishment and use of programs such as catechesis rooted in the Religious and Family Life education programs, bullying prevention, social skills programs, anger management groups and *Catholic Virtues in Action*, as well as other positive activities designed to promote the building of healthy relationships and appropriate behaviours.

Generally, prevention measures and initiatives are either school wide or shaped specifically to address a concern within a class or at a grade level. Catholic schools have prevention and intervention strategies to support the development of a child toward adulthood and to foster a positive school climate that supports academic achievement as well as faith and moral development for all students. Catholic schools focus on prevention and early intervention as key to maintaining a positive school environment so that students can learn.

A positive school climate is a crucial component of prevention; it may be defined as the sum total of all of the personal relationships within a Catholic school. The very ministry of the Catholic school is rooted and flows from the relationships between home, school and parish. When these relationships are founded in mutual acceptance and inclusion, and modelled by all, a culture of respect becomes the norm.¹ A positive climate exists when all members of the Catholic school community feel safe, comfortable, and accepted.

Programs and activities that focus on the building of healthy relationships, *Catholic Virtues in Action*, and positive peer relations provide the foundation for an effective continuum of strategies within a school and school-related activities. These supportive strategies and empowerment programs are the basis for creating a positive school climate.

In addition to teachers and administrators, other staff such as educational assistants, social workers, child and youth workers, psychologists, and attendance counsellors all play an important role in supporting students and contributing to a positive learning and teaching environment. A positive school climate also includes the participation of the school community, including parents, parish members as well as the broader community, which can have a major impact on the success of all students in the school.

The Board will implement a continuum of preventative strategies and empowerment programs rooted in the catechetical programs that focus on:

- Alternative dispute resolution
- Healthy lifestyles and relationships
- Student leadership
- Catholic virtues

See the *Catechism of the Catholic Church*. The Human Virtues in section 1804 and sections 1810 and 1811; the Cardinal Virtues (Prudence, Justice, Fortitude and Temperance) in sections 1805 to 1809; The Theological Virtues in sections 1814 to 1829 (Faith, Hope, Charity) as well as the Gifts and Fruits of the Holy Spirit (Wisdom, Understanding, Counsel, Fortitude, Knowledge, Piety, Fear of the Lord; Charity, Joy, Peace, Patience, Kindness, Goodness, Generosity, Gentleness, Faithfulness, Modesty, Self-Control, Chastity.)

- Restorative Justice
- Reconciliation
- Bullying prevention
- Peer Mediation

Further, the Board will ensure that there are individual safety plans for students with special needs who exhibit behaviours that could endanger themselves or others.

The Board recognizes the importance of actively promoting and supporting those appropriate and positive behaviours that create and sustain a positive learning environment. When inappropriate behaviour occurs, schools look at and employ a range of consequences that are developmentally appropriate with the opportunity for the individual to learn from mistakes, focus

¹ Definition from Safe Schools Action Team report, *Safe Schools Policy and Practice: An Agenda for Action* (June 2006), p. 6.

on improving behaviour and create opportunities for reconciliation to occur. Schools work in collaboration with parents and maintain communication through meetings, reports or phone calls about student behaviour and learning. Additionally, school teams of administration, educators and professional staff meet to review student learning and behaviour to implement a pyramid of interventions designed to redirect negative student behaviour so that it supports the student's learning more successfully and provides the student with the knowledge, skills, values, attitudes and actions to achieve the *Catholic School Graduate Expectations*:

The Graduate is expected to be:

- A discerning believer formed in the Catholic Faith community who celebrates the signs and sacred mystery of God's presence through word, sacrament, prayer, forgiveness, reflection and moral living.
- An effective communicator who speaks, writes and listens honestly and sensitively responding critically in light of gospel values.
- A reflective, creative and holistic thinker who solves problems and makes responsible decisions with an informed moral conscience for the common good.
- A self-directed, responsible, lifelong learner who develops and demonstrates their God-given potential.
- A collaborative contributor who finds meaning, dignity and vocation in work that respects the rights of all and contributes to the common good.
- A caring family member who attends to family, school, parish and the wider community.
- A responsible citizen who gives witness to Catholic social teaching by promoting peace, justice and the sacredness of human life.

A.4 Progressive Discipline

Progressive discipline is a whole-school approach that utilizes a continuum of prevention programs, interventions, supports, and consequences to address inappropriate student behaviour and to build upon strategies that promote positive behaviours described above. When inappropriate behaviour occurs, disciplinary measures should be applied within a framework that shifts the focus from one that is solely punitive to a focus that is both corrective and supportive. The Catholic Church has always taught the faithful to hate the sin but to love the one who has sinned and that moments of reconciliation and forgiveness are always available – no matter what the behaviour entailed. To this end, a Catholic School is challenged to ensure that while appropriate consequences are in place should a serious behaviour occur, the school must take measures that allow for conversation and reconciliation. The school must never give the student the message subtly that they have given up on the student. The Catholic school is committed to the dignity and sacredness of each student as created in the image of God even if the behaviour is mystifying and incongruous with that faithful anthropology of the human person. Catholic schools utilize a range of interventions, supports, and consequences that are developmentally and socio-emotionally appropriate and include learning opportunities for reinforcing positive behaviour while helping students to make better choices.

In some circumstances, short-term suspension may be a useful tool. In the case of a serious incident, long-term suspension or expulsion, which is further along the continuum of progressive discipline, may be the response that is required. In accordance with the safe schools provisions of the *Education Act*, the board provides programs for students who have been expelled or who are on a long-term suspension, so that they can continue their education.

For students with special education needs, interventions, supports, and consequences must be consistent with the student's strengths and needs, as well as program goals and learning expectations documented in his or her Individual Education Plan (IEP). At times, the impact of a student's behaviour even with the accommodations and/or modifications of the IEP may be so extreme as to warrant a suspension, expulsion or exclusion from the school.

Schools are expected to actively engage parents in the progressive discipline approach. In accordance with the *Code of Canon Law*, canon 796, subsection 2, "There must be the closest cooperation between parents and teachers to whom they entrust their children to be educated. In fulfilling their task, teachers are to collaborate closely with the parents and willingly listen to them; associations and meetings of parents are to be set up and held in high esteem." Schools should also recognize and respect the diversity of their parent communities and reach out to parents to partner with them in addressing complex and challenging issues.

A progressive discipline approach includes the use of early and ongoing intervention strategies and strategies to address inappropriate behaviour, which are described below.

Early and Ongoing Intervention Strategies

Early and ongoing interventions strategies will help prevent unsafe or inappropriate behaviours in a school and in school-related activities. Intervention strategies should provide students with appropriate supports that address inappropriate behaviour and that would result in an improved school climate. For example, early interventions may include, but are not limited to, ongoing communication with parents, verbal reminders, review of expectations, or a written work assignment with a learning component that require reflection.

Progressively more serious consequences should be considered for inappropriate behaviour that is repeated or for progressively more serious inappropriate behaviour, taking into account mitigating and other factors.

Ongoing interventions may be necessary to sustain and promote positive student behaviour and/or address underlying causes of inappropriate behaviour. For example, ongoing interventions may include, but are not limited to, meetings with parents, volunteer service to the school community, conflict mediation, peer mentoring, behaviour plans and/or a referral to counselling.

Board employees have a duty, under section 300.2 of the *Education Act*, to report to the Principal if they become aware that a pupil of a school of the board may have engaged in certain serious student incidents, as soon as reasonably possible. The Principal must then conduct an investigation.

Principals also have a duty, under section 300.3 of the *Act*, to notify the parents or guardian of students who are engaged in or harmed by certain serious student incidents. The Principal and the parent or guardian are invited to discuss the supports that will be provided for the pupil.

Strategies for Addressing Inappropriate Behaviour

When inappropriate behaviour occurs, schools should utilize a range of interventions, supports, and consequences that are developmentally appropriate, and should include opportunities for students to focus on improving behaviour. Consequences for inappropriate behaviour may include, but are not limited to, meeting with the parent(s), student, and Principal; referral to a community agency for anger management or substance abuse; and detentions or loss of privileges.

In considering the most appropriate response to address inappropriate behaviour, the following should be taken into consideration:

- the particular student and circumstances (e.g., student's academic reports, student's behavioural history, mitigating or other factors)
- the nature and severity of the behaviour
- the impact on the school climate, including the impact on students or other individuals in the school community (i.e., the relationships within the school community, the degree of risk for further harm)

Principals must suspend a student for bullying and consider referring that student for expulsion if (1) the student has previously been suspended for bullying (Grades 4-12), and (2) the student's continuing presence in the school creates, in the principal's opinion, an unacceptable risk to the safety of another person. When both of these conditions are met, the principal must suspend the student and consider referring the student for an expulsion hearing.

Principals must also suspend a student, and consider referring that student for expulsion, for any incident under subsection 306(1) of the *Education Act*, including bullying, 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 (e.g. socio-economic status, appearance).

Clause 265(1)(m) of the *Education Act* permits a principal to "refuse to admit" to the school or to a class someone whose presence in the school would be "detrimental to the physical or mental well-being of the pupils." Exclusion is not to be used as a form of discipline. If a principal does decide that it is necessary to exclude a student from the school, he or she is expected to notify the student's parents of the exclusion as soon as possible in the circumstances, and to inform them of their right to appeal under clause 265(1)(m).

Framework of Progressive Discipline

Disciplinary measures will be applied within a framework of progressive discipline that shifts the focus from one that is punitive to a focus that is supportive and corrective in nature. In all cases, it is the behaviours that should be judged, rather than the student.

Schools should employ early intervention as a way of fostering and supporting appropriate student behaviour. A wide range of established interventions and strategies should be attempted as common practice within the context of a progressive discipline continuum.

Progressive discipline is a process designed to create the expectation that the degree of discipline will be in proportion to the severity of the behaviour leading to the discipline and that the previous disciplinary history of the student and all other relevant factors will be taken into account.

Disciplinary action and consequences will reflect consideration of a number of factors, including mitigating and other factors, specific to the student involved in the misbehaviour. Previous inappropriate behaviour will be taken into consideration before consequences for new inappropriate behaviour are determined.

Under the provisions of the *Education Act*, student discipline includes suspensions and expulsions. Administrators are required to take into account mitigating factors and/or other factors when considering the appropriate disciplinary approach.

The progressive discipline continuum is a stepped approach to support a positive change in behaviour. However, as indicated above, if an incident is serious in nature and after a full consideration of circumstances affecting a student's behaviour, it is recognized that a step, such as a suspension or expulsion, which is further along in the progressive discipline continuum, may be necessary.

A.5 Bullying Prevention and Intervention

In Policy/Program Memorandum No. 144, released by the Ministry of Education on November 25, 2021, and in section 1(1) of the *Education Act*, "bullying" has been defined as follows:

"bullying" means aggressive and typically repeated behaviour by a pupil where,

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

(i) causing harm, fear or distress to another individual, including physical, psychological, social or academic harm, harm to the individual's reputation or harm to the individual's property, or

(ii) creating a negative environment at a school for another individual, and

(b) the behaviour occurs in a context where there is a real or perceived power imbalance between the pupil and the individual based on factors such as size, strength, age, intelligence, peer group power, economic status, social status, religion, ethnic origin, sexual orientation, family circumstances, gender, gender identity, gender expression, race, disability or the receipt of special education;

Bullying

(1.0.0.1) For the purposes of the definition of "bullying" in subsection (1), behaviour includes the use of any physical, verbal, electronic, written or other means.

Cyber-bullying

(1.0.0.2) For the purposes of the definition of "bullying" in subsection (1), bullying includes bullying by electronic means (commonly known as cyber-bullying), including,

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

Students may attain or maintain power over others in the school through real or perceived differences. Some areas of difference may be size, strength, age, intelligence, economic status, social status, solidarity of peer group, religion, ethnicity, disability, need for special education, sexual orientation, family circumstances, gender, and race.

Bullying is a dynamic of unhealthy interaction that can take many forms, including physical, verbal, and social. If aggressive behaviour is physical, it may include hitting, pushing, slapping, and tripping. If it is verbal, it may include name calling, mocking, insults, threats, and sexist, racist, homophobic, or transphobic comments. If it is social or relational aggression, it is more subtle and may involve such behaviours as gossiping, spreading rumours, excluding others from a group, humiliating others with public gestures or graffiti, and shunning or ignoring. Social aggression may also occur through the use of technology (e.g., spreading rumours, images, or hurtful comments through the use of e-mail, cell phones, text messaging, Internet websites, social networking, or other technology).

Children who suffer prolonged victimization through bullying, as well as children who use power and aggression as bullies, may experience a range of psycho-social problems that may extend into adolescence and adulthood.

Providing students with an opportunity to learn and develop in a safe and respectful society is a shared responsibility in which school boards and schools play an important role. Catholic schools have bullying prevention and intervention strategies to foster a positive learning and teaching environment that supports academic achievement along with spiritual and moral development for all students.

A positive school climate is a crucial component of prevention; it may be defined as the sum total of all of the personal relationships within a school. When these relationships are founded in mutual acceptance and inclusion, and modelled by all, a culture of respect becomes the norm.² A positive school climate exists when all members of the school community feel safe, comfortable, and accepted. To help achieve a positive environment in their schools, the Board and its schools will actively promote and support positive behaviours that reflect their character development initiatives. They will also endeavour to ensure that parents and members of the broader community are involved in the school community.

The Board will support and maintain a positive school climate in its schools. The following are some characteristics of a positive school climate:³

² *Ibid.*, p. 8.

³ *Ibid.*, p. 7.

- Students, staff members, and parents feel safe, and are safe, included, and accepted.
- All members of the school community demonstrate respect, fairness, and kindness in their interactions, building healthy relationships that are free from discrimination and harassment.
- Students are encouraged and given support to be positive leaders and role models in their school community.
- Open and ongoing dialogue takes place between the principal, staff members, parents, and students. All partners are actively engaged.
- The learning environment, instructional materials, and teaching and assessment strategies reflect the diversity of all learners.
- Every student is inspired and given support to succeed in an environment of high expectations.
- Bullying prevention and awareness-raising strategies for students and staff are reinforced through curriculum-linked programs.

In recognition of the importance of addressing bullying, which can have a significant impact on student safety, learning, and the school climate, recent amendments to the Education Act require principals to suspend a student for bullying and consider referring that student for expulsion if (1) the student has previously been suspended for bullying, and (2) the student's continuing presence in the school creates, in the principal's opinion, an unacceptable risk to the safety of another person. When both of these conditions are met, the principal must suspend the student and consider referring the student for an expulsion hearing. Students in junior Kindergarten to Grade 3 will not meet criteria (1).

Research

Research shows that bullying is a serious issue that has far-reaching consequences for individuals, their families and peers, and the community at large. According to the Centre for Addiction and Mental Health, almost one-third of students are being bullied at school and more than one-fifth of students report having bullied someone else.⁴ Research indicates that a clearly articulated school-wide bullying prevention policy is the foundation of effective bullying prevention programming.

If students who are bullied, who bully others, or who witness bullying receive the necessary support, they can learn effective strategies for interacting positively with others and for promoting positive peer dynamics. Research also shows that administrators, teachers, and other school staff⁵ need to be provided with opportunities to acquire the knowledge and skills

⁴ Angela Paglia-Boak, Edward M. Adlaf, Hayley A. Hamilton, Joseph H. Beitchman, David Wolfe, and Robert E. Mann, *The Mental Health and Well-Being of Ontario Students, 1991–2011: Detailed OSDUHS Findings*. Ontario Student Drug Use and Health Survey, CAMH Research Document Series No. 34 (Toronto: Centre for Addiction and Mental Health, 2012), p. 68.

⁵ Other school staff include, but are not limited to, staff in social work, child and youth work, psychology, and related areas; early childhood educators; educational assistants; attendance counsellors; and Aboriginal education

necessary to address bullying through school-level bullying prevention and intervention strategies that focus on building skills for healthy relationships.

A.6 Mitigating Factors and Other Factors

In considering whether to suspend a pupil or whether to recommend to the Board that a pupil be expelled, a Principal will take into account any mitigating factors or other factors prescribed by the regulations.

A.6.1 Mitigating Factors

Pursuant to the *Behaviour, Discipline and Safety of Pupils* Regulation, for the purposes of subsections 306 (2), 306 (4), 310 (3), 311.1 (4) and clauses 311.3 (7) (b) and 311.4 (2) (b) of the *Education Act*, the following mitigating factors shall be taken into account:

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

A.6.2 Other Factors

For the purposes of subsections 306 (2), 306 (4), 310 (3), 311.1 (4) and clauses 311.3 (7) (b) and 311.4 (2) (b) of the *Education Act*, 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:

1. The pupil's history.
2. Whether a progressive discipline approach has been used with the pupil.
3. 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 to any other harassment.
4. How the suspension or expulsion would affect the pupil's ongoing education.
5. The age of the pupil.
6. In the case of a pupil for whom an individual education plan has been developed,
 - (i) whether the behaviour was a manifestation of a disability identified in the pupil's individual education plan,

counsellors. Even though the term school staff is used in this memorandum, it is understood that staff at the school are employed by the board.

- (ii) whether appropriate individualized accommodation has been provided, and
- (iii) whether the suspension or expulsion is likely to result in an aggravation or worsening of the pupil's behaviour or conduct.

A.7 Rights and Duties of School Principals

Statutory Duties

Principals are guided by Ministry of Education and Board policies and by school rules and codes of conduct in performing their statutory duties.

In Ontario, certain duties are set out in the *Education Act* and its Regulations. Section 265 of the Act sets out duties specific to a school Principal. Specifically, subsection 265(1) provides that it is the duty of a Principal of a school, in addition to the Principal's duties as a teacher, to, among other things:

- maintain proper order and discipline in the school;
- develop co-operation and co-ordination of effort among the members of the staff of the school; and
- give assiduous attention to the health and comfort of pupils.

Regulation 298 creates additional duties for Principals and to a certain extent, reinforces the duties found in the *Education Act*. Under subsection 11(1) of the Regulation, the Principal, subject to the authority of the appropriate supervisory officer, is in charge of:

- the instruction and the discipline of pupils in the school; and
- the organization and management of the school.

Under clause 11(3)(a) of Regulation 298, the Principal has a duty to, among other things:

- supervise the instruction in the school and advise and assist any teacher in cooperation with the teacher in charge of an organizational unit or program;
- provide for the supervision of pupils during the period of time during each school day when the school buildings and playgrounds are open to pupils;
- provide for the supervision of and the conducting of any school activity authorized by the board; and
- report promptly any neglect of duty or infraction of the school rules by a pupil to the parent/guardian of the pupil.

In addition, the [Provincial Code of Conduct](#), released by the Ministry of Education on June 27, 2024 provides that Principals, under the direction of their school board, take a leadership role in the daily operation of a school by:

- demonstrating care for the school community and a commitment to academic excellence in a safe, inclusive, and accepting teaching and learning environment;
- holding everyone under their authority accountable for his or her behaviour and actions;
- empowering students to be positive leaders in their school and community;
- communicating regularly and meaningfully with all members of their school community.

An appropriate supervisory officer may act in place of the Principal during a visit to the school in accordance with Regulation 298, subsection 26 (1):

The appropriate supervisory officer, in addition to the duties under the Act, may, during a visit to the school, assume any authority and responsibility of the Principal of the school.

A Vice-Principal may perform the duties of the Principal in accordance with Regulation 298, subsections 12 (2) and (3):

A Vice-Principal shall perform such duties as are assigned to the Vice-Principal by the Principal.

In the absence of the Principal of the school, a Vice-Principal, where a Vice-Principal has been appointed for the school, shall be in charge of the school and shall perform the duties of the Principal.

Referencing the *Education Act*, clause 264 (1) (e) and Regulation 298, subsection 20 (h) respectively, a teacher shall “maintain, under the direction of the Principal, proper order and discipline in the teacher’s classroom and while on duty in the school and on the school ground” and “co-operate with the Principal and other teachers to establish and maintain consistent disciplinary practices within the school.”

In the case of an extreme emergency involving physical harm, all staff members supervised by the Principal or designated person are expected to perform their duties as assigned. The care of the community is sustained by the reassurance that each person is doing their assigned duty.

Common Law Duty of Care

Canadian common law has clearly established that educators owe their pupils a duty of care. Teachers and Principals have a unique and special relationship with the students that attend their school. Since students are required to attend school, parents who send their children to a school are entitled to expect that educators will take reasonable precautions to protect the students from foreseeable risks of harm.

A standard of care is essentially the standard of behaviour against which the actions or omissions of the defendant(s) in a negligence claim will be judged. Canadian courts have held that the standard of care owed to a pupil by a school board and its Principals and teachers is that of a *careful or prudent parent in the circumstances*. This standard has long been applied to the actions of educators in relations to their students. The standard of a careful or prudent parent in the circumstances is a heightened duty of care. In a normal negligence case involving an adult defendant, the standard of care would be that of a reasonable person in the circumstances. The application of a parental standard of care to educators in their work with

pupils is reflective of the special relationship they share with their students. Thus, where school authorities stand in a place of a parent in the operation of a school (referred to as acting *in loco parentis*), they will be held to this higher standard.

In a negligence lawsuit, the plaintiff must provide certain elements to be successful. These are:

- The defendant owed a duty of care to the plaintiff;
- The defendant breached the duty of care;
- The defendant's breach was the proximate cause of the plaintiff's injury; and
- The plaintiff suffered actual damage or loss as a result of the injury.

The courts have held that a school board is vicariously liable for all acts of negligence undertaken by its employees and volunteers in the course of their duties. It should be noted that, in most cases, liability "flows" from the teacher to the Principal to the school board.

A.8 Investigation of Incidents

Disciplinary consequences are considered after a thorough investigation of the incident has been completed (*refer to Section L*). The investigation produces facts that clearly describe the activities of all participants. Principals take thorough and detailed notes.

As part of his or her investigation, the Principal is required to make reasonable efforts to speak with the pupil, the pupil's parent or guardian (unless the pupil is at least 18 years of age or 16 or 17 years and has withdrawn from parental control) and any other person whom the Principal has reason to believe may have relevant information.

At the conclusion of his or her investigation, if the Principal decides to recommend an expulsion, he or she is required to prepare a report for the board. The report includes a summary of the Principal's findings and the Principal's recommendation as to whether the pupil should be expelled from his/her school only or from all schools of the board.

If the Principal recommends that the pupil be expelled from his/her school only, the Principal is required to provide a recommendation as to the type of school that might benefit the pupil. If the Principal recommends that the pupil be expelled from all schools of the board, he/she is required to provide a recommendation as to the type of program for expelled pupils that might benefit the pupil.

The Principal submits the report within 20 school days to the school board and to every person to whom the suspension was given. Those persons are entitled to respond in writing both to the Principal and the board.

In undertaking an investigation, every interview is thoroughly documented. Notes made by a Principal will be used to support the decision regarding school discipline. All notes should be made contemporaneously with the interview. Notes are dated and indicate the source of the information and the name of the recorder. Notes of an investigation are not placed in a student's Ontario Student Record. A separate file is kept by the Principal containing all notes. This file may be accessed by the parent in accordance with an application through the *Municipal Freedom of Information and Protection of Privacy* (MFOIPOP) legislation. Notes provided

through MFOIPOP will not include names of persons other than the name of the person requesting the information. These names will be severed so that they are not visible.

The Principal informs the person being interviewed that the contents of the interview will be kept in confidence, subject to the ability to conduct a full investigation. It is important to provide the accused student with information about the allegations in order to give him or her an opportunity to respond.

At the conclusion of all interviews, the Principal comes to a conclusion about what actually occurred and who was at fault based upon the balance of probability. Essentially, the Principal makes a decision about the truth of what the alleged victim, the witnesses and the alleged offender have said. Simply put, if there is a conflict in the statements made, who does the Principal believe? In reaching this conclusion, the administrator should consider which version is more supportable, considering the consistency of the witnesses with each other, which version seems more logical based on common sense. **In reviewing all the evidence, the Principal must consider whether a school rule, provision in the *Education Act* or Board policy has been breached, based on a balance of probabilities.**

A.9 Role of the Principal in Incidents Involving the Police

The Provincial Model for a Local Police/School Board Protocol requires Principals to notify the police for specific occurrences. In situations requiring police involvement or response, school administrators will comply with the [Ontario North East Region Police and School Protocol](#).

SECTION B

Suspension Procedures

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B.1 Suspension – *Education Act*

Suspension is the withdrawal of a student from a specific school and from engaging in school-related activities if the pupil commits any infraction for which suspension must be considered under section 306 of the *Education Act*. Suspensions act as deterrents, provide an opportunity for students to think about their actions and hopefully encourage the student and/or their family to seek necessary assistance.

Prior to determining the consequences to a student for inappropriate behaviour, the Principal will conduct an investigation regarding the allegations in question (*refer to Section L*).

The primary purpose underlying the implementation of a suspension is to achieve a positive consequence for the student. This may result through a self-reassessment by the student or a greater awareness on the part of the parent/guardian of the appropriate support and/or additional resources that may be required to assist the student.

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 students 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.

B.2 Definitions

B.2.1 Suspension

Students in Grades 4 to 12 can be suspended for:

Under subsection 306 (1) of the *Education Act*, a 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 or illegal drugs, or unless the student is a medical cannabis user, cannabis
3. Being under the influence of alcohol, or unless the student 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, including cyberbullying.
7. Any other activity that is an activity for which a Principal may suspend a pupil under the policy of the board.

If a student in junior kindergarten to Grade 3 has engaged in any of the activities listed above, the principal will not consider suspension. The principal must consider what positive behaviour supports the school can provide to the student.

If a Principal decides to suspend a pupil for engaging in an activity described in subsection (1), the Principal will suspend the pupil from their school and from engaging in all school-related activities.

The minimum duration of a suspension is one school day and the maximum duration is 20 school days. A Principal may suspend a student for 1 to 5 days. The Principal is required to consult with the appropriate Superintendent of School if the suspension is greater than 5 days.

In considering whether to suspend a pupil for engaging in an activity described in subsection (1), and when considering how long the suspension should be, a Principal will take into account any mitigating and/or other factors prescribed by the regulations.

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

B.2.2 Reporting to the Principal

An employee of the Board who becomes aware that a pupil of a school of the board may have engaged in an activity described in subsection 306 (1) or 310 (1) shall report to the Principal about the matter, as soon as reasonably possible.

The Principal has a duty to investigate any matter reported (*see Sections E and L*).

After investigating, the Principal will communicate the results of the investigation to:

1. if the matter was reported by a teacher, that teacher; or
2. if the matter was reported by an employee who is not a teacher, that employee unless, in the principal's opinion, it would not be appropriate to do so.

In doing so, the Principal will not disclose more personal information than is reasonably necessary for the purpose of communicating the results of the investigation.

B.2.3 Notice to Parent or Guardian

Section 300.3 of the Education Act specifies that if a Principal believes that a pupil has been harmed as a result of an activity described in subsection 306 (1) or 310 (1), the principal shall, as soon as reasonably possible, notify,

1. The parent or guardian of the pupil who the principal believes has been harmed;
2. The parent or guardian of any pupil of the school who the principal believes has engaged in the activity that resulted in the harm.

However, the Principal shall not, without the pupil's consent, notify a parent or guardian of a pupil who is 18 years or older, or who is 16 or 17 years old and has withdrawn from parental control. The Principal also shall not notify a parent or guardian of a pupil if in the opinion of the principal doing so would put the pupil at risk of harm from a parent or guardian of the pupil, such that the notification is not in the pupil's best interests. Under subsection 301(5.5) of the *Education Act*, when principals have decided not to notify the parents that their child was involved in a serious student incident, they must, in accordance with Ontario Regulation 472/07, document the

rationale for this decision and notify both the teacher who reported the incident and the appropriate supervisory officer of this decision.

When notifying a parent or guardian of a pupil who has been harmed, the Principal shall disclose:

1. the nature of the activity that resulted in harm to the pupil;
2. the nature of the harm to the pupil;
3. the steps taken to protect the pupil's safety, including the nature of any disciplinary measures taken in response to the activity; and
4. the supports that will be provided for the pupil in response to the harm that resulted from the activity.

When notifying a parent or guardian of a pupil who has been harmed, the Principal shall not disclose the name of or any other identifying or personal information about a pupil who engaged in the activity that resulted in the harm, except in so far as is necessary to comply with their obligation to disclose the required information.

When notifying a parent or guardian of a pupil who has engaged in the activity that resulted in harm, the Principal shall disclose:

1. the nature of the activity that resulted in harm to the other pupil;
2. the nature of the harm to the other pupil;
3. the nature of any disciplinary measures taken in response to the activity; and
4. the supports that will be provided for the pupil in response to their engagement in the activity.

When notifying a parent or guardian of a pupil who has engaged in the activity that resulted in harm, the Principal shall not disclose the name of or any other identifying or personal information about a pupil who has been harmed as a result of the activity, except in so far as is necessary to comply with their obligation to disclose the required information.

When notifying parents of these incidents, the Principal shall invite the parent or guardian to have a discussion with the Principal about the supports that will be provided for their child.

B.2.4 Notice of Suspension

A Principal who suspends a pupil under section 306 shall,

1. inform the pupil's teacher of the suspension; and
2. make all reasonable efforts to inform the pupil's parent or guardian of the suspension within 24 hours of the suspension being imposed, unless,
 - (i) the pupil is at least 18 years old, or
 - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.

A Principal who suspends a pupil under section 306 shall ensure that written notice of the suspension is given promptly to the following persons:

1. The pupil.
2. The pupil's parent or guardian, unless,
 - (i) the pupil is at least 18 years old, or
 - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.

B.2.5 Contents of the Notice

The notice of suspension will include the following:

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

B.2.6 Receipt of Notice

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

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

A notice of suspension is given to the student at school, mailed to the parent and placed in the Ontario Student Record.

B.2.7 Mitigating Factors

For the purposes of subsections 306 (2), 306 (4), 310 (3), 311.1 (4) and clauses 311.3 (7) (b) and 311.4 (2) (b) of the Act, the following mitigating factors shall be taken into account:

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

B.2.8 Other Factors

For the purposes of subsections 306 (2), 306 (4), 310 (3), 311.1 (4) and clauses 311.3 (7) (b) and 311.4 (2) (b) of the Act, 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:

1. The pupil's history.
2. Whether a progressive discipline approach has been used with the pupil.
3. 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 their race, ethnic origin, religion, disability, gender or sexual orientation or to any other harassment.
4. How the suspension or expulsion would affect the pupil's ongoing education.
5. The age of the pupil.
6. In the case of a pupil for whom an individual education plan has been developed,
 - (i) whether the behaviour was a manifestation of a disability identified in the pupil's individual education plan,

- (ii) whether appropriate individualized accommodation has been provided, and
- (iii) whether the suspension or expulsion is likely to result in an aggravation or worsening of the pupil's behaviour or conduct.

B.2.9 Suspension under Board Policy

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

A Principal may 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 or illegal drugs, or unless the student is a medical cannabis user, cannabis
3. Being under the influence of alcohol, or unless the student 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, including cyberbullying.
7. Any other activity that is an activity for which a Principal may suspend a pupil under the policy of the board.
 - (i) Committing physical assault on another person
 - (ii) Conduct injurious to the moral tone of the school or to the physical or mental well-being of others
 - (iii) Non-Consensual Distribution of Intimate Images

B.2.10 Suspension Duration

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

B.2.11 Suspension Appeal

Under section 309 of the *Education Act*, provisions are made for the parent/guardian/adult student to appeal the decision to suspend a student (*refer to Section D*).

B.3 Procedures for Suspension

Where circumstances warrant, the Principal will suspend a student in Grades 4-12 pursuant to section 306 of the *Education Act* and the policies of the Board.

1. Where a concern arises regarding possible student discipline, a Principal will conduct an investigation and consider mitigating factors, the pupil's academic progress, behaviour patterns and other factors (*refer to Section L*). The Principal considers the content of this investigation to determine appropriate behaviour consequences.

2. Where the Principal is considering a suspension in excess of 5 school days, the Principal will consult with their appropriate Superintendent. The appropriate Superintendent may consult with the Superintendent responsible for Safe Schools.
3. When it becomes necessary to suspend a student, the Principal will make every effort to contact the student's parent/guardian/adult student personally in order to discuss reasons for the suspension and engage them in becoming part of the plan to change behaviour. The conversation is intended to engage the parents in a collaborative effort to support their child's learning and behaviour correction. The Principal documents the time of the calls in their notes pertaining to the investigation of the incident.
4. The Principal will finalize their investigation.
5. Where appropriate, the Principal will prepare and sign the notice of suspension. A notice of suspension is given to the student, parent/guardian and placed in the Ontario Student Record.

Section J.1	Suspension Letter – 1 to 5 days
Section J.2	Suspension Letter – 6 to 10 days
Section J.3	Suspension Letter – 11 to 20 days
Section J.4	Suspension Letter – Suspension Pending Possible Expulsion
6. A suspension shall be for a fixed period, not exceeding 20 school days. The minimum period of suspension is **one** school day.
7. A one-day suspension will be in effect on the first school day following the infraction.
8. The notice of the suspension will include the following:
 1. The reason for the suspension. This includes both the legal reason as well as a few supporting details which give the pupil and parent information about the events which led to suspension.
 2. The duration of the suspension.
 3. Information about any program for suspended pupils to which the pupil is assigned.
 4. Information about the right to appeal the suspension under section 309, including,
 - (i) a copy of the Board policies and guidelines governing the appeal established by the Board under subsection 302 (6), and
 - (ii) the name and contact information of the supervisory officer to whom notice of the appeal must be give under subsection 309 (2).

Superintendent of School, Sudbury Catholic District School Board:
 165A D'Youville Street, Sudbury, Ontario P3C 5E7
 This is the address that is communicated to the parent community.

Upon receipt of an Appeal, the Superintendent responsible for the school will schedule an Appeal hearing and resource the trustees. The Superintendent will support the school's presentation of the case at Appeal.

B.4 Consequences of Inappropriate Student Behaviour

The information in this chart details the *Education Act* provisions on suspensions and suspensions pending possible expulsion, and the Board policy on suspensions and suspensions pending possible expulsion.

Promoting Positive Student Behaviour

Early Interventions	Ongoing Interventions	Disciplinary Consequences
<ul style="list-style-type: none"> Communication with parents Verbal reminders Review of expectations Written assignments with a learning component that require reflection 	<ul style="list-style-type: none"> Meeting with the parent(s) Behavioural contracts Requiring students to perform volunteer service in the school Conflict mediation Peer mentoring Referral to counselling or other agency/services 	<ul style="list-style-type: none"> Modification/Loss of privileges Detention Supervised independent study/withdrawal from class Restitution Suspension Expulsion

- ☑ Disciplinary measures should be both corrective and supportive, not solely punitive.
- ☑ Disciplinary consequences should be progressively more serious for repeated behaviours.
- ☑ A single occurrence of a seriously inappropriate behaviour may receive a serious consequence without requiring any prior disciplinary intervention.

Student Suspensions – START WITH THE INFRACTION

Only Applies to Students in Grades 4 - 12	Applies to Students in JK - Grade 12
<ul style="list-style-type: none"> uttering a threat to inflict serious bodily harm on another person possessing alcohol, cannabis (unless the student is authorized to use cannabis for medical purposes), or illegal drugs being under the influence of alcohol or cannabis (unless the student is authorized to use cannabis for medical purposes) swearing at a teacher or at any person in a position of authority committing an act of vandalism that causes extensive damage to school property at the student's school or on school premises bullying, including cyberbullying engaging in a physical altercation with another person for the purpose of causing harm any act or behavior that is considered to be contrary to the Board Code of Conduct 	<ul style="list-style-type: none"> possessing a weapon, including a firearm* using a weapon to cause or threaten bodily harm to another person* committing physical assault on another person that causes bodily harm requiring treatment by a medical practitioner* committing sexual assault* trafficking in weapons or illegal drugs committing robbery* giving alcohol or cannabis to a minor bullying – if the student was suspended before for bullying and the student's presence in the school creates an unacceptable risk to the safety of another person any activity for which a student can be suspended that is motivated by bias, prejudice or hate*
<p>Discretionary suspension for students in grades 4-12. Suspension can range from 1 – 20 days. More significant infractions typically have longer suspension lengths. Repeated infractions typically result in increased suspension lengths. Mitigating factors must be considered.</p>	<p>Mandatory suspension for students in grades 4-12. Suspension begins at 20 days with consideration of recommendation for expulsion. Investigation and mitigating factors will contribute to final disciplinary action, which may be a suspension less than 20 days. For students in JK-Grade 3, investigation will be conducted to determine length of suspension or recommendation for expulsion.</p>
<ul style="list-style-type: none"> All suspensions must be recorded in Edsemlbi Any violent incident* must be noted in Edsemlbi and reported to the Superintendent of Education. All suspensions must have a Suspension Notification created and filed in the OSR. 	

Summary of Programs for Suspended Students

Suspension	Planning meeting	Student action plan: academic component	Student action plan: non-academic component	Re-entry meeting
1–5 school days	Not required	Not required	Not required	Not required (Recommended)
6–10 school days	Required	Required	Not required	Required
11–20 school days	Required	Required	Required	Required

Involvement of Police Services

Mandatory Notification of Police	Discretionary Notification of Police
<ul style="list-style-type: none"> all deaths physical assault causing bodily harm requiring medical attention sexual assault robbery criminal harassment, including repeated bullying relationship-based violence possessing a weapon, including possessing a firearm using a weapon to cause or to threaten bodily harm to another person trafficking in weapons or in illegal drugs possessing an illegal drug hate and/or bias-motivated occurrences gang-related occurrences extortion non-consensual sharing of intimate images bomb threats 	<ul style="list-style-type: none"> giving alcohol to a minor being under the influence of alcohol or illegal drugs physical assault threats of serious physical injury, including threats made on social networking sites or through instant messaging, text messaging, e-mail, and so on Incidents of bullying; including incidents of bullying utilizing social media and electronic media (examples Facebook, MSN, Twitter, sexting) incidents of vandalism trespassing incidents
<p>The incidents listed require mandatory reporting to police for students aged 12+. For students under age 12, reporting may still be beneficial to support early intervention, but it is at the discretion of the principal. Mandatory police reporting does not mean that police will lay charges in every situation. Involvement of the police does not negate a principal's responsibility to follow procedures for mandatory suspension or recommendation for expulsion.</p>	<p>Principals should consider mitigating and other factors when deciding whether to call the police in these discretionary situations. This should be in consultation with your school Superintendent.</p>
<p>The school Superintendent must be part of the process starting with early notification for any suspension that may include multiple days. If police services become involved, regular updates and discussion with your SO shall be maintained</p>	

DEFINITIONS

Bullying – means aggressive and typically repeated behaviour by a pupil where,

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

(i) causing harm, fear or distress to another individual, including physical, psychological, social or academic harm, harm to the individual's reputation or harm to the individual's property, or

(ii) creating a negative environment at a school for another individual, and

(b) the behaviour occurs in a context where there is a real or perceived power imbalance between the pupil and the individual based on factors such as size, strength, age, intelligence, peer group power, economic status, social status, religion, ethnic origin, sexual orientation, family circumstances, gender, gender identity, gender expression, race, disability or the receipt of special education;

"Behaviour" includes the use of any physical, verbal, electronic, written or other means.

Cyber-bullying – bullying includes bullying by electronic means, including,

(a) creating a web page or a blog in which the creator assumes the identity of another person;

(b) impersonating another person as the author of content or messages posted on the internet; and

(c) communicating material electronically to more than one individual or posting material on a website that may be accessed by one or more individuals.

Extortion – using threats, intimidation, or violence towards a person to obtain something of value from that person or someone else, or to cause that person or someone else to do something.

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

Harassment – harassment is often, but not always, persistent, ongoing conduct or communication in any form, of attitudes, beliefs, or actions towards an individual or group which might reasonably be known to be unwelcome. A single act or expression can constitute harassment, for example, if it is a serious violation. Harassment may be either subtle or blunt.

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

Impact on the School Climate – an event that occurs off of school property and/or outside of school hours and/or outside of the school year that has a reasonable connection or nexus to the school, members of the school community and/or the school climate. A possible result of inappropriate activities or behaviours, whether those activities/behaviours occur inside or outside the school.

Non-Consensual Distribution of Intimate Images

- **Under Bill C-13, it is illegal to distribute intimate images of a person without their consent, regardless of the age of the person in the picture;**
- Non-consensual sharing of intimate images: Knowingly publishing, distributing, transmitting, selling, making available, or advertising an intimate image of another person while knowing that the person depicted in the image did not give their consent, or being reckless as to whether the person gave their consent. The term “intimate image” refers to a visual recording such as a photograph, lm, or video recording of a person in which the person is nude or engaged in explicit sexual activity and which was created in circumstances that gave rise to a reasonable expectation of privacy.
- Police must be notified when an occurrence happens

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

Physical Assault Causing Bodily Harm – physical assault is the intentional application of force directly or indirectly in any degree at all, to a person without the person’s consent. Bodily harm refers to any hurt or injury that is more than merely transient or trifling in nature that interferes with the health or comfort of the person, and includes (but is not limited to) injuries that receive medical attention. Any cut that requires stitches or any broken or fractured bone should be considered a serious injury. Serious injury could also include multiple minor injuries.

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

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

Replica Firearm – is any device that is designed or intended to exactly resemble or to resemble with near precision, a firearm.

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

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

Sexual Harassment – sexual harassment occurs when a person receives unwelcome sexual attention from another person, whose comments or conduct are known or should reasonably be known to be offensive, inappropriate, intimidating, hostile and unwelcome. It also includes an environment in which sexist or homophobic jokes and materials are allowed.

Threat to Inflict Serious Bodily Harm – a threat to cause death or serious bodily harm to a person. The term “threat”, as used here, does not apply to situations in which no real threat was intended.

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

Suspension Appeal Procedures

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C.1. Suspension Appeal Procedures

Under subsection 309 (1) the following persons may appeal, to the Board, a Principal's decision to suspend a pupil under section 306:

1. The pupil's parent or guardian, unless,
 - (i) the pupil is at least 18 years old, or
 - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.
2. The pupil, if,
 - (i) the pupil is at least 18 years old, or
 - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.
3. Such other persons as may be specified by Board policy.

C.1.1 Board Designate

The Board designates the **Superintendent of Education** for the purpose of receiving notices of intention to appeal a suspension. The Superintendent, will schedule an Appeal Hearing. The Superintendent will support the school's presentation of the incident and subsequent decisions giving rise to the appeal.

C.1.2 Notice of Appeal

A person who is entitled to appeal a suspension under subsection 309 (1) must give written notice of his or her intention to appeal to the Superintendent of Education within 10 school days of the commencement of the suspension.

C.1.3 Board to Inform All Parties

After receiving a notice of intention to appeal, the Superintendent of Education will promptly contact every person entitled to appeal the suspension under subsection 309 (1) and inform him or her that the Board has received the notice of intention to appeal.

C.1.4 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 to discuss any matter respecting the appeal of the suspension.

Where a person who has been given notice of intention to appeal contacts the Superintendent of Education to discuss a matter respecting the appeal of the suspension, the Superintendent of Education may:

1. Review the incident with the Principal. Discuss with the Principal the possibility of modifying the duration of the suspension.
2. Discuss with the Principal prior progressive discipline interventions used with the student.
3. Consider the steps taken in conducting the investigation including the discussions with the parent/guardian/adult student.
4. Examine any pertinent documentation and/or other physical evidence.
5. Review any witness statements and/or interview witnesses.
6. Provide the parent/guardian/adult student with an opportunity to respond to all allegations and supporting facts.

7. Determine if mitigating factors and/or other factors exist in the case of a suspension (refer to Section B).

The Superintendent of Education will respond verbally or by letter to the parent about the outcome of their review.

C.2 Suspension Appeal Process

C.2.1. Parties to the Appeal

The parties to the appeal are:

1. The Principal who suspended the pupil.
2. The pupil, if,
 - (i) the pupil is at least 18 years old, or
 - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.
3. The pupil's parent or guardian, if the pupil's parent or guardian appealed the decision to suspend the pupil.
4. The person who appealed the decision to suspend the pupil, if the decision was appealed by a person other than the pupil or the pupil's parent or guardian.
5. The appropriate Supervisory Officer.
6. The Superintendent of Education – with the portfolio of Safe Schools, if appropriate.
7. Active or retired staff of the Board who have relevant knowledge of the student's conduct leading to suspension.
8. Other persons called by the parent or staff, including law enforcement, who have relevant knowledge of the student's conduct leading to suspension.

C.2.2. Hearing of the Appeal

The Board will hear and determine the appeal within 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.

C.2.3. Content of Notice of Appeal

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.

C.2.4. Receipt of Notice

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

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

C.2.5. Timing of the Appeal

- (a) Written notification of the appeal of the decision to suspend a student shall be delivered to the Superintendent of Education within 10 school days of the commencement of the suspension. This notification must be delivered in one of the following ways: hand delivery, courier, facsimile transmission or any other way agreed upon by the parties.
- (b) The Superintendent of Education will send a return letter which acknowledges receipt of the notice of appeal with a copy of this letter to the Principal.
- (c) The Superintendent of Education will forward a copy of the appeal notice to the Principal.

C.2.6. Role of the Principal

1. Under subsection 306 (1) of the *Education Act*, a 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:
 - a. Uttering a threat to inflict serious bodily harm on another person.
 - b. Possessing alcohol or illegal drugs.
 - c. Being under the influence of alcohol.
 - d. Swearing at a teacher or at another person in a position of authority.
 - e. Committing an act of vandalism that causes extensive damages to school property at the pupil's school or to property located on the premises of the pupil's school.
 - f. Bullying.
 - g. Any other activity that is an activity for which a Principal may suspend a pupil under the policy of the Board.
 - Committing physical assault on another person
 - Conduct injurious to the moral tone of the school or to the physical or mental well-being of others
 - Non-Consensual Distribution of Intimate Images
2. If a Principal decides to suspend a pupil for engaging in an activity described in subsection 306 (1), the Principal will suspend the pupil from his or her school and from engaging in all school-related activities.
3. In considering whether to suspend a student under subsection (1), and in considering how long the suspension should be, a Principal will take into account any mitigating and/or other factors prescribed by the regulations.
4. With respect to serious infractions, the Principal will consult with their appropriate Superintendent of Education.
5. When it becomes necessary to suspend a student, a Principal/designate should contact the student's parent/guardian/adult student in order to discuss reasons for the suspension and engage them in becoming part of the plan to change behaviour.
6. The Principal/designate will complete a Suspension Report Form from our student information system (Edsembli). In completing the Form, the Principal/designate will set out the process used in considering and documenting his/her decision to suspend.
7. Where there is a serious violent incident leading to a suspension or expulsion or a call to the police, a Violent Incident Form is automatically generated within the student information system.
8. A suspension shall be for a fixed period, not exceeding 20 school days. The minimum period of suspension is one school day.

9. A Principal who suspends a pupil will:
 - a. inform the pupil's teacher of the suspension; and
 - b. make all reasonable efforts to inform the pupil's parent or guardian of the suspension within 24 hours of the suspension being imposed, unless,
 - (i) the pupil is at least 18 years old, or
 - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.
10. A Principal who suspends a pupil will ensure that written notice of the suspension is given promptly to the following persons:
 1. The pupil.
 2. The pupil's parent or guardian, unless,
 - (i) the pupil is at least 18 years old, or
 - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.
 3. Such other persons as may be specified by Board policy.
11. The notice of the suspension will include the following:
 1. The reasons for the suspension.
 2. The duration of the suspension.
 3. Information about any program for suspended pupils to which the pupil is assigned.
 4. Information about the right to appeal the suspension under section 309, including,
 - (i) a copy of the board policies and guidelines governing the appeal established by the board under subsection 302 (6), and
 - (ii) the name and contact information of the Superintendent of Education to whom notice of the appeal must be given under subsection 309 (2).
12. In the event that a parent/adult student/student who is 16 or 17 and has withdrawn from parental control appeals a suspension, the Principal will be promptly contacted by the school board.
13. The Principal who suspended the pupil will be a party to the appeal.
14. The Principal, with the assistance of the Superintendent of Education, will prepare for the suspension appeal hearing. The Supervisory Officer will determine if legal counsel is required to further assist with the appeal.
15. Following the hearing, if the Committee of the Board decides to shorten the duration of the suspension or quash the suspension and order that the record of the suspension be expunged, the Principal will revise, replace or remove the relevant documentation as required.

C.2.7. Assistance for the Principal

The appropriate Supervisory Officer will provide assistance for the Principal throughout the suspension appeal hearing. The Superintendent of Education will:

1. Meet with the Principal to review preliminary and procedural matters and to determine substantive legal issues surrounding the suspension appeal.
2. Speak with the Principal about the process intended to be followed at the hearing and the rights of the parties under the *Statutory Powers Procedure Act* ("SPPA"). The Superintendent of Education will determine if legal counsel is required and secure such counsel as necessary.
3. Prepare the Principal and relevant witnesses for the hearing.
4. Prepare a relevant brief of documents for the hearing. The documents that may be included in the Principal's brief of documents are set out in Appendix "I" to this section.
5. Address preliminary and/or procedural issues, make opening statement, call relevant witnesses and summarize evidence

6. Ensure that the Principal is prepared to present and speak to relevant matters while at the hearing.
7. Make final submissions to the Committee of the Board on behalf of the Principal.
8. Review the decision of the Committee with the Principal.
9. Where appropriate, request that the Committee provide written reasons.
10. Where appropriate, advise the Principal about the process and procedures regarding a judicial review of the Committee's determination.

C.2.8. Role of the Superintendent of Education

1. The Board designates the Superintendent of Education as responsible for receiving notices of intention to appeal a suspension. The Superintendent of Education will notify the Principal of the Appeal.
2. A person who is entitled to appeal a suspension under subsection 309 (1) must give written notice of his or her intention to appeal to the Superintendent of Education with 10 school days of the commencement of the suspension.
3. After receiving a notice of intention to appeal, the Superintendent of Education will promptly contact every person entitled to appeal the suspension under subsection 309 (1) and inform him or her that the Board has received the notice of intention to appeal.
5. The Superintendent of Education informs the parent/adult student and their agent or counsel about the process intended to be followed at the hearing.
6. The Superintendent of Education informs the Principal about the process intended to be followed at the hearing.
7. The Superintendent of Education, where appropriate, speaks with other parties about agreeing on a later deadline for a suspension hearing;
8. The Superintendent of Education arranges for a Committee of the Board to hear the appeal.
9. The Superintendent of Education arranges and confirms the date, time and place of the hearing including any special needs; and issues a written notice.
10. The Superintendent School Effectiveness makes physical arrangements for the hearing and arranges for the recording of Minutes.
11. The Superintendent of Education sends the decision and order (signed by the Chair of the Board Committee) together with a covering letter to the parties and retains a file of all relevant documents relating to the hearing, including the reasons for the decision.
12. The Superintendent of Education will, where appropriate, attempt to resolve the issues surrounding the appeal through mediation with the parties.
13. A person who contemplates filing or has filed an appeal may contact the Superintendent of Education to discuss any matter respecting the appeal of the suspension.
14. The Superintendent of Education may:
 - Review the incident with the Principal. Discuss with the Principal the possibility of modifying the duration of the suspension.
 - Discuss with the Principal prior progressive discipline interventions used with the student.
 - Consider the steps taken in conducting the investigation including the discussions with the parent/guardian/adult student.
 - Examine any pertinent documentation and/or other physical evidence.
 - Review any witness statements and/or interview witnesses.
 - Provide the parent/guardian/adult student with an opportunity to respond to all allegations and supporting facts.

- Determine if mitigating factors and/or other factors exist in the case of a suspension (*refer to Section B*).

C.2.9. Role of the Committee of the Board

1. The Board will hear and determine an appeal, and for that purpose, the Board has powers and duties set out in the Rules of Procedures for Suspension Appeals and Expulsion Hearings (*refer to Section I*) and the Board will designate such hearings as “in camera”.
2. The Board will delegate its powers and duties to hear and determine a suspension appeal or expulsion proceeding to a Board Committee.
3. Upon receipt of a Notice of Appeal, the Superintendent of Education will ask for three trustees who have not had prior involvement with the matter to sit as the Board Committee.
4. The three trustees will select a Chair for the Board Committee.
5. A trustee who has any direct involvement in a matter prior to the commencement of the hearing or a trustee who is not readily available during the next fifteen school days shall disqualify himself/herself and will not take part in the hearing, the deliberations, the decision and the reasons.
6. A trustee who has not been present through the whole of the hearing shall not take part in the deliberations, the decision or the reasons.
7. 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.2.10. Role of Counsel to the Committee

Counsel for the trustees (if any) will assist in procedural matters. If so invited by the Committee, counsel may:

1. Meet privately with the trustees on the Board Committee prior to the commencement of the hearing to explain the quasi-judicial role that the Committee exercises in accordance with the rules of natural justice;
2. Explain the Committee’s role;
3. Offer procedural suggestions and guidance to the Committee during the hearing;
4. Meet privately with the Committee after the conclusion of evidence, argument and submissions to advise on legal issues arising during the course of deliberations; and
5. Assist the Committee in the preparation of the text of the decision and reasons for the decision.

If counsel is not present, the Superintendent of Education or the Director of Education will advise the Board Committee about procedural matters.

C.2.11. Procedural Requirements for Board Hearings

Suspension appeal hearings are governed by the *Statutory Powers Procedure Act* (“SPPA”). This Act imposes a number of procedural requirements on the conduct of the hearing. Those requirements include:

- A party has a right to be represented by counsel or an agent;
- Any party may call and examine witnesses and present arguments and submissions;
- Any party may cross-examine witnesses; and
- Any witness at the hearing is entitled to be advised by counsel or an agent as to his or her rights, but such counsel or agent may take no other part in the hearing without leave of the Committee of the Board.

C.2.12.Appellant Bears Onus of Proof

In an appeal of the decision to suspend a student, the appellant (parent or adult student) shall bear the onus of proof.

C.2.13.Order of Presentation

Where the Board Committee hears an appeal of the decision to suspend a student, the appellant shall proceed first in the calling and examination of witnesses and presentation of evidence and submissions, and the Principal shall be the second to do so, unless the parties agree otherwise.

C.2.14.Adjournments

The Board Committee may adjourn the appeal from time to time on its own motion or on request by either party where it is satisfied that the adjournment is required to permit an adequate hearing to be held.

C.2.15.Pupil May Attend

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

C.2.16.Deliberations and Decision of the Appeal Committee

1. The Board Committee will assess the evidence as provided by the parties, and determine whether on a balance of probabilities, it is more probable than not that the student did commit the infraction.
2. Where the Board Committee determines that the student committed the infraction, the Board Committee will determine whether the Principal considered the mitigating factors and/or other factors set out by regulation and Board policy. If the Principal failed to consider the mitigating factors and/or other factors then the Board Committee shall do so.
3. Following the hearing, the Board Committee will decide to:
 - (a) confirm the suspension and the duration of the suspension;
 - (b) 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
 - (c) 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.

4. The decision of a majority of the members of the Board Committee is the Board's decision. Majority means two of three trustees for the Board Committee. The decision of the Board is final.
5. The Appeal Committee has the power to reserve its decision.
6. The decision of the Board Committee shall be in writing and signed by the Chair of the Committee. When requested by a party, the Board Committee shall give written reasons.
7. Copies of the decision and order, along with its reasons, if requested, shall be sent to all parties to the proceedings who took part in the hearing at their respective addresses last known to the Board.

Appendix “I”

SUSPENSION APPEAL AND EXPULSION HEARINGS

Documents in the Principal's Brief of Documents may include:

1. Signed Suspension or Suspension Pending Expulsion letter and Suspension Form.
2. Signed Ministry of Education Safe Schools Reporting Form (if applicable).
3. Signed copy of the Principal's Report.
4. Signed copy of the Principal's "Referral to Board for Expulsion Hearing" letter.
5. Signed copy of the Principal's Denial of Access letter or Exclusion letter.
6. Copy of "Undertaking Given to a Peace Officer" (bail conditions).
7. All investigative notes about the incident signed by school administrators and dated.
8. Signed and dated copies of all statements by the victim(s) or taken from the victim(s).
9. Signed and dated copies of all statements by the witnesses or taken from the witnesses.
10. Signed and dated copies of all statements by the accused student(s) or taken from the accused student(s).
11. Signed and dated copies of notes taken by investigating police officers.
12. Photographs of injuries sustained by the victim(s).
13. Photographs of weapons used or contraband seized from the alleged offending student(s).
14. Copies of the suspension/expulsion appeal letter(s).
15. Copies of all other correspondence related to the incident including e-mails.
16. Copy of the school's video surveillance recording related to the incident.
17. Copy of the student's "Ontario Student Transcript".
18. Copy of the student's latest "Provincial Report Card".
19. Copy of the student's "Attendance Profile" for the current school year.
20. Copy of "Ontario Student Record" of schools attended (back cover of OSR folder).
21. Copies of all suspension letters and suspension forms recorded for the accused student.
22. Copies of documentation related to any previous expulsions.

23. Copies of documentation related to any previous out of boundary school attendance permission letters.
24. Copies of any "Special Education Forms".
25. Copies of correspondence and reports from any medical or mental health professionals.
26. Copies of all IPRC reports.
27. Copies of all IEP documentation.
28. Copies of reports from any alternative programs.
29. Copy of the Board's Code of Conduct.
30. Copy of the Student Action Plan.

Suspension, Investigation and Possible Expulsion Procedures

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D.1 Suspension Pending Possible Expulsion – *Education Act*

An expulsion is in response to serious misbehaviour by a student in a school. Under the *Education Act*, a Principal is required to suspend a pupil if he or she believes that the pupil has engaged in any of certain specified activities while at school, at a school-related activity or in circumstances where engaging in the activity will have an impact on the school climate. The Act requires the Principal to conduct an investigation to determine whether to recommend to the Board that the pupil be expelled. In considering whether to recommend to the Board that a student be expelled, a Principal is required to take into account mitigating factors or other factors set out in the regulations.

If a Principal recommends an expulsion the Board is required to hold an expulsion hearing. The Board authorizes a committee of three trustees to conduct the expulsion hearing as the Committee.

At the hearing, the Committee is required to consider the submissions of the parties, any mitigating or other factors prescribed by the regulations and any written response that was provided to the Principal's report recommending expulsion.

At the conclusion of the hearing, the Committee will decide whether to expel the pupil at all, and, if so, whether the expulsion will be an expulsion from the pupil's school or whether the expulsion will be an expulsion from all schools of the Board.

Where the Committee decides to expel a pupil, it has a further decision to make. If the Committee decides to expel the pupil from his or her school only, the Committee must assign the pupil to another school of the Board. If the Committee decides to expel the pupil from all schools of the Board, the Committee must assign the pupil to a program for expelled pupils.

D.2 Suspension Pending Possible Expulsion – Procedures

D.2.1 Activities Leading to Suspension

Under subsection 310 (1) of the *Education Act*, a Principal shall 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. 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.
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.

10. 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.
 - i. Conduct serious injurious to the moral tone of the school or to the physical or mental well-being of others

Section 8(i) above does not apply to a student in junior kindergarten to grade 3.

A pupil who is suspended under this section is suspended from his or her school and from engaging in all school-related activities.

a. Duration of Suspension

A Principal may suspend a pupil for up to 20 school days.

In considering how long the suspension should be, the Principal will take into account any mitigating or other factors prescribed by regulation.

b. Mitigating Factors

For the purposes of subsection 306 (2), 306 (4), 310 (3), 311.1 (4) and clauses 311.3 (7) (b) and 311.4 (2) (b) of the Act, the following mitigating factors shall be taken into account:

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

c. Other Factors

For the purposes of subsection 306 (2), 306 (4), 310 (3), 311.1 (4) and clauses 311.3 (7) (b) and 311.4 (2) (b) of the Act, 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:

- i. The pupil's history.
- ii. Whether a progressive discipline approach has been used with the pupil.
- iii. 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 to any other harassment.
- iv. How the suspension or expulsion would affect the pupil's ongoing education.
- v. The age of the pupil.
- vi. In the case of a pupil for whom an individual education plan has been developed,
 1. whether the behaviour was a manifestation of a disability identified in the pupil's individual education plan.
 2. whether appropriate individualized accommodation has been provided, and
 3. whether the suspension or expulsion is likely to result in an aggravation or worsening of the pupil's behaviour or conduct.

d. Suspension Pending Possible Expulsion – Board Policy

Under clause 310 (1) 8 of the *Education Act*, a pupil may be suspended if he or she engages in an activity that, under a policy of a Board, is an activity for which a Principal must suspend a pupil and conduct an investigation to determine whether to recommend to the Board that the pupil be expelled.

Under the Board's policy, a Principal may suspend a pupil pending expulsion 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:

- i. Conduct serious injurious to the moral tone of the school or to the physical or mental well-being of others

e. Notice of Suspension

A Principal who suspends a pupil under section 310 shall,

- (a) inform the pupil's teacher of the suspension; and
- (b) make all reasonable efforts to inform the pupil's parent or guardian of the suspension within 24 hours of the suspension being imposed, unless,
 - i. the pupil is at least 18 years old, or
 - ii. the pupil is 16 or 17 years old and has withdrawn from parental control.

Further, a Principal who suspends a pupil under section 310 shall ensure that written notice of the suspension is given promptly to the following persons:

- i. The pupil.
- ii. The pupil's parent or guardian, unless,
 1. the pupil is at least 18 years old, or
 2. the pupil is 16 or 17 years old and has withdrawn from parental control.
- iii. Such other persons as may be specified by board policy.

f. Contents of the Notice

The notice of suspension pending possible expulsion will include the following:

- i. The reason for the suspension.
- ii. The duration of the suspension.
- iii. Information about any program for suspended pupils to which the pupil is assigned.
- iv. Information about the investigation the Principal will conduct under section 311.1 to determine whether to recommend that the pupil be expelled.
- v. A statement indicating that,
 1. there is no immediate right to appeal the suspension,
 2. if the Principal does not recommend to the board that the pupil be expelled following the investigation under section 311.1, the suspension will become subject to appeal under section 311.2, and
 3. if there is an expulsion hearing because the Principal recommends to the board that the pupil be expelled, the suspension may be addressed by parties at the hearing.

g. Receipt of Notice

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

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

D.2.2 Investigation Following Suspension

a. Conduct of Investigation

When a pupil is suspended under section 310, the Principal is required to conduct an investigation to determine whether to recommend to the Board that the pupil be expelled.

The Principal's investigation must begin promptly following the suspension. The Principal will endeavour to complete his/her investigation within five school days. The Principal will conduct an investigation in accordance with the Guidelines for Conducting a Disciplinary Investigation (*refer to Section L*).

The Provincial Model for a Local Police/School Board Protocol requires Principals to notify the police for specific occurrences. In situations requiring police involvement or response, school administrators will comply with the [Ontario North East Region Police and School Protocol](#).

b. Factors Principals Must Consider

When the Principal believes that an infraction has occurred which may require an expulsion, the Principal will:

- follow the Police/School Protocol procedure (*refer to Section K*), where police are to be involved;
- suspend the pupil pending an investigation;
- conduct an investigation promptly following the suspension to determine whether to recommend to the Board that the pupil be expelled;
- take into account any mitigating or other factors prescribed by the regulations (see list of factors above);
- consult with the appropriate superintendent of education and safe schools administrator; and
- consult the *Consequences of Inappropriate Student Behaviour* (*refer to Section B*), to determine if the infraction warrants a suspension or referral to the Board for an expulsion hearing.

c. If Expulsion is Not Recommended

If, on concluding the investigation, the Principal decides not to recommend to the Board that the pupil be expelled, the Principal will:

- (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 amend the record of the suspension accordingly; or
- (c) withdraw the suspension and expunge the record of the suspension, even if the suspension has already been served.

If the Principal does not recommend to the Board that the pupil be expelled, the 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 under section E.2.6:

- i. A statement that the pupil will not be subject to an expulsion hearing for the activity that resulted in the suspension.
- ii. A statement indicating whether the principal has confirmed the suspension and its duration, confirmed the suspension but reduced its duration or withdrawn the suspension.
- iii. Unless the suspension was withdrawn, information about the right to appeal the suspension, including,
 - 1. a copy of the Board policies and guidelines governing the appeal established by the Board; and
 - 2. the name and contact information of the superintendent of education to whom notice of the appeal must be given.

d. If Expulsion is Recommended

If, on concluding the investigation, the Principal decides to recommend to the Board that the pupil be expelled, he or she will prepare a report that contains the following:

- i. A summary of the Principal's findings.
- ii. The Principal's recommendation as to whether the pupil should be expelled from his or her school only or from all schools of the Board.
- iii. The Principal's recommendation as to,
 - 1. the type of school that might benefit the pupil, if the pupil is expelled from his or her school only, or
 - 2. the type or program for expelled pupils that might benefit the pupil, if the pupil is expelled from all schools of the Board.

The Principal will promptly provide a copy of the report to the Board and to every person whom the Principal was required to give notice of the suspension under section E.2.6.

e. Written Notice

The Principal will ensure that written notice containing the following is given to every person to whom the Principal was required to give notice of the suspension under section E.2.6 at the same time as the Principal's report is provided to that person.

- i. A statement that the pupil will be subject to an expulsion hearing for the activity that resulted in the suspension.
- ii. A copy of the Board policies and guidelines governing the expulsion hearing established by the Board.
- iii. A statement that the person has the right to respond, in writing, to the Principal's report provided under this section.
- iv. Detailed information about the procedures and possible outcomes of the expulsion hearing, including, but not limited to, information explaining that,
 - 1. if the Board does not expel the pupil, it will, with respect to the suspension imposed under section 310, confirm the suspension, shorten its duration or withdraw it,

2. the parties will have the right to make submissions during the expulsion hearing as to whether, if the pupil is not expelled, the suspension imposed under section 310 should be confirmed, reduced or withdrawn,
 3. any decision of the Board with respect to the suspension imposed under section 310 made at the expulsion hearing is final and not subject to appeal,
 4. if the Board expels the pupil from his or her school only, the Board will assign the pupil to another school, and
 5. if the Board expels the pupil from all schools of the Board, the Board will assign the pupil to a program for expelled pupils.
- v. The name and contact information of the Superintendent of Education to discuss any matter respecting the expulsion hearing.

f. Party may Respond to Principal's Report

A person who is entitled to receive the Principal's report under section E.3.4 and written notice under section E.3.5 may respond, in writing, to the Principal and the Board.

D.2.3 Appeal of Suspension

If the Principal does not recommend to the Board that the pupil be expelled and does not withdraw the suspension, the suspension may be appealed and section 309 applies for that purpose, with necessary modifications, subject to the following:

1. 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, in accordance with the rules set out in subsection 300 (3) of the *Education Act*, to have received the notice.
2. If the Principal confirmed the suspension but reduced its duration, the appeal is from the reduced suspension and not the original suspension.

D.2.4 Expulsion Hearing

a. Board Committee

The Board authorizes a committee of three trustees of the Board to exercise and perform powers and duties on behalf of the Board for the purposes of this section. These three trustees are known as the Board Committee. The Committee will meet to select a Chair. The Committee will govern its decisions by majority vote. Majority means two of three trustees.

b. Expulsion Hearing by the Committee

If a Principal recommends to the Board that a pupil be expelled, the Board will hold an expulsion hearing and, for that purpose, the Committee has the powers and duties specified by legislation.

c. Parties

The parties to the expulsion hearing are:

- i. The Principal.
- ii. The pupil, if,
 1. the pupil is at least 18 years old, or
 2. the pupil is 16 or 17 years old and has withdrawn from parental control.
- iii. The pupil's parent or guardian, unless,

1. the pupil is at least 18 years old, or
2. the pupil is 16 or 17 years old and has withdrawn from parental control.
- iv. The appropriate Superintendent of Education and/or the Director of Education.
- v. Active or retired staff of the Board who have relevant knowledge of the student's conduct leading to expulsion.
- vi. Other persons called by the parent or staff, including law enforcement, who have relevant knowledge of the student's conduct leading to expulsion.

d. Pupil May Attend

A pupil who is not a party to the expulsion hearing under paragraph E.5.2 has the right to be present at the hearing and to make a statement on his or her own behalf.

e. Submission and Views of the Parties

At the hearing, the Committee will:

- i. consider the submissions of each party in whatever form the party chooses to deliver his or her submissions, whether orally, in writing or both;
- ii. solicit the view of all the parties as to whether the pupil, if he or she is expelled, should be expelled from his or her school only or from all schools of the Board; and
- iii. solicit the views of all the parties as to whether, if the pupil is not expelled, the Committee should confirm the suspension originally imposed under section 310, confirm the suspension but reduce its duration or withdraw the suspension.

f. Decision

After completing the hearing, the Committee shall decide,

- i. whether to expel the pupil; and
- ii. if the pupil is to be expelled, whether the pupil is expelled from his or her school only or from all schools of the Board.

g. Factors the Committee must Consider

In making the decisions required under paragraph E.5.6, the Committee will take into account,

- i. all submissions and view of the parties, including their views as to whether the pupil, if expelled, should be expelled from his or her school only or from all schools of the Board;
- ii. any mitigating or other factors prescribed by the regulations (see factors listed above); and
- iii. any written response to the Principal's report recommending expulsion that a person gave to the Committee under paragraph E.3.6 before the completion of the hearing.

h. Timing of the Hearing

The Committee will not expel a pupil if more than 20 school days have expired since the pupil was suspended under section 310, unless the parties to the expulsion hearing agree on a later deadline.

D.2.5 If Pupil is Not Expelled

a. Pupil not Expelled

If the Committee does not expel the pupil, the Committee will, with respect to the suspension originally imposed under section 310,

- iv. confirm the suspension and the duration of the suspension;
- v. 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
- vi. 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.

b. Factors Committee Must Consider

In determining which action to take under paragraph E.6.1, the Committee shall take into account,

- i. any submission 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;
- ii. any mitigating or other factors prescribed by the regulations (see factors listed above).

c. Notice that Pupil is Not Expelled

After determining which action to take under paragraph E.6.1, the Committee will give written notice containing the following to every person who was entitled to be a party to the expulsion hearing under paragraph E.5.3

- i. A statement indicating that the pupil is not expelled.
- ii. A statement indicating whether the Committee has confirmed the suspension and its duration, confirmed the suspension but reduced its duration or withdrawn the suspension.

d. Decision Final

The decision of the Committee is the decision of the Board. The decision of the Board not to expel a pupil under paragraph E.6.1 is final. The decision may not be appealed.

D.2.6 If Pupil is Expelled

a. If the Board Expels a Pupil

If the Board expels a pupil, the Board shall assign the pupil to,

- i. in the case of a pupil expelled from his or her school only, another school of the Board; and
- ii. in the case of a pupil expelled from all schools of the Board, a program for expelled pupils.

b. Notice of Expulsion

The Board will ensure that written notice of the expulsion is given promptly to,

- i. all the parties to the expulsion hearing; and
- ii. the pupil, if the pupil was not a party to the expulsion hearing.

c. Contents of Notice

The notice under paragraph E.7.2 must include the following:

- i. The reason for the expulsion;
- ii. A statement indicating whether the pupil is expelled from his or her school only or from all schools of the Board;

- iii. Information about the school or program for expelled pupils to which the pupil is assigned; and
- iv. Information about the right to appeal, including the steps that must be taken to appeal the Expulsion to the Child and Family Services Review Board.

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EXPULSION HEARING PROCEDURES

E.1. HEARING PROCESS

E.1.1 Parties to Expulsion Hearing

The parties to the expulsion hearing are:

1. The Principal.
2. The pupil, if,
 - (i) the pupil is at least 18 years old, or
 - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control
3. The pupil's parent or guardian, unless,
 - (i) the pupil is at least 18 years old, or
 - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.
4. The appropriate Superintendent of Education and/or the Director of Education.
5. Active or retired staff of the Board who have relevant knowledge of the student's conduct leading to expulsion.
6. Other persons called by the parent or staff, including law enforcement, who have relevant knowledge of the student's conduct leading to expulsion.

E.1.2 Role of the Principal

1. Where the Principal believes a student has committed an infraction for which expulsion is warranted, the Principal will suspend the student for 20 days, pending possible expulsion. This suspension is not subject to appeal until after the Principal has conducted an investigation and reached a decision as to whether to recommend an expulsion.
2. The Principal will conduct an investigation promptly following the suspension. The Principal will complete his/her investigation within twenty school days. The Principal will conduct an investigation in accordance with the Guidelines for Conducting a Disciplinary Investigation (*refer to Section L*).
3. At the conclusion of the Principal's investigation, if the Principal decides to recommend an expulsion, he or she will prepare a report for the Board and the Principal will send the report to the Superintendent of Education and the Director of Education. The report must include a summary of Principal's findings and the Principal's recommendation as to whether the pupil should be expelled from his/her school only or from all schools of the Board.
4. If the Principal recommends that the pupil be expelled from his/her school only, the Principal is required to provide a recommendation as to the type of school that might benefit the pupil. If the Principal recommends that the pupil be expelled from all schools of the Board, he/she is required to provide a recommendation as to the type of program for expelled pupils that might benefit the pupil.
5. The Principal is required to submit the report "promptly" to the Board as outlined above and to every person to whom notice of the suspension was given. Those persons are entitled to respond in writing both to the Principal and the Board.
6. Written notification of the Principal's recommendation that a pupil be expelled will be made to the Superintendent of Education.
7. The Principal, with the assistance of the Superintendent of Education, will prepare for the expulsion hearing. The Superintendent of Education will determine if legal counsel is necessary.
8. Following the hearing, if the Committee decides to modify or overrule the decision, the Principal will revise, replace or remove the relevant documentation.

E.1.3 Role of the Superintendent of Education

1. The Board designates the Superintendent of Education for receiving the Principal's recommendation for expulsion.
2. After receiving a recommendation for expulsion, the Superintendent of Education will promptly contact every person entitled to be present at the expulsion hearing.
3. The Superintendent of Education will inform the parent/adult student and their agent or counsel about the process intended to be followed at the hearing.
4. The Superintendent of Education will inform the Principal about the process intended to be followed at the hearing.
5. The Superintendent of Education, where appropriate, will speak with the parties about agreeing on a later deadline for an expulsion hearing.
6. The Superintendent of Education will arrange for the Committee of the Board to hear the appeal.
7. The Superintendent of Education will arrange and confirm the date, time and place of the expulsion hearing including any special needs, and will issue a written notice.
8. The Superintendent of Education will make physical arrangements for the hearing and arranges for the recording of Minutes.
9. The Superintendent of Education will send the decision and order (signed by the Chair of the Committee) together with a covering letter to the parties and will retain a file of all relevant documents relating to the hearing, including the reasons for the decision.

The appropriate Superintendent of Education may:

- Review the incident with the Principal.
- Discuss with the Principal prior progressive discipline interventions used with the student.
- Consider the steps taken in conducting the investigation, including the discussions with the parent/guardian/adult student.
- Examine any pertinent documentation and/or other physical evidence.
- Review any witness statements and/or interview witnesses.
- Provide the parent/guardian/adult student with an opportunity to respond to all allegations and supporting facts.
- Determine if mitigating factors and/or other factors exist in the case of a suspension (*refer to Section B*).

E.1.4 Role of the Committee of the Board

1. The Board will establish a committee of three (3) trustees. This will be the Committee. The Committee will hear and determine the recommendation for expulsion.
2. 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.
3. A trustee who has not been present through the whole of the hearing shall not take part in the deliberations, the decision or the reasons.
4. 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.

E.1.5 Role of Counsel to the Committee

Counsel for the Committee (if any) will assist in procedural matters that must be decided during the course of the hearing. If so invited by the Committee, counsel may:

1. Meet privately with the members of the Committee prior to the commencement of the hearing to explain the quasi-judicial role that the Committee exercise in accordance with the rules of natural justice;
2. Explain the Committee's role;
3. Offer procedural suggestions and guidance to the Committee during the hearing;
4. Meet privately with the Committee after the conclusion of evidence, argument and submissions to advise on legal issues arising during the course of deliberations; and
5. Assist the Committee in the preparation of the text of the decision and reasons for the decision.

E.1.6 Procedure/Requirement for Board Hearings

1. The Board will delegate its powers and duties to the Committee. The Committee shall consist of three members of the Board.
2. The Committee shall hear and determine a recommendation for expulsion, and, for that purpose, the Committee has the powers and duties set out in Board policy. The decision of the Committee is final.
3. Expulsion hearings are governed by the Statutory Powers Procedure Act. This Act imposes a number of procedural requirements on the conduct of the hearing. Those requirements include:
 - Any party has the right to be represented by counsel or an agent;
 - Any party may call and examine witnesses and present arguments and submissions;
 - Any party may cross-examine witnesses; and
 - Any witness at the hearing is entitled to be advised by counsel or an agent as to his or her rights, but such counsel or agent may take no other part in the hearing without leave of the Committee of the Board.

E.1.7 Referral to Board

Following an investigation, if the Principal is satisfied that the student committed an infraction to which expulsion is warranted, the Principal will:

1. Notify the Superintendent of Education of the decision to refer the matter to the Board for a hearing; and
2. Notify the parent/adult student who is 16 or 17 and has withdrawn from parental control in writing of the decision to refer the matter to the Board for a hearing.

E.1.8 Content of Referral

A Principal who refers the matter under section 311.1 of the *Education Act* will deliver the following to the Superintendent School Effectiveness:

1. a copy of the Notice of Suspension Pending Possible Expulsion that is the subject of the referral;
2. a copy of the completed Principal's report;
3. a copy of the letter notifying the parent/adult student/student who is 16 or 17 and has withdrawn from parental control of the Principal's recommendation.

E.1.9 Timing of the Hearing

A hearing will be held by the Committee within 20 school days since the pupil was suspended, unless the parties to the expulsion hearing agree to a later deadline.

E.1.10 Principal Bears Onus of Proof

In a recommendation by a Principal to expel a pupil, the Principal shall bear the onus of proof.

E.1.11 Order of Presentation

Where a Committee hears a recommendation of a Principal to expel a pupil either electronically or orally, the Principal will proceed first in calling witnesses and presentation of evidence and submissions and the parent/adult student/student who is 16 or 17 and has withdrawn from parental control will proceed second, unless the parties agree otherwise.

E.1.12 Pupil May Attend

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

E.1.13 Deliberations and Decision of the Board

1. The Committee will assess the evidence as provided by the parties, and determine whether, on a balance of probabilities, it is more probable than not that the student did commit the infraction.
2. Where the Committee determines that the student committed the infraction, the Committee will determine whether the Principal considered the mitigating factors or other factors set out by the regulations. If the Principal failed to consider the mitigating factors or other factors then the Committee shall do so.
3. At the hearing, the Committee will:
 - a. consider the submissions of each party in whatever form the party chooses to deliver his or her submissions, whether orally, in writing or both;
 - b. solicit the views of all the parties as to whether the pupil, if he or she is expelled, should be expelled from his or her school only or from all schools of the Board; and
 - c. solicit the views of all the parties as to whether, if the pupil is not expelled, the Committee should confirm the suspension originally imposed under section 310, confirm the suspension but reduce its duration or withdraw the suspension.
4. In making a determination, the Committee will take into account:
 - a. all submissions and views of the parties, including their views as to whether the pupil, if expelled, should be expelled from his or her school only or from all schools of the board;
 - b. any mitigating or other factors prescribed by the regulations; and
 - c. any written response to the Principal's report recommending expulsion that a person gave to the Committee under paragraph E.3.6 before the completion of the hearing.
5. After completing the hearing, the Committee will decide:
 - a. whether to expel the pupil; and
 - b. if the pupil is to be expelled, whether the pupil is expelled from his or her school only or from all schools of the Board.
6. If the Board expels a pupil, the Board will assign the pupil to,

- a. in the case of a pupil expelled from his or her school only, another school of the board; and
 - b. in the case of a pupil expelled from all schools of the board, a program for expelled pupils.
7. If the Committee does not expel a pupil, it will, with respect to the suspension originally imposed under section 310:
- a. confirm the suspension and the duration of the suspension;
 - b. 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
 - c. 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.
8. In determining which action to take under paragraph 6 above, the Committee will 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 prescribed by the regulations.
9. The decision of a majority of the members of the Committee (two of three) is the Board's decision.
10. The Committee has the power to reserve its decision.
11. The decision of the Committee shall be in writing and signed by the chair of the Committee. When requested by a party, the Committee shall give written reasons.
12. Copies of the decision and order, along with its reasons, if requested, shall be sent to all parties to the proceedings who took part in the hearing at their respective addresses last known to the Board.

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Expulsion Appeal Procedures

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Appeal of Expulsion

F.1 Introduction

Pursuant to subsection 311.7(1) of the *Education Act* and Regulation 472/07 under the Act, an appeal of a Board's expulsion decision is to the Child and Family Services Review Board ("CFSRB") in accordance with the Rules of Procedure of the CFSRB, and Regulation 303/01 under the *Child and Family Services Act*.

F.2 Who May Appeal an Expulsion

The following persons may appeal the Board's decision to expel a pupil, whether the pupil is expelled from his or her school only or from all schools of the Board, to the CFSRB:

1. The pupil's parent or guardian, unless,
 - (i) the pupil is at least 18 years old, or
 - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.
2. The pupil, if,
 - (i) the pupil is at least 18 years old, or
 - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.
3. Such other persons as may be specified by the CFSRB.

F.3 Designated Tribunal

The CFSRB is designated for the purposes of the definition of "designated tribunal" under the *Education Act* to hear appeals of board decisions to expel students.

F.4 Notice of Appeal

1. To appeal the Board's decision to expel a pupil, a person who is entitled to appeal the decision shall give the CFSRB a written notice of appeal within 30 days after the date on which he or she is considered, in accordance with the rules set out in subsection 300 (3) of the *Education Act*, to have received the notice given under subsection 311.6 (1) of the Act.
2. The CFSRB may extend the period of time for giving the written notice of appeal, before or after the expiry of the period, if it is satisfied that there are reasonable grounds for the extension.
3. The notice of appeal shall,
 - (a) set out the date of the decision that is being appealed;
 - (b) set out the name of the board that made the decision;
 - (c) state whether the decision expels the pupil from his or her school only or from all schools of the board; and
 - (d) be in a form acceptable to the CFSRB.
4. The CFSRB shall not refuse to deal with an appeal on the ground that there is a deficiency in the content or form of the notice of appeal.

F.5 Parties to the Appeal

The parties to the appeal are:

1. The Board.

2. The pupil, if,
 - (i) the pupil is at least 18 years old, or
 - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.
3. The pupil's parent or guardian, if the parent or guardian appealed the decision.
4. The person who appealed the decision to expel the pupil, if the decision was appealed by a person other than the pupil or the pupil's parent or guardian.

F.6 Hearing of Appeal

1. The CFSRB shall commence a hearing within 30 days after receiving a written notice of appeal.
2. The CFSRB may extend the period of time for commencing the hearing, before or after the expiry of the period at the request of any party to the appeal.
3. A pupil whose expulsion is being appealed has the right to be present at the hearing and to make a statement on his or her own behalf, whether or not the pupil is a party to the appeal.
4. After hearing an appeal from a decision of a board, the CFSRB shall do one of the following:
 - (a) Confirm the Board's decision to expel the pupil.
 - (b) If the Board's decision was to expel the pupil from his or her school only, quash the expulsion and reinstate the pupil to the school.
 - (c) If the Board's decision was to expel the pupil from all schools of the Board,
 - (i) change the expulsion to an expulsion from the pupil's school only, or
 - (ii) quash the expulsion and reinstate the pupil to his or her school.
5. The CFSRB shall provide each party, or the party's counsel or agent, with,
 - (a) its decision on the appeal within 10 days after completing the hearing; and
 - (b) written reasons for its decision within 30 days after completing the hearing.
6. If the CFSRB changes an expulsion from all schools of the Board to an expulsion from the pupil's school only or quashes an expulsion and reinstates the pupil to his or her school, it may order that any record of the expulsion of the pupil be expunged or amended if the designated tribunal considers it appropriate in the circumstances.

During the hearing, the school board presents its case first. The practice of the CFSRB is to conduct a trial *de novo*, effectively a full re-hearing of the case. The decision of the CFSRB is final.

SECTION G

RULES OF PROCEDURE FOR SUSPENSION APPEALS AND EXPULSION HEARINGS

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1. GENERAL

1.1 General Purpose

These Rules are made pursuant to s. 25.1 of the *Statutory Powers Procedure Act*. The Rules apply to proceedings under the *Education Act*. The purpose of these Rules is to ensure that parties to a proceeding receive procedural fairness and the rules of natural justice are observed. The Rules are intended to assist the Board in providing a just, efficient, expeditious and accessible process to those involved in a proceeding before the Board.

1.2 Definitions

For the purposes of these Rules,

- (a) “*Education Act*” means the *Education Act*, R.S.O. 1990, c.E.2, as amended;
- (b) “Chair” means the Chair of the Board and includes his/her delegate;
- (c) “Committee” means a Committee of the Board; established under authority of the *Education Act*, s.309 (12), and s.311.3 (9);
- (d) “Day” means a school day as defined under R.R.O. 1990, Regulation 304, as a day that is within a school year and is not a school holiday;
- (e) “Director” means the Director of Education and includes his/her delegate;
- (f) “Hearing” means a hearing in any proceeding and includes:
 - an oral hearing, where parties and witnesses give evidence and submissions in person before a Committee;
 - a written hearing, where evidence and submissions are tendered by way of the exchange of documents in writing; and
 - an electronic hearing, where evidence and submissions are given by parties and/or witnesses through teleconferencing or video conferencing;
- (g) “Holiday” or “school holiday” means:
 - Every Saturday and Sunday.
 - When the school is open during July, Canada Day.
 - Labour Day.
 - A day appointed by the Governor General or the Lieutenant Governor as a public holiday or for Thanksgiving.
 - A Christmas vacation consisting of fourteen consecutive days commencing on the Monday next following the Friday preceding the 21st day of December, but when the 21st day of December is a Thursday or a Friday, commencing on the Monday next following.
 - Family Day, being the third Monday in February.
 - Five consecutive days commencing on the Monday next following the Friday preceding the 14th day of March.
 - Good Friday.
 - Easter Monday.
 - Victoria Day.
- (h) “OSR” means Ontario Student Record;
- (i) “Parent” includes one or both parents, and one or more guardians, of a student, as the case requires;
- (j) “Party” means:
 - the student who is at least eighteen (18) years old;
 - the student who is sixteen (16) or seventeen (17) years old and has withdrawn from parental control;

- the Parent of the student if the student is not at least eighteen (18) years old;
 - the Principal whose decision is being appealed or who has referred the matter to the Board (*Act* s.309 (8), s.311(2)).
- (k) "Proceeding" includes:
- a Hearing regarding an appeal against a decision by a Principal to impose a suspension;
 - a Hearing regarding a referral by the Principal of a matter of expulsion of a student, and
 - a preliminary, procedural or interlocutory matter as part of any one of the foregoing.
- (l) "Proceeding chair" means the chair of the Committee, or the sole Trustee, assigned to hear the Proceeding;
- (m) "SPPA" means that *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22.

1.3 Application of the Rules

- (a) The Board may exercise any of its powers under these Rules on its own initiative or at the request of a Party.
- (b) The Board may control its own processes, and may issue practice directions as it sees fit. (*SPPA* s.25.0.1)
- (c) The Board may waive application of or vary any of the Rules at any time, subject to considerations of procedural fairness, and consistency with the *SPPA* and the *Education Act*.
- (d) The Board may amend the Rules from time to time.
- (e) No Proceeding is invalid by reason only of a defect or other irregularity in form. Substantial compliance with a form, notice or document required under the *SPPA*, the *Education Act*, or these Rules, is sufficient to establish the validity of the form, notice or document. (*SPPA* s.28)
- (f) Where an issue arises which is not covered by these Rules, it shall be resolved in a manner consistent with the Rules, the purpose of the Rules, the *SPPA*, and the *Education Act*. (*SPPA* s.25.1(3))

1.4 Liberal Construction of Rules

These Rules shall be liberally construed to secure the just, most expeditious and cost-effective determination of every Proceeding on its merits. (*SPPA* s.2)

1.5 Computation of Time

In the computation of time under these Rules or in a decision or order of the Board,

- (a) where the time for doing an act under these Rules expires on a holiday, the act may be done on the next day that is not a holiday;
- (b) where a document would be deemed to be received on a holiday, it shall be deemed to be received on the next day that is not a holiday;
- (c) a document received by a Party or the Board after 4:00 p.m. shall be deemed to have been received on the next day, which is not a holiday.

1.6 Waiver of Procedural Requirement

Any procedural requirements of the *SPPA*, the *Act*, or any legislation, which applies to a proceeding, may be waived with the consent of all parties to the Proceeding and the Board. Any provision of these Rules, including the time for doing any act or thing, may be waived at the discretion of the Board, upon its own motion or upon the application of any party. (*SPPA* s. 4)

1.7 Adding a Student as a Party

The Board may add a student as a party to a proceeding.

1.8 Pupil May Attend

A pupil who is not a party to a Hearing under s. 309 (8) or s. 311.3 (3) of the *Education Act*, has the right to be present at the Hearing and to make a statement on his or her behalf.

1.9 Different Kinds of Hearing in one Proceeding

The Board may, in a Proceeding, hold any combination of written, electronic and oral hearings. (*SPPA* s.5.2.1)

1.10 Right to Representation

A Party to a Proceeding may be represented by counsel or an agent (*SPPA* s. 10). In the event that a Parent/adult student retains either counsel or an agent, the cost of such services will be incurred at the Parent/ adult student's own expense.

2. PROVISIONS RESPECTING THE BOARD

2.1 The Role of the Committee of the Board

- (a) The Board shall hear and determine a suspension appeal or a recommendation for expulsion, and for that purpose, the Board has powers and duties set out in its Policy.
- (b) The Board may delegate its powers and duties to hear and determine a suspension appeal or expulsion proceeding to a Committee of the Board.
- (c) The Committee of the Board shall consist of three (3) members of the Board.
- (d) 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 or the reasons.
- (e) 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 reasons.
- (f) 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.

2.2 Expiry of Term

If the term of office of a member of the Committee who has participated in a Hearing expires before a decision is given, the term shall be deemed to continue, but only for the purpose of participating in the decision and for no other purpose. (*SPPA* s.4.3)

2.3 Incapacity of Member

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

3. DECISION NOT TO PROCESS COMMENCEMENT OF PROCEEDING

3.1 Decision Not to Process Commencement of Proceeding

Subject to paragraph 3.3, upon receiving documents relating to the commencement of a Proceeding, the Board or the Superintendent School Effectiveness may decide not to process the documents relating to the commencement of the Proceeding if,

- (a) the documents are incomplete;
- (b) the documents are received after the time required for commencing the Proceeding has elapsed; or
- (c) there is some technical defect in the commencement of the Proceeding (*SPPA* s.4.5(1))

3.2 Notice of Decision

The Board or the Superintendent of School Effectiveness shall give the party who commences a Proceeding notice of the decision under paragraph 3.1 and shall set out in the notice the reasons for the decision and the requirements for resuming the processing of the documents. (*SPPA* s.4.5 (2))

3.3 Resumption of Processing

The processing of the documents may be resumed:

- (a) when the documents are complete;
- (b) after the Chair in his/her discretion extends the time for commencing the Proceeding; or
- (c) if the technical defect identified by the Board or the administrator is remedied.

4. DISMISSAL OF PROCEEDING WITHOUT HEARING

4.1 When the Board May Dismiss Without Hearing

Subject to paragraph 4.5, the Board may dismiss a Proceeding without a hearing if,

- (a) the Proceeding is frivolous, vexatious or is commenced in bad faith;
- (b) the Proceeding relates to matters that are outside the jurisdiction of the Board; or

- (c) some aspect of the statutory requirements for bringing the Proceeding has not been met. (*SPPA* s.4.6(1))

4.2 Notice of Intention to Dismiss

Before dismissing a Proceeding under paragraph 4.1, the Board shall give notice of its intention to dismiss the Proceeding to,

- (a) all parties to the Proceeding if the Proceeding is being dismissed for reasons referred to in clause 4.1(b); or
- (b) the party who commenced the Proceeding if the Proceeding is being dismissed for any other reason. (*SPPA* s.4.6 (2))

4.3 Content of Notice

The notice of intention to dismiss a Proceeding shall set out the reasons for the dismissal and inform the parties of their right to make written submissions to the Board with respect to the dismissal within the time specified in the notice. (*SPPA* s.4.6 (3))

4.4 Right to Make Submissions

A party who receives a notice under paragraph 4.2 may make written submissions to the Board with respect to the dismissal within the time specified in the notice. (*SPPA* s.4.6 (4))

4.5 Dismissal

The Board shall not dismiss a Proceeding under this section until it has given notice under paragraph 4.2 and considered any submissions made under paragraph 4.4. (*SPPA* s.4.6 (5))

5. PRE-HEARING CONFERENCES

5.1 Pre-Hearing Conferences

The Board, at the request of a Party or on its own motion, may direct the parties to participate in a pre-hearing conference to consider,

- (a) the settlement of any or all of the issues;
- (b) the simplification of the issues;
- (c) facts or evidence that may be agreed upon;
- (d) the dates by which any steps in the Proceeding are to be taken or begun;
- (e) the estimated duration of the Hearing; and
- (f) any other matter that may assist in the just and most expeditious disposition of the Proceeding. (*SPPA* s.5.3 (1))

5.2 Who Presides

The Chair may designate a Trustee or any other person to preside at the pre-hearing conference. (*SPPA* s.5.3 (2))

5.3 Orders at Pre-Hearing Conference

A Trustee who presides at a pre-hearing conference may make such orders, as he or she considers necessary or advisable with respect to the conduct of the Proceeding, including adding parties. (*SPPA* s.5.3 (3))

5.4 Disqualification

A Trustee, who presides at a pre-hearing conference at which the parties attempt to settle issues, shall not preside at the hearing of the Proceeding unless the parties consent. (*SPPA* s.5.3 (4))

6. DISCLOSURE

6.1 Required Disclosure

Unless otherwise ordered by the Board, prior to the commencement of the hearing, each Party shall provide to the other Party or Parties and to the Board the following information:

- (a) an outline of the Party's position regarding the circumstances that gave rise to the hearing and on the discipline imposed;
- (b) a list of the witnesses that the party intends to call to give evidence in the Proceeding; and
- (c) a summary of the evidence that each such witness will give in sufficient detail to permit the other Party or Parties and the Board to know the nature of the evidence intended to be presented.

6.2 Board May Order Disclosure

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

- (a) the exchange of documents;
- (b) the oral or written examination of a Party;
- (c) the exchange of witness statements and reports of expert witnesses;
- (d) the provision of particulars; and
- (e) any other form of disclosure. (*SPPA* s.5.4 (1))

6.3 Exception to Disclosure

Paragraph 6.2 does not authorize the making of an order requiring

- (a) disclosure of privileged information; (*SPPA* s.5.4(2))
- (b) production of another student's OSR, such as the OSR of an alleged victim or witness; or
- (c) any other disclosure that is contrary to law.

6.4 Materials for the Hearing

- (a) Each party to the hearing is required to provide sufficient copies of all documents or other productions that it intends to rely on. A party should prepare a minimum of eight (8) copies for disclosure to the other Party or Parties, the Committee, Counsel to the Committee and the Superintendent of School Effectiveness. Materials presented shall be appropriately referenced with title and author and sufficient information to ensure the context is understood.

6.5 Where Character, Conduct or Competence of a Party is in Issue

- (a) Where the good character, propriety of conduct or competence of a party is an issue in a Proceeding, the party is entitled to be furnished prior to the Hearing, with reasonable information of any allegations with respect thereto. (*SPPA* s.8)
- (b) In the case of a student, the disclosure of the Principal's Report shall be deemed to be compliance with the requirements of clause 6.4(a).

6.6 Alibi Defence

- (a) Where a student intends to rely on an alibi defence he/she shall disclose this to the Principal at least five days prior to the hearing.

7. NOTICE OF HEARING AND FAILURE TO ATTEND

7.1 Notice of Hearing

The parties to a proceeding shall be given reasonable notice of the hearing by the Board (*SPPA* s.6(1)).

7.2 Oral Hearing

A notice of an oral hearing shall include:

- (a) reference to the statutory authority under which the Hearing will be held (i.e. section 309 or 311.3 of the *Education Act*);
- (b) a statement of the time, place and purpose of the Hearing; and
- (c) a statement that if the party notified does not attend at the Hearing, the Committee may proceed in the Party's absence and the Party will not be entitled to any further notice in the Proceeding. (*SPPA* s.6 (1))

7.3 Written Hearing

A notice of a written hearing shall include:

- (a) reference to the statutory authority under which the Hearing will be held (i.e. section 309 or 311.3 of the *Education Act*);
- (b) a statement of the date and purpose of the Hearing, and details about the manner in which the Hearing will be held;
- (c) a statement that the Hearing shall not be held as a written hearing if the Party satisfies the Board that there is good reason for not holding a written hearing (in which case the Board is required to hold it as an electronic or oral hearing) and an indication of the procedure to be followed for that purpose; and

- (d) a statement that if the Party notified neither acts under clause 7.2(c) nor participates in the Hearing in accordance with the notice, the Board may proceed without the Party's participation and the Party will not be entitled to any further notice in the Proceeding. (*SPPA* s.6 (4))

7.4 Electronic Hearing

A notice of electronic hearing shall include:

- (a) reference to the statutory authority under which the Hearing will be held (i.e. section 309 or 311.3 of the *Education Act*);
- (b) a statement of the time and purpose of the hearing, and details about the manner in which the hearing will be held;
- (c) a statement that the only purpose of the Hearing is to deal with procedural matters, if that is the case;
- (d) if clause 7.4(c) does not apply, a statement that the Party notified may, by satisfying the Board that holding the hearing as an electronic hearing is likely to cause the Party significant prejudice, require the Board to hold the hearing as an oral hearing, and an indication of the procedure to be followed for that purpose; and
- (e) a statement that if the party notified neither acts under clause 7.4(d), if applicable, nor participates in the Hearing in accordance with the notice, the Board may proceed without the Party's participation and the Party will not be entitled to any further notice in the Proceeding. (*SPPA* s.6 (5))

7.5 Effect of Non-Attendance at a Hearing After Due Notice

- (a) With respect to an oral hearing, where notice of a Hearing has been given to a Party in accordance with these Rules, and the Party does not attend at the Hearing, the Board may proceed in the absence of the Party, and the Party is not entitled to any further notice in the Proceeding. (*SPPA* s.7(1))
- (b) With respect to a written hearing, where notice of a Hearing has been given to a Party in accordance with these Rules, and the Party neither acts under clause 7.3(c) nor participates in the Hearing in accordance with the notice, the Board may proceed without the Party's participation and the Party will not be entitled to any further notice in the Proceeding. (*SPPA* s.7 (2))
- (c) With respect to an electronic hearing, where notice of a Hearing has been given to a Party in accordance with these Rules, and the Party neither acts under clause 7.4(d), if applicable, nor participates in the Hearing in accordance with the notice, the Board may proceed without the Party's participation and the Party will not be entitled to any further notice in the Proceeding. (*SPPA* s.7 (3))

8. WRITTEN HEARINGS GENERALLY

8.1 Board May Hold a Written Hearing

The Board, at the request of a Party, or on its own motion, may hold a written hearing.

8.2 Exception

The Board shall not hold a hearing in writing if a Party satisfies the Board that there is good reason for not doing so. (*SPPA* s.5.1 (2))

8.3 Exception Not Applicable Where Procedural Only

Paragraph 8.2 does not apply if the only purpose of the hearing is to deal with procedural matters. (*SPPA* s.5.1 (2.1))

8.4 Time Limit for Seeking Electronic or Oral Hearing

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

- (a) in the case of an appeal of a suspension, within five (5) school days after receipt of the notice of hearing; and
- (b) in the case of an expulsion referral, within five (5) days after receipt of the notice of hearing.

8.5 Determination by the Board

The Board shall determine whether a Party has satisfied the Board that there is good reason for not holding a written hearing.

8.6 Documents

In a written hearing, all the parties are entitled to receive every document that the Board receives in the Proceeding. (*SPPA* s.5.1 (3))

9. ELECTRONIC HEARINGS GENERALLY

9.1 Board May Hold an Electronic Hearing

The Board, at the request of a Party, or on its own motion, may hold an electronic hearing.

9.2 Exception

The Board shall not hold an electronic hearing if a Party satisfies the Board that holding an electronic rather than an oral hearing is likely to cause the party significant prejudice. (*SPPA* s.5.2 (2))

9.3 Exception Not Applicable Where Procedural Only

Paragraph 9.2 does not apply if the only purpose of the hearing is to deal with procedural matters. (*SPPA* s.5.2 (3))

9.4 Determination by the Board

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

9.5 Procedure at Electronic Hearing

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

- (a) the Proceeding Chair shall ascertain who is present electronically;
- (b) the Proceeding Chair shall require each participant to prohibit any person other than:
 - a Party, and such Party's counsel or agent, and
 - witnesses while giving evidence,from listening to anything disclosed at the Hearing without the express prior approval of the Proceeding Chair;
- (c) the Proceeding Chair shall require all participants to notify the Proceeding Chair before any person present electronically leaves the hearing, and in default of any such notification, such person shall be deemed for all purposes to have been present throughout the whole of the hearing; and
- (d) the procedure followed in an electronic hearing shall comply with the requirements of paragraph 10, and, as far as is feasible and practical, otherwise follow the same process as would be followed in the case of an oral hearing.

10. PROVISIONS FOR BOTH ORAL AND ELECTRONIC HEARINGS

10.1 Privacy of the Hearing

The Committee may order that the Hearing be held *in camera* where matters involving public security may be disclosed or where intimate financial, personal or other matters may be disclosed. (*SPPA* s.9 (1))

10.2 Transcript of Proceeding

There is no requirement that the Committee keep a transcript of the oral testimony given at the Hearing. However, in event that further proceedings are taken as a result of the Hearing, the Committee may find it useful to record the evidence given in a manner that will ensure an accurate reproduction. If necessary, a transcript may be made from this recording.

10.3 Maintenance of Order at Hearings

The Board may make such orders or give such directions at an oral or electronic hearing, as it considers necessary for the maintenance of order at the Hearing. If any person disobeys or fails to comply with any order or direction given at a hearing, a Committee member may call for the assistance of any peace officer to enforce the order or direction. (*SPPA* s.9 (2))

10.4 Time Limitations

The Committee may impose reasonable time limits, so long as each of the parties is given an adequate opportunity to present its case. If the Committee fixes a time limit, that time limit will be announced to the parties at the onset of the Hearing. Should the Proceeding not conclude within the fixed limit, if any, the Committee will have regard to, if possible, the schedules of the parties and their witnesses in fixing the adjourned date and time.

10.5 Documents to be Relied Upon During Hearing

- (a) In an electronic or oral hearing, all the parties are entitled to receive every document a Party intends to rely upon. Such documents shall be provided to all parties and the appropriate safe schools administrator prior to the commencement of the Proceeding.
- (b) In an oral hearing, if the documents are not provided to the parties and the Superintendent of School Effectiveness in advance of the Hearing, a party may attend with eight (8) copies of the documents, and seek leave of the Committee to admit the documents.

10.6 Subpoenaing Witnesses

- (a) To enable the parties to bring forth witnesses, the Committee has the power to require any person, by summons, to give evidence orally or by production of documents, so long as the same are relevant to the subject matter of the proceeding and otherwise admissible in the Hearing.
- (b) A Party to the Proceeding may wish to subpoena a witness. If a party wishes to do so, they should inform the Superintendent of School Effectiveness to obtain a blank summons signed by the Chair or Vice-Chair of the Board. The party or his/her counsel will complete the summons and insert the name or names of the witness(es). The party or his/her counsel will arrange for proper service of the summons to witness and will provide reasonable attendance money to each witness.

10.7 Examination of Witnesses

Subject to the limitation set out in paragraphs 10.9 and 10.10, a Party to a Proceeding may,

- (a) call and examine witnesses and present evidence and submissions; and
- (b) conduct cross-examinations of witnesses at the Hearing reasonably required for a full and fair disclosure of all matters relevant to the issues in the Proceeding. (*SPPA s.10.1*)

10.8 Questions in Reply and From the Board

Subject to paragraph 10.9, all witnesses in a Hearing shall be subject to questions in reply, and questions by the Board.

10.9 Limitation on Examination and Cross-examination

The Committee may reasonably limit the number of witnesses, and further examination or cross-examination of a witness, where it is satisfied that the examination or cross-examination has

been sufficient to disclose fully and fairly all matters relevant to the issues in the Proceeding. (SPPA s.23 (2))

10.10 Limitation of Evidence

The Committee may exclude any evidence which it believes to be unduly repetitious.

10.11 Right of a Witness to Counsel

A witness at an oral or electronic hearing is entitled to be advised by counsel or an agent as to his or her rights but such counsel or agent may take no other part in the Hearing without leave of the Committee. (SPPA s.11 (1))

10.12 Protection of Witnesses

A witness shall be deemed to have objected to answer any question asked him or her on the ground that the answer may tend to incriminate 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 proceeding against him or her thereafter taking place, other than a prosecution for perjury in giving such evidence. (SPPA s.14 (1))

11. APPEAL OF A DECISION TO SUSPEND A STUDENT

11.1 Who May Appeal a Suspension

The following persons may appeal, to the Board, a Principal's decision to suspend a pupil under section 306:

1. The pupil's parent or guardian, unless,
 - (i) the pupil is at least 18 years old, or
 - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.
2. The pupil, if,
 - (i) the pupil is at least 18 years old, or
 - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control;
3. Such other persons as may be specified by Board policy.

11.2 Board Designate

The Board designates the Superintendent of School Effectiveness for the purpose of receiving notices of intention to appeal a suspension.

11.3 Notice of Appeal

A person who is entitled to appeal a suspension under subsection 309 (1) of the *Education Act* must give written notice of his or her intention to appeal to the Superintendent of School Effectiveness within 10 school days of the commencement of the suspension.

11.4 Board to Inform All Parties

After receiving a notice of intention to appeal, the Board will promptly contact every person entitled to appeal the suspension under paragraph 11.1 and inform him or her that it has received the notice of intention to appeal.

11.5 Suspension Appeal Process

11.5.1 Parties to the Appeal

The parties to the appeal are:

1. The Principal who suspended the pupil.
2. The pupil, if,
 - (i) the pupil is at least 18 years old, or
 - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.
3. The pupil's parent or guardian, if the pupil's parent or guardian appealed the decision to suspend the pupil.
4. The person who appealed the decision to suspend the pupil, if the decision was appealed by a person other than the pupil or the pupil's parent or guardian.
5. Such other persons as may be specified by Board policy.

11.5.2 Hearing of the Appeal

The Board will hear and determine the appeal within 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.

11.5.3 Content of Notice of Appeal

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.

11.5.4 Receipt of Notice

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

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

11.5.5 Timing of the Appeal

- (a) Written notification of the appeal of the decision to suspend a student shall be delivered to the Superintendent of School Effectiveness within 10 school days of the commencement of the suspension. This notification must be delivered in one of the following ways: hand delivery, courier, facsimile transmission or any other way agreed upon by the parties.
- (b) The Superintendent of School Effectiveness will send a return letter which acknowledges receipt of the notice of appeal.
- (c) The Superintendent of School Effectiveness will forward a copy of the appeal notice to the Principal.

11.5.6 Appellant Bears Onus of Proof

In an appeal of the decision to suspend a student, the appellant (parent or adult student) shall bear the onus of proof.

11.5.7 Order of Presentation

Where the Board Committee hears an appeal of the decision to suspend a student either electronically or orally, the appellant shall proceed first in the calling and examination of witnesses and presentation of evidence and submissions, and the Principal shall be the second to do so, unless the parties agree otherwise.

11.5.8 Adjournments

The Board Committee may adjourn the appeal from time to time on its own motion or on request by either party where it is satisfied that the adjournment is required to permit an adequate hearing to be held, and where the adjournment still permits the Board to hear and determine the appeal within 15 school days of receiving notice of suspension or within the later deadline agreed by the parties, if any.

11.5.9 Pupil May Attend

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

11.6 Deliberations and Decision of the Board

- 1. The Board Committee will assess the evidence as provided by the parties, and determine whether on a balance of probabilities, it is more probable than not that the student did commit the infraction.
- 2. Where the Board Committee determines that the student committed the infraction, the Board Committee will determine whether the Principal considered the mitigating factors and/or other factors set out by regulation and Board policy. If the Principal failed to consider the mitigating factors and/or other factors then the Committee shall do so.
- 3. Following the hearing, the Board Committee will decide to:

- (a) confirm the suspension and the duration of the suspension;
 - (b) 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
 - (c) 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.
- 4. The decision of a majority of the members of the Board Committee is the Board's decision. The decision of the Board is final.
- 5. The Board Committee has the power to reserve its decision.
- 6. The decision of the Board Committee shall be in writing and signed by the Chair of the Committee. When requested by a party, the Board Committee shall give written reasons.
- 7. Copies of the decision and order, along with its reasons, if requested, shall be sent to all parties to the proceedings who took part in the hearing at their respective addresses last known to the Board.

12. REFERRAL OF AN EXPULSION MATTER TO THE BOARD

12.1 Referral to Board

Following an investigation, if the Principal is satisfied that the student committed an infraction to which expulsion is warranted, the Principal will:

1. Notify the Superintendent School Effectiveness of the decision to refer the matter to the Board for a hearing; and
2. Notify the parent/adult student who is 16 or 17 and has withdrawn from parental control in writing of the decision to refer the matter to the Board for a hearing.

12.2 Content of Referral

A Principal who refers a matter under paragraph 12.1 shall deliver the following to the Director of Education and Superintendent of School Effectiveness:

1. a copy of the Notice of the Suspension Pending Expulsion that is the subject of the referral;
2. a copy of the completed Principal's report; and
3. a copy of the letter notifying the Parent/adult student/student who is 16 or 17 and has withdrawn from parental control of the Principal's recommendation.

12.3 Timing of the Hearing

A hearing will be held by the Committee within 20 school days since the pupil was suspended, unless the parties to the expulsion hearing agree to a later deadline.

12.4 Adjournments

- (a) The Committee may adjourn the hearing to a date later than the date referred to in paragraph 12.3 with the consent of the parties.
- (b) In extreme circumstances, such as where the student is incarcerated and cannot attend a hearing within the deadline referred to in paragraph 12.3, the Committee may adjourn the hearing without consent.
- (c) In all adjournments, the suspension pending expulsion shall continue in effect until the conclusion of the hearing and the decision of the Board.

12.5 Parties

The parties to the expulsion hearing are:

- 1. The Principal.
- 2. The pupil, if,
 - (i) the pupil is at least 18 years old, or
 - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.
- 3. The pupil's parent or guardian, unless,
 - (i) the pupil is at least 18 years old, or
 - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.
- 4. Such other persons as may be specified by Board policy.

12.6 Pupil May Attend

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

12.7 Committee

The Board may authorize a committee of three members of the Board to exercise and perform powers and duties on behalf of the Board, and may impose conditions and restrictions on the committee.

12.8 Principal Bears Onus of Proof

In a recommendation by a Principal to expel a pupil, the Principal shall bear the onus of proof.

12.9 Order of Presentation

Where a Committee hears a recommendation of a Principal to expel a pupil either electronically or orally, the Principal will proceed first in calling witnesses and presentation of evidence and submissions and the parent/adult student/student who is 16 or 17 and has withdrawn from parental control will proceed second, unless the parties agree otherwise.

12.10 Deliberations and Decision of the Board

1. The Committee will assess the evidence as provided by the parties, and determine whether, on a balance of probabilities, it is more probable than not that the student did commit the infraction.
2. Where the Committee determines that the student committed the infraction, the Committee will determine whether the Principal considered the mitigating factors or other factors set out by the regulations. If the Principal failed to consider the mitigating factors or other factors then the Committee shall do so.
3. At the hearing, the Committee will:
 - (a) consider the submissions of each party in whatever form the party chooses to deliver his or her submissions, whether orally, in writing or both;
 - (b) solicit the views of all the parties as to whether the pupil, if he or she is expelled, should be expelled from his or her school only or from all schools of the Board; and
 - (c) solicit the views of all the parties as to whether, if the pupil is not expelled, the Board should confirm the suspension originally imposed under section 310, confirm the suspension but reduce its duration or withdraw the suspension.
4. In making a determination, the Committee will take into account:
 - (a) all submissions and views of the parties, including their views as to whether the pupil, if expelled, should be expelled from his or her school only or from all schools of the Board;
 - (b) any mitigating or other factors prescribed by the regulations; and
 - (c) any written response to the Principal's report recommending expulsion that a person gave to the Board under subsection 311.1 (7) of the *Education Act* before the completion of the hearing.
5. After completing the hearing, the Committee will decide:
 - (a) whether to expel the pupil; and
 - (b) if the pupil is to be expelled, whether the pupil is expelled from his or her school only or from all schools of the Board.
6. If the Committee does not expel a pupil, it will, with respect to the suspension originally imposed under section 310:
 - (a) confirm the suspension and the duration of the suspension;
 - (b) 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
 - (c) 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.
7. In determining which action to take under paragraph 6 above, the Committee will 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 prescribed by the regulations.

8. After determining which action to take under paragraph 6 above, the Committee will give written notice containing the following to every person who was entitled to be a party to the expulsion hearing:
 - (a) A statement indicating that that the pupil is not expelled.
 - (b) A statement indicating whether the Committee has confirmed the suspension and its duration, confirmed the suspension but reduced its duration or withdrawn the suspension.
9. The decision of a majority of the members of the Committee is the Board's decision.
10. The Committee has the power to reserve its decision.
11. The decision of the Committee shall be in writing and signed by the chair of the Committee. When requested by a party, the Committee shall give written reasons.
12. Copies of the decision and order, along with its reasons, if requested, shall be sent to all parties to the proceedings who took part in the hearing at their respective addresses last known to the Board.

12.11 If Pupil is Expelled

12.11.1 If the Committee Expels a Pupil

If the Committee expels a pupil, the Committee shall assign the pupil, to,

- (a) in the case of a pupil from his or her school only, another school of the Board; and
- (b) in the case of a pupil expelled from all schools of the Board, a program for expelled pupils.

12.11.2 Notice of Expulsion

The Committee will ensure that written notice of the expulsion is given promptly to,

- (a) all the parties to the expulsion hearing; and
- (b) the pupil, if the pupil was not a party to the expulsion hearing.

12.11.3 Contents of Notice

The notice under paragraph 12.11.2 must include the following:

1. The reason for the expulsion;
2. A statement indicating whether the pupil is expelled from his or her school only or from all schools of the Board;
3. Information about the school or program for expelled pupils to which the pupil is assigned; and
4. Information about the right to appeal, including the steps that must be taken to appeal.

13. APPEAL OF THE BOARD'S EXPULSION DECISION

13.1 Introduction

Pursuant to subsection 311.7(1) of the *Education Act* and Regulation 472/07 under the Act, an appeal of a Board's expulsion decision is to the Child and Family Services Review Board ("CFSRB") in accordance with the Rules of Procedure of the CFSRB, and Regulations 303/01 under the *Child and Family Services Act*.

13.2 Who May Appeal an Expulsion

The following persons may appeal the Board's decision to expel a pupil, whether the pupil is expelled from his or her school only or from all schools of the Board, to the designated tribunal:

1. 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.
2. 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.
3. Such other persons as may be specified by the designated tribunal.

13.3 Designated Tribunal

The CFSRB is designated for the purposes of the definition of "designated tribunal" under the *Education Act* to hear appeals of board decisions to expel students.

13.4 Notice of Appeal

1. To appeal the Board's decision to expel a pupil, a person who is entitled to appeal the decision shall give the CFSRB a written notice of appeal within 30 days after the date on which he or she is considered, in accordance with the rules set out in subsection 300 (3) of the *Education Act*, to have received the notice given under subsection 311.6 (1) of the Act.
2. The CFSRB may extend the period of time for giving the written notice of appeal, before or after the expiry of the period, if it is satisfied that there are reasonable grounds for the extension.
3. The notice of appeal shall,
 - (a) set out the date of the decision that is being appealed;
 - (b) set out the name of the board that made the decision;
 - (c) state whether the decision expels the pupil from his or her school only or from all schools of the board; and
 - (d) be in a form acceptable to the CFSRB.
4. The CFSRB shall not refuse to deal with an appeal on the ground that there is a deficiency in the content or form of the notice of appeal.

13.5 Parties to the Appeal

The parties to the appeal are:

1. The Board.
2. The pupil, if,
 - (i) the pupil is at least 18 years old, or
 - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.
3. The pupil's parent or guardian, if the parent or guardian appealed the decision.
4. The person who appealed the decision to expel the pupil, if the decision was appealed by a person other than the pupil or the pupil's parent or guardian.

13.6 Hearing of Appeal

1. The CFSRB shall commence a hearing within 30 days after receiving a written notice of appeal.
2. The CFSRB may extend the period of time for commencing the hearing, before or after the expiry of the period at the request of any party to the appeal.
3. A pupil whose expulsion is being appealed has the right to be present at the hearing and to make a statement on his or her own behalf, whether or not the pupil is a party to the appeal.
4. After hearing an appeal from a decision of a board, the CFSRB shall do one of the following:
 - (a) Confirm the Board's decision to expel the pupil.
 - (b) If the Board's decision was to expel the pupil from his or her school only, quash the expulsion and reinstate the pupil to the school.
 - (c) If the Board's decision was to expel the pupil from all schools of the Board,
 - (i) change the expulsion to an expulsion from the pupil's school only, or
 - (ii) quash the expulsion and reinstate the pupil to his or her school; or
 - (d) Order any record of the expulsion be expunged or amended.
5. The CFSRB shall provide each party, or the party's counsel or agent, with,
 - (a) its decision on the appeal within 10 days after completing the hearing; and
 - (b) written reasons for its decision within 30 days after completing the hearing.
6. If the CFSRB changes an expulsion from all schools of the Board to an expulsion from the pupil's school only or quashes an expulsion and reinstates the pupil to his or her school, it may order that any record of the expulsion of the pupil be expunged or amended if the designated tribunal considers it appropriate in the circumstances.

The practice of the CFSRB is to conduct a *trial de novo*, effectively a full re-hearing of the case. The decision of the CFSRB is final.

I.2 WHAT YOU NEED TO KNOW ABOUT SUSPENSION APPEALS AND EXPULSION HEARINGS

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

- giving the student reasonable notice of the rule involved;
- the opportunity to be heard – to tell his/her side of the story; and
- the right to know the case against him/her.

The Sudbury Catholic District School Board (the “Board”) has developed rules of procedure to ensure that parties to a proceeding receive procedural fairness and the principles of natural justice are observed. The rules of procedure are intended to assist the Board in providing a just, efficient, expeditious and accessible process to those involved in a proceeding before the Board.

The following represents a guideline regarding the rules of procedure for suspension appeals and expulsion referrals and appeals.

1. What types of proceedings can be convened regarding school discipline?

- an appeal against a decision by a Principal to impose a suspension; or
- a referral by the Principal of an expulsion of a student.

2. Who are the parties to the hearing?

The parties to the hearing are the parent/guardian of a student under the age of 18, an adult student or a student who is 16 or 17 years old and has withdrawn from parental control, and the school Principal.

3. Can the Board add a student as a party to a hearing?

Yes. The Board may add a student as a party to a proceeding.

4. Can a student attend the hearing even if he or she is not a party?

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

5. Does every party have a right to representation?

Yes. A party to a proceeding may be represented by counsel or an agent. Counsel is a lawyer. An agent may be a trusted family friend, a religious advisor or other person who can assist with the presentation of the case. In the event that a parent/adult student retains either counsel or an agent, the cost of such services will be incurred at the parent/adult student's own expense.

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

The Committee of the Board will consist of three members of the Board. It will hear and determine an appeal. Members of the Committee who may have had any direct involvement in

the matter prior to the commencement of the hearing will disqualify themselves and will not take part in the hearing, the deliberations, the decision or the reasons. Members of the Committee who have not been present through the whole of the hearing will not take part in the deliberations, the decision or the reasons.

7. What is a pre-hearing conference?

The Board, at the request of a party or on its own motion, may direct the parties to participate in a pre-hearing conference to consider,

- the settlement of any or all of the issues;
- the simplification of the issues;
- facts or evidence that may be agreed upon;
- the dates by which any steps in the proceeding are to be taken or begun;
- the estimated duration of the hearing; and
- any other matter that may assist in the just and most expeditious disposition of the proceeding.

8. Is there a requirement to provide disclosure?

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

- an outline of the party's position regarding the circumstances that gave rise to the hearing and on the discipline imposed;
- a list of the witnesses that the party intends to call to give evidence in the proceeding; and
- a summary of the evidence that each such witness will give in sufficient detail to permit the other party and the Board to know the nature of the evidence intended to be presented.

9. Can the Board order disclosure?

Yes. The Board, at the request of a party or on its own motion, and at any stage of the proceeding before a hearing is complete, may make orders for,

- the exchange of documents;
- the oral or written examination of a party;
- the exchange of witness statements and report of expert witnesses;
- the provision of particulars; and/or
- any other form of disclosure.

10. Are there any exceptions to disclosure?

The Board's rules of procedure do not authorize the making of an order requiring:

- disclosure of privileged information;
- production of another student's OSR, such as the OSR of an alleged victim or witness; or
- any other disclosure that is contrary to law.

11. What materials should be disclosed?

Each party to the hearing is required to provide sufficient copies of all documents and other productions that it intends to rely on. Materials presented shall be appropriately referenced with title and author and sufficient information to ensure that the context is understood.

12. Are student disciplinary hearings governed by specific legislation?

Yes. Suspension appeal hearings and expulsion hearings are governed by the *Statutory Powers Procedure Act*. The Act imposes a number of procedural requirements on the conduct of the hearing. Those requirements include:

- a party has a right to be represented by counsel or an agent;
- any party may call and examine witnesses and present arguments and submissions;
- any party may cross-examine witnesses; and
- any witness at the hearing is entitled to be advised by counsel or an agent as to his or her rights, but such counsel or agent may take no other part in the hearing without leave of the Committee of the Board.

13. What type of notice of hearing is required?

Parties to the proceeding are required to be given reasonable notice of the hearing by the Board. This notice must include:

- reference to the statutory authority under the hearing will be held (i.e. section 309 or 311.3 of the *Education Act*);
- a statement of the time, place and purpose of the hearing; and
- a statement that if the party notified does not attend at the hearing, the Committee may proceed in the party's absence and the party will not be entitled to any further notice in the proceeding.

14. Will the hearing be held in private?

The Committee may order that the hearing will be held *in camera* where matters involving public security may be disclosed or where intimate financial, personal, or other matters may be disclosed.

15. Can a party subpoena a witness to attend at the hearing?

Yes. The Committee has the power to require any person, by summons, to give evidence orally or by production of documents, so long as the same are relevant to the subject matter of the proceeding and otherwise admissible in the hearing.

A party to the proceeding may wish to subpoena a witness. If a party wishes to do so, they should inform the Superintendent of School Effectiveness who will contact the Board's Legal Services to obtain a blank summons signed by the Chair or Vice-Chair of the Board. The party or his/her counsel will complete the summons and insert the name or names of the witness(es). The party or his/her counsel will arrange for proper service of the summons to witness and will provide appropriate attendance money to each witness.

16. Can each party call and examine witnesses?

Yes. Subject to certain limitations, a party to a proceeding may:

- call and examine witnesses and present evidence and submissions; and
- conduct cross-examinations of witnesses at the hearing reasonably required for a full and fair disclosure of all matters relevant to the issue in the proceeding.

The Committee may reasonably limit the number of witnesses, and further examination or cross-examination of a witness where it is satisfied that the examination or cross-examination has been sufficient to disclose fully and fairly all matters relevant to the issues in the proceeding.

17. Is there a requirement that the Committee keep a transcript of the proceeding?

No. There is no requirement that the Committee keep a transcript of the oral testimony given at the hearing. However, in the event that further proceedings are taken as a result of the hearing, the Committee may find it useful to record the evidence given in a manner that will ensure an accurate reproduction. If necessary, a transcript can be made from this recording.

18. What is the order of presentation at the hearing?

When the Committee hears an appeal of the decision to suspend a student, the appellant will proceed first in the calling and examination of witnesses and presentation of evidence and submissions, and the Principal will be the second to do so, unless the parties agree otherwise.

Where the Committee hears an expulsion referral, the Principal will proceed first in the calling and examination of witnesses and presentation of evidence and submissions, and the parent or guardian of a minor student or the adult student will be the second to do so, unless the parties agree otherwise.

19. What will the Committee consider in making a decision?

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

20. What types of decisions can the Committee make?

Following the suspension appeal hearing, the Committee will decide to:

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

21. Can the Committee reserve its decision?

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

22. Will the Committee issue a decision in writing?

Yes. The decision of the Committee will be in writing and signed by the chair of the Committee. When requested by a party, the Committee will give written reasons. Copies of the decision and order, along with its reasons, if requested, will be sent to all parties to the proceedings who took part in the hearing at their respective addresses last known to the Board.

23. When will an expulsion be referred to the Board?

Following an investigation, if the Principal is satisfied that the student committed an infraction for which an expulsion is warranted, the Principal will,

- notify the appropriate Superintendent of School Effectiveness of the decision to refer the matter to the Board for a hearing; and
- notify the parent/adult student/student who is 16 or 17 and has withdrawn from parental control in writing of the decision to refer the matter to the Board for a hearing.

A Principal who refers a matter to the Board will do so as soon as practicable after suspending the student pending expulsion.

24. What steps does a Principal need to take in referring an expulsion to the Board?

A Principal who refers a matter under section 311.3 of the Act will deliver the following to the appropriate Superintendent of School Effectiveness:

- a copy of the Notice of the Suspension Pending Possible Expulsion that is the subject to the referral;
- a copy of the completed Principal's report; and
- a copy of the letter notifying the parent/adult student/student who is 16 or 17 and has withdrawn from parental control of the Principal's recommendation.

25. When will an expulsion hearing take place?

A hearing will be held by the Committee within 20 school days since the student was suspended, unless the parties to the hearing agree to a later deadline.

26. Where there is an adjournment, will the suspension remain in effect?

Yes. In all adjournments, the suspension pending possible expulsion will continue in effect until the conclusion of the hearing and the decision of the Board.

27. Who can appeal a decision of the Board to expel a student?

The following persons may appeal a decision of the Board to expel a student (whether the expulsion is either mandatory or discretionary), and the type and duration of the expulsion:

- (a) the parent or guardian of the student if the student is a minor;
- (b) the adult student;
- (c) a student who is 16 years or 17 years of age, if he/she has withdrawn from parental control; and
- (d) such other persons as may be specified by a policy of the Board.

28. To what review board is this appeal made?

The appeal is to the Child and Family Services Review Board (the “CFSRB”) in accordance with the procedures set out by the Rules of Procedure of CFSRB, Regulation 472/07 under the *Education Act* and Regulation 303/01 of the *Child and Family Services Act*. Written notice of the intention to appeal the decision must be given to the Review Board within 30 days after the date on which he or she is considered to have received notice. The written notice to the Review Board must set out the following:

- date of the decision being appealed;
- the name of the school board that made the decision;
- state whether the decision expels the pupil from his or her school only or from all schools of the board; and
- be in a form acceptable to the CFSRB.

The practice of the CFSRB is to conduct a trial *de novo*, effectively a full re-hearing of the case. The decision of the CFSRB is final.

SECTION H

Search and Seizure in a School Setting

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Search and Seizure in a School Setting

*For this section, refer to [Ontario North East Region Police and School Protocol](#)

H.1 Search and Seizure

From time to time, proper investigation of an incident in a school may involve a search of a student or his/her property. A teacher may have reason to suspect that a student is carrying a concealed weapon. A student questioned with regard to a fight may blurt out that one of the antagonists sells drugs and keeps some in his locker. A student reports that her smartphone has been stolen and indicates that she believes it was taken by another student and may be found in his knapsack. What is the proper procedure to follow in circumstances such as these?

H.1.1 Canadian Charter of Rights and Freedoms

Section 8 of the *Canadian Charter of Rights and Freedoms* provides that: “Everyone has the right to be secure against unreasonable search or seizure”. In applying this provision in a school context, Canadian courts have held that in carrying out the duty to maintain order and discipline in the school, the Principal may search a student. However, the courts have ruled that the school authority must have reasonable grounds to believe that there has been a breach of school regulations and that a search of a student would reveal evidence of that breach.

H.1.2 Grounds for a Search

The courts have held that a warrant is not essential in order to conduct a search of a student by a school authority. The courts have recognized that school authorities are in the best position to assess information given to them and relate it to the situation existing in their school.

The following may constitute reasonable grounds:

- (a) information received from one student considered to be credible;
- (b) information received from more than one student;
- (c) a teacher’s or Principal’s own observations; and
- (d) any combination of these pieces of information which the school authority considers to be credible.

The compelling nature of the information and the credibility of these or other sources must be assessed by the school authority in the context of the circumstances existing at a particular school. Random or arbitrary searches or searches on groundless suspicion will likely be in contravention of the Charter.

The following would not likely provide an adequate foundation for “reasonable grounds” to believe there has been a breach of school rules:

- rumours, innuendoes or hunches;
- anonymous tips which are not corroborated in any way; or
- information which could not reasonably be considered to be credible.