



KENORA CATHOLIC DISTRICT SCHOOL BOARD

Policy 13: Appeals Regarding Student Matters

The Kenora Catholic District School Board believes that all members of the Catholic school learning community have the right to be safe and feel safe within their school community. With this comes the responsibility to demonstrate respect for social justice and human rights and to promote the values needed to develop responsible members of a democratic society.

This shall be achieved by establishing and maintaining high expectations for behaviour. The Board promotes a proactive and preventative approach with a strong emphasis on early intervention, conflict prevention and resolution, counseling and inclusion of social skills in the curriculum. The goal of this policy is to support a safe learning and teaching environment in which every pupil can reach his or her full potential.

In accordance with the Education Act, the Board supports the use of suspension and expulsion as outlined in Part XIII of the Education Act and in board administrative procedures AP309 Safe Schools – Student Suspension and AP 310 Safe Schools – Student Expulsion. The Board, through the Discipline Committee, will be directly involved in determining if a student should be allowed to attend its schools on the grounds that the conduct of the student is so refractory that the presence of the student is injurious to other students or individuals in the school or school system. This policy incorporates guidelines that must be administered by the Board in establishing a Discipline Committee, in resolving suspension appeals and in conducting expulsion hearings.

1. Student Discipline Committee

- 1.1 The Board authorizes the creation of a Discipline Committee of no fewer than three (3) trustees to decide suspension appeals and to conduct hearings on principal recommendations for expulsion. For these purposes, the Discipline Committee will conduct the suspension appeals and expulsion hearings in accordance with the student discipline procedures outlined under suspension appeal guidelines and expulsion hearing guidelines and rules.
- 1.2 In all cases where consequences might be imposed, teachers, administrators and the Board will consider the safety and dignity of all pupils, and the impact of the activity on the school climate.

- 1.3 The Discipline Committee shall have the powers as set out in the Education Act and any other powers to implement any appropriate order.

2. Appeal of a Student Suspension

2.1 Effort to Resolve Dispute

- 2.1.1 The Board recognizes that from time to time, a student may be suspended from a school in accordance with the terms outlined in the Education Act, Sections 306 and 310 and with the terms of the board's administrative procedures.
- 2.1.2 Although the Education Act makes provision for the parent/guardian or the pupil, if the pupil is an adult, to appeal to the Board against a suspension, every reasonable effort should be made to resolve such a dispute before it is formalized in a request to the Board.

2.2 Powers of the Board

The board shall,

- 2.2.1 confirm the suspension and the duration of the suspension;
- 2.2.2 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
- 2.2.3 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.

2.3 Notice of Appeal

- 2.3.1 The following person(s) may appeal, to the board, a principal's decision to suspend a pupil:
 - 2.3.1.1 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.
 - 2.3.1.2 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.

2.3.2 Notice Process

The appeal must be made in writing and directed to the Superintendent of Instructional Services within ten (10) school days of receipt of the Suspension Review Notice decision.

A person who has given notice of intention to appeal may contact the Superintendent of Instructional Services to discuss any matter respecting the appeal of the suspension.

An appeal of a suspension does not stay the suspension.

2.3.3 Delivery

After receiving a notice of intention to appeal the board shall promptly contact every person entitled to appeal the suspension and inform him or her that it has received the notice of intention to appeal.

2.4 Discipline Committee: (Suspension Appeal Hearing Committee)

2.4.1 The powers and the duties of the Board under the Education Act and Regulations, in dealing with an appeal of a suspension shall be exercised and performed by a Discipline Committee of three or more members of the Board, as designated by the chair of the Board.

2.4.2 Quorum for this committee is 50% plus one member.

2.4.3 The Superintendent of Instructional Services or designate will act in an advisory role to the committee on procedural matters during the suspension hearing and the committee's subsequent deliberations.

2.5 Hearing of an Appeal

2.5.1 The board must hear and/or determine the appeal within fifteen (15) school days of receiving the notice of intention to appeal (unless the parties agree to an extension).

2.5.2 Ensure that the item is placed on the Discipline Committee's agenda.

2.5.3 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.
- 2.5.4 The pupil's parent or guardian, if the pupil's parent or guardian appealed the decision to suspend the pupil.
- 2.5.5 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.
- 2.5.6 Such other persons as may be specified by board policy.

2.5.7 Suspension Appeal Process

Suspension appeals will be heard orally, in camera, by the discipline committee of trustees. The Discipline Committee may grant a person with daily care authority to make submissions on behalf of the pupil.

- 1. The pupil will be asked to make a statement on his/her behalf.
 - 2. The appellant and/or the person with daily care will proceed next by making oral submissions and/or providing written submissions regarding the reason for the appeal and the result desired.
 - 3. The Superintendent of Instructional Services or the principal of the school will make oral submissions on behalf of the administration, including a response to any issues raised in the appellant's submissions. The superintendent/principal may rely on the report prepared for the Discipline Committee.
 - 4. The appellant may make further submissions addressing issues raised in the administration's presentation that were not previously addressed by the appellant.
 - 5. The Discipline Committee may ask any party, or the pupil, where appropriate, questions of clarification.
- 2.5.8 Legal counsel for the Board may be present at the appeal if the appellant is represented by legal counsel or an agent.
- 2.5.9 The Discipline Committee may make such orders or give such directions at an appeal as it considers necessary for the maintenance of order at the appeal. Should any person disobey or fail to comply with any such order and/or direction, a trustee may call for the assistance of a police officer to enforce any such order of direction.
- 2.5.10 Where any party who has received proper notice of the location, date and time of the appeal fails to attend the appeal or comply with the necessary time lines, the appeal may proceed in the absence of

the party and the party is not entitled to any further notice of the proceedings.

2.5.11 The Discipline Committee will consider, based on the written and/or oral submissions of both parties whether the decision to discipline and the discipline imposed was reasonable in the circumstances, and shall either:

1. confirm the suspension and the duration of the suspension;
2. 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
3. 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.

2.5.12 The decision of the board on an appeal is final.

3. Referral for Student Expulsion

3.1 Recommendation for Expulsion

If a principal, in consultation with the Superintendent of Instructional Services, determines that a referral for expulsion is warranted, the principal must refer the recommendation for expulsion to the Discipline Committee to be heard and dealt with within twenty (20) school days from the date the principal suspended the pupil, unless the parties to the expulsion hearing agree upon a later date.

3.2 The Principal:

3.2.1 Will prepare a report to be submitted to the Discipline Committee and provide the report to the pupil and the pupil's parent or guardian (unless the pupil is an adult pupil) prior to the hearing. The report will include:

1. A summary of the principal's findings.
2. 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.
3. The principal's recommendation as to,
 - i. the type of school that might benefit the pupil, if the pupil is expelled from his or her school only, or

ii. the type of program for expelled pupils that might benefit the pupil, if the pupil is expelled from all schools of the board.

3.2.2 The principal shall 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.

3.2.3 The principal shall ensure that written notice containing the following is given to every person to whom the principal was required to give notice of the suspension at the same time as the principal's report is provided to that person:

1. A statement that the pupil will be subject to an expulsion hearing for the activity that resulted in the suspension.
2. A copy of the board policies and guidelines governing the expulsion hearing.
3. A statement that the person has the right to respond, in writing, to the principal's report provided under this section.
4. Detailed information about the procedures and possible outcomes of the expulsion hearing, including, but not limited to, information explaining that,
 - i. if the board does not expel the pupil, it will, with respect to the suspension imposed, confirm the suspension, shorten its duration or withdraw it,
 - ii. 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 should be confirmed, reduced or withdrawn,
 - iii. any decision of the board with respect to the suspension imposed made at the expulsion hearing is final and not subject to appeal,
 - iv. if the board expels the pupil from his or her school only, the board will assign the pupil to another school, and
 - v. if the board expels the pupil from all schools of the board, the board will assign the pupil to a program for expelled pupils.
5. The name and contact information of a supervisory officer whom the person may contact to discuss any matter respecting the expulsion hearing.

3.3 Written Response

A person who is entitled to receive the principal's report and written notice may respond, in writing, to the principal and the board.

3.4 The Director of Education:

Upon confirmation from the Superintendent of Instructional Services, the director will inform the trustees of the general details of the incident, including actions taken or pending.

3.5 The Superintendent of Instructional Services:

3.5.1 May arrange a meeting with the adult pupil or the pupil's parent/guardian and the pupil, and the principal to:

1. Review the Discipline Committee process for expulsion hearings
2. Respond to any questions or concerns the pupil or the pupil's parent/guardian may have regarding the process or incident.
3. Assist to narrow the issues and identify agreed upon facts.

3.5.2 Will prepare a package of documents for the Discipline Committee, which will include at least the following components:

1. A copy of the principal's report
2. A copy of the original suspension letter and the notice of expulsion sent to the adult pupil or the pupil's parent/guardian

3.5.3 Will inform the adult pupil or the pupil's parent/guardian of the date and location of the expulsion hearing.

3.5.4 Will provide a copy of the expulsion hearing rules and a copy of the documentation to go to the Discipline Committee.

3.5.5 Will ensure that the item is placed on the Discipline Committee agenda.

3.6 Discipline Committee Hearing

3.6.1 Parties

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.

3.6.2 Considerations

The mitigating and other factors:

Mitigating Factors:

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.

3.6.3 Other factors:

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,
 - 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.

3.7 Discipline Committee Decision

3.7.1 After completing the hearing, the board 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.

3.7.2 In making the decisions required under subsection (6), the board shall take into account,

- i. 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;
- ii. any mitigating or other factors prescribed by the regulations; and
- iii. any written response to the principal's report recommending expulsion that a person gave to the board

3.7.3 The board shall 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.

3.7.4 No Expulsion

If a board does not expel a pupil, the board shall, with respect to the suspension originally imposed,

- i. confirm the suspension and the duration of the suspension;
- ii. 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
- iii. 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.

3.7.5 Factors board must consider

In determining which action to take the board shall take into account,

- i. 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;
- ii. any mitigating or other factors prescribed by the regulations.

3.7.6 Notice that pupil not expelled

After determining which action to take the board shall give written notice containing the following to every person who was entitled to be a party to the expulsion hearing.

1. A statement indicating that the pupil is not expelled.
2. A statement indicating whether the board has confirmed the suspension and its duration, confirmed the suspension but reduced its duration or withdrawn the suspension.

3.7.7 Decision final

The decision of the board is final.

3.7.8 Expulsion

If a 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.

3.7.9 Notice of expulsion

A board that expels a pupil shall 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.

3.8 Re-entry Requirements Following an Expulsion

3.8.1 Powers of other board

If a pupil who has been expelled from one board registers as a pupil of another board, the other board may,

- i. assign the pupil to a school of that board; or
- ii. assign the pupil to a program for expelled pupils.

3.8.2 Clarification

If the other board assigns the expelled pupil to a school without knowing that he or she has been expelled by another board, the board may subsequently remove the pupil from the school and assign him or her to a program for expelled pupils, subject to the following conditions:

1. The board must assign the pupil to a program for expelled pupils promptly on learning that he or she has been expelled from another board if the pupil satisfies the requirements of Ontario Education Act clause 314.1 (1) (a) or (b) as determined by a person who provides a program for expelled pupils.
2. The board shall not assign the pupil to a program for expelled pupils if the pupil satisfies the requirements of Ontario Education Act clause 314.1 (1) (a) or (b) as determined by a person who provides a program for expelled pupils.

3.8.3 Return to school after expulsion

A pupil who has been expelled from all schools of a board is entitled to be readmitted to a school of the board if the pupil has, since being expelled,

- i. successfully completed a program for expelled pupils; or
- ii. satisfied the objectives required for the successful completion of a program for expelled pupils.

3.9 Appeal of Board Decision to Expel

The adult pupil or the pupil's parent/guardian may appeal a board decision to expel the pupil to the Child and Family Services Review Board in accordance with the procedures set out by the Ministry of Education.

3.9.1 The Child and Family Services Review Board is designated to hear and determine appeals of school board decisions to expel pupils.

3.9.2 The decision of the Child and Family Services Review Board is final.

Forms associated with this policy:

#28 - Decision of Suspension Appeal Hearing Committee

#30 - Notice of Suspension Appeal Hearing

#31 - Notice of Principal's Recommendation for Expulsion

#34 - Expulsion Decision Notification

#35 - Recommendation for Expulsion Decision of the Discipline Committee

Legal References:

Education Act Part XIII Behaviour, Discipline and Safety
Ontario Regulation 472/07 Behaviour, Discipline and Safety of Pupils
Guideline—Ontario Schools Code of Conduct
Statutory Powers Procedure Act

Approval Date: June 2006

Date of Latest Review: January 10, 2011, May 2011, May 2012, March 2014,
November 2015, February 2017, June 2018

Date of Latest Revision: May 2011, February 14, 2012, November 2018, June 2018