

NIPISSING-PARRY SOUND CATHOLIC DISTRICT SCHOOL BOARD

SUSPENSION, INVESTIGATION AND POSSIBLE EXPULSION

AS 29.0
Section F
June 2014

PREAMBLE

It shall be the policy of the Nipissing-Parry Sound Catholic District School Board that any pupil whose behaviour does not comply with Provincial, Board or School Codes of Conduct or the requirements of a pupil as set out in the *Education Act* or its regulations may be suspended and, in some cases, expelled.

SUSPENSION, INVESTIGATION AND 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 is entitled to authorize a committee of at least three members to conduct the expulsion hearing.

At the hearing, the Board 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 Board will decide whether to expel the pupil at all, and, if so, whether the expulsion will be limited to an expulsion from the pupil's school only or whether the expulsion will be a full Board expulsion.

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

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.

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<ol style="list-style-type: none">3. Committing physical assault on another person that causes bodily harm requiring treatment by a medical practitioner.4. Committing a sexual assault.5. Trafficking in weapons or in illegal drugs.6. Committing robbery.7. Giving alcohol to a minor.8. Any other activity that, under a policy of a board, is an activity for which a principal must suspend a pupil and, therefore in accordance with this Part, conduct an investigation to determine whether to recommend to the Board that the pupil be expelled. <p>A pupil who is suspended under this section is suspended from his or her school and from engaging in all school-related activities.</p> <p>Duration of Suspension</p> <p>A principal may suspend a pupil for up to 20 school days.</p> <p>In considering how long the suspension should be, the principal will take into account any mitigating or other factors prescribed by regulation.</p> <p>Mitigating Factors</p> <p>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:</p> <ol style="list-style-type: none">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. <p>Other Factors</p> <p>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:</p>	

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<ol style="list-style-type: none">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,<ol style="list-style-type: none">(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. <p>Notice of Suspension</p> <p>A principal who suspends a pupil under section 310 shall,</p> <ol style="list-style-type: none">(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,<ol style="list-style-type: none">(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. <p>Contents of the Notice</p> <p>The notice of suspension pending possible expulsion will include the following:</p> <ol style="list-style-type: none">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 investigation the principal will conduct under section 311.1 to determine whether to recommend that the pupil be expelled.	

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5. A statement indicating that,
- (i) there is no immediate right to appeal the suspension;
 - (ii) if the principal does not recommend to the board that the pupil be expelled following the investigation under section 311.1, the suspension will become subject to appeal under section 311.2; and
 - (iii) 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.

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.

INVESTIGATION FOLLOWING SUSPENSION

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. If that is not possible due to a police investigation, the appropriate Superintendent of Education must be informed at this time. The principal will conduct an investigation in accordance with the Guidelines for Conducting a Disciplinary Investigation.

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 Police/School Board Protocol (*refer to Section K*).

As part of the investigation, the principal will make all reasonable efforts to speak with the following persons;

1. The pupil.

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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. Any other person whom the principal has reason to believe may have relevant information.

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;
- consult with the appropriate Superintendent of Education;
- 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.

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.

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<ol style="list-style-type: none">1. A statement that the pupil will not be subject to an expulsion hearing for the activity that resulted in the suspension.2. A statement indicating whether the principal has confirmed the suspension and its duration, confirmed the suspension but reduced its duration or withdrawn the suspension.3. Unless the suspension was withdrawn, information about the right to appeal the suspension, including,<ol style="list-style-type: none">(i) a copy of the Board policies and guidelines governing the appeal established by the Board; and(ii) the name and contact information of the superintendent of education to whom notice of the appeal must be given. <p>If Expulsion is Recommended</p> <p>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:</p> <ol style="list-style-type: none">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,<ol style="list-style-type: none">(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 or program for expelled pupils that might benefit the pupil, if the pupil is expelled from all schools of the Board. <p>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.</p> <p>Written Notice</p> <p>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 at the same time as the principal's report is provided to that person.</p> <ol style="list-style-type: none">1. A statement that the pupil will be subject to an expulsion hearing for the activity that resulted in the suspension.	

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<ol style="list-style-type: none">2. A copy of the Board policies and guidelines governing the expulsion hearing established by the Board.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,<ol style="list-style-type: none">(i) 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;(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 under section 310 should be confirmed, reduced or withdrawn;(iii) 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;(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 superintendent of education whom the person may contact to discuss any matter respecting the expulsion hearing.	
<p>Party May Respond to Principal's Report</p>	
<p>A person who is entitled to receive the principal's report and written notice may respond, in writing, to the principal and the Board.</p>	
<p>Appeal of Suspension</p>	
<p>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:</p>	
<ol style="list-style-type: none">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 <i>Education Act</i>, 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.	

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EXPULSION HEARING

Expulsion Hearing by the Board

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

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.

Pupil May Attend

The 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.

Committee

The Board may authorize a committee of at least 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.

Submission and Views of the Parties

At the hearing, the Board 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;

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- (b) 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
- (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.

Decision

After completing the hearing, the Board shall 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.

Factors the Board must Consider

In making the decisions required the Board will take into account,

- (a) 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;
- (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 before the completion of the hearing.

Timing of the Hearing

The Board 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.

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<p><u>IF PUPIL IS NOT EXPELLED</u></p> <p>Pupil not Expelled</p> <p>If the Board does not expel the pupil, the Board will, with respect to the suspension originally imposed under section 310,</p> <ul style="list-style-type: none">(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. <p>Factors Board Must Consider</p> <p>In determining which action to take the Board shall take into account,</p> <ul style="list-style-type: none">(a) 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;(b) any mitigating or other factors prescribed by the regulations. <p>Notice that Pupil is Not Expelled</p> <p>After determining which action to take the Board will give written notice containing the following to every person who was entitled to be a party to the expulsion hearing under paragraph E.5.2.</p> <ul style="list-style-type: none">1. A statement indicating that 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. <p>Decision Final</p> <p>The decision of the Board is final.</p>	

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<p><u>IF PUPIL IS EXPELLED</u></p> <p>If the Board Expels a Pupil</p> <p>If the Board expels a pupil, the Board shall assign the pupil to,</p> <ul style="list-style-type: none">(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. <p>Notice of Expulsion</p> <p>The Board will ensure that written notice of the expulsion is given promptly to,</p> <ul style="list-style-type: none">(a) all the parties to the expulsion hearing; and(b) the pupil, if the pupil was not a party to the expulsion hearing. <p>Contents of Notice</p> <p>The notice must include the following:</p> <ol style="list-style-type: none">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.4. Information about the right to appeal, including the steps that must be taken to appeal.	