

APPEALS

Who may appeal a Suspension or Expulsion

The parents/guardians (or pupil if an adult) may appeal a decision of a principal to suspend or impose a limited expulsion.

Who hears the Appeal

One or more Trustees of the Board.

SUSPENSION

How you may Appeal

You must give written notice to the principal and the Board within five (5) days **after the Review Results** are delivered. The Notice must include a written statement setting out all the reasons for the appeal, and copies of both the Notice of Suspension and the Review Results.

The principal may within five (5) days of receipt your Appeal deliver to you a written Response to your Appeal. You may, within five (5) days after receipt of that Response, deliver a written Reply to the principal's Response.

The possible result?

The Trustees can maintain the suspension as imposed, increase or decrease it, or order the deletion of the suspension record.

EXPULSION

How you may Appeal

You must give written notice within five (5) days after the Principal's Notice of Determination is delivered to you. The Appeal Notice must include a written statement setting out all the reasons for the appeal, and a copy of the Notice of Determination.

If the principal delivers a written Response to your Appeal, you may, within five (5) days after receipt of that Response, deliver a written Reply to the principal's Response.

The Possible Result

Trustees can maintain as imposed, increase, decrease or eliminate the expulsion, or impose a full expulsion.

HEARINGS

Appeals are generally in writing

Board Rules provide that appeals from both suspensions and limited expulsions are generally conducted in writing, unless a party satisfies the Board that there is good reason for an electronic or oral hearing. In this case, specific instructions are given to the parties.

Board Rules also provide that the person appealing must satisfy the Board that the decision of the principal was wrong.

Hearings by Trustees, on Referral

One or more (usually two or three) Trustees hold formal hearings, orally or electronically, on all expulsion referrals by the principal.

Hearings on Appeals and Referrals

Oral and electronic hearings are somewhat more complicated than written hearings. As a result, some parents/guardians (or pupils when adult) feel more comfortable with the assistance of a lawyer, although a lawyer is not required.

In the case of appeals from suspensions and limited expulsions under the Board's Rules, the parents/guardians (or pupil if an adult) present the reasons why the suspension or limited expulsion should not have been imposed. For this purpose, the parents/guardians may offer the evidence of witnesses supporting that view, and the principal is entitled to cross-examine those witnesses. When evidence of all these witnesses is completed, the principal may then present the evidence of witnesses supporting the principal's decision, and the parents/guardians (or pupil if an adult) are entitled to cross-examine those witnesses. After all evidence is presented, the parties are entitled to present argument and submissions.

Under the Board's Rules for referrals for expulsion, the sequence of presentation by the parties is reversed: first, the evidence of the principal is presented, and after that, the evidence is led by the parent/guardian/pupil.



GUIDE TO REVIEW/APPEALS FROM PUPIL SUSPENSION AND EXPULSION



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Faith, Hope & Charity

GUIDE TO REVIEW/APPEALS FROM PUPIL SUSPENSION AND EXPULSION

SAFE SCHOOLS LEGISLATION

The *Safe Schools Act, 2000*, changed the way in which schools react to objectionable behaviour of Ontario students while on school property or engaged in school activities.

Commencing September 2001, all students (as well as teachers, other staff and parents) became subject to a Code of Conduct mandated by the Province and defined by each School Board. A combination of the legislation and the Board's Code of Conduct *require* that a student be suspended or expelled for certain activity that, by definition, is unacceptable.

PURPOSE OF THIS BROCHURE

The purpose of this brochure is to assist students and their parents/guardians to understand their rights if a suspension or an expulsion are imposed because of an infraction.

CAUTIONARY NOTE

This brochure is a simplified summary of the law, Board Policy, and the Board's Rules of Procedure. For accurate reference, further information, and more detail, please contact the principal or superintendent of your school. You may also obtain further information from the Board's Web Site "www.tcdsb.org", by clicking on "Safe Schools".

SUSPENSION

It is mandatory that a pupil be suspended for threatening serious bodily harm, possession of alcohol or illegal drugs, being under the influence of alcohol or drugs, swearing at a teacher or other person in authority, bullying, for vandalism causing extensive school property damage *or* engaging in an activity that by Board policy is one for which suspension is prescribed.

Mitigating Circumstances

Suspension is not mandatory if the pupil cannot control or cannot understand the foreseeable consequences of the behaviour, or if the continuing presence of the pupil does not present an unacceptable risk to the well-being or safety of others.

Even when suspension is not mandatory, a pupil *may still be suspended* for any such behaviour, or for other behaviour prohibited by the Board.

Suspension Length

A teacher may suspend a pupil for one (1) school day. The principal may suspend a pupil for a minimum of one (1) school day and a maximum of twenty (20) school days. *A one-day suspension can be neither reviewed nor appealed.*

Review of Suspension

If a pupil is suspended for two or more school days, the parents/guardians (or pupil if an adult) may request in writing a review within five (5) days of the start of the suspension. The assigned supervisory officer will consider all of the information obtained from the parents/guardians (or pupil if an adult) and from the principal, and will prepare in writing, and give to the parties, the Review Results.

Appeal Available

If still not satisfied *after the Review*, the parents/guardians (or pupil if an adult) may now seek to appeal the *original* suspension decision (but not the review) to the Board. This request to appeal a suspension may be considered only after the review has been conducted.

EXPULSION

It is mandatory that a pupil be expelled for possession of a weapon, use of a weapon to cause or threaten bodily harm, assault causing bodily harm that requires medical treatment, sexual assault, robbery, providing alcohol to a minor or engaging in an activity that by Board policy is one for which expulsion is prescribed.

Mitigating Circumstances

Expulsion is not mandatory if the pupil cannot control or cannot understand the foreseeable consequences of the behaviour, or if the continuing presence of the pupil is not an unacceptable risk to the well-being or safety of others. Even when expulsion is not mandatory, *a pupil may still be expelled* for any such behaviour, for persistent violation of Board standards of behaviour, or for other refractory conduct.

Immediate Suspension, then Inquiry

If the principal believes that one of the above infractions has occurred, the pupil is immediately suspended. The principal then notifies the parents/guardians, refers the matter to the Board or conducts an inquiry. If, at the end of the inquiry, the principal is satisfied the infraction has been committed, the principal may impose a limited expulsion or may refer the matter to the Board for determination.

Decision within 20 School Days

Neither the principal nor the Board may impose an expulsion unless it is imposed on or before the 20th school day after the initial suspension began.

Appeals Available

If the principal imposes a limited expulsion, the parents/guardians (or pupil if an adult) may appeal the decision to the Board, whose decision is final and binding.

If the Board imposes either a full or a limited expulsion, the parents/guardians (or pupil if an adult) may appeal that decision to the Child and Family Services Review Board, whose decision is final and binding.

