

**SUDBURY CATHOLIC DISTRICT  
SCHOOL BOARD**

**Safe Schools Procedures Manual**

**September 2017**

**Sudbury Catholic District School Board  
Safe Schools Procedures Manual**

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SAFE SCHOOLS RESOURCES AND PROCEDURES MANUAL**

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**SECTION A**

**A.1 Introduction**

**Mission Statement**

The mission of the Sudbury Catholic District School Board (the “Board”) is to provide all students with a Catholic education that includes the knowledge, skills and values required to live a meaningful and faith filled life. 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.

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### 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.<sup>1</sup> 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

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

## 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 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, 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 December 5, 2012, 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.<sup>2</sup> 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:<sup>3</sup>

- 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.

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<sup>2</sup> *Ibid.*, p. 8.

<sup>3</sup> *Ibid.*, p. 7.

- 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.

### ***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.<sup>4</sup> 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 staff<sup>5</sup> need to be provided with opportunities to acquire the knowledge and skills necessary to address bullying through school-level bullying prevention and intervention strategies that focus on building skills for healthy relationships.

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<sup>4</sup> 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.

<sup>5</sup> 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 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.

## **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,
  - (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 December 5, 2012, 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 Police/School Board Protocol (*refer to Section K*).

Police will conduct their own investigation and make decisions with respect to criminal charges based on their assessment of the circumstances. **Regardless of whether or not charges are laid by the police, the Principal is still responsible for conducting an investigation independent of the police and taking appropriate disciplinary action under the *Education Act*.** The issue of double jeopardy does not apply because the purpose and nature of actions taken by the police under the *Criminal Code* are different from the purpose and nature of actions taken by the Principal under the *Education Act*.

During a police investigation at school, it is the responsibility of the police to explain to a young person his or her rights in a manner that enables him or her to understand them. The Principal/designate will inform police of any special circumstances that may impede the students in expressing or understanding written/oral communication.

Whenever the police are called, the Principal or his/her designate will contact the parent or guardian of the student or, in the absence of a parent, an adult relative, or in the absence of a parent and adult relative, any other appropriate adult chosen by the young person, as long as that person is not a co-accused, or under investigation, in respect of the same offence.

As a last measure, where there is no parent/guardian, adult relative or appropriate adult available, the Principal or his/her designate will act *in loco parentis* to the student, in order to ensure his or her Charter rights are maintained. The Principal should make every effort to avoid assuming this role. Ask the student if there is any other adult in the school who can support the student in this process and arrange for the presence of that adult.

In acting *in loco parentis*, where appropriate, a Principal may inform a student who is being interviewed that he or she is under no obligation to make a statement and that he or she has a right to consult counsel and a parent, adult relative or any other appropriate adult chosen by the student.

The Principal or his/her designate will comply with a specific direction by the police not to contact a student's parents or guardians. Failure to comply with a police direction could expose the school administrator to possible liability under the *Criminal Code*. However, in these circumstances, the student should be given the opportunity to request and have the Principal or a designate present for the police interview and such person will act *in loco parentis*.

Where the parent/guardian is not able to be physically present or present by speaker phone, the Principal or his/her designate should invite the parent/guardian to speak to his or her child prior to the interview being conducted. Where the Principal is not able to contact the parent(s) or guardian(s), suitable adult or others who may know or support the student, the Principal should record his or her attempts to make contact.

**When the police have been contacted, the educator should halt his or her review of the incident until the police investigation is complete.** There is a concern that if the school official persists in reviewing the incident, the official's actions in interviewing witnesses or seizing property could prejudice the police investigation. **Once the police have concluded their investigation, the school can commence its investigation.**

When conducting an investigation, police will make every effort to minimize disruption to school routines. Except in exigent circumstances, police officers are expected to report to the main school office prior to commencing an investigation in the school. This will permit the Principal (or appropriate Vice-Principal) to greet the officer, and facilitate the process.

Exigent circumstances are defined as urgent, pressing and/or emergency circumstances. They may include a bomb threat, a person possessing a weapon or a fire on school property.

The police have an obligation to advise a student of his or her rights under the *Canadian Charter of Rights and Freedoms* and the *Youth Criminal Justice Act*. As part of the duty to act *in loco parentis*, the Principal or other person present at the interview can request the police officer to explain these rights to the student. In some cases, the student may prefer to have a teacher, guidance counsellor, or Principal present during a police interview or when making a statement. When it is determined that the parent/guardian cannot or will not be contacted prior to the interview, the student will be advised that he or she may request that such person be available to attend and act *in loco parentis* during the interview.

When the police effect an arrest of a student, the police are required to advise the student of his or her rights under the law, such as the right to retain counsel without delay and the right to remain

silent, and are also required to notify the student's parents as soon as possible of the place of detention and the reasons for arrest, in accordance with the *Youth Criminal Justice Act*, the *Charter of Rights and Freedoms* and the common law.

#### **A.10 Procedural Fairness**

It is a fundamental tenet 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.

#### **A.11 The *Canadian Charter of Rights and Freedoms***

The right to a fair and impartial hearing may also be protected under the *Canadian Charter of Rights and Freedoms*, which has been a part of Canada's constitution since 1982. The most significant difference between the common law rights discussed earlier, and the constitutional rights provided for in the *Charter* is that while common law rights may be modified by legislation, constitutional rights may not. Any law which violates the *Charter* is of no force and effect. Similarly, all government action is subject to the *Charter*, and this would almost certainly include the actions of Principals, teachers and school staff.

The *Charter* right most likely to be at issue when students are being disciplined is section 7, which guarantees everyone, "the right to life, liberty and security of the person." Whether or not disciplinary action will affect this right will depend upon the severity of the penalty imposed. The longer the suspension or expulsion, the more likely that section 7 will be engaged. Section 7 permits a student's "life, liberty and security of the person," to be affected, provided that this is done "in accordance with the principles of fundamental justice." These principles include both procedural and substantive rights, many of which apply equally under the administrative law principles discussed above. Most notably, they include the right to a fair and impartial hearing before a decision is made. The extent of the hearing rights that must be afforded will depend upon the severity of the punishment that may be imposed. The *Charter* may also impose a requirement that the punishment fit the infraction, in the sense that its severity is not grossly disproportionate to the gravity of the offence.

In some cases, disciplinary action may affect other *Charter* rights as well, including the right to equality guaranteed under section 15, which prohibits discrimination, and the right to be free from unreasonable search and seizure, under section 8. In the past, however, courts have been willing to permit school staff to search students, provided that the search is not overly intrusive, and there are reasonable grounds to believe that there has been a breach of school rules. Finally, by virtue

of section 1, all *Charter* rights are subject to such reasonable limits, prescribed by law, as can be “demonstrably justified in a free and democratic society.”

**SUDBURY CATHOLIC DISTRICT SCHOOL BOARD  
SAFE SCHOOLS RESOURCES AND PROCEDURES MANUAL**

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**SECTION B**

**Suspension Procedures**

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**SUDBURY CATHOLIC DISTRICT SCHOOL BOARD**  
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**SECTION B**

**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**

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.

3. Being under the influence of alcohol.
4. Swearing at a teacher or at another person in a position of authority.
5. Committing an act of vandalism that causes extensive damage to school property at the pupil's school or to property located on the premises of the pupil's school.
6. Bullying.
7. Any other activity that is an activity for which a Principal may suspend a pupil under the policy of the board.

If a Principal decides to suspend a pupil for engaging in an activity described in subsection (1), the Principal will suspend the pupil from his or her 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 his or her 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 his or her 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 his or her 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 his or her child.

#### **B.2.4 Notice of Suspension**

A Principal who suspends a pupil under section 306 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.

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 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.

#### **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 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.

### **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. Persistent truancy (only non-compulsory school age pupils);
2. Persistent opposition to authority;
3. Habitual neglect of duty;
4. Wilful destruction of school property; vandalism causing damage to school or Board property or property located on school or Board premises;
5. Use of profane or improper language;
6. Use of tobacco;
7. Theft;
8. Aid/incite harmful behaviour;

9. Physical assault;
10. Being under the influence of illegal drugs;
11. Sexual harassment;
12. Racial harassment;
13. Fighting;
14. Possession or misuse of any harmful substances;
15. Hate-motivated violence;
16. Extortion;
17. Distribution of hate material;
18. Inappropriate use of electronic communications/media; and/or
19. Non-Consensual Distribution of Intimate Images
20. Other – defined as any conduct injurious to the moral tone of the school or to the physical or mental well-being of others.

#### **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 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 his or her 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. Where there is a serious violent incident leading to a suspension or expulsion or a call to the police, the Principal will complete a Violent Incident Form (*refer to Section J.12 or the Ministry of Education, OSR Guideline, 2000, Appendix J*).
7. A suspension shall be for a fixed period, not exceeding 20 school days. The minimum period of suspension is **one** school day.
8. A one-day suspension will be in effect on the first school day following the infraction.
9. 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.

**Prior to using this chart, a Principal will conduct an investigation, and consider mitigating factors and other factors relevant to the student's learning and behaviour correction.**

<b>SUSPENSIONS A Principal Shall Consider</b> <i>Education Act, Part XIII, subsection 306 (1)</i>		Principal May Issue Suspension	Notify Police	
			May	Shall
1.	Uttering a threat to inflict serious bodily harm on another person	1 –20 Days		X
2.	Possessing alcohol or illegal drugs	1 – 20 Days	X	
3.	Being under the influence of alcohol	1 – 20 Days	X	
4.	Swearing at a teacher or at another person in a position of authority	1 – 20 Days	NA	NA
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	1 – 20 Days		X
6.	Bullying	1 – 20 Days	X	

<b>SUSPENSIONS That May Be Considered – Board Policy</b> <i>Education Act, Part XIII clause 306 (1) 7</i>		Principal May Issue Suspension	Notify Police	
			May	Shall
1.	Persistent truancy – (only non-compulsory school age pupils)	1 – 20 Days	X	
2.	Persistent opposition to authority	1 – 20 Days	X	
3.	Habitual neglect of duty	1 – 20 Days	NA	
4.	Willful destruction of school property; vandalism causing damage to school or Board property or property located on school or Board premises	1 – 20 Days	X	
5.	Use of profane or improper language	1 – 20 Days	NA	
6.	Use of tobacco	1 – 20 Days	X	
7.	Theft	1 – 20 Days	X	
8.	Aid/incite harmful behaviour	1 – 20 Days	X	
9.	Physical assault	1 –20 Days	X	
10.	Being under the influence of illegal drugs	1 –20 Days	X	
11.	Sexual harassment	1 –20 Days	X	
12.	Racial harassment	1 –20 Days	X	
13.	Fighting	1 –20 Days	X	
14.	Possession or misuse of any harmful substances	1 –20 Days	X	X
15.	Hate-motivated violence	1 – 20 Days	X	X
16.	Extortion	1 –20 Days	X	X
17.	Distribution of hate material	1 – 20 Days	X	X
18.	Inappropriate use of electronic communications/media	1 –20 Days	X	
19.	Non-Consensual Distribution of Intimate Images	1 –20 Days		X
20.	Other*	1 –20 Days	X	

<b>SUSPENSION PENDING POSSIBLE EXPULSION</b> <i>Education Act, Part XIII, subsection 310 (1)</i> Principal shall issue a suspension pending possible expulsion, then conduct an investigation within 5 school days. Following the investigation impose a suspension or refer to Board for Hearing		Principal Must Issue Suspension	Notify Police	
			May	Shall
1.	Possessing a weapon, including a firearm	20 Days		X
2.	Using a weapon to cause or to threaten bodily harm to another person	20 Days		X
3.	Committing physical assault on another person that causes bodily harm requiring treatment by a medical practitioner	20 Days		X
4.	Committing sexual assault	20 Days		X
5.	Trafficking in weapons or in illegal drugs	20 Days		X
6.	Committing robbery	20 Days		X
7.	Giving alcohol to a minor**	20 Days		X
7.1	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.	20 Days	X	
7.2	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.	20 Days	X	

<b>SUSPENSION PENDING POSSIBLE EXPULSION – Board Policy</b> <i>Education Act, Part XIII, clause 310 (1) 8</i> Principal shall issue a suspension pending possible expulsion, then conduct an investigation within 5 school days. Following the investigation impose a suspension or refer to Board for Hearing		Principal Must Issue Suspension	Notify Police	
			May	Shall
1.	Possession of explosive substance	20 Days		X
2.	Serious or repeated misconduct	20 Days		X
3.	Other *	1 - 20 Days		X

\* Other is defined as any conduct injurious to the moral tone of the school or to the physical or mental well-being of others.

The Other activity that leads to the suspension must be specifically detailed.

\*\* Minor is as interpreted by *Education Act* – under 18 years of age

## 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.

**Explosive Substance** – includes anything used to create an explosive device or that is capable of causing an explosion.

**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 to 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.

**Inappropriate Use of Electronic Communications/Media** – the intentional use of an electronic device or communication medium, such as, but not limited to, all features of a phone, a cell phone, digital camera, smart device, e-mails, school hotlines, Web-based communication sites and print material, such as flyers, school newspapers and brochures, that negatively impact on the well-being of another person and/or the learning environment in accordance with the definition of Harassment (as set out above).

**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, film, 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*.

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**SECTION C**

**Board Programs for Students on Long-Term Suspension**

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**SECTION C**

**Board Programs for Students on Long-Term Suspension**

**C.1 Introduction**

The Board is committed to ensuring that all students who are on a long-term suspension have an opportunity to continue their education. The *Education Act* requires school boards to offer at least one board program for suspended students.

With respect to programs for students on long-term suspension, research has demonstrated that positive outcomes for students are related to specific program elements that are tailored to meet the needs of each student. The active engagement of parents and families and linkages to community agencies, such as agencies that provide counselling, also contribute to positive overall outcomes for students.

In the case of students with special education needs, the Board will provide appropriate support consistent with the student's Individual Education Plan ("IEP").

The Board will actively encourage suspended students to participate in the Board program for suspended students. However, the Board cannot compel students on long-term suspensions to participate in a Board program for suspended students.

A short-term suspension means a suspension from one to five school days. A long-term suspension means a suspension of more than five school days.

**C.2 General Requirements**

**Short-Term Suspension (One to Five Schools Days)**

For all short-term suspensions, schools will provide homework packages to students to help ensure that they do not fall behind in their school work. The academic component will follow the curriculum outlined in the Ontario curriculum policy documents, unless the student has an IEP that provides for modifications to the Ontario curriculum or an alternative program.

**Long-Term Suspension (Six to 20 School Days)**

The Board will offer at least one program for students who are on a long-term suspension. In the written notice of suspension, parents will be notified of the Board program to which the student on long-term suspension has been assigned.

### **C.2.1 Program Requirements**

A Student Action Plan (“SAP”) will be developed for every student on a long-term suspension who makes a commitment to attend the Board program for suspended students. *(Refer to Section J.11 for the Student Action Plan form)*

#### **Programs for Students on a Suspension of Six to Ten School Days**

The program provided for in the SAP will include an academic component to support the student on a long-term suspension of six to ten school days in continuing his or her education. The Board will consider what types of support, if any, the student may require during the suspension and upon his or her return to school. The Board will also consider continuing any supports that may have been in place for the student prior to the suspension. In the case of students with special education needs, the Board will provide appropriate support consistent with the student’s IEP.

#### **Programs for Students on a Suspension of Eleven to Twenty School Days**

The program provided for in the SAP will consist of both an academic and a non-academic component to support the student on a long-term suspension of eleven to twenty school days in continuing his or her education. The Board will also consider continuing any types of support that may have been in place for the student prior to the suspension. In the case of students with special education needs, the Board will provide appropriate support consistent with the student’s IEP.

If a student on a long-term suspension pending expulsion is expelled, and the student makes a commitment to attend a Board program for expelled students, the SAP should be carried forward into the new program.

### **C.2.2 Components of Programs for Students on Long-Term Suspension**

The Board will determine the content and balance of the program for each student for both the academic and non-academic components of the program. The content and balance of the program for a student will depend on the needs of the student, the length of the suspension, and the nature and severity of the behaviour that led to the suspension, including any mitigating or other factors.

#### ***Academic Component***

The purpose of the academic component is to ensure that all students on a long-term suspension have the opportunity to continue their education. The Board will provide students with the opportunity to continue or complete programs of study, including assignments, homework, and any other work evaluated in their regular classes. Every effort will be made to maintain the student’s regular academic course work throughout the suspension period.

The academic component will follow the curriculum outlined in the Ontario curriculum policy documents, unless the student has an IEP that provides for modifications to the Ontario curriculum or an alternative program. The academic component may include, but is not limited to, the provision of Religious & Family Life Education, distance learning, e-learning, remedial help in literacy and numeracy, individual instruction and/or opportunities within the Board.

Elementary school students will be supported in continuing to acquire the necessary knowledge and skills outlined in the Ontario curriculum policy documents for elementary schools and the Religious & Family Life Education programs.

Secondary school students will be supported in continuing to earn credits towards their Ontario Secondary School Diploma.

### ***Non-academic Component***

The purpose of the non-academic component is to assist students on a long-term suspension of more than ten school days in the development of positive attitudes and behaviours. Identifying and addressing the underlying causes of the student's behaviour will help reduce the risk that the student might be given a suspension or expulsion in the future.

For those students on a suspension of six to ten school days, the Board will consider what types of support, if any, the student may require during the suspension and upon his or her return to school.

Students may require a range of services and types of support that may include access to culturally appropriate support. The Board will make appropriate support available and/or facilitate a student's referral to community agencies. To meet the alternative programming requirements of a student with special education needs, the Board will refer to the student's IEP.

### **C.2.3 Developing and Implementing the Student Action Plan**

A SAP will be developed for every student on long-term suspension who makes a commitment to attend the Board program. The SAP will outline the objectives for students and be tailored to meet the specific needs of the student.

The student and/or his or her parent(s) must notify the Principal verbally or in writing that the student is committed to attending the program. Once the Principal has received this notification, development of the SAP will begin immediately. The SAP will be implemented as soon as possible. It is expected that the SAP, with appropriate support, will facilitate the continuation of the student's learning during the suspension period. Every effort will be made to provide an opportunity for the student to maintain his or her regular academic course work throughout the suspension period.

The SAP will be developed by the Principal in co-operation with appropriate staff, the student, and his or her parent(s). It is important that parents participate in the development

and implementation of the SAP on an ongoing basis. The Board will make reasonable efforts to enable parents to participate by, for example, reaching out to community members who can provide translation services for those whose first language is not English or French.

The Board will co-ordinate the types of support required to assist the student in continuing his or her learning. For students with special education needs, the Board will provide appropriate support consistent with the student's IEP.

For students on a long-term suspension pending expulsion, the Board will provide a homework package until the SAP is in place. In the case of an expelled student who attended a program for students on a long-term suspension, the student's SAP should be carried forward into the program for expelled students.

#### **C.2.4 The Planning Meeting**

Once the student and/or his or her parent(s) have indicated that the student is committed to attending the program, the Principal will hold a planning meeting. The planning meeting should be a collaborative process and must include school and Board staff and the student. Where possible, the student's parent(s) or other significant family member(s), as well as the student's teacher(s) should also be present at the meeting. Principals should make reasonable efforts to include parents in this meeting. If the parents cannot be present, the planning meeting should proceed nevertheless, and the Principal will attempt to follow up with the parent(s) of the student as soon as possible after the meeting. In addition, where appropriate, community agency staff and any other relevant persons or professionals should also be included in the planning meeting.

The purpose of the planning meeting is to:

- identify the needs of the student;
- identify the student's risk factors and protective factors;
- clearly identify any types of support that the student may need to continue his or her learning; and
- establish the objectives of the SAP.

#### **C.2.5 The Re-entry Meeting**

The Principal will hold a meeting with school and Board staff, the student, and, where possible, the student's parent(s) before the student returns to school. The purpose of this meeting is to facilitate the student's transition back to school by, for example, identifying and providing for any additional academic and non-academic support that the student may require upon returning to school. Where appropriate, community agency staff and any other significant persons or professionals may be involved in the re-entry planning.

### **C.2.6 Program Delivery**

The delivery of the Board program may take many forms, ranging from homework packages to attendance in a designated location, at the discretion of the Board. The board's alternative program is housed at the Adult Education Alternative Site – St Albert's. The program is called the PEACE program (Personalized, Experiential, Alternative, Catholic Education)

### **C.3 Board/School Support**

At all times, the Board is committed to supporting students so that, whenever possible, they are able to continue their education either during or after a suspension. Because of this, it offers support to students on short-term and long-term suspensions, that are designed to help students learn the skills and knowledge they need to return to regular schools or to go on to other educational opportunities.

#### **C.3.1 Supports Available to Students on Short-Term Suspension**

As indicated above, for all short-term suspensions, schools will provide homework packages to students to help ensure that they do not fall behind in their school work.

The school should also provide information to the parent/guardian on ways to help support their child. The school should inform the parent/guardian about programs that support student learning while the student is suspended.

If a student needs emotional or other social supports, the school should arrange for him or her to be seen by a school support worker or refer the parent/guardian to other community social agencies for support. Such supports for a student may include:

- pastoral care workers;
- social workers;
- psychologists;
- Indigenous support workers;
- peer mediation;
- alcohol or drug counselling;
- assessment for learning challenges;
- anger management programs;
- alternative to suspension programs;
- tutoring programs;

- social skills programs;
- conflict resolution programs;
- youth leadership programs;
- after-school programs;
- community service programs;
- parish work; and
- counselling referral.

### **C.3.2 Supports Available to Students on Long-Term Suspension**

The Principal will refer the parent/guardian or adult student to the Board's safe schools program (PEACE Program) for information about educational programs a student will be able to attend while under long-term suspension. The Principal and the Alternative Education Learning Staff will work with the student and his or her family to find ways to help the student continue his or her education.

A student on a long-term suspension may be asked to go to the Board's safe schools program. The Program is available on a voluntary basis. It is intended to meet the academic and social needs of students who are on long-term suspension. The program has a strong focus on personal and social skill development. The program is provided at a standard equal to the Ontario curriculum. Staff includes teachers working with youth/social workers and support personnel from the Board.



# SUDBURY CATHOLIC DISTRICT SCHOOL BOARD

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## APG #SS19: Program for Long Term Suspension Students

Adopted:	January 25, 2013	APG Number:	SS19
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### GENERAL REQUIREMENTS

A Student Action Plan (SAP) must be developed for every student on a long-term suspension who makes a commitment to attend the board program for suspended students.

#### 1. Programs for Students on a Suspension of Six to Ten School Days

The program provided for in the SAP must include an academic component to support the student on a long-term suspension of six to ten school days in continuing his or her education. Boards are not required to provide a non-academic component for suspensions of this length. However, boards should consider what types of support, if any, the student may require during the suspension and upon his or her return to school. The board must also consider continuing any supports that may have been in place for the student prior to the suspension. In the case of students with special education needs, boards are required to provide appropriate support consistent with the student's IEP.

#### 2. Programs for Students on a Suspension of Eleven to Twenty School Days

The program provided for in the SAP will consist of both an academic and a non-academic component to support the student on a long-term suspension of eleven to twenty school days in continuing his or her education. The board must also consider continuing any types of support that may have been in place for the student prior to the suspension. In the case of students with special education needs, boards are required to provide appropriate support consistent with the student's IEP.

If a student on a long-term suspension pending an expulsion hearing is expelled, and the student makes a commitment to attend a board program for expelled students, the SAP should be carried forward into the new program.

#### 3. Components of Programs for Students on Long-Term Suspension

Boards are responsible for determining the content and balance of the program for each student for both the academic and non-academic components of the program. The content and balance of the program for a student will depend on the needs of the student, the length of the suspension, and the nature and severity of the behavior that led to the suspension, including any mitigating or other factors (see the Appendix to this memorandum for these factors).

#### **Academic Component**

The purpose of the academic component is to ensure that all students on a long-term suspension (more than five school days) have the opportunity to continue their education. Boards must provide

students with the opportunity to continue or complete programs of study, including assignments, homework, and any other work evaluated in their regular classes. In all cases, every effort must be made to maintain the student's regular academic course work throughout the suspension period.

The academic component must follow the curriculum outlined in the Ontario curriculum policy documents, unless the student has an IEP that provides for modifications to the Ontario curriculum or an alternative program. The academic component may include, but is not limited to, the provision of distance learning, e-learning, remedial help in literacy and numeracy, individual instruction, and/or opportunities within the board.

Elementary school students must be supported in continuing to acquire the necessary knowledge and skills outlined in the Ontario curriculum policy documents for elementary schools.

Secondary school students must be supported in continuing to earn credits towards their Ontario Secondary School Diploma.

### ***Non-academic Component***

The purpose of the non-academic component is to assist students on a long-term suspension of more than ten school days in the development of positive attitudes and behaviors. Identifying and addressing the underlying causes of the student's behavior will help reduce the risk that the student might be given a suspension or expulsion in the future.

For those students on a suspension of six to ten school days, boards should consider what types of support, if any, the student may require during the suspension and upon his or her return to school.

Students may require a range of services and types of support that may include access to culturally appropriate support. The board should make appropriate support available and/or facilitate a student's referral to community-based service providers and/or provide support through other methods, such as remote access to resources (e.g., video conferencing, tele psychiatry). To meet the alternative programming requirements of a student with special education needs, the board should refer to the student's IEP.

Protocols between boards and community-based service providers should be in place to facilitate referral processes and the provision of services and support for students and their parents and families. Where such protocols already exist, they should be reviewed, and where they do not, new protocols should be developed to increase the board's capacity to respond to the needs of students on long-term suspension.

## **4. Developing and Implementing the Student Action Plan**

A SAP must be developed for every student on long-term suspension who makes a commitment to attend the board program. The SAP will outline the objectives for students and be tailored to meet the specific needs of the student.

The student and/or his or her parent(s) must notify the principal verbally or in writing that the student is committed to attending the program. Once the principal has received this notification, development of the SAP must begin immediately. The SAP must be implemented as soon as possible. It is expected that the SAP, with appropriate support, will facilitate the continuation of the student's learning during the suspension period. Every effort must be made to provide an opportunity for the student to maintain his or her regular academic course work throughout the suspension period.

The SAP will be developed by the principal in cooperation with appropriate staff, the student, and his or her parent(s). It is important that parents participate in the development and implementation of the SAP on an ongoing basis. Boards should make reasonable efforts to enable parents to participate by, for example, reaching out to community members who can provide translation services for those whose first language is not English or French.

It is the responsibility of the board to coordinate the types of support required to assist the student in continuing his or her learning. For students with special education needs, boards are required to provide appropriate support consistent with the student's IEP.

For students on a long-term suspension pending expulsion, boards are also expected to provide a homework package until the SAP is in place. As stated earlier, in the case of an expelled student who attended a program for students on long-term suspension, the student's SAP should be carried forward into the program for expelled students.

### ***5. The Planning Meeting***

Once the student and/or his or her parent(s) have indicated that the student is committed to attending the program, the principal shall hold a planning meeting. The planning meeting should be a collaborative process and must include school and board staff and the student. Where possible, the student's parent(s) or other significant family member(s), as well as the student's teacher(s), should also be present at the meeting. Principals should make reasonable efforts to include parents in this meeting. If the parents cannot be present, the planning meeting should proceed nevertheless, and the principal must attempt to follow up with the parent(s) of the student as soon after the meeting as possible. In addition, where appropriate, community agency staff and any other relevant persons or professionals should also be included in the planning meeting.

The purpose of the planning meeting is to:

- identify the needs of the student; identify the student's risk factors and protective factors; clearly identify any types of support that the student may need to continue his or her learning; establish the objectives of the SAP.

### ***6. The Re-entry Meeting***

The principal shall hold a meeting with school and board staff, the student, and, where possible, the student's parent(s) before the student returns to school. The purpose of this meeting is to facilitate the student's transition back to school by, for example, identifying and providing for any additional academic and non-academic support that the student may require upon returning to school. Where appropriate, community agency staff and any other significant persons or professionals may be involved in the re-entry planning.

### ***7. Program Delivery***

The delivery of the board program may take many forms, ranging from homework packages to attendance in a designated location at the discretion of the board.

Boards may enter into agreements with other boards for the provision of a program for students on long-term suspension. Coterminous boards should, wherever possible, collaborate on providing coordinated support to students on long-term suspension and their parents. Boards may also obtain or continue to obtain services from community-based service providers in the provision of the non-academic program component. These partnerships must respect collective agreements.

## **APPENDIX: EXCERPTS FROM LEGISLATION**

### **Ontario Regulation 472/07, “Behavior, Discipline and Safety of Pupils” (formerly “Suspension and Expulsion of Pupils”)**

Relevant excerpts from Ontario Regulation 472/07, made under the Education Act, are provided below for ease of reference.

#### **Mitigating factors**

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

#### **Other factors**

**3.** 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 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 behavior was a manifestation of a disability identified in the pupil’s individual education plan,
  - ii. whether appropriate individualized accommodation has been provided
  - iii. whether the suspension or expulsion is likely to result in an aggravation or worsening of the pupil’s behavior or conduct.

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**SECTION D**

**Suspension Appeal Procedures**

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**SECTION D**

**D.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.

**D.1.2 Board Designate**

The Board designates the **Superintendent of School Effectiveness** 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.

**D.1.3 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 School Effectiveness within 10 school days of the commencement of the suspension.

**D.1.4 Board to Inform All Parties**

After receiving a notice of intention to appeal, the Superintendent of School Effectiveness 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.

**D.1.5 Party May Contact Superintendent of Education – Safe Schools**

A person who has been given notice of intention to appeal as set out above may contact the Superintendent of School Effectiveness 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 School Effectiveness to discuss a matter respecting the appeal of the suspension, the Superintendent of School Effectiveness 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 School Effectiveness will respond verbally or by letter to the parent about the outcome of their review.

## **D.2 Suspension Appeal Process**

### **D.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 – 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.

### **D.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.

### **D.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.

### **D.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.

### **D.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 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 with a copy of this letter to the Principal.

- (c) The Superintendent of School Effectiveness will forward a copy of the appeal notice to the Principal.

#### **D.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:
  1. Uttering a threat to inflict serious bodily harm on another person.
  2. Possessing alcohol or illegal drugs.
  3. Being under the influence of alcohol.
  4. Swearing at a teacher or at another person in a position of authority.
  5. Committing an act of vandalism that causes extensive damages to school property at the pupil's school or to property located on the premises of the pupil's school.
  6. Bullying.
  7. Any other activity that is an activity for which a Principal may suspend a pupil under the policy of the Board.
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. In completing the Form, the Principal/designate will set out the process used in considering and documenting his/her decision to suspend (*refer to Section J*).

7. Where there is a serious violent incident leading to a suspension or expulsion or a call to the police, the Principal will complete a Violent Incident Form (*refer to Section J*).
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 School Effectiveness, 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.

#### **D.2.7 Assistance for the Principal**

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

#### **D.2.8 Role of the Superintendent of School Effectiveness**

1. The Board designates the Superintendent of School Effectiveness as responsible for receiving notices of intention to appeal a suspension. The Superintendent of School Effectiveness 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 School Effectiveness with 10 school days of the commencement of the suspension.
3. After receiving a notice of intention to appeal, the Superintendent of School Effectiveness 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 School Effectiveness informs the parent/adult student and their agent or counsel about the process intended to be followed at the hearing.
6. The Superintendent of School Effectiveness informs the Principal about the process intended to be followed at the hearing.
7. The Superintendent of School Effectiveness, where appropriate, speaks with other parties about agreeing on a later deadline for a suspension hearing;
8. The Superintendent of School Effectiveness arranges for a Committee of the Board to hear the appeal.
9. The Superintendent of School Effectiveness 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 School Effectiveness 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 School Effectiveness 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 School Effectiveness to discuss any matter respecting the appeal of the suspension.
14. The Superintendent of School Effectiveness 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*).

#### **D.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 School Effectiveness 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.

#### **D.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 School Effectiveness or the Director of Education will advise the Board Committee about procedural matters.

#### **D.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.

#### **D.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.

#### **D.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.

#### **D.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.

#### **D.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.

#### **D.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.

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**SECTION E**

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**SECTION E**

**E.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.

**E.2 Suspension Pending Possible Expulsion – Procedures**

**E.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 to a minor.
- 7.1 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.
- 7.2 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.
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.

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

### **E.2.2 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.

### **E.2.3 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:

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.

#### **E.2.4 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:

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.

#### **E.2.5 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:

1. Possession of explosive substance;
2. Serious or repeated misconduct; and/or
3. Other – defined as any conduct injurious to the moral tone of the school or to the physical or mental well-being of others.

### **E.2.6 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:

- 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.

### **E.2.7 Contents of the Notice**

The notice of suspension pending possible expulsion 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 investigation the Principal will conduct under section 311.1 to determine whether to recommend that the pupil be expelled.
- 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.

### **E.2.8 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.

## **E.3 Investigation Following Suspension**

### **E.3.1 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 Police/School Board Protocol (*refer to Section K*).

Police will conduct their own investigation and make decisions with respect to criminal charges based on their assessment of the circumstances. **Regardless of whether or not charges are laid by the police, the Principal is still responsible for conducting an investigation independent of the police and taking appropriate disciplinary action under the *Education Act*.** The issue of double jeopardy does not apply because the purpose and nature of actions taken by the police under the *Criminal Code* are different from the purpose and nature of actions taken by the Principal under the *Education Act*.

During a police investigation at school, it is the responsibility of the police to explain to a young person his or her rights in a manner that enables him or her to understand them. The Principal/designate will inform police of any special circumstances that may impede the students in expressing or understanding written/oral communication.

Whenever the police are called the Principal or his/her designate will contact the parent or guardian of the student or, in the absence of a parent, an adult relative, or in the absence of a parent and adult relative, any other appropriate adult chosen by the young person, as long as that person is not a co-accused, or under investigation, in respect of the same offence.

Where there is no parent/guardian, adult relative or appropriate adult available, the Principal or his/her designate will act *in loco parentis* to the student, in order to ensure his or her Charter rights are maintained.

**When the police have been contacted, the educator should halt his or her review of the incident until the police investigation is complete.** There is a concern that if the school official persists in reviewing the incident, the official's actions in interviewing witnesses or seizing property could prejudice the police investigation. **Once the police have concluded their investigation, the school can commence its investigation.**

As part of the investigation, the Principal will make all reasonable efforts to speak with 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. Any other person whom the Principal has reason to believe may have relevant information.

### **E.3.2 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.

### **E.3.3 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:

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,
  - (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.

### **E.3.4 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:

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 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.3.5 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.

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 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,
  - (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 the Superintendent of School Effectiveness to discuss any matter respecting the expulsion hearing.

### **E.3.6 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.

## **E.4 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.

## **E.5 Expulsion Hearing**

### **E.5.1 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.

### **E.5.2 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.

### **E.5.3 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. The appropriate Superintendent of School Effectiveness 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.5.4 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.5.5 Submission and Views of the Parties**

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 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 Committee should confirm the suspension originally imposed under section 310, confirm the suspension but reduce its duration or withdraw the suspension.

#### **E.5.6 Decision**

After completing the hearing, the Committee 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.

### **E.5.7 Factors the Committee must Consider**

In making the decisions required under paragraph E.5.6, the Committee 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 (see factors listed above); 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.

### **E.5.8 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.

## **E.6 If Pupil is Not Expelled**

### **E.6.1 Pupil not Expelled**

If the Committee does not expel the pupil, the Committee 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.

### **E.6.2 Factors Committee Must Consider**

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

- (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 (see factors listed above).

### **E.6.3 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

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

### **E.6.4 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.

## **E.7 If Pupil is Expelled**

### **E.7.1 If the Board Expels a Pupil**

If the Board expels a pupil, the Board shall 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.

### **E.7.2 Notice of Expulsion**

The Board 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.

### **E.7.3 Contents of Notice**

The notice under paragraph E.7.2 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 the Expulsion to the Child and Family Services Review Board.

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**SECTION F**

**Expulsion Hearing Procedures**

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## **Expulsion Hearing Procedures**

### **F.1 Hearing Process**

#### **F.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 School Effectiveness 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.

#### **F.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 School Effectiveness 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 – Safe Schools.
7. The Principal, with the assistance of the Superintendent of School Effectiveness, will prepare for the expulsion hearing. The Superintendent of School Effectiveness 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.

### **F.1.3 Role of the Superintendent of School Effectiveness**

1. The Board designates the Superintendent of School Effectiveness for receiving the Principal's recommendation for expulsion.
2. After receiving a recommendation for expulsion, the Superintendent of School Effectiveness will promptly contact every person entitled to be present at the expulsion hearing.
3. The Superintendent of School Effectiveness 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 School Effectiveness will inform the Principal about the process intended to be followed at the hearing.
5. The Superintendent of School Effectiveness, where appropriate, will speak with the parties about agreeing on a later deadline for an expulsion hearing.
6. The Superintendent of School Effectiveness will arrange for the Committee of the Board to hear the appeal.

7. The Superintendent of School Effectiveness 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 School Effectiveness will make physical arrangements for the hearing and arranges for the recording of Minutes.
9. The Superintendent of School Effectiveness 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 Supervisory of School Effectiveness 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*).

#### **F.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.

### **F.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.

### **F.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.

### **F.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 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.

### **F.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.

### **F.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.

### **F.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.

### **F.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.

### **F.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.

### **F.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.

## **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 Incident 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 “Special Education Services Referral”.
24. Copies of correspondence and reports from any medical or mental health professionals.
25. Copies of all IPRC reports.
26. Copies of all IEP documentation.
27. Copies of reports from any alternative programs.
28. Copy of the Board’s Code of Conduct.
29. Copy of the Student Action Plan.

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**SECTION G**

**Board Programs for Expelled Students**

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## **Board Programs for Expelled Students**

### **G.1 Introduction**

The Board is committed to ensuring that all students who are expelled have an opportunity to continue their education. The *Education Act* requires school boards to:

- provide at least one program for students who have been expelled from all schools of the board; or
- assign a student who has been expelled only from his or her school to another school of the board.

With respect to programs for expelled students, research has demonstrated that positive outcomes for students are related to specific program elements that are tailored to meet the needs of each student. In this regard, the Board has established programs that will include the following elements:

- a planning meeting to determine the specific academic and non-academic program requirements;
- a Student Action Plan (“SAP”) that outlines goals, objectives, and learning expectations, including provision for a review of the student’s progress with regard to his or her SAP;
- a re-entry plan to assist with the student’s transition back to school and integration in the school

In the case of students with special education needs, the Board will provide appropriate support consistent with the student’s Individual Education Plan (“IEP”).

The Board will actively encourage expelled students to participate in the Board program for expelled students. While the Board cannot compel expelled students to participate in a Board program for expelled students, students who wish to return to school must satisfy the objectives required for successful completion of a program for expelled students.

The active engagement of parents and families and linkages to community-based service providers, such as agencies that provide counselling support and addiction treatment, also contribute to positive overall outcomes for students.

### **G.2 General Requirements**

#### **G.2.1 Suspension Pending Possible Expulsion**

A student who has been suspended pending possible expulsion will be assigned to a Board program for students on long-term suspension. In the written notice of suspension, parents

will be notified of the Board program to which the student on long-term suspension has been assigned.

A SAP will be developed for every student on a long-term suspension who makes a commitment to attend the Board program for suspended students. The student and/or his or her parent(s) must notify the Principal verbally or in writing that the student wishes to attend the program. Once the Principal has received this notification, development of the SAP will begin immediately. The SAP will be implemented as soon as possible. Every effort will be made to provide an opportunity for the student to maintain his or her regular academic course work throughout the suspension period.

The Board will endeavour to provide a homework package for the student until the SAP is in place.

### **G.2.2 Expulsion**

A student may be expelled either from his or her school only or from all schools of the Board. If a student is expelled from his or her school only, he or she will be assigned to another school of the Board.

If a student is expelled from all schools of the Board, he or she will be assigned to a Board program for expelled students. The student and/or his or her parent(s) must notify the Principal verbally or in writing that the student is committed to attending the program. Once the Principal has received this notification, development of the SAP will begin immediately.

In the notice of expulsion, parents will be provided with information on either the new school or the Board program to which the expelled student has been assigned.

Where an expelled student who is transferred to another school requires additional support and resources, the Board will endeavour to make appropriate support available and/or facilitate the student's referral to community-based service providers.

### **G.2.3 Components of Programs for Expelled Students**

The Board will determine the content and balance of the program for each student for both the academic and non-academic components of the program. The content and balance of the program for a student will depend on the needs of the student, the length of the suspension, and the nature and severity of the behaviour that led to the expulsion.

#### ***Academic Component***

The purpose of the academic component is to ensure that an expelled student who is assigned to a Board program has the opportunity to continue his or her education.

The academic component will follow the curriculum outlined in the Ontario curriculum policy documents, unless the student has an IEP that provides for modifications to the

Ontario curriculum or an alternative program. The academic component may include, but is not limited to, the provision of distance learning, e-learning, remedial help in literacy and numeracy, individual instruction and/or opportunities within the Board.

Elementary school students will be supported in continuing to acquire the necessary knowledge and skills outlined in the Ontario curriculum policy documents for elementary schools and in the Religious Education and Family Life Education programs.

Secondary school students will be supported in continuing to earn credits towards their Ontario Secondary School Diploma through such options as credit completion and credit recovery.

### ***Non-academic Component***

The purpose of the non-academic component is to assist expelled students in the development of long-term positive attitudes and behaviours by identifying and addressing the underlying causes of the student's behaviour that led to the expulsion.

Students may require a range of services and types of support that may include access to culturally appropriate support. The Board will make appropriate support available and/or facilitate a student's referral to community-based service providers and/or provide support through other methods, such as remote access to resources (e.g., video conferencing, telepsychiatry). To meet the alternative programming requirements of a student with special education needs, the Board will refer to the student's IEP.

### **G.2.4 Developing and Implementing the Student Action Plan**

An SAP will be developed for every expelled student who makes a commitment to attend the Board program for expelled students. The SAP will be developed on the basis of the information gathered at a planning meeting (see below). The SAP should build on the SAP that was developed for the student while he or she was on a long-term suspension pending expulsion, if the student attended the Board program for suspended students.

The SAP will be developed by the Principal in cooperation with appropriate staff, the student, and his or her parent(s). It is important that parents participate in the development and implementation of the SAP on an ongoing basis. The Board will make reasonable efforts to enable parents to participate by, for example, reaching out to community members who can provide translation services for those whose first language is not English or French.

The Board will coordinate the types of support required to assist the student in continuing his or her learning. For students with special education needs, the Board will provide appropriate support consistent with the student's IEP.

## **The Planning Meeting**

Once the student and/or his or her parent(s) have indicated that the student is committed to attending the program, the Principal will hold a planning meeting. The planning meeting should be a collaborative process and must include school and Board staff and the student. Where possible, the student's parent(s) or other significant family member(s), as well as the student's teacher(s) should also be present at the meeting. Principals should make reasonable efforts to include parents in this meeting. If the parents cannot be present, the planning meeting should proceed nevertheless, and the Principal will attempt to follow up with the parent(s) of the student as soon after the meeting as possible. In addition, where appropriate, community agency staff and any other relevant persons or professionals should also be included in the planning meeting.

The purpose of the planning meeting is to:

- identify the needs of the student and determine whether any assessment is required;
- identify the student's risk factors and protective factors;
- describe the types of support and services required to assist the student in achieving the goals of the academic and non-academic component (e.g., career development counselling, use of mentors from appropriate communities).

The following information should be considered during the planning meeting and should be used to develop the SAP:

- the student's history;
- the student's learning experiences from any long-term suspension program that he or she may have attended;
- the student's strengths;
- the nature and severity of the behaviour that led to the expulsion, including any mitigating or other factors;
- information from anyone who has provided a specialized service (e.g., a speech therapist); and
- information from other sources who have helped or are expected to help the student, including culturally appropriate support persons.

All relevant information on the student, including existing documentation (e.g., current assessments, the IEP), should be considered while complying with all legal and statutory requirements and privacy laws.

## **Development and Review of the Student Action Plan**

The SAP must contain both an academic and non-academic component. For both the academic and non-academic components, the SAP must outline:

- goals, objectives, and learning expectations;
- measures of success; and
- strategies and types of support.

The SAP should be reviewed on a regular basis to determine the student's progress in meeting the stated objectives in both the academic and the non-academic components of the plan. When a student enters a program for expelled students, all parties, including the student, must be made aware of the process for determining when the student has satisfied the objectives required for successful completion of the program and is therefore eligible to be readmitted to a school of the board. The student and/or his or her parent(s) should be involved in the review of the SAP.

Information on the person who is designated by the board to be responsible for overseeing the student's readmission should also be included in the SAP.

### **G.2.5 Development of a Plan for Re-entry to School**

A student who has been expelled from all schools of the Board and/or his or her parent(s) may apply in writing to a person designated by the Board requesting that the student be readmitted to a school of the Board. For a student who has been expelled from only one school of the Board, and where the student and/or his or her parent(s) wish that the student return to his or her original school, the student and/or his or her parent(s) may apply in writing to a person designated by the Board requesting that the student be reassigned to the school.

When the student has successfully met the objectives of the program for expelled students, as outlined in the SAP, the student will be readmitted to school. The person who has provided the program will determine whether an expelled student has successfully completed a program for expelled students, or has satisfied the objectives required for successful completion of a program for expelled students.

When a student is considered ready to be readmitted to school, a re-entry plan will be developed as part of the SAP to assist with the student's transition and integration back into school.

As part of the development of the re-entry plan, school administration will hold a meeting that includes Board staff, staff of the school to which the student is seeking readmission, and the student. Where possible, the student's parent(s) or other significant family member(s) as well as the student's teacher(s), should also be present. Principals should make reasonable efforts to include parents in this meeting. If the parents cannot be present,

the planning meeting should proceed nevertheless, and the Principal will attempt to follow up with the parent(s) of the student as soon as possible after the meeting. In addition, where appropriate, community agency staff and other relevant persons or professionals should also be included in the meeting.

The re-entry plan should contain the following elements:

- description of the re-entry process for successful transition back to school; and
- identification of the types of support in both the academic and non-academic components that are needed to sustain student learning.

### **G.2.6 Program Delivery**

The Board may enter into agreements with other boards for the provision of a program for students who are expelled from all schools of the Board or the other board. The Board will, wherever possible, collaborate on providing coordinated support to expelled students and their parents. The Board may also obtain or continue to obtain services from community-based service providers in the provision of the non-academic program component.

## **G.3 Board/School Support**

At all times, the Board is committed to supporting students so that, whenever possible, they are able to continue their education either during or after a long-term suspension or expulsion. Because of this, it offers support to students on a long-term suspension or expulsion, that is designed to help students learn the skills and knowledge they need to return to regular schools or to go on to other educational opportunities.

### **G.3.1 Supports Available to Students on Expulsion**

The Principal will inform the parent/guardian or adult student to the Board's safe schools program to inform them about educational programs a student will be able to attend while under long-term suspension or expulsion. The Principal, school and Board staff will work with the student and his or her family to find ways to help the student continue his or her education.

A student on a long-term suspension or expulsion will be asked to participate with the Board's safe schools alternative program. The program is available on a voluntary basis. It is intended to meet the academic and social needs of students who are on long-term suspension. The program has a strong focus on personal and social skill development. The program is provided at a standard equal to the Ontario curriculum. Staff includes teachers working with youth workers and social support personnel from the Board.

## **G.4 Status of Expelled Student**

An expelled pupil continues to be a pupil of the board that expelled him or her if the pupil attends a program for expelled pupils,

- (a) offered by that board; or
- (b) offered by another board under an agreement between the board and the board that expelled the pupil.

An expelled pupil ceases to be a pupil of the board that expelled him or her if,

- (a) the pupil is assigned by that board to a program for expelled pupils and does not attend the program; or
- (b) the pupil registers as a pupil of another board.

## **G.5 Powers of the Other Board**

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

- (a) assign the pupil to a school of that board; or
- (b) assign the pupil to a program for expelled pupils, unless the pupil satisfies the requirements of paragraph G.6.1 (a) or (b) as determined by a person who provides a program for expelled pupils.

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.
2. The board shall not assign the pupil to a program for expelled pupils if the pupil satisfies the requirements of Paragraph G.6.1 (a) or (b) as determined by a person who provides a program for expelled pupils.

## **G.6 Return to School After Expulsion**

### **G.6.1 Return to School after Expulsion**

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

- (a) successfully completed a program for expelled pupils; or

- (b) satisfied the objectives required for the successful completion of a program for expelled pupils.

### **G.6.2 Determination**

The determination of whether an expelled pupil satisfied the requirements of paragraph G.6.1 (a) or (b) is to be made by a person who provides a program for expelled pupils.

### **G.6.3 Board must Readmit Pupil**

An expelled pupil may apply in writing to a person designated by the Board to be readmitted to a school of the Board and, if the pupil satisfies the requirements of paragraph G.6.1 (a) or (b) as determined by a person who provides a program for expelled pupils, the Board shall,

- (a) readmit the expelled pupil to a school of the Board; and
- (b) promptly inform the pupil in writing of his or her re-admittance.

## **G.7 Successful Completion of Program**

A pupil who has successfully completed a program for expelled pupils provided by any board or person under this Part has satisfied the requirements of paragraph G.6.1(a), and no board shall,

- (a) require the pupil to attend a program for expelled pupils provided by that board before being admitted to a school of the board; or
- (b) refuse to admit the pupil on the basis that the pupil completed a program for expelled pupils provided by another board or person.

## **G.8 Return to Original School after Expulsion**

A pupil who has been expelled from one school of the Board but not from all schools of the Board may apply in writing to a person designated by the Board to be re-assigned to the school from which he or she was expelled.

## **G.9 Clarification: Resident Pupils**

For greater certainty, nothing in this Section requires a board to admit or readmit a pupil who is not otherwise qualified to be a resident pupil of the board.

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**SECTION H**

**Appeal of Expulsion**

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## **Appeal of Expulsion**

### **H.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*.

### **H.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.

### **H.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.

### **H.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.

### **H.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.

### **H.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.

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**SECTION I**

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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 tended 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;
    - (d) any mitigating or other factors prescribed by the regulations; and
    - (e) 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

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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 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.

**SUDBURY CATHOLIC DISTRICT SCHOOL BOARD**  
**SAFE SCHOOLS RESOURCES AND PROCEDURES MANUAL**

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**SECTION J**

**Safe Schools Letters & Forms**

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## Suspension Letter 1 – 5 Days

[School letter head]      **(Insert SCHOOL NAME)**  
\_\_\_\_\_  
**(Insert School Address, Street, City, Ontario, Postal Code) Tel: (000) (Telephone)**

### J.1

**(Date (Month, Day, Year))**  
**(Name of Parent/Guardian/Adult Student) and**  
**(Name of Student)**  
**(Address)**  
**(City and Province)**  
**(Postal Code)**

Dear **(Name of Parent/Guardian/Adult Student)** and **(Name of Student)**:

**Student's First and Last Name**  
**Date of Birth: Month, day, year**

This letter will serve to notify you that **(Student's First and Last Name)** has been suspended from **(Name of School)** for **(indicate reason under the *Education Act*)** for a period of **(indicate number)** school days pursuant to section 306 of the *Education Act*. This suspension will remain in effect from **(First Day of Suspension)** to **(Last Day of Suspension)** inclusive. **(Student's First Name)** is expected to return to school on **(Date)**.

This suspension action is the result of the following conduct:  
**(Insert a brief factual account of the student's behaviour)**

A homework package will be provided to ensure that curriculum and course requirements are maintained.

During the term of the suspension **(Student's First Name)** is not permitted to participate in any school or board sponsored activities or be on school property without my permission.

If you have any questions regarding this action, please contact me.

In addition, you may contact the Superintendent of School Effectiveness to discuss any matter with respect to this suspension or the appeal process. The contact information for Superintendent is 165A D'Youville Street, Sudbury, Ontario P3C 5E7, Tel: 705.673.5620.

Should you wish to appeal this suspension under section 309 of the *Education Act*, you are required to submit a written notice of your intention to appeal to the Superintendent of School Effectiveness,

Sudbury Catholic District School Board, 165A D'Youville Street, Sudbury, Ontario P3C 5E7  
within 10 school days of the commencement of the suspension.

A copy of the Board's Safe Schools Policy and Suspension Appeal Guidelines is available at the school for your information.

Please be advised that an appeal of the suspension does not delay this suspension. The student serves the suspension.

Sincerely,

**[Signature of Principal]**

Principal

Copies: Teacher(s) of Pupil  
Superintendent of School Effectiveness  
Ontario Student Record



If you have any questions regarding this action, please contact me.

In addition, you may contact the Superintendent School Effectiveness to discuss any matter with respect to this suspension or the appeal process. The contact information for Superintendent is 165A D'Youville Street, Sudbury, Ontario P3C 5E7, Tel: 705.673.5620.

Should you wish to appeal this suspension under section 309 of the *Education Act*, you are required to submit a written notice of your intention to appeal to the Superintendent School Effectiveness, Sudbury Catholic District School Board, 165A D'Youville Street, Sudbury, Ontario P3C 5E7 within 10 school days of the commencement of the suspension.

A copy of the Board's Safe Schools Policy and Suspension Appeal Guidelines is available at the school for your information.

Please be advised that an appeal of the suspension does not delay this suspension. The student serves the suspension.

Sincerely,

**[Name of Principal]**

Principal

Copies: Teacher(s) of Pupil  
Superintendent of School Effectiveness  
Ontario Student Record

## Suspension Letter 11 – 20 Days

[School letter head]      **(Insert SCHOOL NAME)**  
**(Telephone)**      **(Insert School Address, Street, City, Ontario, Postal Code)** Tel:      (000)

### J.3

**(Date (Month, Day, Year))**  
**(Name of Parent/Guardian/Adult Student)** and  
**(Name of Student)**  
**(Address)**  
**(City and Province)**  
**(Postal Code)**

Dear **(Name of Parent/Guardian/Adult Student)** and **(Name of Student)**:

**Student's First and Last Name**  
**Date of Birth: Month, day, year**

This letter will serve to notify you that **(Student's First and Last Name)** has been suspended from **(Name of School)** for **(indicate reason under the *Education Act*)** for a period of **(indicate number)** school days pursuant to section 306 of the *Education Act*. This suspension will remain in effect from **(First Day of Suspension)** to **(Last Day of Suspension)** inclusive. **(Student's First Name)** is expected to return to school on **(Date)**

This suspension is the result of the following conduct:  
**(Insert a brief factual account of the student's behaviour)**

A homework package will be provided to ensure that curriculum and course requirements are maintained. In addition, **(Student's First Name)** is encouraged to participate in the District's Safe Schools Program. I will contact you regarding placement in such a program.

If **(Student's First Name)** makes a commitment to attend the District's Safe Schools Program, a Student Action Plan will be developed. The Student Action Plan will include an academic and non-academic component. The purpose of the academic component is to ensure that all students have the opportunity to continue their education. The purpose of the non-academic component is to assist students in developing positive attitudes and behaviour.

During the term of the suspension, with the exception of attendance at the Safe Schools Program, **(Student's First Name)** is not permitted to participate in any school or board sponsored activities or be on school property without my permission.

If you have any questions about this action, please contact me.

In addition, you may contact the Superintendent of School Effectiveness to discuss any matter with respect to this suspension or the appeal process. The contact information for Superintendent—165A D’Youville Street, Sudbury, Ontario P3C 5E7, Tel: 705.673.5620.

Should you wish to appeal this suspension under section 309 of the *Education Act*, you are required to submit a written notice of your intention to appeal to the Superintendent of School Effectiveness, Sudbury Catholic District School Board, 165A D’Youville Street, Sudbury, Ontario P3C 5E7 within 10 school days of the commencement of the suspension.

A copy of the Board’s Safe Schools Policy and Suspension Appeal Guidelines is available at the school for your information.

Please be advised that an appeal of the suspension does not delay this suspension. The student serves the suspension.

Sincerely,

**[Name of Principal]**

Principal

Copies: Teacher(s) of Pupil  
Superintendent of School Effectiveness  
Ontario Student Record

## Suspension Letter – Pending Possible Expulsion

[School letter head]      **(Insert SCHOOL NAME)**  
**(Telephone)**      **(Insert School Address, Street, City, Ontario, Postal Code)** Tel:      (000)

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### J.4

**(Date (Month, Day, Year))**  
**(Name of Parent/Guardian/Adult Student)** and  
**(Name of Student)**  
**(Address)**  
**(City and Province)**  
**(Postal Code)**

Dear **(Name of Parent/Guardian/Adult Student)** and **(Name of Student)**:

**Suspension Pending Possible Expulsion**  
**Student's First and Last Name**  
**Date of Birth: Month, day, year**

This letter will serve to notify you that **(Student's First and Last Name)** has been suspended from **(Name of School)** for 20 school days pursuant to section 310 of the *Education Act*. This suspension will remain in effect from **(First Day of Suspension)** to **(Last Day of Suspension)** inclusive.

This suspension is the result of the following conduct:  
**(Insert a brief factual account of the student's behaviour)**

Please be advised that I am continuing my investigation of this matter to determine whether to recommend to the Board Committee of Trustees that (you/pupil's name) be expelled. An expulsion may be from (name of school) or from all schools of our Board. You will be informed of the results of my investigation in writing.

A homework package will be provided to ensure that curriculum and course requirements are maintained. In addition, **(Student's First Name)** is encouraged to participate in the District's Safe Schools Program. I will contact you regarding placement in such a program.

If **(Student's First Name)** makes a commitment to attend the District's Safe Schools Program, a Student Action Plan will be developed. The Student Action Plan will include an academic and non-academic component to support the student. The purpose of the academic component is to ensure that all students have the opportunity to continue their education. The purpose of the non-academic component is to assist students in developing positive attitudes and behaviour.

During the term of the suspension, with the exception of attendance at the Safe Schools Program, **(Student's First Name)** is not permitted to participate in any school or board sponsored activities or be on school property without my permission.

Should it be determined at the conclusion of the investigation that a recommendation for expulsion will not be made, you may appeal the suspension to the Committee of the Board of Trustees. Should it be determined that a recommendation for expulsion is warranted, you may then address the suspension before the Committee of the Board of Trustees at the expulsion hearing.

Please note the appropriate sections of the *Education Act* attached to this letter.

Sincerely,

**[Name of Principal]**

Principal

Copies: Teacher(s) of Pupil  
Superintendent of School Effectiveness  
Director of Education  
Ontario Student Record

**J.5 PRINCIPAL’S REPORT**

*This investigation must be completed within five school days of the 20 day suspension*

<b>STUDENT INFORMATION</b>		<b>Student #: Board Number</b>
<b>Surname:</b>		<b>First Name:</b>
		<b>School:</b>
<b>Date of Birth: (yy/mm/dd)</b>	<b>Admission date to Board: (yy/mm/dd)</b>	<b>Credits Completed:</b>
<b>Current program or grade:</b>	<b>Special Education exceptionality:</b>	<b>Individual Education Plan</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Program modifications: (past/present)</b>		
<b>Academic history: (e.g., attendance, grades, achievement)</b>		
<b>Record of student discipline: (including temporary withdrawal, suspensions, etc.)</b>		
<b>Academic, behaviour or social interventions:</b>		
<b>Other agencies or services involved: (CAS, social work, psychology/psychiatry, police, etc.)</b>		

### DESCRIPTION OF INCIDENT

<b>Date(s): (yy/mm/dd)</b>		<b>Time: (i.e., 11:00 am)</b>
<b>Specific location of incident:</b>		
<b>If off school property, did the activity have an impact on the school climate?</b>		
<b>Specific details of the incident:</b>		
<b>Witnesses Students:</b>	<b>Staff:</b>	<b>Others:</b>
<b>Number of alleged perpetrators:</b>	<b>Number of victims involved:</b>	<b>Police involvement:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Specify police charges:</b>		

**POST INCIDENT UPDATE**

<b>Response of Victim(s):</b>
<b>Impact on Victim(s) and Victim's Family:</b>
<b>Response of Witness(es) – Any other person whom the principal has reason to believe may have relevant information:</b>
<b>Response of Alleged Perpetrator(s):</b>
<b>Response of Alleged Perpetrator's Parent or Guardian:</b>
<b>Impact on School/Community:</b>

## REACHING A DECISION

### Prior to reaching a decision the principal must:

1. 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 of age and has withdrawn from parental control), and any other person the principal has reason to believe may have relevant information.
2. Consider "mitigating factors" or other factors prescribed by the regulations.

The Ministry of Education *Suspension and Expulsion of Pupils* Regulation (O. Reg 472/07) sets out the factors that 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.

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.

**If any mitigating factors exist in the case, please specify:**

**If any other factors exist in the case, please specify:**

### **SUMMARY OF THE PRINCIPAL'S FINDINGS**

**Not to Proceed to Expulsion**

**Explanation:**

**If the decision of the principal is not to proceed to expulsion, is the suspension and duration of suspension confirmed?**

**Is the suspension confirmed but the duration shortened?**

**Is the suspension quashed and the record of the suspension expunged?**

<input type="checkbox"/> <b>Refer to the Board for an Expulsion Hearing</b> <b>Explanation:</b>
<b>If yes, should the student be:</b> <input type="checkbox"/> <b>Expelled from his/her school</b> <input type="checkbox"/> <b>Expelled from all schools of the Board</b>
<b>If the Principal recommends that the student be expelled from his/her school, what type of school might benefit the student?</b>
<b>If the Principal recommends that the student be expelled from all schools, what type of program for expelled students might benefit the student?</b>

**Principal's Signature:**

**Date: (yy/mm/dd)**

\_\_\_\_\_

\_\_\_\_\_

- Copies:**       **Superintendent of School Effectiveness**  
                   **Ontario Student Record**

**Expulsion Recommendation**

- Additional Copy**     **Director of Education**



## Investigation Decision by Principal – Suspension Confirmed

[School letter head]

(Insert SCHOOL NAME)

(Insert School Address, Street, City, Ontario, Postal Code) Tel: (000) (Telephone)

### J.7

(Date (Month, Day, Year)

(Name of Parent/Guardian/Adult Student) and

(Name of Student)

(Address)

(City and Province)

(Postal Code)

Dear (Name of Parent/Guardian/Adult Student) and (Name of Student):

**Student's First and Last Name**

**Date of Birth: Month, day, year**

I am writing to you to report the result of my investigation following (your/pupils name) suspension. **I have decided not to recommend to the Committee of the Board of Trustees that (you/pupil's name) be expelled.**

As part of my investigation, I have reviewed (your/pupil's name) suspension, and I have determined that the suspension is confirmed as per my original letter of notification dated \_\_\_\_\_.

You may contact the Superintendent of School Effectiveness at 165A D'Youville Street, Sudbury, Ontario P3C 5E7, Tel: 705.673.5620 to discuss the suspension and/or provide your intention to appeal within 10 school days of the date of this letter. Please be advised that an appeal does not stay the suspension.

A copy of the Board's Safe Schools Policy and Suspension Appeal Guidelines is available at the school for your information.

Sincerely,

**[Name of Principal]**

Principal

Copies: Superintendent of School Effectiveness  
Ontario Student Record

## Investigation Decision by Principal – Suspension Shortened

[School letter head]      (Insert SCHOOL NAME)

(Telephone)      (Insert School Address, Street, City, Ontario, Postal Code)Tel:      (000)

### J.8

(Date (Month, Day, Year))  
(Name of Parent/Guardian/Adult Student) and  
(Name of Student)  
(Address)  
(City and Province)  
(Postal Code)

Dear (Name of Parent/Guardian/Adult Student) and (Name of Student):

**Student's First and Last Name**  
**Date of Birth: Month, day, year**

I am writing to you to report the result of my investigation following (your/pupil's name) suspension. **I have decided not to recommend to the Committee of the Board of Trustees that (you/pupil's name) be expelled.**

As part of my investigation, I have reviewed (your/pupil's name) suspension, and I have determined that the suspension is confirmed but shortened to \_\_\_ days and the record amended to indicate the suspension from \_\_\_ to \_\_\_ inclusive.

You may contact the Superintendent of School Effectiveness at 165A D'Youville Street, Sudbury, Ontario P3C 5E7, Tel: 705.673.5620 to discuss the suspension and/or provide your intention to appeal within ten school days of the date of this letter. Please be advised that an appeal does not stay the suspension.

A copy of the Board's Safe Schools Policy and Suspension Appeal Guidelines is available at the school for your information.

Sincerely,

[Name of Principal]  
Principal

Copies:    Superintendent of School Effectiveness  
             Ontario Student Record

## Principal Recommendation for Expulsion

[School letter head] (Insert SCHOOL NAME)

(Telephone) (Insert School Address, Street, City, Ontario, Postal Code)Tel: (000)

### J.9

(Date (Month, Day, Year))  
(Name of Parent/Guardian/Adult Student) and  
(Name of Student)  
(Address)  
(City and Province)  
(Postal Code)

Dear (Name of Parent/Guardian/Adult Student) and (Name of Student):

I am writing to you following my investigation to determine whether to recommend an expulsion. As a result of my investigation, **I have decided to recommend to the Committee of the Board of Trustees that (you/pupil's name) be expelled.**

A copy of my Report to the Committee recommending expulsion is enclosed. You may forward a response to this Report in writing to my attention. Please also include a copy to the Superintendent of Education – Safe Schools, 165A D'Youville Street, Sudbury, Ontario P3C 5E7, Tel: 705.673.5620.

The Committee hearing to decide whether (you/pupil's name) should be expelled will be held on (date) at (location) to be determined by the Superintendent of School Effectiveness. Enclosed, please find copies of the Board's Code of Conduct Policy, Expulsion Guidelines, Expulsion Hearing Guidelines and Board Committee Rules.

You will be provided with an opportunity to make a presentation to the Committee about whether (you/pupil's name) should be expelled, and whether, if (you/pupil's name) (are/is) expelled, (you/s/he) should be expelled from (School Name) or from all schools of the Board

The Committee will determine whether (you/pupil's name) should be expelled, and whether (you/pupil's name) expulsion should be from (School Name) or from all of the schools of the Board.

If (you/pupil's name) (are/is) expelled from (School Name), the committee will assign (you/pupil's name) to a program provided at another school of the Board. If (you/pupil's name) (are/is) expelled from all schools of the Board, the Committee will assign (you/pupil's name) to a program for expelled pupils.

Should the Committee decide not to expel (you/pupil's name), the Committee will review the suspension. The Committee may:

- i) withdraw the suspension and expunge the record
- ii) confirm the suspension
- iii) confirm but shorten the suspension and amend the record accordingly

The decision of the Committee with respect to the suspension is final and is not subject to appeal. The Superintendent of School Effectiveness, 165A D'Youville Street, Sudbury, Ontario P3C 5E7, will contact you to review the hearing process and answer any questions you might have.

Sincerely,

**[Name of Principal]**

Principal

Copies: Director of Education  
Superintendent of School Effectiveness  
Ontario Student Record

**Board of Trustees – Expulsion Decision**

**Sudbury Catholic District School Board**  
165A D’Youville Street, Sudbury, Ontario P3C 5E7

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**J.10**

**(Date (Month, Day, Year))**  
**(Name of Parent/Guardian/Adult Student) and**  
**(Name of Student)**  
**(Address)**  
**(City and Province)**  
**(Postal Code)**

Dear **(Name of Parent/Guardian/Adult Student)** and **(Name of Student)**:

Attached, please find the Decision of the Committee, dated (insert date).

Should you wish to appeal this decision, you may contact the Child and Family Services Review Board, at 416-327-4673 or 1-888-728-8823, within 30 days of receipt of this notice.

**(Only include if student has been expelled)** Please also find attached information regarding the educational program offered by the Board, for students expelled from all schools of the Board.

Should you have any questions, please contact the undersigned at 165A D’Youville Street, Sudbury, Ontario P3C 5E7.

Sincerely,

Superintendent of School Effectiveness

Copies: Director of Education  
Principal  
Ontario Student Record

**RECOMMENDATION FOR EXPULSION DECISION OF THE BOARD COMMITTEE**

**IN THE MATTER OF Section 311.3  
Of the Education Act, as amended**

-and-

**IN THE MATTER OF a recommendation by  
(Name of Principal), (School Name)**

**Decision**

UPON being satisfied that the Committee has jurisdiction to conduct the hearing pursuant to section 311.3 of the *Education Act*;

AND UPON being satisfied that the proper parties to the hearing are (Name of Appellant and relationship to pupil) and (Principal Name), (School Name);

AND UPON being satisfied that the parties received reasonable notice of the hearing;

AND UPON having provided an opportunity to the appellant to make submissions, having heard the submissions of the Principal, having read any material submitted by the parties, having considered the facts and any mitigating and/or other factors raised by both parties, and having retired to consider the matter;

THE BOARD OF TRUSTEES COMMITTEE does hereby impose an expulsion from (School Name) and assign the pupil to an educational program at (School Name) for the following reasons: (INSERT REASON FOR EXPULSION)

\*OR

THE BOARD OF TRUSTEES COMMITTEE does hereby impose an expulsion from all schools of the Board; assign the pupil to the program for the expelled pupils; and require that the pupil successfully complete and meet the objectives of the program for expelled pupils before being re-admitted to a regular day school program in Ontario for the following reasons: (INSERT REASON FOR EXPULSION).

\*OR

THE BOARD OF TRUSTEES COMMITTEE does not hereby impose an expulsion; and does hereby (confirm the suspension imposed by (Principal Name) / confirm the suspension imposed by (Principal Name) but shorten its duration to (number) school days and amend the record accordingly / quash the suspension and expunge the record).

Sudbury Catholic District School Board

By\_\_\_\_\_

**Sudbury Catholic District School Board**  
165A D'Youville Street, Sudbury, Ontario P3C 5E7

**STUDENT ACTION AND RE-ENTRY PLAN**

**J.11**

**School**

<b>Student Name:</b> First Name      Surname	<b>OEN:</b> #####	<b>Grade:</b> #	<b>Credits:</b> #
<b>Date of Suspension / Expulsion:</b> (dates)	<b>Length of Suspension/Expulsion:</b> # Days. <b>From:</b> (date) <b>To</b> (date)      .		
<b>Reason for Suspension/Expulsion:</b> Specify a brief account of the incident that resulted in the suspension			
<b>Date of Student Action Plan Meeting:</b> (dates) <b>Date of Commencement of the Program:</b> (dates) <b>Location:</b> Specify location of all program components <b>Transportation Arrangements if applicable:</b> Specify transportation arrangements	<b>Time For The Program:</b> Specify daily time period <b>Program Instructor:</b> Specify instructor's name <b>Other Program Information:</b> Any additional information		
<b>PROGRESSIVE DISCIPLINE INTERVENTIONS TO DATE</b> (For Similar Behaviour up to and including incident)			
<input type="checkbox"/> Review of the Catholic Code of Conduct expectations (dates)	<input type="checkbox"/> Involvement of chaplain and/or parish resources (dates)		
<input type="checkbox"/> Conference with pupil (dates)	<input type="checkbox"/> Restitution for damages (dates)		
<input type="checkbox"/> Utilization of behavioural, attendance or performance contracts (dates)	<input type="checkbox"/> Mentor and/or peer mediation (dates)		
<input type="checkbox"/> Parental communication and involvement (dates)	<input type="checkbox"/> Conflict resolution (dates)		
<input type="checkbox"/> Referral to school administration (dates)	<input type="checkbox"/> Attendance counselling (dates)		
<input type="checkbox"/> Conferencing with parent and pupil (dates)	<input type="checkbox"/> Withdrawal from Class (dates)		
<input type="checkbox"/> Consultation (dates)	<input type="checkbox"/> Referral to community agencies (dates)		
<input type="checkbox"/> Involvement of school support and support services (dates)	<input type="checkbox"/> Modification of school day/alternative learning environment (dates)		
<input type="checkbox"/> Discipline learning reflection assignments (dates)	<input type="checkbox"/> Restorative practice (dates)		
<input type="checkbox"/> Detention (dates)	<input type="checkbox"/> Transfer (dates)		
<input type="checkbox"/> Volunteer service to the school community (dates)	<input type="checkbox"/> Suspension (dates)		
<input type="checkbox"/> Withdrawal of privileges (dates)	<input type="checkbox"/> Expulsion - provide information		
Provide any additional disciplinary measures undertaken here			
Any other disciplinary issues regarding the pupil that have been identified by the School			
<b>Learning Needs</b>	Any learning needs or other needs that might have contributed to the underlying infraction resulting in discipline		

	Any program(s) or service(s) that might be provided to address those learning or other needs
<b>Academic Program</b>	The academic program to be provided to the pupil during the suspension period and details regarding how that academic program will be accessed by the pupil
	Where the pupil has an IEP, information regarding how the accommodations/modifications of the pupil's academic program will be provided during the period of suspension
<b>Non-Academic Program Services (11–20 day suspensions only)</b>	The non-academic program and services to be provided to the pupil, if applicable, during the suspension and details regarding how that non-academic program and those services will be accessed (only for suspensions 11 - 20 days and all expelled students)
<b>Student Goals</b>	The SMART measurable goals the pupil will be striving to achieve during the period of suspension (conditions for successful completion can be input here)

<b>Dated:</b>	Date
<b>Principal Signature</b>	Print name followed by signature
<b>Adult Pupil or the Parent/ Guardian Signature</b>	Print name followed by signature
<b>Pupil Signature (if not an adult)</b>	Print name followed by signature
<b>Other:</b>	Print name followed by signature

**STUDENT RE-ENTRY PLAN**

<b>Re-entry meeting date. Additional academic or non-academic supports that may be required upon returning to school (long-term suspension) Plan to assist with student's transition and integration back into school (expulsion)</b>	<b>Date</b> Additional academic or non-academic supports that may be required upon returning to school  Plan to assist with student's transition and integration back into school
<b>Principal Signature</b>	Print name followed by signature
<b>Adult Pupil or the Parent/ Guardian Signature</b>	Print name followed by signature
<b>Pupil Signature (if not an adult)</b>	Print name followed by signature
<b>Other:</b>	Print name followed by signature

**Sudbury Catholic District School Board**  
165A D'Youville Street, Sudbury, Ontario P3C 5E7

**J.12**

**VIOLENT INCIDENT FORM**

Alleged Perpetrator: <input type="checkbox"/> Student <input type="checkbox"/> Other:	
Name of Alleged Perpetrator:	
Date of Birth (mm/dd/yy):	
Address:	
Postal Code:	
School:	

**DESCRIPTION OF VIOLENT INCIDENT**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**TYPE OF VIOLENT INCIDENT**

	Possessing a weapon, including possessing a firearm		Using a weapon to cause or to threaten bodily harm to another person
	Physical assault causing bodily harm requiring medical attention		Extortion
	Sexual assault		Hate and/or bias-motivated occurrences
	Robbery		

**POLICE CONTACT**

Date of Contact:	Date of Police Visitation:
Officer's Badge Number:	Investigating Officer:

**SCHOOL / BOARD RESPONSE**

Suspension  Expulsion  Other: \_\_\_\_\_

Date of Inclusion in OSR	Principal's Signature

*Municipal Freedom of Information and Protection of Privacy Act:* Personal information contained on this form is collected under the legal authority of the Education Act, R.S.O. 1990, c. E.2, 265(i). The information will be used for the purposes of: creating a statistical overview for the province. Questions regarding the collection of this information should be directed to: Freedom of Information/Rights to Privacy Officer • c/o Sudbury Catholic District School Board 165A D'Youville Street, Sudbury, Ontario P3C 5E7, Tel: 705.673.5620 Please refer to the Ministry document Violence-Free Schools Policy for advice on the removal of this form from the OSR.

**SUDBURY CATHOLIC DISTRICT SCHOOL BOARD  
SAFE SCHOOLS RESOURCES AND PROCEDURES MANUAL**

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**SECTION K**

**Police/School Board Protocol**

<b>K.1</b>	<b>Police/School Board Protocol.....</b>	<b>1</b>
<b>K.2</b>	<b>Working with the Police – Question and Answer Document.....</b>	<b>2</b>

**K.1**

**POLICE / SCHOOL BOARD PROTOCOL**

## K.2

### SUDBURY CATHOLIC DISTRICT SCHOOL BOARD

## WORKING WITH THE POLICE

---

Under the *Education Act*, principals and teachers have a duty to maintain order and discipline in their schools, and a responsibility to ensure the safety of the students under their care. Under the *Criminal Code* and *Youth Criminal Justice Act*, the police have a duty to investigate criminal and quasi-criminal offences. Where offences are committed on school property or involve students at a school, it is necessary for the principal and the police to work co-operatively in fulfilling their overlapping obligations and responsibilities.

The following represents a guideline for working with the police and supports the maintenance of school environments that are safe and caring.

### 1. What is the status of the Police/School Board Protocol?

In 2000, the Ministry of Education released a *Provincial Model for Local Police/School Board Protocol*. It was the policy direction of the Ministry that school boards and police services establish a protocol for the investigation of school-related occurrences.

The **Sudbury Catholic District School Board**, has developed a *Police/School Board Protocol*, with a number of local police services, as set out in the enclosed **Ontario North East Region Police and School Protocol**. The purpose of the Protocol, among other things, is to confirm the working relationship and appropriate responses where police involvement or intervention is requested or required. The Protocol is a procedure which sets out the rules for interaction among agencies, as well as the formalities and etiquette to be observed.

### 2. What is the role of the principal under the Protocol?

The role of the principal is to maintain, in accordance with the requirements of relevant legislation and Board policies, a safe, orderly learning and working environment for students, staff and others lawfully on school property. As part of that role, the principal:

- acts *in loco parentis* to all students of the school;
- implements safe schools and violence prevention policies and procedures;
- communicates awareness of policies and procedures to staff, students, parents and school communities; and
- remains with the student, who may be a suspect or witness, in cases of police interviews of students at school (but subject to the preference of the student).

### **3. What occurrences require a police response?**

The occurrences that require a police response include:

- physical assault causing bodily harm requiring medical attention;
- sexual assault;
- robbery;
- criminal harassment;
- weapons offences; and
- drug offences (e.g. trafficking in illegal or controlled drugs or substances);

As a general rule, incidents that involve violence or the imminent threat to the safety and security of the school community will require police response.

Generally, the principal or designate will be responsible for contacting the police. Contact in emergency situations should be made through 911.

### **4. Are there other occurrences that may require police response?**

Occurrences where police may be involved include:

- hate and/or bias motivated incident;
- gang-related incidents
- extortion;
- threats of serious physical injury;
- non-consensual distribution of intimate images
- possession or threat to use an incendiary device; and
- vandalism.

### **5. What steps should I take when the police are conducting an investigation?**

When the police have been contacted, the educator should halt his or her review of the incident until the police investigation is complete. There is a concern that if the school official persists in reviewing the incident, the official's actions in interviewing witnesses or seizing property could hamper or prejudice the police investigation. Once the police have concluded their investigation, the school can commence its investigation.

### **6. What is the process regarding police contact at the school?**

When conducting an investigation, police will make every effort to minimize disruption to school routines. Except in exigent circumstances, police officers are expected to report to the main school office prior to commencing an investigation in the school. This will permit the principal (or appropriate vice-principal) to greet the officer, and facilitate the process.

**7. What are “exigent circumstances”?**

Urgent, pressing and/or emergency circumstances. Exigent circumstances may include a bomb threat, a person possessing or using a weapon, or a fire on school property.

**8. What initial steps will police take upon arrival at the school?**

As soon as practicable, police will:

- provide proper identification to the principal or principal’s designate;
- explain the purpose of the visit; and
- contact, or make arrangements with the principal or principal’s designate to contact, the parents of students under the age of 18.

**9. What record should I keep of a police visit?**

For the purpose of proper reporting, the principal should prepare a record of the police visit which includes:

- name of the officer(s);
- badge number and any report number;
- time and date of the visit;
- the people being questioned;
- the name of the issuing authority of any search warrant or warrant for arrest; and
- the nature of charges laid, if any.

**10. When should I contact the student’s parents or guardians?**

Whenever the police are called, the Board will contact the parent or guardian of the student(s) or, in the absence of a parent, an adult relative or, in the absence of a parent and an adult relative, any other appropriate adult chosen by the young person, as long as that person is not a co-accused, or under investigation, in respect of the same offence.

Where there is no parent/guardian or adult relative or appropriate adult available, the principal or his/her delegate will act *in loco parentis* to the student(s), in order to ensure their *Charter* rights are maintained.

**11. What steps should I take if I cannot contact the parents or guardians?**

Where the principal is not able to contact the parent(s) or guardian(s) or suitable adult, the principal should record his or her attempts to make contact. Where the parent/guardian is not able to be physically present or present by speakerphone, the principal or his/her designate should invite the parent/guardian to speak to his or her child prior to the interview being conducted.

**12. What steps should be taken when the police ask a student to make a statement?**

The police have an obligation to advise a student of his or her rights under the *Charter of Rights and Freedoms* and the *Youth Criminal Justice Act*. As part of the duty to act *in loco parentis*, the principal or other person present at the interview can request the police officer to explain these rights to the student. In some cases, the student may prefer to have a teacher, guidance counsellor, or principal present during a police interview or when making a statement. When it is determined that the parent/guardian cannot or will not be contacted prior to the interview, the student will be advised that he or she may request that such person be available to attend and act *in loco parentis* during the interview.

**13. If the police direct me not to call the parents or guardians prior to meeting with a student, what steps should I take?**

The principal or his/her designate will comply with a specific direction issued by the police not to contact a student's parents or guardians. Failure to comply with a police direction could expose the school administrator to possible liability under the *Criminal Code*. However, in these circumstances, the student should be given the opportunity to request and have the principal or a designate be present for the police interview and such person will act *in loco parentis*.

**14. Where should the police interview take place?**

It is the norm for interviews by the police to be conducted outside of the school. In some circumstances, it may be necessary to conduct police interviews during school hours. In such cases, interviews will be conducted in a manner that will minimize disruption to school routines. For example, a police interview in the school should take place in the privacy of the principal's office or other similar private setting. No part of the interview or related questioning should take place in the presence of other students.

**15. Can the school solely rely on the police investigation?**

No. The school's investigation must be separate from the police investigation. Once the police have concluded their investigation, the school can commence its investigation.

**16. Should I make notes regarding the incident requiring police response or involvement?**

Yes. Events occurring at school in which the police are or may become involved sometimes give rise to a summons to the witness to appear in court. It is recognized that with the passage of time, immediate recall of details of events becomes progressively more difficult.

There is wisdom, therefore, in recording these details as soon as possible after the events themselves. Such details when maintained should be kept in a journal and available for reference when required; including dates, times, names of witnesses interviewed and any relevant observations; and, where appropriate, might also include a summary of any action taken by school administration.

**17. What steps should I take where the police request a copy of my notes?**

The principal or vice-principal should co-operate with the officer and be prepared upon request, to supply a copy of all notes to the police. The principal or vice-principal should keep an original copy of his or her notes.

The *Municipal Freedom of Information and Protection of Privacy Act* expressly permits a school board to disclose confidential information to the police to aid in an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result. Accordingly, since principals and teachers are permitted to share information with police in such circumstances, in non-urgent situations, police should be prepared to provide a written statement that the identified information is required by the police to aid in an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result. In general, the principal and his/her designate may provide the police with oral information about a student, such as a student's address or attendance information.

**18. Under what circumstances can the contents of an Ontario Student Record (“OSR”) be disclosed to the police?**

Under the *Education Act*, information in the OSR is privileged for the information and use of supervisory officers and the principal and teachers of a school for the improvement of instruction of a student. Disclosure of its contents to the police may be made in the following circumstances:

- with the written permission of the parent or guardian of the student, or where the student is an adult (age 18 or over), with the written permission of the student;
- through a search warrant requiring the surrender of an OSR to the police; or
- through a subpoena or appropriate court order.

Where a principal is served with a search warrant under the *Criminal Code* requiring the surrender of the OSR, he/she will make a complete copy of the OSR and deliver it to the police. The principal will keep the original OSR in a secure location at the school.

**19. Who is responsible for explaining to a student his or her legal rights?**

During a police investigation at a school, it is the responsibility of the police to explain to a young person his or her rights in a manner that enables him or her to understand them. The principal/designate will inform police of any special circumstances which may impede the student in expressing or understanding written/oral communication.

**20. What cautions must be given by the police to a student in order for his or her statement to be admissible in court?**

Under the *Youth Criminal Justice Act*, a statement made by an accused student under the age of 18 may not be admissible in court against that student unless:

- (i) the statement is voluntary;

- (ii) the police have advised the student that the student is under no obligation to make a statement and that the statement may be used as evidence in a proceeding against him or her;
- (iii) the police have advised the student that he or she has a right to consult counsel and a parent, an adult relative or, in the absence of a parent or adult relative, any other appropriate adult chosen by the student;
- (iv) the police have, before the statement was made, provided the student with a reasonable opportunity to consult with the persons listed in (iii); and
- (v) where the student has consulted a person set out in paragraph (iii), the student has been given a reasonable opportunity to make the statement in the presence of that person.

A student may waive the rights under paragraph (iv) or (v), but any such waiver shall be videotaped, audiotaped or be in writing signed by the student. In some cases, the student will select a teacher or the principal to act as an appropriate adult. The teacher or principal should act in the best interest of the student in these circumstances.

**21. What steps are required to be taken by the principal or his/her designate when there is an imminent threat to the safety of students or staff?**

In the event that there is an imminent threat to the safety of students and/or staff, the principal or his/her designate will report such threat as soon as possible to the police, in accordance with the relevant school emergency and crisis response plan. Upon arrival, the police will require certain information and support from school personnel, including:

- nature of the threat;
- location of possible incident;
- number, ages and identity of alleged perpetrators;
- number, ages and identity of possible victims;
- whether weapons or explosive substances are involved;
- whether the threat relates to a gang-related incident; and/or
- the competence and capacity of the students involved.

**22. What steps are to be taken if the police are seeking to conduct a search on school property?**

In most circumstances, police seeking to conduct searches, including locker searches or other property searches in a school, are required, absent exigent circumstances, to first obtain a search warrant. Upon arriving at the school, the police will serve the principal of the school, or the principal's designate, with the search warrant. The police will also provide the principal with a reasonable opportunity to review the search warrant and, if necessary, obtain legal advice from the school board's lawyers.

When it is necessary that a search of school property occur, in consultation with the principal, during school hours, to the extent possible such a search will be made in such manner that will minimize disruption of school routines.

**23. Are there circumstances when the police do not require a search warrant prior to conducting a search of a student?**

Where police are required to arrest a student, the police are required to conduct a search of that student arising out of that arrest. In such circumstances, the police are not required to obtain a search warrant.

In exigent circumstances, the police may be required to conduct a search without notice and without a warrant. Following such a search, the police shall advise the principal or the principal's designate of the reasons for the search.

**24. What considerations apply when the police decide to arrest a student?**

Whether or not the incident giving rise to the necessity to arrest is school-related, the police will, in the interest of school safety and morale, consult with the principal and consider alternatives to the extent possible, and effect the arrest at a location other than a school.

When it is necessary that a student be arrested at school during school hours, to the extent possible, such an arrest will be made in a manner that will minimize disruption of school routines.

When a student is to be arrested on school premises during school hours, and so long as circumstances (when reasonably assessed) permit, police will contact the principal to arrange a suitable procedure by which police will access the student. When a student is to be arrested, police shall not be denied access to the student.

When a student, who is a minor (under 18 years of age), has been removed from the school, the principal or designate will notify the parent(s) or guardian(s) promptly unless otherwise instructed by the police.

**25. What steps are the police required to take prior to an arrest of a student?**

When the police effect an arrest of a student, the police are required to advise the student of his or her rights under the law, such as the right to retain counsel without delay and the right to remain silent, and are also required to notify the student's parents as soon as possible of the place of detention and the reasons for arrest, in accordance with the *Youth Criminal Justice Act*, the *Charter of Rights and Freedoms* and the common law.

**26. When charges are laid against a student, how does the school become aware of possible bail terms or probation order?**

Whenever charges are laid against a student, the police officers involved in the case should consult with school administrators before recommending release and/or probation conditions. Correspondingly, school administrators are encouraged to initiate discussions with the police regarding such conditions. In addition, police officers will endeavour to alert the school and

seek to assist the school in its efforts to accommodate the bail or probation order while at the same time continuing to exercise its powers and fulfil its obligations under the *Education Act*.

**27. What considerations apply regarding occurrences involving children under 12 years of age?**

There is no legal authority to charge a child under the age of 12. It is recognized that the police may be involved in situations involving children under the age of 12 and may be required to interview children under the age of 12 in some circumstances. However, any police contact with children under the age of 12 must be conducted with sensitivity to the age of the child.

**28. What supports are available to assist victims of crime?**

The victims of crime or other incidents may require special attention and service. Counselling and other appropriate supports are available for students within the school. Such resources will be made available to students. In addition, other social services are available in the community to support victims of crime or violence. Every effort shall be made to identify such resources and to facilitate the involvement of victims in an appropriate support program.

**29. Are victims entitled to receive information about how an offence was dealt with?**

Under the *Youth Criminal Justice Act*, victims are entitled, on request, to receive information about how an offence was dealt with where extrajudicial sanctions are ordered. Such information shall not be provided by school officials, but by the police or other person designated under the *Youth Criminal Justice Act*.

With respect to school discipline, the principal or vice-principal may inform the victim, in general terms, that the student who committed an infraction received an appropriate consequence.

**ONTARIO NORTH EAST REGION POLICE AND SCHOOL PROTOCOL**

**2016**

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## 1. Signatories to the Protocol

	<b>Police Services</b>	<b>School Boards / Authorities</b>
1	Anishinabek Police Service	Algoma District School Board
2	Espanola Police Service	Conseil scolaire catholique du district des Grandes Rivières
3	Greater Sudbury Police Service	Conseil scolaire catholique Franco-Nord
4	Nishnawbe-Aski Police Service	Conseil scolaire du district catholique du Nouvel Ontario
5	North Bay Police Service	Conseil scolaire public du Grand Nord de l'Ontario
6	Ontario Provincial Police, Northeast Region	Conseil scolaire public du Nord-Est de l'Ontario
7	Sault Ste Marie Police Service	District School Board Ontario North East
8	Timmins Police Service	Huron-Superior Catholic District School Board
9	United Chiefs and Council of Manitoulin Anishnaabe	James Bay Lowlands Secondary School Board
10	West Nipissing Police Service	Moosonee District School Area Board
11	Wikwemikong Tribal Police Service	Moose Factory Island District School Area Board
12		Near North District School Board
13		Nipissing-Parry Sound Catholic School Board
14		Northeastern Catholic District School Board
15		Rainbow District School Board
16		Sudbury Catholic District School Board

**Police Signatories**

**Approved by:**

Anishinabek Police Service	Chief John Syrette
Espanola Police Service	Chief Steven Edwards
Greater Sudbury Police Service	Chief Paul Pedersen
Nishnawbe-Aski Police Service	Chief Terry Armstrong
North Bay Police Service	Chief Shawn Devine
Ontario Provincial Police, North East Region	Chief Superintendent Fern Labelle
Sault Ste Marie Police Service	Chief Robert Keetch
Timmins Police Service	Chief John Gauthier
United Chiefs and Council of Manitoulin Anishnaabe	Chief Rodney Nahwegahbow
West Nipissing Police Service	Chief Charles Seguin
Wiwemikong Tribal Police Service	Chief Gary Reid

**School Board Signatories**

**Approved by:**

Algoma District School Board	
	Lucia Reece, Director of Education
Conseil scolaire catholique du district des Grandes Rivières	
	Lorraine Presley, Directrice de l'Éducation
Conseil scolaire catholique Franco-Nord	
	Monique Ménard, Directrice de l'Éducation
Conseil scolaire de district catholique du Nouvel Ontario	
	Lyse-Anne Papineau, Directrice de l'Éducation
Conseil scolaire du district du Grand Nord de l'Ontario	
	Marc Gauthier, Directeur de l'Éducation
Conseil scolaire public du Nord-Est de l'Ontario	
	Simon Fecteau, Directeur de l'Éducation
District School Board Ontario North East	
	Linda Knight, Director of Education
Huron-Superior Catholic District School Board	
	John Stadnyk, Director of Education
Near North District School Board	
	Jackie Young, Director of Education
Northeastern Catholic District School Board	
	Glenn Schekulski, Director of Education
Nipissing-Parry Sound Catholic School Board	
	Anna Marie Bitonti, Director of Education
Rainbow District School Board	
	Norm Blaseg, Director of Education
Sudbury Catholic District School Board	
	Joanne Bénard, Director of Education

**School Authorities' Signatories**

Moosonee District School Area Board	Lorna Redwood, Supervisory Officer
Moose Factory Island District School Area Board	Lise Haman, Supervisory Officer
James Bay Lowlands Secondary School Board	Bill O'Hallarn, Supervisory Officer

## 2. Statement of Principles

The terms of the following agreement are based on the necessity to foster and maintain a safe, non-threatening environment for students, staff and community members within all North Eastern Ontario school board jurisdictions through the implementation of effective measures to deal with pupils while at school, school related activities, or in other circumstances where engaging in activities will have an impact on the school climate. These measures include the establishment of preventative procedures, the provision of appropriate early intervention procedures, and the administration of disciplinary action in accordance with the Education Act, Board Policy, the Criminal Code and other appropriate legislation.

This protocol supports and reflects the principles of community policing and ensures a consistent approach to the way police and schools respond to school-related incidents of violence and/or criminal behavior.

All members of the school community must

- respect and comply with all applicable laws;
- demonstrate honesty and integrity;
- respect differences in people;
- treat one another with dignity and respect;
- respect and treat others fairly;
- respect the rights of others;
- demonstrate proper care/regard for school and others' property.

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## 3. Introduction

It is the policy direction of the Ministry of Education and the Ministry of Community Safety and Correctional Services that school boards and police services establish and follow a protocol for the investigation of school-related occurrences.

This document has been prepared for the following reasons:

- To ensure a coordinated approach between school boards and police services;
- To promote dialogue and the establishment of effective relationships between schools and police based on cooperation and shared understandings;
- To address unique factors and/or considerations that may affect individual jurisdictions, and negotiate service-delivery arrangements accordingly.

This document outlines the common principles, the varied resources, and certain obligations and procedures that are required by provincial and federal legislation (e.g., the *Education Act*, the *Child and Family Services Act*, the *Criminal Code*, the *Youth Criminal Justice Act*, the *Canadian Charter of Rights and Freedoms*, and the *Ontario Human Rights Code*) and by case law.

It is important for schools and police to respect the human rights of students under the *Ontario Human Rights Code* (the *Code*) in the context of this document. For more information, see [www.ohrc.on.ca](http://www.ohrc.on.ca).

**Note to readers:** A glossary of terms is provided in Appendix C of this document. An asterisk

*following an italicized word or phrase at its first use in the text of the document signals that a definition of that word or phrase is provided in the glossary.*

### **Purpose of the Protocol**

Schools must be safe, inclusive, and equitable places for learning and teaching. A safe, inclusive, and equitable school environment fosters and supports learning and the ongoing development of respect, responsibility, civility, and other positive behaviours and characteristics.

At the root of effective school-police partnerships is a common understanding of each partner's roles and responsibilities, as well as agreed-upon procedures and clearly delineated decision-making authority. Providing the best possible education for students in a safe school community is a shared responsibility, which requires a commitment to collaboration, cooperation, and effective communication. Making our schools safer requires a comprehensive strategy that includes the following elements:

- Opportunities for staff to acquire the knowledge, skills, and attitudes necessary to maintain a school environment in which conflict and differences can be addressed in a manner characterized by respect and civility;
- Implementation of strategies for the prevention of violent and/or antisocial behaviour, and use of intervention and supports for those who are at risk of, or have already engaged in, violent or antisocial behaviour;
- An understanding of, and commitment to, human rights principles; and
- An effective and timely response to incidents when they occur – one that respects the rights of victims and witnesses, as well as those of the alleged perpetrators.

The Ministry of Community Safety and Correctional Services' guideline LE-044 on Youth Crime indicates that every police services procedures on the investigation of offences committed by young persons should include the steps to be taken by officers, in accordance with the local police/school board protocol, when responding to school-related occurrences. The guideline also states that every Chief of police, and the Commissioner of the Ontario Provincial Police (OPP), should work, where possible, with local school boards to develop programs for safe schools. Every chief of police and the OPP Commissioner should consider the need for a multi-agency strategy to prevent or counter the activities of youth gangs in the community, including working, where possible, with school boards, municipalities, youth and other community organizations, business, and the Crown.

In the development of this police/school board protocol, the school boards and police services have considered all relevant legislation, including, but not limited to the:

- *Youth Criminal Justice Act*
- *Criminal Code*,
- *Police Services Act*,
- *Canadian Charter of Rights and Freedoms*,
- *Ontario Human Rights Code*,
- *Provincial Offences Act* (specifically Part VI, "Young Offenders"),
- *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA),
- *Freedom of Information and Protection of Privacy Act* (FIPPA),
- *Child and Family Services Act*,
- *Personal Health Information Protection Act, 2004*,

- *Occupational Health and Safety Act (OHSA),*
- *Victim’s Bill of Rights,*
- *Education Act, and*
- *Equity and Inclusive Education Policy.*

**4. Role and Mandate of Police Services**

In cases of exigent circumstances, police will assume primary responsibility as may be necessary to ensure school safety.

In partnership with the school boards, the police are committed to protecting life and property in accordance with the Police Services Act and to serving the school community.

Police may be involved with the school in three basic ways:

- Community policing services and projects;
- Police responses and interventions as incidents occur; and
- Police involvement after an incident.

Police will engage and work proactively in partnership with school officials to ensure the effectiveness of this protocol.

The police are further committed to *enforcing the Criminal Code of Canada and the Youth Criminal Justice Act, and other federal, provincial and municipal legislation and related regulations.*

Legislation under Section 42 of the Police Services Act includes;

- preserving the peace;
- assisting victims of crime;
- protecting public safety and preventing crime;
- apprehending criminal offenders and others who may lawfully be taken into custody;
- conducting law enforcement and criminal investigations;
- laying charges and participating in prosecutions;
- executing warrants
- completing prescribed training.

The police also have specific duties in accordance with community policing principles such as:

- providing information on community safety issues;
- promoting and fostering the prevention and reduction of crime, both against and committed by young people;
- assisting in the development of students’ understanding of good citizenship;
- diverting young persons away from crime and anti-social behavior; and
- working in partnership with other government and community-based organizations to support positive youth development.

Police provide a visible and positive image for law enforcement. They serve as a confidential resource to counseling for students concerning problems they face. They bring expertise into schools that will help young people make more positive choices in their lives. They also work to

protect the school environment in order to maintain an atmosphere where teachers feel safe to teach and students feel safe to learn.

The police will continue to work within the school community in developing, implementing and delivering prevention and education programs in their respective jurisdictions.

All police agencies should keep track of statistics relating to school violence in their respective areas.

## 5. Role and Mandate of School Boards

In cases of exigent circumstances, the police will assume primary responsibility as may be necessary to ensure school safety.

The School Boards have a responsibility to develop preventative and effective measures to ensure safe school environments. The specific roles and responsibilities of the school board shall include, but are not limited to:

- clearly explaining the board's code of conduct to students and their families, including details such as the definition of the term *weapon\** and the potential reach of school discipline with respect to behaviours taking place outside of school that have a *negative impact on school climate\**;
- engaging and working proactively in partnership with police officials to ensure the effectiveness of this protocol;
- ensuring that all staff, including occasional, part-time, or itinerant teachers have the means, training, and resources to implement the provisions of this protocol that may apply to them, including the ability to lock their classroom doors during a lockdown (see Appendix B);
- complying with the requirements related to the duties of principals and teachers under the Education Act and regulations;
- complying with the requirements legislated under the Child and Family Services Act (e.g. the "Duty to Report");
- support a progressive discipline approach to choose the appropriate course of action to address inappropriate behaviour, including suspensions and expulsions;
- more effectively combine discipline with opportunities for students to continue their education;
- maintaining the Code of Conduct as required under current legislation;
- ensuring that resources (e.g. on drug awareness, on conflict resolution, on bullying prevention) are accessible to assist school staff in promoting a positive school environment with students and parents;
- developing policies on how to respond to crises, including a communication plan;
- ensuring that prevention and intervention strategies are available;
- providing staff with opportunities for acquiring skills necessary to promote safe school environments; and
- developing an effective consultation mechanism for soliciting input from staff, students, parents and school councils, and Special Education Advisory Committees in the development of local protocols.

All school boards must provide complete cooperation to ensure that these measures are fully communicated and implemented in their respective schools and that students, parents, teachers and staff, are aware of this protocol.

Additionally, school principals have roles and responsibilities to conduct investigations of incidents for which *suspensions\** or *expulsion\** must be considered under the *Education Act*, including the responsibility to take *mitigating and other factors\** into account, as set out in Ontario Regulation 472/07.

## 6. Definitions / Explanations of Terms

A glossary is provided, outlining definitions of terms that are important to assist those who will be administering local protocols.

Appendix C has a complete list of Definitions and Explanations of Terms

## 7. A Coordinated Approach to Violence Prevention

Staff and students, under the leadership of Principals and Vice-Principals, will design activities to promote a positive atmosphere and pride in the school, including the development of strategies to improve individual self-esteem and the encouragement of student participation in co-curricular activities. School staff and student representatives will encourage participation in activities that will promote an image of their school as having a safe environment.

Principals, in co-operation with students, staff, parents/guardians and the school council, will develop a School Code of Conduct. Annually, in September, this School Code of Conduct will be distributed to students and parents/guardians.

Schools will promote learning environments that are safe, orderly, nurturing, positive and respectful. Such learning environments are to be peaceful and welcoming for all authorized individuals. Principals will encourage staff to be highly visible in the school and to engage in positive interactions with students, parents/guardians and the school community.

The Police will continue to pursue proactive crime prevention through the school liaison program. The police and school boards, in a coordinated and multifaceted approach, will promote positive behaviour and prevent school violence. Local police services, with the school community, will identify additional supports the police are prepared to offer, with respect to implementing violence-prevention policies in schools.

School boards and principals should develop, promote, and maintain strong partnerships with police and seek to benefit from their support in the implementation of the school's violence-prevention policies, particularly where those policies pertain to addressing the risk factors associated with anti-social, gang-related, or criminal behaviour. In a closely cooperative relationship, police may also offer support in a consulting role, to assist school personnel in determining appropriate action when dealing with violent behaviour and to explain the procedures for police investigations.

Police work in partnership with schools and other community agencies to administer crime-prevention programs that focus on areas such as peer mediation, conflict resolution, referral to appropriate community resources (e.g., those providing counselling or mentoring services, drug awareness and education programs, or support for seeking employment or housing), and Crime Stoppers.

Working from a crime-prevention perspective, police can play an important role in the school community, which presents extensive opportunities for employing the strategy of “crime prevention through social development” (CPSD). CPSD involves preventing and reducing crime by identifying and addressing the risk factors associated with crime and victimization. Police use proactive measures that focus on the factors that precipitate the onset of criminal and antisocial behaviour. CPSD recognizes that the intersection of multiple and complex social, economic, health, and environmental factors may lead to criminality. CPSD involves long-term, sustainable, multi-agency, integrated actions that deal with the risk factors (e.g., mental health issues, certain types of behavioural issues, involvement in the criminal justice system, victimization/abuse) that can start a young person on the path to crime, and build protective factors (e.g., strong adult role models, enhanced self-esteem, effective personal coping skills and strategies) that may mitigate those risks.

Strategies that schools can use to help prevent violence include:

- helping students develop social skills, including conflict-resolution skills;
- proactively identifying students at risk and giving them extra support;
- using progressive discipline to teach and encourage appropriate behavior in the school;
- viewing each student as an integral and contributing member of the school community;
- demonstrating, by example and leadership, that students’ human rights are to be respected; and
- encouraging students to return to the school community after involvement with the criminal justice system, and supporting them in the process.

Strategies that police can use to help prevent violence in schools include:

- developing positive partnerships with all members of the school community, including parents;
- being visible within the school community;
- being a positive adult role model for students;
- establishing positive relationships with children and youth;
- making referrals based on the best interest of the students;
- helping deliver educational sessions on crime and criminal justice issues;
- being part of an integrated, multi-agency team that can respond to children and youth at risk of conflict with the law;
- facilitating communication and cooperation with school officials, Youth Justice Probation Services, other police officers, courts, and other social services; and
- supporting students as they return to the school community after involvement with the criminal justice system.

The local police/school board protocol is one component of a broader partnership between schools and other essential community partners, including mental health providers, health care professionals, and children’s aid societies, that is dedicated to violence prevention in Ontario schools.

### Non-Incident Related Police Involvement

The following is a quotation from the National Association of School Resource Officers:

*“Police provide a visible and positive image for law enforcement. They serve as a confidential source of counseling to students concerning problems they face. They bring expertise into schools that will help young people make more positive choices in their lives. They also work to protect the school environment and to maintain an atmosphere where teachers feel safe to teach and students feel safe enough to learn.”*

Their involvement goes far beyond simply responding to incidents. The police:

- Establish and develop partnerships with stakeholders including school staff, students, parents, and members of the school community
- Develop and deliver pro-active programs, within the school community
- Develop links with youth service agencies in the community
- Identify police issues/concerns and respond appropriately
- Provide lectures and presentations upon request
- Participate in special events and meetings within the school community
- Counsel and advise students on police related matters

All police services involved offer valuable programs, lectures, displays, seminars and safety tips to the school community.

### Restorative Justice Programs

Where a school decides to implement a restorative justice process to address incidents that do not require involvement of police, the school shall ensure that all parties are aware of the intervention process that will be used to resolve the matter for all intents and purposes.

In each instance where an intervention is being implemented, the school will notify their respective policing agency in order to protect the integrity of both the intervention strategy and a potential criminal investigation.

## 8. Occurrences Requiring Police Involvement or Response

The following incidents require mandatory reporting to police (for students under the age of 12, refer to section 15 below). Note that mandatory police reporting does not mean that police will lay charges in every situation; however, for the incidents listed, police *must* be notified. The incidents listed include those that happen at school, during school-related activities in or outside school, or in other circumstances if the incident has a negative impact on school climate.

### Mandatory Notification of Police

The police must be notified as soon as practicable of the following types of incidents:

- 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\**; and
- *extortion\**
- *non-consensual sharing of intimate images\**; and
- *bomb threats.*

### Discretionary Notification of Police

Principals may notify police of the following types of incidents:

- 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; and
- trespassing incidents.

Principals should consider mitigating and other factors when deciding whether to call the police in these discretionary situations. (For students with special education needs, school boards should identify circumstances where a police response is neither necessary nor appropriate. Refer to section 14 below for further information on dealing with students with special education needs.)

It is expected that all other school-related occurrences not specified in the protocol will be dealt with by the principal on a case-by-case basis, and that police will be notified at the principal's discretion.

## 9. Information Sharing and Disclosure

The legal authorities pertaining to disclosure include:

- Section 32(g) of the Municipal Freedom of Information and Protection of Privacy Act;
- Section 42(g) of the Freedom of Information and Protection of Privacy Act;
- Section 118(1) of the Youth Criminal Justice Act – prohibits disclosure of information pertaining to the identity of a young person who is accused of a criminal offense; *however*
- Section 118(1) of the Youth Criminal Justice Act – introduces **exceptions** to the non-disclosure requirements by school personnel and other professionals engaged in the supervision of young persons which are set out in Section 118(1) to ensure the safety of staff, students and other persons;
- binding case law;
- the Education Act; and

- any existing policies or protocols on disclosure and/or information sharing among schools, police services, courts and correctional services.

The procedures and obligations required under the *Youth Criminal Justice Act*, the *Child and Family Services Act*, the *Education Act*, and the *Municipal Freedom of Information and Protection of Privacy Act* include:

a) **Criminal Code**

The police can access a student's Ontario Student Record (OSR) and other student records, by warrant or subpoena, or with the written consent of a *parent* or of the student, if the student is 18 years of age or older. In exigent circumstances, the police can access a student's OSR without a warrant, under section 487.11 of the *Criminal Code*.

b) **Youth Criminal Justice Act**

The Youth Criminal Justice Act includes provisions that deal with the disclosure, security, storage, and destruction of information pertaining to young offenders. Such information will be shared in a manner that ensures that there is a balance between "the need to know" and the "rights of the young offender".

The Youth Criminal Justice Act protects the privacy and identity of young persons. The provisions of the Youth Criminal Justice Act prohibit all persons, including police, youth courts and school board officials, from publishing or making public any report of an offence committed or alleged to have been committed by a young person or any report of a hearing, adjudication, disposition or appeal concerning a young person in which the name of the young person, the victim or any witness is likely to be disclosed. "Report" should be interpreted in a broad sense to include virtually all information or publication that might disclose the identity of a young person.

This does not prevent disclosures pursuant to a court order, principals from suspending or excluding students for the reasons set out in the *Education Act and Regulations*, or Boards from hearing the appeal of a parent/guardian or an adult student, nor does it prohibit school boards from exercising their right to expel a student. In each of these cases, evidence of the events may be presented despite the existence of the Youth Criminal Justice Act proceeding.

In prosecutions of students under the Youth Criminal Justice Act and the *Criminal Code*, courts frequently impose obligations upon the accused students that also affect the schools themselves, for example, a bail or probation order may require the student to attend or prohibit the student from returning to school, or require that the student not come closer than some minimal distance from the alleged victims. At the same time as the court action is proceeding, the school may be in the process of suspending or expelling the student pursuant to the authority in the *Education Act*.

In order to avoid any conflict between the judicial proceedings and the school board's actions in dealing with an incident, the police officers involved in the case should consult with school administrators before recommending bail, and/or probation conditions.

Correspondingly, school administrators are encouraged to initiate discussions with the police regarding such conditions. In addition, police officers will endeavor to alert the school and seek to assist the school in its efforts to accommodate the bail or probation order while at the same time continuing to exercise its powers and fulfill its obligations under the *Education Act*. The principal, subject to an appeal to the school board, may refuse to admit to the school or classroom a person whose presence in the school or classroom would in the principals' judgment be detrimental to the physical or mental well-being of the pupils and/or staff.

The YCJA sets out the procedural requirements for dealing with young persons charged with offences. (Refer to Part 6 (ss. 110 to 129) of the YCJA, "Publication, Records and Information".)

There may be occasions when it is necessary for police to share confidential information with school officials. Section 119 of the YCJA provides the circumstances under which confidential information may be shared.

The following subsections of Part 6 are of particular relevance for police/school board protocols:

- subsection 110(1), which states that no person shall publish the name of the young person or any information that would identify the young person as a young person dealt with under the YCJA;
- subsection 111(1), which states that "no person shall publish the name of a child or young person, or any other information related to a child or a young person, if it would identify the child or young person as having been a victim of, or as having appeared as a witness in connection with, an offence committed or alleged to have been committed by a young person";
- subsection 118, which states that no person shall be given access to a record and no information in the record shall be given to any person, where to do so would identify the young person as being dealt with under the YCJA;
- subsection 125(1), which states that "[a] peace officer may disclose to any person any information in a record kept under section 114 (court records) or 115 (police records) that it is necessary to disclose in the conduct of the investigation of an offence";
- subsection 125(6), which permits a provincial director, youth worker, peace officer, or any other person engaged in the provision of services to young persons to disclose to a representative of a school board or school any information kept in a record under sections 114 to 116 of the YCJA if the disclosure is necessary:
  - to ensure compliance with an order made by the youth justice court
  - for a young person released from custody to attend school;
  - to ensure the safety of staff, students, or other persons; or
  - to facilitate the rehabilitation of the young person.

### **c) *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)***

This legislation regulates the collection and disclosure of personal information that is not related to the YCJA. As part of the local protocol, police services and school boards should develop a policy for the disclosure of personal information in situations under subsection 32(g) of the MFIPPA (i.e., "to aid an investigation undertaken with a view to a law enforcement proceeding ...").

Further information regarding the release of students' personal information can be found in the Office of the Information and Privacy Commissioner's *Guide to Ontario Legislation Covering the Release of Students' Personal Information*, at [www.ipc.on.ca/english/Resources/Discussion-Papers/Discussion-Papers-Summary/?id=495](http://www.ipc.on.ca/english/Resources/Discussion-Papers/Discussion-Papers-Summary/?id=495).

**d) Child and Family Services Act**

The *Child and Family Services Act* mandates that anyone who has reasonable grounds to suspect that a child is or likely will be a child in need of protection must report these suspicions to the Children's Aid Society. Section 72(1) - "Despite the provisions of any other Act, if a person, including a person who performs professional or official duties with respect to children, has reasonable grounds to suspect (a need for protection), the person shall forthwith report the suspicion and the information on which it is based to a society".

Professionals and the public are required to report to a Society if there are reasonable grounds to suspect that a child may be in need of protection. Professionals and the public cannot delegate the duty to report to another individual and the duty to report is an ongoing obligation. Information should be shared in a manner that respects the vulnerabilities of children who may be in need of protection.

**e) Education Act**

Under the Education Act and in accordance with the regulations and the guidelines issued by the Ministry of Education, a principal is responsible for collecting information for inclusion in a student's record. The **Ontario Student Record** ("OSR") contains information such as transcripts, report cards, and photographs. The OSR will also include, where applicable, a *Violent Incident Form* containing:

- A description of the serious incident
- A reference to the call to the police, if applicable;
- A reference to the school/board disciplinary response to the incident, if applicable; and /or
- A copy of the school board's letter(s) to the student and/or parent(s) or guardian(s) regarding the suspension or expulsion for violent behavior.

Copies of Violent Incident Forms shall not be kept in the school outside the OSR folder; however, the notes made by a school official in the process of preparing the Violent Incident Form may be shared with police.

Under the statute, information in the OSR is privileged for the information and use of supervisory officers and the principal and teachers of a school for the improvement of instruction of a student. Disclosure of its contents to the police may be made in the following circumstances:

- With the written permission of a parent or guardian of the student or, where the student is an adult, with the written permission of the student;
- Through a search warrant requiring the surrender of an OSR to the police;
- In exigent circumstances, without a warrant, under section 487.11 of the *Criminal Code*; or
- Through a subpoena or appropriate court order.

- In criminal matters, if a school Principal is served with a warrant requesting an OSR or other records, the Principal is obliged to comply with the warrant and will provide a copy of the OSR contents and other records as specified. The Principal may contact the Superintendent for legal advice before releasing information. This should be done immediately upon receiving the warrant.
- If a Principal is personally served with a subpoena requiring his/her testimony in a criminal case, he/she is obliged to comply with the subpoena, attend court, and produce any records or documents, including the original O.S.R., to court as specified in the subpoena. In the event that a record or document is ordered by the court to be entered into evidence, **the Principal should bring the original records or documents, plus three copies**, so the School Board can request to retain the originals and provide copies to the court.

#### f) Other Release of School Information to Police

In the absence of a warrant or court order, Principals should seek direction from their Superintendent before releasing any information.

If the Police are conducting an investigation for the purpose of law enforcement proceedings, the school Principal shall, upon the request of Police and pursuant to section 32(g) of the Municipal Freedom of Information and Protection of Privacy Act, release general information to the Police officer including, but not limited to the following:

- I. name, address and phone number of the student or staff member;
- II. name, address and phone numbers of the parent or guardian of the student.

In exigent circumstances, the police can access a student's OSR without a warrant, under section 487.11 of the *Criminal Code*.

### 10. School Procedures for Reporting to Police

#### School Reporting Procedures

The school will follow procedures in accordance with information outlined in this section for the reporting of incidents that involve both students as victims and students as alleged perpetrators.

School officials will report to the police all incidents defined as requiring police involvement in section "Occurrences Requiring Police Involvement or Response" of this protocol.

In situations where there is no imminent threat to the safety of people in the school, school staff will consult with the principal/designate as appropriate and a decision will be made as to who contacts the police.

In situations where there is an imminent threat to the safety of people in the school, the individual staff member who recognizes the threat will contact the police immediately and inform the principal/designate as soon as possible.

In cases where a staff member has reasonable grounds to suspect that a child is or may be in need of protection, the staff member shall comply with the provisions of the *Child and Family Services Act* and any applicable school board guidelines such as child abuse protocols with the Children's Aid Society that outline the duty to report.

In emergency circumstances, reporting to police shall be done through 9-1-1.

In non-emergency situations that require police involvement, school staff should report the matter to the school principal or designate, who will initiate police contact.

When notifying the police of an incident, the caller should be prepared to provide the following information. Additional details may also be required:

- Where and what is happening?
- Is anyone injured and what are the injuries?
- Who and where is the caller?
- Are there any weapons involved? What type? Where are the weapons now and who has them?
- Who is involved (including names, dates of birth)? How many people are involved?
- When did the event take place?

Refer to Appendix B regarding school lockdown procedures.

Reporting procedures must comply with the “duty to report” provisions under the *Child and Family Services Act*.

## **11. Initial Police Contact**

Under exigent circumstances, or if the principal is being investigated, the officer is not required to follow the procedures set out below.

The police officer who responds to a report of a school-related incident is responsible for obtaining and thoroughly documenting information on the incident. The officer is normally required to take the following steps:

- report to the principal, providing proper identification;
- explain the purpose of the visit, and plan with the principal on how to proceed;
- consider alternatives that limit the disruption to the school day;
- obtain information from the principal about the student (e.g., regarding accommodation needs or barriers to communication) before making contact with the student; and
- contact, or make arrangements with the principal to contact, parents of students under the age of 18 (see section 13(a) below).

From time to time, it may become necessary and/or unavoidable to interview or apprehend a staff member on school property. If this occurs it is the intent of the Board to proceed as sensitively and unobtrusively as possible while co-operating with the police. The police may not always be able to discuss or disclose circumstances involving the investigation (including apprehension). Where feasible, the police should attempt to contact a supervisory officer or senior executive of the Board of the staff member being apprehended.

## **12. School and Police Investigation of Incidents**

While it is important that the principal not do anything to prejudice the police investigation, it is also important that the police recognize and respect the principal’s obligations under the

*Education Act*. Under the Act, a school board's decision regarding expulsion of a student must be made within twenty school days from the date when the student was suspended.

Police investigations should be undertaken in accordance with the local police service's criminal investigation management plan and, where required, with the *Ontario Major Case Management Manual*.

The principal will inform police of any logistical information about the school (e.g., the hours of the school day and class rotation schedules) that may be relevant to the investigation process.

Police services will endeavor to work within these logistical considerations in order to minimize the disruption to the school.

### a) Legal Rights and Procedures

In the investigation of school-related incidents where a young person is a suspect, particular attention should be given by the principal and police to procedures that are consistent with the following provisions:

- parental notification upon arrest (s. 26, *Youth Criminal Justice Act*);
- right to counsel (s. 25, *Youth Criminal Justice Act*);
- right not to make a statement (s. 146, *Youth Criminal Justice Act*); and
- protection of privacy (s. 110, *Youth Criminal Justice Act*).

#### Students under 12 years of age

Students under 12 years of age (children) shall have a parent or legal guardian present (or a designated adult acting in *loco parentis* if the parent/guardian is not available) during the interview with the police unless it is determined that this may hinder the investigation or jeopardize the safety of the student.

#### Students 12 to 17 years of age

##### i) Principal/ Designate will:

Upon notifying Police of an incident, school staff shall separate the involved students and refrain from taking written statements. In the event that school staff are taking a statement while conducting an internal investigation and determine that a criminal offence has been committed, they shall discontinue the statement and notify Police immediately.

Any statement(s) taken shall then be turned over to Police for purposes of an investigation if requested.

- Contact the police to initiate an investigation when the principal believes that a criminal act has occurred.
- Maintain a journal of actions.
- Provide the necessary information as requested for the police report.
- Notify the police officer of any learning disability or other exceptionality of the student that may impede the student from expressing or understanding written/oral communication.
- In consultation with the investigating police officer, contact the parent/legal guardian as soon as possible. The final decision as to immediate notification is at the police officer's discretion.
- Ensure confidentiality of police involvement with students and/or parents.

- Summon the student and provide a private setting for the interview.

**ii) Police shall:**

- Ensure that the student is advised of his/her rights, if under arrest or if criminal charges are being considered. For a student whose parent/legal guardian is not available, notification may be given to an adult relative or other adult known to the student. Where the student is married, notice may be given to the spouse of the student. In the absence or unavailability of the parent/legal guardian the youth has the right to have an adult of their choice present during any police interview.
- Inform the student of the legal right to waive the option of having anyone other than the police officer present during the interview. Such waiver must be made in writing and signed by the student.

**Adult Students (18 years of age) or Employees**

Since adult students and school board employees have the right of confidentiality:

**i) Principal/ Designate will:**

- Contact the police to initiate an investigation when the principal or superintendent believes that a criminal act has occurred.
- Maintain a journal of actions.
- Provide the information to the police as requested.
- Notify the police officer of any learning disability or other exceptionality of the student that may impede the student from expressing or understanding written/oral communication.
- Summon the student/employee to the office and provide a private setting for the interview.
- Immediately inform the appropriate school superintendent who shall inform the director when arrest, detention or removal of a board employee occurs while on board property.

**ii) Police must ensure that:**

- Students and staff are advised of their rights, if under arrest or if criminal charges are being considered.
- parental notification upon arrest (s. 26, *Youth Criminal Justice Act*);
- right to counsel (s. 25, *Youth Criminal Justice Act*);
- right not to make a statement (s. 146, *Youth Criminal Justice Act*); and
- protection of privacy (s. 110, *Youth Criminal Justice Act*).

When the principal is the subject of an investigation:

- The police officer will contact the appropriate supervisory officer of the school board to determine an appropriate procedure given the context of the investigation.

**b) Search and Seizure**

It is the responsibility of the Principal or Vice-Principal to advise the students at the beginning of the school year that desks and lockers are school property and there is no expectation of privacy on the part of the students; therefore, a search of such property is permissible by the school administrator. In this case, the Principal or the Vice-Principal is acting under the authority of the *Education Act* to maintain proper order and discipline in the school, and not as an agent of the Police. It is advisable for the Administrator to have another person present to conduct any search.

The Supreme Court of Canada in *R. v. M.R.M.* (1998) and the Ontario Court of Appeal in *R. v. J.M.G.* (1986) have stated that a Principal, who has reasonable grounds to do so, may conduct a search of a student or his/her possessions in carrying out his or her duties to maintain order and discipline in the school.

Teachers and principals are placed in a position of trust that carries with it not only the onerous responsibilities to teach the students, but also to ensure their safety and well being. The Supreme Court of Canada has ruled that searches of students by elementary or secondary school officials who are entrusted with the care and education of children are not an unreasonable violation of a student's rights under the Charter of Rights and Freedom (section 8) to be secure from unreasonable search and seizure so long as certain procedures are followed as outlined below. The manner in which students are treated in these situations will determine their respect for the rights of others in the future. According to the courts, searches should be gender appropriate and minimally intrusive.

### 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 the school. The following may constitute reasonable grounds:

- a) information received from one student 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 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 will not likely provide an adequate foundation for "Reasonable grounds" to believe there has been a breach of school rules:

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

### Right to Search Persons and Property

- A principal has the duty to carry out an investigation to determine the nature of the circumstances surrounding an infraction.
- It is the responsibility of the principal to advise the students at the beginning of the school year that desks and lockers are considered school property and that a search of such property is permissible by school administration.
- In carrying out his/her duties to maintain proper order and discipline in the school, the Principal, who has reasonable grounds to do so, may conduct a search of a student's clothing, possessions, or any area (desk, locker, backpack) where his/her possessions may be stored. However, it may be advisable that the student be present when the locker or desk is being opened to avoid allegations that the administration planted something or took something from the locker or desk.

- All searches by school officials will be carried out in the presence of a witness.
- As much force as necessary may be lawfully employed to safely and effectively complete the search.

- Search lockers and personal property
- Have the student empty and turn out pockets
- Have the student remove outer clothing (jackets)
- Have the student remove shoes and socks
- Call the police if a more intrusive search is deemed necessary unless exigent circumstances prevail.
- Keep the student under observation until police arrival.

- Searches conducted by police shall be done in accordance with lawful authority.
- The police should notify the principal before conducting searches on school premises. (Under some exigent circumstances, police may be required to execute a search warrant without notice to the principal.)

### c) Detention and Arrest

Where investigations result in detention and/or arrest, the police and the principal should pay particular attention to the following procedures and responsibilities:

- police procedures to be followed in the detention and/or arrest of suspects, in accordance with the Ministry of Community Safety and Correctional Services' Guideline LE-005 on arrest and the *Youth Criminal Justice Act*;
- roles and responsibilities of police in the event of a suspect being arrested or detained on school property;
- legal grounds for police to demand entry (e.g., for weapon and drug searches, to arrest a person wanted for an indictable offence, or to save lives); and
- requirements to be followed under the *Youth Criminal Justice Act* when a young person is arrested and detained, including who is responsible for discharging specific obligations (e.g., the notification of parents under s. 26 of the Act).

Whether or not the incident giving rise to the necessity to arrest is school-related, the police shall, in the interest of school safety and morale, consult with the principal prior to the arrest to arrange a suitable procedure by which police will access the student.

When it is necessary that a student be arrested at school during school hours, such an arrest will be made in a manner that will minimize disruption of school routines.

Where a student is to be arrested, police shall not be denied access to the student.

There may be circumstances in which physical restraints will be necessary. These will be employed with full regard for the safety of those involved in accordance with this protocol, police procedure and the arresting officer's discretionary powers.

In the interest of safety or in exigent circumstances police may effect an arrest of a student forthwith and following the arrest shall notify the principal or designate as soon as possible.

### d) Supports for Victims

It is important that police and the principal be aware of the following procedures and responsibilities with respect to providing support for victims:

- procedures consistent with the Ministry of Community Safety and Correctional Services' Guideline VA-001 on victims' assistance;
- roles and responsibilities of police and school personnel, such as:
  - the requirement that police officers remain at the scene until satisfied that there is no imminent threat to the victim and that issues related to the victim's safety have been addressed;
  - the obligation that the principal inform the parents of victims who have been harmed as a result of an activity for which suspension or expulsion must be considered, unless, in the principal's opinion, doing so would put the victim at risk of harm from the parents (*Education Act*, s. 300.3(1) and O. Reg. 472/07); and
  - the requirement that all board employees who work directly with students are expected to support all students, including those who disclose or report such incidents, by providing them with contact information about professional supports (e.g., public health units, community-based service providers, Help Phone lines);
- notice to victims and (when applicable) their parents of the services available to them and other considerations, such as:
  - police services for victims;
  - student support services of the local school board;
  - services offered by other municipal, community, and social service agencies, including legal services;
  - access to information; and
  - confidentiality of victim and witness identity (s. 111, *Youth Criminal Justice Act*);
- procedures for information sharing and community referrals.

### 13. Police Interviews of Students

It is the responsibility of police to conduct interviews related to criminal investigations of incidents that involve students as alleged perpetrators, victims, or witnesses.

The Police, in the course of an investigation, may need to interview students. For routine investigations involving incidents that are not school-related, police officers will attempt to interview students at home outside school hours unless there is immediate danger or emergency, or unless contacting the student at school is a last resort.

If the school encounters an incident which necessitates the involvement of the Police, the Principal shall request the Police attend at the school. The following procedure will be used when students are being interviewed:

- If the Police wish to interview a student on school property, the officers shall contact the Principal of the school that the student is attending, to advise the school administration of the nature of the visit, and to request a meeting with the student. Police officers should have the permission of the principal when interviewing a student on school or board properties or at school functions, or notify the principal as soon as practical if it was not possible to first obtain such permission.
- It is the responsibility of the school to communicate to the Police officer if any student has a learning disability or other exceptionality that may impede the student from

expressing or understanding written/oral communication. The Principal shall remain with the student during any interview held at the school. Refer to section 14 of this protocol for further information

- If the student who is being interviewed is under 18 years of age, the school will advise the student that his/her parents/guardians shall be contacted, by the school, prior to any interview with the Police. At that time the parents/guardians shall be advised that their child is being interviewed as a witness, as a victim or as a suspect.
- If the student who is being questioned is 18 years of age or older and therefore considered an adult, or if the student who is being interviewed is 16 or 17 years of age and has withdrawn from parental control, the school shall not contact the parents/guardians without the permission of the student. The parents/guardians have the right to attend an interview of the student, provided the student agrees to their attendance (as per the Youth Criminal Justice Act).
- If the parents/guardians refuse to grant permission for the student to be interviewed by the Police, the school administrator will request that the Police conduct their investigation **off school property**.
- Once parent/guardian permission is granted, the school administrator shall provide the Police with access to the student. A private room will be made available for such interviews to ensure confidentiality for students and/or parents/guardians.
- If the parents/guardians of the student **under 18 years of age** do not wish to attend the school or the school is unable to contact the parents/guardians, within a reasonable amount of time, or the **adult student (18 years of older, or a 16 or 17 year old student who has withdrawn from parental control)** expresses the desire that they do not wish their parents/guardians contacted, the Principal or Vice-Principal shall be present during any interview of the student held at the school provided the student agrees to their attendance.
- If a student expresses his/her right not to have the Principal present, the school administrator will request the Police to conduct their investigation **off school property**. The Principal and the Police will document the details.
- If the student is not in attendance at school on that day, the school shall inform the Police officer of the student's date of birth, address, phone number, and the parent's/guardian's home and business phone numbers on file, in accordance with section 32(g) of the Municipal Freedom of Information and Protection of Privacy Act, which is the authority for providing such personal information to law enforcement officials who are conducting an investigation of law enforcement proceedings. Refer to section 8 of this protocol for further information.

School officials will recognize that the police and the Children's Aid Society may conduct a joint interview if a child is suspected to be in need of protection.

### a) Notification of Parents

If the student is a Crown ward or ward of the Children's Aid Society, the legal guardian is the Children's Aid Society and they shall be contacted in the same way as a parent/guardian.

There may be times where the Police will direct the school administrator **not** to contact the parents/guardians, for example:

- I. The parents/guardians are the suspects of a crime about which the student is being interviewed and/or;
- II. Contacting the parents/guardians could interfere with the Police investigation.
- III. The school administrator will follow Police direction in this regard and will document the name and badge number of the officer and the direction given.

#### Students under 12 years of age (children)

These students shall have a parent or legal guardian present (or any other adult acting in *loco parentis* if the parent/guardian is not available) during the interview with the police unless it is determined that this may hinder the investigation or jeopardize the safety of the student. The following procedures should be recognized in occurrences involving children under the age of 12:

- Police may arrest but will not process charges against these young children under the *Youth Criminal Justice Act*, the *Provincial Offences Act*, or the *Criminal Code*.
- The parent/guardian must be notified as soon as possible.
- The police have the authority to take reports and conduct interviews.
- The specific types of incidents that are to be reported for students under twelve years of age are those identified as serious incidents of violence and/or threats of violence and/or those situations where it is suspected that the child is in need of protection.

#### Students 12 to 17 years of age

These students may have present a parent, legal guardian, or any other adult chosen by the student during the interview with the police. Police will, when appropriate, advise the student of this right before taking an oral or written statement and must provide the student with a reasonable opportunity to consult with counsel or a parent or any appropriate adult chosen by the young person. The student has the right to refuse to have a parent, legal guardian or any other adult present during the interview. Police will follow accepted procedure as it applies to admissibility of statements (i.e., notifying the young person of rights, including the right to refuse to give a statement). If the Children's Aid Society is involved (as in suspected abuse or neglect), the school official(s), police and child protection worker(s) will discuss and come to agreement on the timing and procedure for notifying the parent/legal guardian.

#### Students 18 years of age or older

The parent/legal guardian need not be called if the student is 18 years of age or older, unless the student gives his/her consent, or makes the request him/herself, or is incapable of providing consent.

The principal will contact the parent/guardian or another adult chosen by the student as soon as possible, unless advised by police that this action may contravene the rights of the student or hinder the investigation or jeopardize the safety of the student. If the circumstances and timing

of the investigation preclude this action, the principal will notify the parent/guardian of the interview as soon thereafter as possible unless requested not to do so by the investigating officer.

### **b) Preparation for Interviews**

Considerations shall be given by school and police representatives to preparations for interviews, including details such as:

- Secure locations for interviews of persons suspected of criminal offences;
- The need for specialized resources where the student is known to have a behavioral, cognitive, physical or learning disability, especially where these exceptionalities and needs have been identified in the student's Individual Education Plan;
- The methodology of the interview relative to the age of the student; and
- Determination of the need for an interpreter (e.g., a language interpreter, an interpreter for deaf or hearing-impaired students).

### **c) Conduct of Interviews**

Considerations shall be given to:

- Providing legal caution and notification of the right to counsel where there are reasonable grounds to believe that the student being interviewed has been involved in the commission of a criminal offence;
- Taking into account legal considerations respecting the admissibility of statements made to persons in authority;
- Involving the local Children's Aid Society in the interview process, which is required when the child is potentially in need of protection; and
- The requirement that an adult be present throughout the interview, except when the student can waive and has waived the right to have an adult present. Best efforts must be made to have the student's parent(s) or another adult of the student's choice present. In circumstances when this cannot be done, the principal must attend the interview.

## **14. Reporting of Children Suspected to be in Need of Protection**

The Child and Family Services Act, includes the duty to report a child suspected to be in need of protection. Professionals and the public are required to report if there are reasonable grounds to suspect that a child may be in need of protection. Professionals and the public cannot delegate the duty to report to another individual and the duty to report is an ongoing obligation. The school boards have and will maintain policy and guidelines to ensure the safety of the students (i.e. the protocol for contacting the Children's Aid Society).

## **15. Investigation Involving Students with Special Education Needs**

School administrators have a duty to ensure that all members of the school community are able to work and learn in a safe and positive environment, they are obliged to report incidents to police as outlined in section 7 of this document. However, additional considerations must be taken into account by school personnel and police in investigations that involve a student known to have special education needs, who may be identified as having an exceptionality in any of the following categories: behaviour, communication, intellectual, physical, or multiple.

**Such considerations include:**

- the responsibility of the school to communicate to the police that a student is known to have special education needs or communication difficulties;
- the requirement to accommodate the student, especially when interviewing is necessary. Every attempt should be made to provide specialized supports/resources, as needed, for the student during an investigation;
- the need to ensure that the student's parent is contacted as soon as possible, except in exigent circumstances or where the police believe the parent may be implicated in the incident.

In cases involving students with special education needs, the principal should review the student's Individual Education Plan (IEP) and other relevant student records in order to identify whether further intervention strategies and/or resources are required for the student. These may include the development of and/or revisions to a behaviour management plan or a safety plan.

**16. Occurrences Involving Children Under 12**

Where children under the age of 12 are involved, school boards are expected to use their discretion in applying the rules outlined in section 7 (above) for reporting incidents to the police. Children under 12 cannot be charged with an offence under the *Criminal Code*, *Youth Criminal Justice Act*, or the *Provincial Offences Act*, but police may take reports of incidents allegedly committed by students in this age group and may respond in an appropriate manner. Early intervention for children involved in such incidents is essential, and involving police and parents as early as possible may facilitate the provision of appropriate intervention and support.

The principal is required to conduct an investigation of an incident for the purpose of school discipline – for example, where a recommendation for suspension or expulsion may be required – regardless of the age of the students involved.

Under the Youth Criminal Justice Act, a “young person” is any person from the age of 12 through 17. Although students under age 12 cannot be charged criminally, the police may still intervene to facilitate communication between the school and parents/guardians. When a student under 12 years of age has seriously injured another person, or caused serious damage to another person's property, and the parental response to the child's behaviour or need for treatment is inappropriate, the matter should be referred to the Children's Aid Society as a child who may be in need of protection. The matter shall also be dealt with in accordance with the Protocol provisions dealing with Children Under 12 in Conflict with the Law.

Police have the authority to arrest when necessary, take reports and conduct interviews. The principal will record attempts made to contact the parents. In the cases of students who are Crown Wards, the legal guardians are considered to be the Children's Aid Society (does not include foster parents).

The following considerations for responding to occurrences involving students under the age of 12, include:

- the requirement for the principal to notify the child's parent as soon as possible, except in exigent circumstances or where the police believe the parent may be implicated in the incident;

- the requirement to provide accommodations and/or modifications for students with special education needs, as outlined in their IEPs.
- the authority police have to take reports, make referrals to additional services (e.g., health/counseling), and conduct interviews;
- the duty to report children suspected to be in need of protection to the local Children's Aid Society, under subsection 72(1) of the *Child and Family Services Act* (e.g., when:
  - there is evidence of abuse or neglect, or the risk thereof;
  - when the child has committed serious acts and the child's parents are not accessing appropriate treatment)

For further information, refer to the document *Reporting Child Abuse and Neglect*, developed by the Ministry of Children and Youth Services, which is available at [www.children.gov.on.ca/htdocs/English/topics/childrensaid/reportingabuse/index.aspx](http://www.children.gov.on.ca/htdocs/English/topics/childrensaid/reportingabuse/index.aspx).

## 17. School Board Communication Strategy

Regular and meaningful communication will garner support for this protocol from school councils, parents, staff and students for the development and understanding of the contents. Annual reminders of the existence of the protocol will be provided to the school community through newsletters, school council meetings, or other appropriate strategies

### Communicating with the Media

The police and school officials will consult each other prior to dealing with the media. The police will, whenever reasonable and practicable, issue media releases relating to school-related incidents.

Both the police and the school will identify for each other who the lead spokesperson is for dealing with the media during an incident. The school spokesperson will be the Director of Education or designate. While the event or police investigation is in progress, the police spokesperson will normally take the lead in dealing with the media.

## 18. Protocol Review Process

A review of the local protocol shall be conducted every two years or sooner if required.

The review is conducted by the police and school board, who should develop an effective mechanism for soliciting input from school staff, students, and parents.

## 19. Physical Safety Issues

To enhance the safety of students, staff and teachers, when requested, police can work in cooperation with local schools to assess the physical safety of buildings and/or school premises. School officials can discuss details about the level of support and available resources with their local police service.

Similar support may be available to the school through the local police service for obtaining risk and/or threat assessment services. This can include specific procedures for obtaining criminal reference checks.

## 20. Risk Assessment Services

School staff should be concerned when a student displays high-risk behavior that may lead to serious criminal activity. This behavior may include collecting information on weapons or how to design bombs, creative writing assignments on death and destruction, etc.

Incidents of violence in schools are often preventable through early intervention in response to threatening behaviour, or non-threatening but worrisome behavior that may pose a risk of violence. Taking steps to identify at-risk students through early and ongoing assessment and intervention strategies may reduce the need for disciplinary action and police interventions.

In cases of such behaviour, the principal/designate will contact the police service responsible for that jurisdiction. The incident will be assessed and if need be, the police agency involved will contact the OPP Behavioural Sciences Section and the Threat Assessment Unit may become involved.

## 21. Emergency Planning and Threats to School Safety

Schools are expected to develop an Emergency and Crisis Response Plan, in keeping with district school board policies, with appropriate follow-up measures. The plan should be communicated to members of the school community and police services. Response plans should be developed for the following emergencies:

- Fire
- Bomb Threat/Explosion
- Armed Intruder
- Violent or potentially violent incident (i.e. active shooter)
- Tragic Response (i.e. school bus collision involving deaths/injuries)
- Evacuations to an alternate site
- Safe arrival procedures for elementary schools, and
- any other threats unique to the school, that require emergency preparedness

Every school should be guided by the provincial policy in developing its lockdown plan and its bomb threat plan.

The development and monitoring of this plan should include teachers, staff, students and school councils. The plan should be fully communicated to members of the school community and police services. Mechanisms for sharing the Emergency Response Plan with police services should be specified.

### Crisis Intervention Reporting

The principal/designate will review the school's emergency plan with staff and school council at least annually and will ensure that staff is aware of the points of contact (e.g., 911 for emergencies).

When police arrive at the school in response to a crisis, the school will provide the following upon request;

- Lists of staff and students with information such as photographs, addresses, telephone numbers, next of kin, etc.;
- Class schedules and timetables;
- Attendance records for that day;
- Bus rosters;
- Floor plans of the school including environmental and mechanical systems;
- Master keys;
- Indicators for marking doors of areas searched;
- Crisis and evacuation kits that include such items as the school's emergency plan, a megaphone, a first aid kit, markers and notebooks, a "Guide" to crisis management, school board policies applicable to crises, name tags, and tape; and
- Telephone numbers, including teachers with access to cellular phones.

### Follow-up Procedures

The principal shall report to a supervisory officer as soon as possible the basic details of a crisis event and shall follow up with a detailed, written report when the crisis has passed. The supervisory officer will provide information for school board trustees.

The principal will involve the local crisis events response team(s) as deemed necessary to help students and staff members cope with critical and/or tragic events.

School officials, not students, should be made aware of certain police response tactics that can be expected in instances of an emergent ongoing incident of a violent nature.

## 22. Training

This document specifies the requirement that the school board and police services provide joint training on the local police/school board protocol to their respective staff on an annual basis.

To improve collaboration between local police services and schools:

- Training should be based upon effective/leading practices; and
- Where possible, the training should be delivered by police and school board personnel.

## Appendix A: Glossary

### Arrest

{Within the meaning of the Charter of Rights}

When a peace officer or other agent of the state assumes control over the movement of a person by a demand or direction which may have significant legal consequences. The seizure of a person and the taking of a person into custody.

### Assault

{As defined in the Criminal Code of Canada}

- (1) A person commits an assault when
  - (a) without the consent of another person, he applies force intentionally to that other person, directly or indirectly;
  - (b) he attempts or threatens, by an act or a gesture, to apply force to another person, if he has, or causes that other person to believe on reasonable grounds that he has, present ability to effect his purpose; or
  - (c) while openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs.
- (2) This section applies to all forms of assault, including sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm and aggravated sexual assault.
- (3) For the purposes of this section, no consent is obtained where the complainant submits or does not resist by reason of
  - (a) the application of force to the complainant or to a person other than the complainant;
  - (b) threats or fear of the application of force to the complainant or to a person other than the complainant;
  - (c) fraud; or
  - (d) the exercise of authority.

### As soon as possible

At the earliest possible time in the context of an investigation or review process with due regard for the safety and rights of those involved.

### Barricading

Creating a further barrier to a classroom or office that would obstruct the entry of an intruder, should the locked door be compromised. Barricading can be done by a number of means, including but not limited to adding a secondary locking mechanism or blocking the doorway with a large moveable object or with multiple smaller moveable objects. The barricade should be capable of being removed to allow exit from the room once the lockdown incident has been resolved.

### Bodily Harm

{As defined in the Criminal Code of Canada}

For the purposes of this section, "bodily harm" means any hurt or injury to the complainant that interferes with the health or comfort of the complainant and that is more than merely transient or trifling in nature.

### Bullying (Ministry of Education)/ Intimidation (Criminal Code of Canada)

Bullying as defined by the Ministry of Education:

"... typically a form of repeated, persistent, and aggressive behaviour directed at an individual or individuals that is intended to cause or should be known to cause) fear and distress and or harm to another person's body, feelings, self-esteem, or reputation. Bullying occurs in a context where there is a real or perceived power imbalance."

Section 423 of the Criminal Code of Canada defines intimidation as follows:

" 423. (1) Every one is guilty of an indictable offence and liable to imprisonment for a term of not more than five years or is guilty of an offence punishable on summary conviction who, wrongfully and without lawful authority, for the purpose of compelling another person to abstain from doing anything that he or she has a lawful right to do, or to do anything that he or she has a lawful right to abstain from doing,

- (a) uses violence or threats of violence to that person or his or her spouse or common-law partner or children, or injures his or her property;

- (b) intimidates or attempts to intimidate that person or a relative of that person by threats that, in Canada or elsewhere, violence or other injury will be done to or punishment inflicted on him or her or a relative of his or hers, or that the property of any of them will be damaged;
- (c) persistently follows that person;
- (d) hides any tools, clothes or other property owned or used by that person, or deprives him or her of them or hinders him or her in the use of them;
- (e) with one or more other persons, follows that person, in a disorderly manner, on a highway;
- (f) besets or watches the place where the person resides, works, carries on business or happens to be; or
- (g) blocks or obstructs a highway.

Exception

(2) A person who attends at or near or approaches a dwelling-house or place, for the purpose only of obtaining or communicating information, does not watch or beset within the meaning of this section.

**Children's Aid Society**

For the purposes of this protocol, shall also include any equivalent child protection agency.

**Criminal Harassment as defined in the Criminal Code of Canada**

- (1) No person shall, without lawful authority and knowing that another person is harassed or recklessly as to whether the other person is harassed, engage in conduct referred to in subsection (2) that causes that other person reasonably, in all the circumstances, to fear for their safety or the safety of anyone known to them.
- (2) The conduct mentioned in subsection (1) consists of
  - (a) repeatedly following from place to place the other person or anyone known to them;
  - (b) repeatedly communicating with, either directly or indirectly, the other person or anyone known to them;
  - (c) besetting or watching the dwelling-house, or place where the other person, or anyone known to them, resides, works, carries on business or happens to be; or
  - (d) engaging in threatening conduct directed at the other person or any member of their family.

Criminal harassment occurs when: (1) a person repeatedly follows an individual from place to place or repeatedly communicates, directly or indirectly, by any means (including electronic means), with an individual, or watches the home or place of work of an individual, or engages in threatening conduct directed at a person or a member that person's family; and (2) the victim of the criminal harassment is caused to reasonably, in the circumstances, fear for his or her safety.

**Exigent circumstances**

Urgent, pressing, and/or emergency circumstances. Exigent circumstances usually exist when immediate action is required for the safety of the police or others. Such circumstances may include a bomb threat, a person possessing or using a weapon, or a fire on school property

**Explosive Substance as defined in the Criminal Code of Canada**

- a) includes anything intended to be used to make an explosive substance,
- b) anything, or any part thereof, used or intended to be used, or adapted to cause, or to aid in causing an explosion in or with an explosive substance, and
- c) an incendiary grenade, fire bomb, molotov cocktail or other similar incendiary substance or device and a delaying mechanism or other thing intended for use in connection with such a substance or device; i.e.: fire crackers, blasting caps

**Expulsion**

The removal of a student from his or her school or from all schools of the board. Students expelled only from their school are assigned to another school of the board. Students expelled from all schools of the board must be offered a program for expelled students. Activities for which expulsion must be considered are found in section 310(1) of the Education Act. An example is using a weapon to cause or to threaten bodily harm.

**Extortion**

The use of 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.

**Extortion as defined in the Criminal Code of Canada**

- (1) Every one commits extortion who, without reasonable justification or excuse and with intent to obtain anything, by threats, accusations, menaces or violence induces or attempts to induce any person, whether or not he is the person threatened, accused or menaced or to whom violence is shown, to do anything or cause anything to be done.

**Firearm as defined in the Criminal Code of Canada**

A barreled 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, and includes any frame or receiver of such a barreled weapon and anything that can be adapted for use as a firearm.

**Extra-judicial measures**

Measures used by police to hold a young person accountable for his or her alleged criminal behavior, in a timely manner, outside the formal youth justice system. The formal system would include charging the individual and going through the court process. Extra-judicial measures hold a youth accountable for his or her actions and provide sanctions outside of judicial proceedings. Some examples of sanctions include substance abuse counselling, volunteer work, repair of or compensation for damaged or stolen property, and a letter of apology.

**Freedom of Information and Protection of Privacy Act, 1989**

An institution shall not disclose personal information in its custody or under its control except, if disclosure is to an institution or a law enforcement agency in Canada to aid an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result.

**Gang-related occurrences**

Incidents involving a group that consists of three or more persons, however organized and has as one of its main purposes the commission or facilitation of a criminal offence in which any or all of the members engage.

**Hate/Bias Motivated Crime as defined in the Policing Standards Manual 2000**

A criminal occurrence committed against a person or property which is motivated by hate/bias or prejudice based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor.

**Hate and/or Bias Motivated Occurrences**

Incidents (e.g., involving statements, words, gestures) motivated by hatred or bias towards an identifiable group (i.e., a group distinguished by colour, race, religion, gender, sexual orientation, or ethnic origin) that are willfully intended to promote or incite bias or hatred against such a group.

**Lockdown**

A procedure used in response to a major incident or threat of violence within the school, or in relation to the school. (See Appendix B for details.)

**Mischief/Vandalism to Property as defined in the Criminal Code of Canada**

- (1) Every one commits mischief who willfully
  - (a) destroys or damages property;
  - (b) renders property dangerous, useless, inoperative or ineffective;
  - (c) obstructs, interrupts or interferes with the lawful use, enjoyment or operation of property; or
  - (d) obstructs, interrupts or interferes with any person in the lawful use, enjoyment or operation of property.

**Mitigating and other factors.**

Circumstances that must be considered by the board and school administrators in situations involving suspension and/or expulsion of a student, as required by the *Education Act* and as set out in Ontario Regulation 472/07 (quoted below):

2. 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 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...

**Other factors**

3. 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 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 behavior 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 a worsening of the pupil's behavior or conduct.

**Negative impact on school climate**

A possible result of inappropriate activities or behaviours, whether those activities/behaviours occur inside or outside the school. Actions or behaviours that occur outside school may still have a negative impact on school climate. For example, cyberbullying often occurs outside school, but if it targets individual students and causes them to be afraid to come to school, it is having a negative impact on school climate.

**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, film, 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.

**Noxious Substances**

Harmful materials inclusive of, but not limited to, legal and illegal drugs and products listed under Workplace Hazardous Materials Information System (WHMIS).

**Parent**

Refers to a parent or legal guardian; that is, a person legally entrusted with the care of, and managing the property and rights of, another person, usually a child/youth who is under the age of 18. For the purposes of Part XIII of the Education Act, students who are 18 years of age or older, and students who are 16 or 17 years of age but have withdrawn from parental control, are considered to be adults.

**Perpetrator**

A person who commits a crime or an act that results in another person(s) being victimized.

**Points of Contact**

Refer to the specific directions for getting assistance or help in emergencies. The local school's "points of contact" will be outlined in the school's emergency plan.

**Possession of drugs**

Having a controlled substance (e.g., a drug or narcotic, as set out in the Controlled Drugs and Substances Act) in one's personal possession or possessing it jointly with others, including knowingly possessing an illegal drug elsewhere.

**Principal**

A teacher appointed by a board to perform in respect of a school the duties of a principal under this Act and the regulations. From time to time some duties of the principal may be assigned to a designate.

**Relationship-based violence**

Any behaviour or action that is used to scare, harm, threaten, control, intimidate, or injure another person within an intimate relationship. The behaviour or action can be physical, sexual, or emotional, and it may comprise a single act of violence, regardless of the level of physical injury, or a number of acts forming a pattern of abuse through the use of assaultive and controlling behavior.

**Requiring Medical Attention** (As the result of a physical assault)

Refers to bodily harm that requires diagnosis and/or treatment by a health care professional. Such a serious physical assault would require that a violent incident form be generated.

**Robbery**

The use of violence or threats of violence to steal money or other property from a victim.

**Sexual Assault**

Sexual assault is an act committed, or threatened, in circumstances of a sexual nature such as to violate the sexual integrity of the victim.

Any type of unwanted sexual act done by one person to another that violates the sexual integrity of the victim. The term refers to a range of behaviours that involve the use of force or control over the victim. In some cases, no overt physical force is used – instead, the victim may be threatened with words or pressured into doing something he or she doesn't want to do.

**Suspension**

The removal of a student from his or her school and all school-related activities for a minimum of one school day to a maximum of twenty school days. Activities for which suspension must be considered are found in subsection 306(1) of the Education Act. An example is possession alcohol or illegal drugs.

**Threats**

Any statement, act, or communication, by any means, including electronic means, of an intent to cause harm, whether physical or emotional, to any person or thing, in circumstances where the person threatened believes or has grounds to believe the threat may be carried out.

**Uttering Threats as defined in the Criminal Code of Canada**

- (1) Every one commits an offence who, in any manner, knowingly utters, conveys or causes any person to receive a threat
  - (a) to cause death or bodily harm to any person
  - (b) to burn, destroy or damage real or personal property; or
  - (c) to kill, poison or injure an animal or bird that is the property of any person.

**Trafficking**

Assisting in any manner with the distributing of a controlled drug or substance, as set out in the Controlled Drugs and Substances Act, or with the distributing of weapons.

**Victim**

A person who is the recipient of physical, psychological or emotional harm or unfair treatment as the result of an event, circumstances, an act of aggression or crime.

*Secondary victims* are those who witness acts of violence and/or believe they are at risk of being a victim as a result of the event or circumstances.

**Weapon as defined in the Criminal Code of Canada**

Any thing used, designed to be used or intended for use

- (a) in causing death or injury to persons whether designed for such a purpose or not, or
- (b) for the purpose of threatening or intimidating any person

and, without restricting the generality of the foregoing, includes a firearm.

**Weapons Offences as defined in the Criminal Code of Canada**

(1) Every person commits an offence who carries or possesses a weapon, an imitation of a weapon, a prohibited device or any ammunition or prohibited ammunition for a purpose dangerous to the public peace or for the purpose of committing an offence.

## Appendix B: Provincial Policy for Developing and Maintaining Lockdown Procedures for Elementary and Secondary Schools

### Introduction

Staff, students, and visitors in Ontario's schools have the right to learn, work, and be present in a safe and secure environment. However, the possibility of a major incident of violence is a reality that cannot be overlooked. Everyone who spends any amount of time in an Ontario school on a regular basis needs to know how to protect themselves, and how to protect students, in the event of a major incident or threat of school violence.

Publicly funded schools in Ontario are committed to providing and maintaining a safe school environment. Much has been accomplished around the issue of safe schools since the introduction of the Provincial Model for a Local Police/School Board Protocol in 2000, and more recently with the passage of Bill 212, which amended the safe schools provisions of the *Education Act*, in February 2007. The Ministry of Education and school boards and police from across the province continue to work in partnership to create safe school environments, and to prepare plans to be used in the event of a major incident of school violence. Many boards have actively undertaken the process of establishing lockdown plans with the support of their police service. However, this has not previously been a ministry requirement, nor has there been a consistent approach across the province with respect to lockdown planning.

Given the dynamic, complex, and fluid nature of such incidents, continuous communication, assessment, and coordination by first responders and school administrators are of paramount importance in ensuring an effective response. School board and police department staff must bring this understanding to all planning and training related to lockdown procedures.

Plans and procedures reflecting the following policy must be included in the school's Emergency and Crisis Response Plan, which must be appended to the protocol.

### Purpose

Based on lockdown procedures that have already been established in many Ontario schools, the following policy is being provided to help elementary and secondary schools ensure their lockdown plans meet basic requirements, and to ensure a degree of consistency across the province. While much of what is provided will be termed "Effective Practices", there are two key elements which the Ontario Association of Chiefs of Police (OACP) is recommending as mandatory requirements by the Ministry of Education.

### Mandatory Requirements

1. All publicly funded school boards in Ontario must establish a lockdown policy to ensure the development and implementation of individual school plans.
2. A minimum of two lockdown drills must occur each school year.

In developing lockdown plans, each elementary and secondary school should consider the following policy:

### When to Lock down /Terminology to Be Used

Terminology is very important. Plans should clearly identify when "lockdown" versus other terminology is to be utilized. Terminology used to order a lockdown should be plain language,

clear, and leave no room for misunderstanding as to what is expected. No secret passwords should be used.

**“Lockdown”** should be used *only* when there is a major incident or threat of school violence within the school, or in relation to the school. The overuse or misuse of “lockdown” will result in staff/students becoming desensitized and not taking lockdowns seriously.

**“Hold and Secure”** should be used when it is desirable to secure the school due to an ongoing situation outside and not related to the school (e.g., if a bank robbery occurs near a school but not on school property). In this situation, the school continues to function normally, with the exterior doors being locked until such time as the situation near the school is resolved.

**“Shelter in Place”** should be used for an environmental or weather related situation, where it is necessary to keep all occupants within the school to protect them from an external situation. Examples may include chemical spills, blackouts, explosions, or extreme weather conditions.

***Boards must use the above terminology in developing local plans, in an effort to ensure consistency across the province. This policy focuses primarily on “Lockdowns”.***

#### Rationale

The use of common language across the province allows for easy integration when staff, students, and emergency service personnel are transferred from one jurisdiction to another.

#### **Roles and Responsibilities**

Clearly defined roles, responsibilities, and expectations are critical in emergency situations. At a minimum, plans should include expectations with respect to staff, students, parents, and police. The lockdown policy should address issues such as accessibility and communications for students with special education needs.

#### Effective Practices

**Principal** – The principal is responsible for overall planning; the final content of the plan; scheduling drills; inviting police, fire, and emergency medical services (EMS) to participate in and be aware of planning and drills; training students; and the overall safety of staff and students. In an actual incident (not a drill), the police are responsible for management of the threat and subsequent criminal investigation; however, the principal shall provide full cooperation with police.

**Staff** – School staff, and in particular administrators, have the overall responsibility for the training, safety, and well-being of students. Administrators during a violent incident have additional responsibilities in terms of working closely with police.

**Students** – Students have a responsibility to be familiar with the plan and to respond quickly to the direction of staff during a crisis situation. Any student with information on or prior knowledge of an individual or a potential situation that may result in a violent incident must come forward with that information as soon as possible. This is also the case during an incident.

**Police** – Police are responsible for responding to and investigating violent incidents. During a violent incident, police will assume command and control of the response and investigation but

will liaise and work closely with school administration and other emergency services throughout the process.

**Parents/Guardians** – Parents and guardians must be informed of the existence of this plan and should reinforce with their children students’ responsibilities with respect to following directions during a crisis and disclosing any information they may have prior to or during a crisis situation.

### **Floor Plans**

Accurate floor plans are a key component of lockdown plans and are important from both a planning and a response standpoint.

#### Effective Practices

Consideration should be given to colour coding floor plans using three colours, such as red, green, and blue. Red indicates danger areas of the school that cannot be locked down safely, with green identifying areas where staff and students are to proceed to safely lock down. Blue areas identify command post locations, which will be utilized by police depending on the nature of the incident.

Normally, the main office will be a command post location, with another area within the school identified as an alternate command post location. A third off-site command post location should be identified within the individual school plan in the event that neither on-site command post location is available.

Off-site evacuation locations should also be identified and included with copies of the floor plans.

Floor plans should be posted throughout the school, at least in every classroom and at every entry point to the school. In multi-level buildings, it is suggested that only the floor plans relevant to a specific level be posted on that level.

Hard copies of floor plans, and electronic copies, if possible, should be provided to police.

#### Rationale

It is vitally important that police have current, accurate information about the school layout and that this information be available in both electronic and hard copy formats in the event of computer malfunctions.

### **Identification of Buildings, Exterior Doors, Classrooms**

To assist police in responding to a major incident or threat of violence, buildings, entrances, and all rooms within buildings need to be clearly identified.

#### Effective Practices

In situations where more than one building exists on school grounds, each building should be clearly identified on all sides of the building with a building identifier, such as a number. All portables shall be clearly identified as well.

All exterior doors shall be clearly identified, such as doors A, B, C, etc.

All rooms within the building should be clearly marked with room numbers.

Rationale

This information is essential to identify the location of buildings and identify safe access routes for responding emergency personnel.

**Initiating Lockdown**

Plans should emphasize the importance of locking down as quickly as possible. At the first indication of a major incident of school violence, notification must go to the main office and the lockdown must commence immediately.

Effective Practices

All staff (especially those working in the main office) should be trained that, when information is received in the office of a situation requiring a lockdown, whoever receives that information will immediately activate the school's public address (PA) system, inside and outside, announcing the lockdown. There should be no hesitation in announcing the lockdown, and the decision to call the lockdown should be made immediately by whoever receives the call to the office, and should not be delayed for the purpose of checking with administration before announcing a lockdown. Boards should consider both auditory (PA) and visual notification systems inside and outside the school to announce a lockdown. For the safety of hearing-impaired individuals and in situations where noise levels in open areas such as cafeterias, and outside the school, may prevent staff and students from hearing a PA announcement, consideration should be given to the use of strobe lights or other visual indicators, in addition to the PA system.

It is recommended that the actual wording announcing a lockdown be affixed on or near the microphone, so that it is clearly visible and can be read by the person announcing the lockdown.

Rationale

In emergent stressful circumstances, even the most composed individuals may have difficulty remembering exact words. By pre-printing the announcement and practicing it, the person delivering the message can ensure that the content is delivered accurately.

**Classroom/Other Secure Area – Procedures During Lockdown**

Plans should provide detailed procedures to be used when locking down a classroom or other secure areas.

Effective Practices

It is recommended that, before locking a door, staff should gather everyone in the immediate vicinity into their classroom or other secure area, but only if it is safe to do so. Once inside a secure area, staff and students should:

- stay away from doors and windows;
- turn off lights;
- close blinds;
- be aware of sight lines;
- if there is a window in the classroom door, consider covering the window;
- take cover if available (get behind something solid);
- remain absolutely quiet;
- take attendance (to be done by teachers);

- not use cell phones unless it is necessary to communicate regarding the incident. Cell phones should be shut off or put on vibrate;
- consider barricading doors where possible, in addition to locking them. Barricading can sometimes provide additional protection against an intruder.

Consideration should also be given to developing strategies for ways in which staff are to assist students in coping with an extended lockdown or “hold and secure”. For example, staff members must have access to all necessary emergency medications for prevalent medical conditions such as anaphylaxis, diabetes, asthma, and epilepsy.

### Rationale

The goal is to make the classroom appear vacant.

### **Portables – Procedures during Lockdown**

Plans must address how to effectively and safely lock down a school portable.

### Effective Practices

Plans must recognize unique issues with portables. Due to thin wall construction, it is recommended that desks be tipped onto their sides with desktops facing out, and all desks placed in a circle, with students/ staff gathered within the circle, down on the floor below the top edge of the desk.

### Rationale

The desktops will act as an additional barrier to a round from a firearm that may have penetrated a portable wall.

### **Washrooms - Procedures During Lockdown**

Plans should address what staff/students should do if they are in a washroom when a lockdown is called.

### Effective Practices

As washrooms cannot be locked, and therefore should be identified during planning as a danger (red) area in the event of a lockdown, students need to evacuate washrooms if at all possible and get to an area that can safely be locked down (green).

For elementary schools, it is recommended that plans designate adults who normally work in close proximity to student washrooms to check the washroom(s) prior to locking down themselves, if it safe to do so. After gathering students in the immediate vicinity of their classroom door into their classroom, they would quickly check both male and female washrooms to which they have been assigned in the planning phase, and take any students found in the washrooms into their classrooms to lock down.

For secondary schools, it is recommended that training include an explanation to students that they are responsible for getting out of the washrooms immediately upon hearing a lockdown announced, and getting to the nearest classroom or other area that is identified as a safe (green) area.

As a last resort, staff or students trapped in a washroom should attempt to somehow secure the bathroom door, enter a stall, lock the door, and climb on top of the toilet.

Rationale

Plans need to indicate that staff and students should be moved from washrooms into classrooms but not if it means moving into immediate danger. In those instances, staff and students should remain in the washroom and attempt to make the washroom appear vacant.

**Open Areas – Procedures During Lockdown**

Plans should recognize that open areas, including cafeterias, libraries, and hallways, are the most vulnerable areas of a school, making them the most likely location for a shooting, and the most difficult areas to quickly and effectively secure.

Effective Practices

Considerable time and attention need to be given to open areas during the planning phase. All possible options should be considered to best address these highly vulnerable areas, including the possibility of evacuating to the exterior of the school. This may be the best option if these areas are adjacent to exterior walls and have doors leading to the outside. It is very important during staff and student training that everyone understand what to do and where to go in the event that a lockdown is called when they are in an open area.

Rationale

Consider having various options in the event that the first option is not available.

**Child Care and Other Facility Occupants**

As many schools have licensed child care centres or other tenants and community groups using school premises, those organizations or individuals must be taken into consideration at all stages.

Effective Practices

It is important that principals ensure the appropriate staff from organizations sharing facilities, are included in the development and implementation of lockdown procedures and that these organizations participate in aspects of planning, training, and drills.

Rationale

Due to proximity issues, the need to be prepared is as important for other occupants as it is for staff and students of schools.

**Outside of School Buildings When a Lockdown Is Called**

Procedures must address where staff and students outside the school should go in the event of a lockdown. These procedures should also address how people who are outside the school building will know where the evacuation sites are located.

Effective Practices

In order to ensure that those who are outside school buildings are aware that the school is locking down, the PA system must be capable of being activated outside the school. Consideration should also be given to including an exterior visual indicator (e.g., strobe lights) that can be used to indicate that a lockdown has been called. Those who are outside the school when a lockdown is called shall not re-enter the school, but shall proceed immediately to pre-determined off-site evacuation location(s). Once at the location, staff and students shall remain in that location until

further advised by administration or police. Plans should include the taking of attendance at the off-site evacuation location(s). Neighbouring schools may not be the best option as off-site evacuation locations, as they too may lock down once they become aware of an incident at a nearby school.

**Note:** When a “Hold and Secure” situation occurs and staff and students are outside the building, they should re-enter the building prior to the exterior doors being locked.

### **Controlled Evacuation**

In the event of a prolonged situation, or a situation where the threat has been contained (e.g., a barricaded individual), plans should include provisions for a controlled evacuation of the areas of the school not in the vicinity of the contained area.

#### Effective Practices

Police will make the decision as to whether a controlled evacuation of a school under lockdown is a viable option, and will direct the evacuation process. This will normally be done on a room-by-room basis, with evacuees being escorted by police to the evacuation location.

### **Fire Alarms**

Plans should address the issue of how to deal with a fire alarm activation after a school has gone into lockdown.

#### Effective Practices

In the event that a fire alarm is pulled once a lockdown has been called, staff and students shall not respond as they normally would to a fire alarm, but shall remain locked down, if it is safe to do so. Staff and students must always be aware of other dangers such as fire, and be prepared to respond accordingly in order to ensure their own safety.

#### Rationale

There is a desire not to create a situation where staff and students run into danger when responding to a fire alarm. At the same time, staff and students should not ignore the fact that fire may occur intentionally or otherwise during a lockdown and that there is a need to respond to the most immediate threat.

### **Procedures to End a Lockdown**

Plans should include how a lockdown will be terminated.

#### Effective Practices

Plans to conclude a lockdown will vary by location. Procedures may include a general announcement via the PA system by the principal, or a room-to-room visit from police/school administration, with some sort of an identification process, so that the occupants of a locked room know that whoever is giving them the all-clear is in fact authentic. Local plans should include procedures for ending lockdowns at off-site evacuation locations. In all cases where police have responded, plans should clearly indicate that the decision to end a lockdown shall be made only after approval of the on-scene police incident commander.

#### Rationale

There is a need to include the same level of authenticity to ending a lockdown as to initiating one.

## Training

Plans should address initial and ongoing training of staff, students, and visitors to the school.

### Effective Practices

Orientation for new teachers should include mandatory lockdown training. Schools should establish a method to conduct lockdown review training for all staff during each school year. Schools should consider assemblies to train secondary students on lockdown procedures. Due to the young age of some elementary students, it is suggested that classroom teachers be responsible for training students at the elementary level. Any training provided to students with special education needs should be consistent with the expectations outlined in their Individual Education Plans. Where possible, it is advantageous to have police partners present during training, and to assist with the training of staff and students. Information for parents may be presented in newsletters, school or board websites, or an evening session on lockdown plans. Fire and EMS personnel should be invited to training sessions.

### Rationale

People can be expected to respond properly under stressful and emergent circumstances when properly trained.

## Drills

Fire drills have long been accepted as an important and effective tool in preparing staff and students for procedures to be followed in the event a fire breaks out in a school. Equally important is the practicing of lockdown drills in preparation for a major incident of school violence.

## **Mandatory Requirements (Ministry of Education)**

***Each school shall conduct a minimum of two lockdown drills during each school year.***

### Effective Practices

School personnel should work cooperatively with police partners on drills. The principal is responsible for setting the date of drills and overseeing the drill, with police support/assistance. Consider including fire and EMS personnel during drills, so they become familiar with lockdown plans. Staff, students, and parents should be given some warning of an impending drill. Procedures should include a plan to alert neighbouring schools of lockdown drills, especially if fire and EMS personnel have been invited to participate. A short debriefing should be included after all drills to identify areas for improvement. Many boards have established a tracking system to record drill dates, thereby ensuring accountability and compliance.

### Rationale

In order for staff and students to respond properly, plans must be practiced to ensure complacency is avoided.

## Media

Plans shall include provisions for dealing with media.

### Effective practices

Police are responsible for addressing media with respect to the criminal incident involved and police response to an incident. Principals/board personnel are responsible for dealing with

media on issues of staff and student safety. It is strongly advised that media personnel from police and school boards share press releases prior to their release to the media, so that both police and school officials are aware of what the other is saying. A spirit of cooperation is highly recommended in terms of police and school officials working closely on media issues.

Rationale

Coordinated and consistent messaging from all partners is essential in maintaining public confidence.

**Communication with Parents/Guardians/Community**

Communication with parents, guardians, and the community in general is important so as to ensure a good understanding of lockdown procedures, without instilling fear.

Effective Practices

Consider sending a newsletter to each home at the beginning of the school year to inform parents of lockdown procedures and to encourage parents to reinforce with their children the importance of understanding the procedures and following staff direction.

Parents need to be informed of where they should proceed in the event of an actual incident involving a lockdown. Communication with parents around the importance of lockdowns is vital. Parents should be informed of what is expected should they arrive at school during a drill, or if they are present within the school when a lockdown is called.

In all instances of a lockdown that was not a drill, it is recommended that a communication to parents be sent home with each student at the conclusion of the school day or as soon as possible.

Parents should be encouraged to ensure that their contact information is kept up to date so they can easily be reached by staff in the event of an emergency.

Rationale

Parents need to see lockdown drills as essential elements to prevent injury, and good communication is required to eliminate fears and concerns. Parents play a key role in ensuring students' cooperation and participation in drills.

**School Recovery Following a Lockdown**

Plans should include provisions to address the aftermath of a school lockdown.

Effective Practices

A debriefing should occur in all situations following a lockdown. The nature and severity of the incident will dictate who should be included in the debriefing. In serious situations where injuries or loss of life occurs, the board's trauma response plan will normally be initiated. In all cases, communication with parents is vital.

**Plan Review**

Each school plan, as well as the board plan, shall be thoroughly reviewed annually.

Effective Practices

A page should be included within the plan that allows for documentation of when the plan was reviewed and who reviewed it, along with a signature area. Where boards develop a web-based application to record when drills have been completed, a separate page could be created to allow for the recording on the website of the date the plan was reviewed annually.

## Appendix C: Provincial Policy for Developing and Maintaining Bomb Threat Procedures for Elementary and Secondary Schools in Ontario

### Introduction

Staff, students, and visitors in Ontario's schools have the right to learn, work, and be present in a safe and secure environment. To enhance safety and security, it is important that schools have plans for responding to bomb threats. According to the RCMP, the overwhelming majority of reported bomb threats are unfounded, but some are not.<sup>1</sup> Care must be taken, therefore, to deal with each incident calmly and consistently. Anyone who spends time in an Ontario school on a regular basis needs to know how to protect themselves, and how to protect students, in the event of a bomb threat.

The Ministry of Education, school boards, and police services from across the province continue to work in partnership to create safe school environments. This work includes planning and preparation in the event that a bomb threat is received, an explosive device is discovered, or an explosives incident takes place.

Many school boards have actively undertaken the process of establishing bomb threat response plans, with the support of their police services. However, until recently, such plans have not been a ministry requirement, nor has there been a consistent approach across the province with respect to bomb threat planning and explosives incident response. Plans and procedures reflecting the following policy must now be included in the school's Emergency and Crisis Response Plan (see section 21 of this document), which must be appended to the protocols already developed by school boards and police services.

Given the dynamic, complex, and fluid nature of such incidents, continuous communication, assessment, and coordination by first responders and school administrators are of paramount importance in ensuring an effective response.

### Purpose

The following policy is being provided to help elementary and secondary schools ensure that their bomb threat plans meet basic requirements, and to ensure an acceptable level of consistency across the province. Using these guidelines can help school staff and emergency services personnel work together to deal with bomb threat situations quickly and cautiously.

### Mandatory Requirements

While much of what is provided below is termed "Effective Practices", the Ministry of Education, on the recommendation of the Ontario Association of Chiefs of Police, specifies two mandatory requirements, as follows:

1. All publicly funded school boards in Ontario must establish a bomb threat response policy to ensure the development and implementation of individual school plans.
2. Each board must ensure that its staff, students, and other partners are aware of their obligations/responsibilities within the individual school plans.

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<sup>1</sup> Canadian Bomb Data Centre, "Developing a Response Plan", [www.rcmp-grc.gc.ca/tops-opst/cbdc-ccdb/resp-interv-plan-eng.htm](http://www.rcmp-grc.gc.ca/tops-opst/cbdc-ccdb/resp-interv-plan-eng.htm).

In developing bomb threat response plans, each elementary and secondary school should be guided by the following policy.

### **Roles and Responsibilities**

Clearly defined roles and responsibilities are critical in emergency situations. At a minimum, plans should include expectations with respect to staff, students, parents, and police.

#### Effective Practices

**Principal** – The principal is responsible for the overall development and final content of the individual school plan. The principal is also responsible for inviting police, fire, and emergency medical services (EMS) to participate in plan development and for making them aware of planning and drills; for the training of staff and students; and for the overall safety of staff and students. The principal (and, it is understood, his or her designate) must be completely familiar with the school's bomb threat plan and with the scope of the authority vested in, and the responsibilities associated with, the principal's position as defined in the plan.

During the initial stages of a bomb threat, the principal will be the authority responsible for the initial assessment and related decisions, including those regarding visual scans and evacuations. For ongoing incidents, the police are responsible for management of the threat and any subsequent criminal investigation. However, the principal will cooperate fully with police and strive to ensure that all staff and students do the same. During an incident, after the principal has been relocated to a place of safety, he or she should continue to exercise his or her duties, to the extent possible, in support of the emergency responders' management of the situation.

**Staff** – School staff, and in particular administrators, have the overall responsibility for the training, safety, and well-being of students. During a bomb threat incident, administrators also have the responsibility of working closely with police.

**Students** – Students have a responsibility to be familiar with the plan and to respond quickly to the direction of staff during a bomb threat or explosives incident. Any student with information on or prior knowledge of anyone or anything that may be associated with or result in a bomb threat, the placement of a suspicious package/device, or an explosives incident must come forward with that information as soon as possible.

**Parents/Guardians** – Parents and guardians must be informed of the existence of this plan. Parents can be encouraged to reinforce with their children the responsibilities students have with respect to following directions during an incident and disclosing any information they may have prior to or during an incident.

**Police** – Police are responsible for responding to and investigating bomb threats and explosives incidents. During any such incident, police will assume command and control of the response and investigation but will liaise and work closely with the principal and other emergency services throughout the process. The police must be notified of all bomb threat incidents, regardless of other actions taken by the schools. The criminal investigation of bomb threats by the police may lead to the apprehension of persons responsible. The investigation itself may also serve as a deterrent for future "copycat" incidents.

**Emergency Medical Services (EMS)** – EMS personnel will provide urgent medical care in the event of an explosives incident.

**Fire Department** – The fire department can be present during bomb threat incidents in the event that fire suppression operations are needed, and will provide fire suppression and rescue operations in explosives incidents. Further, the fire department (Assistants to the Fire Marshal) must report all explosions to the Office of the Fire Marshal and Emergency Management (OFMEM).<sup>2</sup> The OFMEM provides a 24-hour response for all explosions. The OFMEM is notified immediately of all fatal fires, explosions, and incidents causing injuries so that an OFMEM investigator can be assigned.

### Floor Plans

Accurate, up-to-date floor plans are a key component of bomb threat and explosives incident response plans.

#### Effective Practices

Floor plans should be posted throughout the school, at least in every classroom and at every entry point to the school. In multi-level buildings, it is suggested that only the floor plans relevant to a specific level be posted on that level.

Floor plans should clearly identify entrances and exits as well as routes that staff and students are to take during an evacuation. Command post locations and off-site evacuation locations should *not* be identified on posted or publicly circulated copies of the floor plans.

Floor plans should be available to all emergency service responders who may be involved in a search of the premises when they arrive on the scene.

Police should be provided with both hard copies and electronic copies of floor plans.

#### Rationale

It is vitally important that police have current, accurate information about the school layout and evacuation locations and that this information be available in electronic format as well as in hard copies that can be used in the event of computer malfunctions.

### Identification of Rooms and Buildings, and Facilitation of Access

To assist police in responding to an incident, it is important to identify buildings, entrances, and all rooms within buildings and to ensure that facility master keys are up to date.

#### Effective Practices

In situations where more than one building exists on school grounds, each building should be clearly identified, on all sides, with a building identifier, such as a number. All portables should be clearly identified as well. All exterior doors should be clearly identified – for example, as Doors A, B, C, and so on. All rooms within the building should be clearly marked with room numbers. This site plan should be consistent with the fire safety plan that school boards are required to provide to the fire department for emergency fire response.

In addition, it is important to ensure that facility master keys are current and available for emergency service responders who may be involved in a search of the premises. It is particularly

<sup>2</sup> See “Fire Marshal’s Directive: 2015-002 – Reporting of Fires and Explosions Requiring Investigation”, at [www.mcscs.jus.gov.on.ca/english/FireMarshal/Legislation/FireMarshalsDirectives/FM\\_directives.html](http://www.mcscs.jus.gov.on.ca/english/FireMarshal/Legislation/FireMarshalsDirectives/FM_directives.html).

important that those elementary schools that have opted to lock their doors during the school day have a plan for making keys available to emergency services personnel.

### Rationale

This preparation is vital for responding emergency personnel, as it allows them to identify the location of rooms and buildings that have been reported as potentially unsafe, and to identify safe access and/or evacuation routes. Ensuring that responders have access to all rooms and buildings for searches or other purposes is also critical.

### **Command Post**

Each plan should designate primary, secondary, and off-site command post locations.

### Effective Practices

Normally, the main office will be the primary command post location, with another area within the school identified as an alternate (secondary) command post location. The individual school plan should identify a third off-site command post location, to be used in the event that neither on-site command post location is available.

Information regarding command post locations should *not* be publicly circulated. This will help to ensure that the command posts do not become locations for the placement of explosive packages/devices or for secondary incidents.

### Rationale

Having a dedicated command post provides a central location from which officials and emergency services can evaluate incidents and control the emergency response.

### **Facility Assessment and Physical Security**

The careful assessment of a school facility and the development and implementation of sound security and planning measures may reduce the potential for bomb threats and explosives incidents. Local police services can be a useful resource when such assessments are conducted.

### Effective Practices

Each school's bomb threat plan should detail proactive measures in a number of areas. In developing their plans, schools should:

- determine likely locations in and around the school for the placement of suspicious packages/devices;
- provide for controlled access to critical areas of all facilities (e.g., the main office, electrical rooms, mechanical rooms);
- consider the use of electronic surveillance or closed-circuit television (CCTV), and, if such surveillance is adopted, post signage regarding its use;
- address ways to ensure that emergency exits are kept clear from obstructions;
- provide for the regular inspection of first aid and firefighting equipment;
- include, and provide for the regular review of, document-safeguarding procedures;
- assess whether interior/exterior and auxiliary lighting is adequate;
- develop an inspection procedure for all incoming packages; and
- consider other potential threats.

### Rationale

The development and implementation of proactive strategies may deter bomb threat incidents and enhance/expedite agency response to actual incidents.

### **Bomb Threat Intake Procedures**

According to the RCMP, most bomb threats are made over the telephone by anonymous callers.<sup>3</sup> Some are received in the mail or by other means, but these methods are rare. In each case, the communication should be taken seriously. School staff in positions that make them most likely to receive bomb threats should be identified in school plans and should receive training in proper procedures.

### Effective Practices

The person receiving a bomb threat by telephone should try to keep the caller on the line as long as possible and should record precise details of the call, especially the exact wording of the threat. However, the person should end the call if staying on the line puts them in harm's way or prevents them from initiating response procedures.

It is recommended that a checklist be made available to staff members who are most likely to receive a bomb threat. A sample "Bomb Threat Telephone Procedures" list is available through the RCMP Canadian Bomb Data Centre, at [www.rcmp-grc.gc.ca/tops-opst/cbdc-ccdb/telephone-procedure.pdf](http://www.rcmp-grc.gc.ca/tops-opst/cbdc-ccdb/telephone-procedure.pdf).

Staff should be trained to record precise information during a bomb threat call, including the following:

- the exact wording of the threat;
- the time and date of the call;
- the phone number or line on which the call was received;
- the caller's number, if shown on call display;
- whether the caller is male or female and the caller's approximate age;
- the exact location of the explosive device and the time of detonation, if that information is revealed by the caller;
- the type of explosive device and what it looks like (e.g., pipe bomb, truck bomb), if that information is revealed by the caller;
- any unique speech characteristics of the caller;
- any background noises (e.g., traffic, music, laughter);
- the condition or emotional state of the caller (e.g., whether the caller seems to be intoxicated, excited, angry);
- the caller's name, if that information is revealed by the caller;
- whether the call taker recognizes the voice of the caller; and
- the time when the caller hangs up.

<sup>3</sup> Canadian Bomb Data Centre, "Developing a Response Plan", [www.rcmp-grc.gc.ca/tops-opst/cbdc-ccdb/resp-interv-plan-eng.htm](http://www.rcmp-grc.gc.ca/tops-opst/cbdc-ccdb/resp-interv-plan-eng.htm)

If possible, the call taker should attempt to notify the school principal during the telephone call. If not, the principal should be notified immediately after the call. All pertinent details of the call should immediately be relayed to the principal and documented.

Following the call, the call taker should immediately “lock-in” the phone number of the received call, if this feature is available through the local telephone provider. It is suggested that the “lock-in” process be posted at all phones that can receive incoming calls.

School plans should address who will contact the local police service and fire department and provide details about the bomb threat. It is recommended that, unless there are exigent circumstances, this should be done after the school principal has been provided with available information and after both the initial assessment (see the next section) and the decision whether or not to evacuate have been made.

With the proliferation of social networking and school use of Internet sites for external communication, plans should also address bomb threats that are received through electronic means. These procedures should address bomb threats received via external email, posted on electronic bulletin boards, or received by a staff member or student via text or other means. Procedures should include how to immediately isolate the received message, remove it from any external posting, and communicate the information to the school principal during and after school hours, including on weekends and holidays.

### Rationale

The overall safety of all staff and students can be maximized – and the disruption of activities and atmosphere of anxiety minimized – if the employee who receives the bomb threat knows what procedures to follow.

### **Initial Assessment**

One of the most challenging aspects of a bomb threat incident is the initial assessment of the threat and the accompanying decisions about whether to authorize a visual scan and/or an evacuation. Many bomb threats are hoaxes intended to disrupt school exams or daily classes. Hasty decisions to evacuate or to initiate a high-profile emergency response may encourage further incidents. However, the safety of students and staff is paramount during a bomb threat and therefore every threat must be assessed individually, based on known information.

These guidelines cannot prescribe when to conduct a safe, visual scan and/or when to evacuate during a bomb threat. Rather, presented below are areas of concern that should be assessed during an incident. Individual school plans should address these areas and expand on them as necessary, if other concerns are identified based on local circumstances.

Decisions regarding scans and evacuation are made after a thorough assessment of known information and are continually re-evaluated throughout a bomb threat incident.

### Effective Practices

Plans should identify in detail the information that needs to be immediately assessed by the principal during the initial stages of a bomb threat. The initial assessment should be based on the following:

- the information recorded on the bomb threat checklist (see “Bomb Threat Intake Procedures”, above); any other notes made by the call taker;

- activities taking place in the school at the time of the threat (e.g., examinations)
- whether a specific location for a bomb was stated or the entire school was threatened;
- whether the threat was specific to the current time or a future time/ date;
- any recent negative incidents involving a student, staff member, or anyone else connected with the school;
- whether there have been any other recent bomb threats or hoaxes;
- the likelihood of anyone having the opportunity to place a bomb in the stated location; and
- whether a suspicious device/package has been located.

Once the initial assessment has taken place and decisions have been made regarding a visual scan and/or evacuation, the police must be notified. Initial contact with the police may be made *while* the principal is conducting the assessment and making decisions. Although it is important to provide police with information beyond simply that a bomb threat has been received, initial contact should not be delayed.

The fire department should also be notified of the bomb threat. A predesignated phone number should be used, rather than 911, which is restricted to emergency calls to the police. When notifying the fire department, it is important to clarify that no explosion has occurred and that the police have been informed.

School plans should specify who will contact the police and fire department when a bomb threat is received. Police should be contacted in every incident of a “bomb threat”, regardless of whether a decision has been made to conduct a partial or full evacuation, or not to evacuate.

Plans should include a list of information to be provided to the police, including the following:

- the information recorded on the bomb threat checklist (see “Bomb Threat Intake Procedures”, above);
- activities taking place in the school at the time of the threat (e.g., examinations);
- the status of any evacuation that may be underway;
- the status of any safe, visual scan that may be underway; and
- the in-school contact person for the police, once they are on the scene.

Plans should include procedures for ongoing assessment during an incident. Regardless of whether a partial or full evacuation is ongoing or no evacuation has been directed, whether a scan is underway, or whether police and fire department are responding to the incident, plans should include procedures for the continual assessment of the situation and for relaying **further** information to update the principal. Specifically, the principal needs to be informed:

- if a suspicious package/device is located;
- of any interference with any type of evacuation that is underway; and
- if an explosives incident occurs.

Rationale

Having a comprehensive list of items to be assessed when a bomb threat is received provides decision makers with the best opportunity to evaluate and respond to the bomb threat, and to continually assess any additional information and take appropriate action.

**Visual Scans**

Every school's plan must detail procedures for safe, visual scans conducted by designated staff. When a threat has been made, a safe, visual scan can provide critical information to support decision making during the initial assessment.

Effective Practices**Designating Persons to Conduct Visual Scans**

As part of the initial assessment, the principal may decide that a safe, visual scan of the school and/or classroom for suspicious devices or packages should be conducted. Every school plan should identify the staff member(s) who will conduct this visual inspection. It is imperative that scans be conducted by individuals who have detailed knowledge of the facilities and are familiar with students and fellow staff. Such individuals know what does and does not belong within the school and therefore are best suited to recognize suspicious devices/packages.

Responsibilities related to safe, visual scans are to be addressed as part of the planning process and not at the time of an actual incident.

**Procedures**

Principals should receive training to enable them to make sound decisions as to whether, and when, a safe, visual scan is appropriate. Local police services may be of assistance. The staff member(s) designated to conduct scans should be given basic information about conducting safe, visual scans.

*Under no circumstances should a staff member conducting a visual scan touch a suspicious device or package.* If a suspicious package or device is detected, the area must immediately be evacuated of staff and students and the package or device reported to the principal.

For threats to the entire facility, plans should identify and prioritize areas to be visually inspected. These areas include:

- the building exterior and parking lots;
- entrances;
- large gathering areas within the school (e.g., cafeterias, auditoriums);
- hallways, stairways, and elevators;
- washrooms;
- classrooms, the main office, and staff rooms; and
- service and mechanical rooms and spaces.

When prioritizing areas to be searched, consideration should be given to accessibility by a potential suspect, evacuation routes, evacuation locations, command posts, and staging areas for emergency services personnel. Local police services will be able to provide assistance with prioritizing the areas to be visually inspected.

School plans should identify a process for documenting areas that have been inspected.

Rationale

Having established plans for inspection and designated staff to conduct safe, visual scans helps ensure that scans are conducted in a timely, systematic, and thorough manner.

**Procedures Following the Location of a Suspicious Device/ Package**

Every school plan must include procedures regarding actions to be taken if an explosive device or a suspicious device/package is located any time before emergency service responders arrive on the scene.

Effective Practices

When a suspicious package/device is located, appropriate procedures include the following:

- isolation/containment of the device/package, ensuring that it is not touched;
- immediate communication of the discovery to the principal and to police and the fire department; and
- immediate re-evaluation of any evacuation decisions in light of the discovery.

Regardless of whether the package/device has been delivered to the school or located during a visual scan or under other circumstances, it is imperative that the object is not touched or moved and that it is immediately contained. This direction applies even if the package had already been moved prior to being deemed suspicious.

The school principal should be notified immediately of the discovery of a suspicious package/device and of any action taken to that point.

Police should be notified or updated when confirmation is received regarding the precise location of the package/device. Once the police have been notified, fire department and EMS personnel should be contacted so that they will be nearby or on the scene in stand-by mode.

The school principal will work with emergency services personnel, which may include first responders, investigators, and bomb technicians, to evaluate the need to relocate evacuees and/or command posts.

Legitimate property may have been left behind in an evacuated area, so attempts should be made to establish ownership of any suspicious device/ package. This should be done by making inquiries, not by handling the package/device.

Rationale

Ensuring that staff and students are acutely aware that suspicious devices/ packages must not be moved limits the possibility of an explosives incident. Containing and reporting a suspicious package/device, and immediately re-evaluating evacuation, notification, and search decisions, depending on the information received, reduces the risk of harm to staff and students.

## Evacuation Procedures

Every school plan must detail procedures to facilitate a safe and effective partial or full evacuation of the facility. Plans should also detail the process to end any partial or full evacuation.

Although bomb threat drills and fire drills will involve evacuation plans that are similar in many ways, the two plans should be treated and practised separately.

The decision to direct an evacuation should be made only after careful consideration of the risks. Because the most likely location for a bomb is in a common area, evacuation through common areas can increase risk.

### Effective Practices

The notification process for both a partial and a full evacuation of each facility is to be included in each school plan. Staff should be aware of who is authorized to order evacuation of and re-entry to the facility. The notice to evacuate must be unambiguous, and the evacuation location(s) must be clearly understood. Fire alarms should not be used to signal an evacuation in response to a bomb threat, as this may cause confusion regarding the nature of the emergency. When announcing an evacuation, it is advisable to use clear, concise language rather than codes. Evacuations should be conducted in a quiet and systematic way, giving consideration to the threat location and students and staff most at risk.

Staff and students should be directed to quietly leave the location, proceed in a calm and orderly manner, and assemble in the designated evacuation location(s). Evacuees should be directed not to return to their lockers but to bring with them any personal belongings (e.g., bags, lunches, laptops) that are in the immediate area, if it is safe to do so. Removing these articles will assist the police with any subsequent search of the area, by decreasing the number of suspicious packages/devices.

Plans should address practices for ensuring that evacuation routes and alternate routes are clear from obstructions. Designated stairwells that are identified in the school plan should be used. Provisions should be in place to assist with the evacuation of physically challenged staff and students. Because of the risk of power failure, elevators should never be used for evacuation. If, however, stand-by power is provided to an elevator, consideration should be given to using that elevator for the evacuation of physically challenged staff and students.

Evacuation routes and locations should be inspected prior to, or immediately upon, the arrival of evacuees to ensure that a secondary explosive device has not been placed in these areas. At the evacuation location, attendance should be taken and all students and staff accounted for. The command post is to be notified when the evacuation is complete. Students and staff should be directed to remain in the evacuation location and to refrain from the use of electronic communication devices.

Plans should include provisions for the care, control, and well-being of evacuated persons. The use of school buses should be considered to shelter staff and students during inclement weather.

### Rationale

Clear and concise evacuation plans that are understood by staff and students help to ensure the safety of those being evacuated. Lack of planning may lead to panic and increase the potential risk to personal safety during an unorganized evacuation.

## Re-entry Procedures

Each school plan must include procedures for ending evacuations and ensuring safe re-entry into the school. Plans should clearly indicate that the decision to end a partial or full evacuation shall be made by the school principal in consultation with the on-scene police incident commander.

### Effective Practices

Plans should include procedures for announcing the end of a partial or full evacuation. Such procedures may vary by facility and depending on whether evacuees are at off-site locations. Plans may include a general announcement via the public address (PA) system by a designated authority, or may include a room-to-room visit from police and/or the principal, with some sort of identification process, so that evacuees know that whoever is giving them the all-clear is authorized to do so.

### Rationale

There is a need to bring the same level of authority to ending a partial or full evacuation as to initiating one.

## Procedures Following an Explosives Incident

Every plan must include procedures for dealing with an explosives incident that occurs within a school building or in the school yard. Explosives incidents may occur without warning or after a bomb threat has been received. Explosives incidents do not always require a full evacuation of the school. Under certain circumstances, and if it is determined that there is no fire, a partial evacuation of the building may be appropriate.

Plans for responding to an explosives incident should address the following:

- criteria for full or partial evacuation;
- considerations related to the provision of emergency care;
- considerations related to the notification of emergency services; and
- containment of the explosion scene.

### Effective Practices

When an explosives incident occurs, the school principal should be notified immediately and informed of any action taken. Personnel designated in the plan should report to the command post location in order to carry out their duties, many of which will be taking place simultaneously.

The following items are considerations to be addressed as part of the response to an explosives incident and in plan development.

## Evacuation Considerations

The area around the explosion scene should be immediately evacuated, and evacuees should be directed to a designated evacuation location. Emergency first aid should be provided to any persons injured in the explosives incident. Information regarding injuries should be communicated to the command post. Attendance should be taken and a list of any missing staff or students should be communicated to the command post.

It should be determined whether an evacuation of the entire site is necessary, or whether a partial evacuation of the area around the explosives incident will suffice. A fire resulting from the incident can make staying in the building unsafe, so partial evacuation should be considered only if it is certain that no fire has started. The school principal shall work with emergency services personnel to evaluate the need to relocate evacuees and/or command posts.

As staff and students are evacuating, they should continue to follow proper evacuation procedures (see p. 58). They should be asked to keep their eyes open for unusual packages, and, where possible, staff who are designated to conduct visual scans (see p. 56) should visually inspect the areas that are being evacuated and areas along the evacuation route. If a suspicious package/device is noticed, it should be reported to emergency responders immediately on arrival at the evacuation location.

### **Emergency Services Notification**

The fire department, emergency medical services (EMS), and police should be called immediately. An explosives incident can often result in the spread of fire and smoke.

### **Containment of the Explosion Scene**

Once the area has been evacuated, staff and students should not re-enter an explosion scene. Not only may additional packages/devices be present, but the area will be subject to a substantial crime scene investigation and therefore should not be disturbed.

### **Communications**

Having primary and secondary communication systems allows for accurate transmission of information between officials, staff, students, and emergency services personnel.

#### *Effective Practices*

Plans should specify designated primary and secondary communication systems, with provisions for internal communication with staff and students and external communication with emergency services personnel. The external communication plan should have provisions for communication with parents/other stakeholders during extended incidents and after incidents.

In most cases, intercoms and telephones will be used as primary communication systems. Radios and walkie-talkies are *not* recommended as secondary systems, given that radio signals may detonate sensitive explosive devices. Runners, loud hailers, or other methods should be used for secondary communication systems. Local police services should be consulted regarding the use of cell phones, and staff and students should be educated about how such devices can be used in the event of an incident.

The protocol should emphasize the importance of reminding all responders of the danger of using radio communication in a bomb threat situation.

#### *Rationale*

Accurate and timely transmission of pertinent information is imperative for making informed decisions during an incident and for ensuring the safety of all persons during evacuations or an emergency response.

## Child Care and Other Facility Occupants

Many schools have licensed child care centres and/or other tenants and community groups using school premises, sometimes outside regular school hours. These organizations or individuals must be taken into consideration when planning and when conducting training and drills, and they must be informed of the need to follow school board procedures.

### Effective Practices

It is important that principals make best efforts to ensure that the appropriate staff from organizations who share school facilities are included in the development and implementation of procedures, and that these organizations participate, whenever possible, in relevant aspects of planning, training, and drills.

### Rationale

Due to proximity issues, the need to be prepared is as important for other occupants as it is for staff and students of schools. During planning, consideration should be given to after-school programs, night school, sports programs, and so on.

## Outside of School Buildings

Procedures must address the notification of, and the actions to be taken by, staff and students who are outside the school building(s) when a bomb threat is received, a suspicious device/package is located, or an explosives incident occurs. Staff and students need to be aware of where they should go in the event of such an incident.

### Effective Practices

Staff and students who are outside the school buildings should never re-enter the school unless they are in close proximity to an identified threat location and have been directed to do so.

Although notification of those who are outside the school building(s) is important, the use of an exterior PA system may not be the best option, as it may cause panic and/or bring unnecessary attention from members of the community. The use of a personal messenger to identify the off-site evacuation location(s) is recommended. Once at the location, staff and students shall remain at that location until further advised by the principal or police. Plans should include the taking of attendance at the off-site evacuation location(s).

## Training

Plans should address initial and ongoing training of all staff as well as students and, where possible, visitors to the school.

## Mandatory Requirement (Ministry of Education)

Each board must ensure that its staff, students, and other stakeholders are aware of their obligations/responsibilities within the individual school plans.

### Effective Practices

Orientation for new staff should include mandatory training in bomb threat responses. Schools should establish a method to conduct bomb threat review training for all staff during each school year. Such training should be conducted as early in the school year as possible.

Schools should consider holding assemblies to train secondary students on bomb threat procedures as well as explosives incident procedures, and related evacuation plans. Due to the

young age of some elementary students, it is suggested that classroom teachers be responsible for training students at the elementary level. Any training provided to students with special education needs should be consistent with the expectations and accommodations outlined in their Individual Education Plans.

In many situations, it may be impractical to try to provide training to school visitors. In other cases, however, when the visitor is in the school over an extended period, as in the case of a service provider, it is necessary to inform the visitor of the school's bomb threat procedures and explosives incident evacuation procedures.

Where possible, it is advantageous to have police partners present to assist with the training of staff and students. Fire department and EMS personnel should also be invited to training sessions.

### Rationale

People can be expected to respond properly under stressful and emergent circumstances when properly trained.

### Drills

Fire drills have long been accepted as an important and effective tool in preparing staff and students for procedures to be followed in the event a fire breaks out in a school. As with fire drills, drills and education related to evacuation following a bomb threat or explosives incident can help maintain order in the event of an incident. Such drills can be held as part of a school's emergency evacuation drills.

### Effective Practices

School personnel should work cooperatively with police partners on drills. The principal is responsible for setting the date of drills and overseeing the drill, with police support/assistance. Schools should consider including fire department and EMS personnel during drills, so they become familiar with the school's bomb threat procedures. Staff, students, child care workers, and community partners or other visitors who may be in the school should be given some warning of an impending drill. When developing plans, consideration should be given as to whether or not to notify parents in advance. Plans should include procedures for alerting neighbouring schools of drills, especially if fire and EMS personnel have been invited to participate.

A short debriefing should be held after all drills to identify areas for improvement. Many boards have established a tracking system to record drill dates.

### Rationale

When emergency plans are practised regularly through drills, staff and students are aware of how to respond properly in a potential emergency, and their safety is enhanced.

### Media

Plans shall include provisions for dealing with media in the event of an incident.

### Effective Practices

Police are responsible for addressing media with respect to any criminal incident and the police response to the incident. Principals/board personnel are responsible for dealing with media on issues pertaining to staff and student safety. It is strongly advised that media personnel from the

police department, school boards, the fire department, and EMS share press releases prior to their release to the media, so that all officials are aware of what the other agencies are saying. A spirit of cooperation is highly recommended, and school officials, police, and other services are encouraged to work closely with each other on media issues.

Rationale

Coordinated and consistent messaging from all partners is essential in maintaining public confidence.

**Communication with Parents/Guardians and the Community**

Communication with parents, guardians, and the community in general is important so as to ensure a good understanding of bomb threat and explosives incident procedures, without instilling fear.

Effective Practices

Consider sending a newsletter to each home at the beginning of the school year to inform parents of bomb threat and explosives incident procedures and to encourage parents to reinforce with their children the importance of understanding the procedures and following staff direction.

Parents need to be informed of where they should proceed in the event of an actual incident. Given the dynamic, complex, and fluid nature of these incidents, communication with parents around the importance of procedures is vital. Information for parents may be presented in newsletters, on school or board websites, or at an evening session on bomb threat plans. Parents should be informed of what is expected should they arrive at school during a drill, or if they are present within the school when an evacuation is called.

In all incidents resulting in an evacuation that was not a drill, it is recommended that a communication to parents be sent home with each student at the conclusion of the school day or as soon as possible thereafter.

Parents should be encouraged to ensure that their contact information is kept up to date so they can easily be reached by staff in the event of an emergency.

Rationale

Parents need to know that plans are in place to respond to bomb threats and explosives incidents. Good communication is required to eliminate fears and concerns. Parents play a key role in ensuring students' cooperation and participation in drills.

**School Recovery Following an Incident**

Plans should include provisions related to recovery after an incident involving a bomb threat, a suspicious package/device, and an explosion.

Effective Practices

Recovery procedures will differ significantly, depending on the nature of the incident. A debriefing should occur in some situations following the receipt of a bomb threat or following the location of a suspicious device/ package. A debriefing should always take place following an explosives incident. The nature and severity of the incident will dictate who should be included in the debriefing.

When a bomb threat or a suspicious package/device is found to be a hoax, controlled communication, including communication relating to any debriefing conducted to evaluate actions, is important so that further incidents are not encouraged.

In serious situations following the location of a suspicious package/device or an explosives incident, the board's trauma response plan will normally be initiated. In all cases, communication with students and parents is vital.

### **Plan Review**

Each school plan, as well as the board plan, shall be thoroughly reviewed annually.

#### Effective Practices

A page should be included within the plan that allows for documentation of when the plan was reviewed and who reviewed it, along with a signature area. Where boards develop a web-based application to record when drills have been completed, a separate page could be created to allow for the recording on the website of the date each year when the plan was reviewed.

## Appendix D: Guide to Officers for Section 146 Youth Criminal Justice Act Statements

### Guide to Officers for Section 146

#### Youth Criminal Justice Act Statements

The Ontario Court of Appeal has emphasized the importance of recording any statement of an accused person on video. This is even more important when contemplating charges against or taking the statement of a young person where the informational components of Section 146 must be explained to the young person **in language appropriate to the particular young person's age and understanding**. The best way to demonstrate that you have tailored your explanation to the age and understanding of the particular young person is by way of video.

- It is imperative that the young person clearly understands everything that is being said and explained to him/her.
- It is insufficient to simply read the form to the young person and ask if he/she understands.
- An individualized, objective approach that takes into account the level of sophistication and other personal characteristics relevant to the young person's understanding is required when conducting the interview.
- Prior to asking any of the questions set out in the statement form, you are required to acquire some insight into the level of understanding of the young person you are interviewing in order to determine the appropriate language to use in explaining their rights. It would be of evidentiary value to record this initial interaction with the youth while gauging their level of understanding.
- This requirement involves learning something about the young person's level of education, language and vocabulary skills, ability to comprehend, and emotional state.
- This requirement can only be achieved by engaging the young person in conversation. Consideration should be given to the following non-exhaustive list of questions:
  - How old are you?
  - What grade are you in?
  - What school do you attend?
  - Do you have a learning disability?
  - Are you in a special education class?
  - Have you been arrested before?
  - Have you given a statement to a police officer before?
- While you are not required to have the young person "explain back" their rights, in some instances, this may well demonstrate that your explanations were both appropriate and sufficient
- Once you have acquired the necessary insight into the young person's level of understanding, you will be in a position to tailor your explanation of the Section 146 requirements to the capabilities of the particular young person you are interviewing.
- A simple and appropriate way to determine whether the young person understands is to ask, "What does this mean to you in your own words?"

**Statement of a Young Person** *Youth Criminal Justice Act, Section 146*

1. Statement Recording Method

Audiotape (No.\_\_\_\_)       Written       DVD (No.\_\_\_\_)       Videotape (No.\_\_\_\_)

Police Service: \_\_\_\_\_ Police Case ID: \_\_\_\_\_

Occurrence No.: \_\_\_\_\_

Date: \_\_\_\_\_ Location: \_\_\_\_\_ Start Time: \_\_\_\_\_ Time Completed: \_\_\_\_\_

Interviewing Officer(s): \_\_\_\_\_

Name of Young Person: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Address: \_\_\_\_\_

Name:     Parent(s)       Adult Relative       Other Adult

Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

You are charged with: \_\_\_\_\_ You may be charged with: \_\_\_\_\_

2. Do you understand the charge(s)?

Reply: \_\_\_\_\_

If at any time you do not understand anything, tell me and I will explain it to you. Do you understand?

Reply: \_\_\_\_\_

**3a. THIS SECTION APPLIES ONLY TO YOUTHS WHO ARE 14 YEARS OF AGE OR OLDER AT THE TIME OF THE ALLEGED OFFENCE AND THE OFFENCE IS 1ST OR 2ND DEGREE MURDER, ATTEMPT MURDER, MANSLAUGHTER, OR AGGRAVATED SEXUAL ASSAULT.**

As you are 14 years old, or older, and you are charged with \_\_\_\_\_, if you are found guilty, the Crown will ask the court to give you an adult sentence. The most severe adult sentence is life in prison. It is up to the court to decide whether you will be sentenced as a young person or an adult.

Not Applicable (officer's initials) \_\_\_\_\_ Warning Read:    Yes

Do you understand?       Yes       No

**3b. THIS SECTION APPLIES TO YOUTHS WHO ARE 14 YEARS OF AGE OR OLDER AT THE TIME OF THE ALLEGED OFFENCE AND THE OFFENCE IS ONE FOR WHICH AN ADULT IS LIABLE TO IMPRISONMENT FOR MORE THAN TWO YEARS.**

As you are 14 years old, or older, if you are found guilty, the Crown may ask the court to give you an adult sentence. The most severe adult sentence is life in prison. It is up to the court to decide whether you will be sentenced as a young person or an adult.

Not Applicable (of r's initials) \_\_\_\_\_ Warning Read:    Yes

Do you understand?       Yes       No

4a. You have the right to talk to a lawyer in private without delay. Do you understand?

Reply: \_\_\_\_\_

b. You can also get immediate legal advice from a free Legal Aid Lawyer by calling 1-800-561-2561 or 1-800-265- 0451.

Do you understand?

Reply: \_\_\_\_\_

c. If you are charged with an offence, you may apply to Ontario Legal Aid for legal assistance.

Do you understand?

Reply: \_\_\_\_\_

d. You also have the right to speak, without delay and in private, to a parent, or in the absence of a parent, an adult relative, or in the absence of an adult relative, another appropriate adult whom you feel may assist you.

Do you understand?

Reply: \_\_\_\_\_

e. If you make a statement to the police, the police must have the person(s) you spoke with here while you make a statement, unless you do not want them or any one of them here.

Do you understand?

Reply: \_\_\_\_\_

f. Do you want to talk to a lawyer?

Reply: \_\_\_\_\_

g. Do you want to talk to one or both of your parents?

Reply: \_\_\_\_\_

h. If your parent(s) are not available, do you want to talk to an adult relative?

Reply: \_\_\_\_\_

i. If an adult relative is not available, do you want to talk to another appropriate adult?

Reply: \_\_\_\_\_

**5. IF THE YOUNG PERSON INDICATES THAT HE/SHE WISHES TO SPEAK TO ANY OF THE ABOVE PERSONS, THE OFFICER CONDUCTING THE INTERVIEW MUST NOW FACILITATE THOSE CONVERSATIONS.**

Do you wish to make a statement?

Reply: \_\_\_\_\_

If yes, the police must have the people you spoke with here while you make a statement, unless you do not want them or any one of them here. Do you understand?

Reply: \_\_\_\_\_

If you decide to make a statement, you can stop at any time. You can also at any time talk to a lawyer and a parent, adult relative, or another appropriate adult, and have that person here with you.

Do you understand?

Reply: \_\_\_\_\_

**6. WAIVER OF RIGHTS**

I have been given the opportunity to obtain immediate free advice from a Legal Aid Lawyer and the opportunity to talk to a lawyer and my parent(s); or, in the absence of a parent, an adult relative; or, in the absence of a parent or adult relative, another appropriate adult. I have been informed that the police must have the people with whom I have just spoken present when making a statement unless I do not want them, or any one of them, with me during this interview. These rights have been explained to me and I understand them.

I choose not to talk with any of these people.

\_\_\_\_\_  
Signature of Young Person

I do not want any of them here with me during this interview.

\_\_\_\_\_  
Signature of Young Person

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Time

Name of Person Present:     Parent(s)         Adult Relative         Other Appropriate Adult

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**7. CAUTION**

You do not have to say anything about the charge(s) unless you want to.  
Do you understand?

Reply: \_\_\_\_\_

I also have to tell you that whatever you do say will be recorded in writing or on audio or video and may be given in evidence against you in court.

Do you understand?

Reply: \_\_\_\_\_

**8. SECONDARY CAUTION**

If you have spoken to any other police officer or if anyone else has spoken to you in connection with this matter, I want it clearly understood that I do not want it to influence you in making a statement.

Do you understand?

Reply: \_\_\_\_\_

You are reminded that you do not have to say anything about this charge unless you want to.

Do you understand?

Reply: \_\_\_\_\_

Do you wish to make a statement?

Reply:

\_\_\_\_\_  
\_\_\_\_\_

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Signature of Young Person: \_\_\_\_\_

Time Completed: \_\_\_\_\_

Witnesses: (1) \_\_\_\_\_

Signature: \_\_\_\_\_

(2) \_\_\_\_\_

Signature: \_\_\_\_\_

## Appendix E: Violent Incident Emergency Response Plan

(An example for consideration by individual boards and schools.)

### Introduction

For the purposes of this plan, a violent incident is defined as a situation involving an armed individual posing immediate threat to life (i.e. has a gun, knife, explosives, and a weapon as defined in the Police and School Protocol).

Note: Bomb threats are not covered under these procedures.

Although infrequent, the possibility of a major violent incident in one of our schools is a reality. The level of preparedness to deal with such an incident by school staff, students and the police, will have a major impact on the outcome of the incident.

A great deal of time, thought and effort has gone into preparing a response plan, which is user friendly, easily understood and effective. While certain portions of the plan are tailored for each school based on individual needs, the overall plan is designed to have common application, for all schools and police services across North East Region.

### Roles

**School Staff** – School staff, and in particular, administrators, have the overall responsibility for the safety and well being of students. Administrators, during a violent incident, have additional responsibilities in terms of working closely with the police.

**Students** – Students have a responsibility to be familiar with certain aspects of the Violent Incident – Emergency Response Plan, and to respond quickly to the direction of staff during a crisis situation. In addition, any student with information or knowledge prior to or during a crisis situation must come forward with that information immediately. In almost every incident of major violence at a school, it was later learned that one or more students had prior knowledge of what was going to take place, but failed to tell anyone.

**Police** – Police are responsible to respond to and investigate, violent incidents as defined in this plan. During a violent incident, police will assume command and control of the response and investigation, but will liaise and work closely with school administration throughout the process. Police are responsible to be familiar with the locations and internal designs of schools within their areas of patrol.

**Parents/Guardians** – Parents and guardians must be aware of the existence of this plan, and should reinforce with their children, student responsibilities with respect to following directions during a crisis, and disclosing any information they may have prior to or during a crisis situation.

**School Community Councils** – Members of School Community Councils need to support the local school plan and assist the school administration in promoting awareness of the plan throughout the broader school community.

## Training

This plan will be of little value in a crisis situation, if the plan is not exercised on a regular basis. School administrators will be required to review this plan with staff (including supply teachers, parent volunteers, etc.) at least once during each school year. The police service responsible for community policing in each school shall assist in annual training.

Both elementary and secondary schools are to have a minimum of one drill yearly.

Each school will be responsible for training their students in order to educate them on how to react when the police arrive at the scene.

## Preparation and Planning

### Crisis and Evacuation Kits

Upon arrival, emergency personnel will require particular information and materials that are essential to an efficient response. These include:

- A complete list of staff and students complete with photographs, addresses, telephone number, next of kin, medical information
- Class schedules and time tables
- Attendance records for that day
- Floor plans of the school including environmental and mechanical systems
- Instructions for search teams with floor plan
- Master keys
- Indicators to mark doors of areas searched

These materials should be kept in a container specifically prepared for this purpose. It should also contain items such as:

- A bull horn/megaphone
- A first aid kit
- Pencils, pens, markers, paper, and notebooks
- A copy of this guide, your plan, and other necessary documents (Board Policies, Contact lists, etc.)
- Name tags
- Tape
- Blankets
- Tools
- Separate placards with directional words such as PARENTS, COUNSELORS, MEDIA, CLERGY, VOLUNTEERS, KEEP OUT
- Caution Tape
- Bus rosters
- Telephone numbers including teachers with access to cellular phones

## Violent Incident Emergency Response Plan

### **VIOLENT INCIDENT OCCURS**

(Armed individual posing threat to life, i.e. gun, knife, explosive, etc.)

School Personnel  
(teacher, custodian, student, etc.)



**NOTIFY**

Notify **Principal/ Vice-Principal or designate**  
- Relay intelligence received

- Keep the flow of information going if possible
- Confirm situation
- Ask questions to gain intelligence about situation if possible (who, where, what are the circumstances)

**C o n f i r m e d   V i o l e n t   I n c i d e n t**



Initiate **Lockdown / Hold and Secure / or Shelter in Place** procedures.



Call **911/ Emergency Number**

- Describe violent incident
- Stay on line
- Begin to document events, times



Notify Board Official  
(e.g.: Director,  
Supervisory Officer)

## Violent Incident

### When a Violent Incident Occurs

Although every effort is made to ensure a safe school environment, staff and students need to be aware of the possibility that a violent incident can occur at any time or in any location within a school.

If you observe a violent incident, DO NOT CONFRONT THE SUSPECT.

It is critical to notify the principal and/or designate. As well, if it is safe to do so without danger to yourself or others, obtain the following details:

- Location and number of suspects
- Suspect moving or stationary
- Identity
- Description of physical appearance (clothing, build, etc.)
- Description of weapons
- Possible motive or threats made
- Any known injuries and location of casualties.

### When Principal / Designate is Notified of a Violent Incident

When a violent incident is reported staff in the office need to keep the flow of information going, obtaining as much detail about the incident as possible from the initial observer. A priority at this point is to confirm a violent incident is occurring. After confirming that a violent incident has occurred, immediately implement the Violent Incident Emergency Response Plan. Focus on maintaining calm environment.

## Announcing Lockdown / Hold and Secure / or Shelter in Place

When notified of a violent incident, initiating a Lockdown option, calling 911(or local emergency number), and notifying the Principal or designate should happen as closely together as possible. Responding personnel will have to use individual judgment as to what they can and should do first, keeping in mind that their primary role is taking care of students and staff at risk.

**Evacuation or Lock Down** will be a judgment call on the part of the staff members in various locations of the building. Factors to be considered include:

- The location of the threat;
- The nature of the threat;
- The mobility of the threat;
- A clear means of evacuation that will not cross the path of the threat;
- The ability to secure the room/barricade that is being occupied;
- Alternate means of evacuation;
- The number of students involved;
- Are there victims requiring immediate attention;
- Is the use of violence random or targeted to any one or several individuals?

These are only some considerations. The common sense, judgment and leadership of staff members will determine the appropriate actions to be taken.

### Lockdown / Hold and Secure / Shelter in Place

The person receiving the report of a violent incident initiates the Lockdown procedure as follows:

- Activate all public address (PA) systems (inside and outside)
- Announce clearly and calmly on public address (PA) system whether it is a Lockdown / Hold and Secure / or Shelter in Place
- Upon hearing the announcement, staff will immediately initiate appropriate procedures.
- During this time, occupants will disregard fire alarm system and school bells unless otherwise informed.
- The Lockdown event is in effect until cancelled by the Principal or designate.

### Call 911 (or Local Emergency Number)

The person receiving notification of the violent incident calls 911(or local emergency number) or requests someone to immediately call 911. If you are the only one in the office, you should attempt to initiate the lockdown before calling 911. A call to 911 will initiate assistance from police services, as well as fire and ambulance services if required.

When you call 911, provide the following information:

- Identify yourself, the school name, and full address
- Describe situation (provide all known information)
- Identify whether anyone is injured and the severity of the injuries
- Stay on the line and continue to provide information as requested by the emergency operator
- Explain safe approach (routes/entrance) for police and advise police where they will be met
- Begin to document times and events relating to the incident.

The information that is being documented will greatly assist police services during their response to this incident.

If you haven't already done so, notify the Principal/Vice-Principal or designate of the situation and provide all known information about the incident.

### Lockdown Procedures

Note: Depending on the individual school plan and the situation (location and actions of the suspect) consideration must be given to the controlled evacuation of students to identified secure areas. See Individual School Plan section for details relating to your school.

### Evacuating

All staff and students who evacuate the premises should immediately attend the predetermined evacuation site. Maintaining control of the students is vital. Attendance must be taken and records compared to the daily attendance and class schedules. It is vital to account for as many people as possible. One staff member and an alternate should be assigned the task of gathering any witnesses or persons who can provide information to emergency personnel.

Direct families arriving on-site to pre-designated locations where they can receive information. Have a sign-out sheet to monitor which students have been picked up by their parents/guardians. Do not dismiss students to unknown care. As soon as possible, take a head count to determine which students, staff and teachers are accounted for and which ones are not. To the extent possible, shield students from disturbing scenes. Do not disturb, however, crime scene evidence.

Never speculate. Be sure to understand the circumstances surrounding the situation before saying anything about it, and to the extent practicable, before taking action. Follow all rules about repeating or giving out information.

Other duties at the reception centre should be assigned to staff members not involved in the direct supervision of students. These duties could be pre-assigned with two alternates for each task. They are:

- **Logistics officer** – working with police logistics personnel in obtaining necessities for students;
- **Parent liaison** – assigned to handling parent inquiries at the reception centre;
- **Records manager** – receiving and processing attendance records;
- **Reception area manager** – directing the activities in the reception area, overall control of the students, ensuring that students are divided into homeroom groups and attendance is taken, other duties as necessary.

The Major Incident Commander from the police will coordinate activities on the scene. The Media Liaison Officer from the police will direct and coordinate the handling of the media. Police will make Media releases during the crisis. Releases made upon the conclusion of the crisis will be made after consultation with school authorities. Likewise, school authorities should refrain from making any comment to the media without consultation without the police during or subsequent to an incident.

### Locking Down

The decision to remain in a classroom or location that can be secured and barricaded is an option if the threat is close proximity and no means of safe exit are available. Find an area in the room that affords good protection and place any solid item that may afford protection between you, students and the threat. Police responding to the incident will become aware of your situation and subsequently find you. They should have a master key in order to gain access to the room. Do not open the door unless you are absolutely certain that it does not present a risk to you or others.

## Lockdown

Describes the steps that school staff members take to ensure the safety and security of school occupants during a violent incident. These steps are outlined below. Every attempt should be made to respond quickly and calmly.

### Inside School Building

- During the lockdown phase, staff will focus on taking care of students and ensuring they are directed out of harm's way.
- To implement the lockdown phase, staff direct students to the closest secure area, remain with the students, and, if possible, lock doors to the area.
- Assess whether anyone is injured and the severity of injuries.
- Take appropriate measures to assist the injured without jeopardizing the safety of yourself or others.

### Lockdown Procedures within Classrooms and Portables

- Students are to move away from doors and windows, remain quiet and follow staff/police instructions.
- Individuals are to contact the office ONLY with vital information regarding the violent incident.
- Cell phones are not to be used by staff or students unless communicating vital emergency information (excessive cell phone use in other violent incidents has shut down access to vital communication lines).
- Staff take attendance in class and complete an attendance report.
- Disregard fire alarm system and school bells unless otherwise informed.
- Staff, students and any other occupants are to remain in the secure location until notified by appropriate personnel on what actions to take.
- If a door does not lock, find a way to secure it (door wedge, chair, desks up against it).

### Lockdown Procedures within the Office

- Ensure that the Principal / Vice-Principal or designate is notified.
- Contact police via 911 or a local emergency number.
- Instruct all staff and students to leave hallways and move into secure rooms.
- Have them lock their doors.
- Lock the office to allow for uninterrupted communication with staff.
- Designate a person to remain at the intercom as a communicator.
- Ensure that the intercom is clear for emergency use (and portable radio – if persons are out in the playground with children).

### Outside School Building

Not all students and staff will be inside the building when a violent incident occurs. If you are outside the building, follow the steps listed in the evacuation plan.

## Command and Control

The command and control section is vital during a violent incident.

- Initially command and control will be conducted from the Police Services Communications Centre.
- Police supervisors will monitor and direct the overall response to the incident.
- The Principal or designate will work closely with the police providing required support/ information via telephone.
- This plan will go along with the concept of Immediate Rapid Deployment (I.R.D.) training that police have in place for violent incidents. During I.R.D. our mission is to advance to deal solely with the threat as quickly as possible.

Should the violent incident develop into a more prolonged or a barricaded/ hostage type incident then a formal Command Post would be established in a suitable location by the attending police force. The location would be determined at the time of the incident, by the incident commander as there are many different scenarios that the incident may take and police tactics would have to be considered.

In order to assist the police during barricaded/ hostage type incidents, school floor plans are requested from each school. These floor plans will be a valuable tool. During the investigation / response to a violent incident they will include such details as entrances and emergency exits, floor layouts and vital services controls for hydro, water, gas and alarms. Identify in the floor plan any outside obstructions that would hinder the response of an emergency vehicle or personnel.

## Individual School Plans

While it is important to maintain consistency across the Board in terms of emergency response, (it is vital that each school addresses their unique open areas (cafeteria, gymnasium, library, etc.) and off-site evacuation areas.

The following items should be considered on an individual basis:

Evacuation Plan (include a primary & secondary evacuation point)

- Lockdown Plan
- Location of crisis kit (Is there a back-up kit?)
- Specific duties assigned (who updates the kit, who will be at the evacuation site, etc.)
- Forward the most recent individual school plan to your respective school board.
- The principal of each school shall review their individual school plan annually and make appropriate updates.

## Police

Once police arrive on the scene, they have ultimate command of the incident. Staff, students and other occupants must provide full co-operation and follow police direction.

- Police will control access to the school and designated off-site locations.

- Police will assign an officer to the off-site evacuation location to communicate information to staff, students and families.
- Police will direct families arriving on-site to pre-designated, off-site evacuation locations where they can receive information.

**Principal’s Role with Police**

- The Principal remains primarily responsible for the safety of students and staff.
- The Principal or designate will meet police on arrival and describe the situation (if possible).
- Administration and staff cooperate with police to make appropriate decisions.

**Staff/Student Responsibilities in Assisting Police**

**Crime Scene**

- Staff, students and other occupants need to be aware that any site(s) may contain crime scene evidence.
- Avoid unnecessarily tampering with or disturbing evidence.
- To the extent possible, leave all objects exactly as they are in order to protect the crime scene for law enforcement investigations.
- Discourage others from disturbing potential evidence.
- Keep the area isolated.

**Media Response**

The police will be responsible for dealing with the media.

**Emergency Contacts**

Schools will maintain an up-to-date (reviewed twice a year) emergency contact list and include it in the Violent Incident Emergency Response Quick Reference. This document will be made available to the police force in your area.

Emergency (Police, Fire, Ambulance)	
Evacuation Sites (Primary & Secondary)	
Board Official (including cell phone numbers)	
Bus Company’s	
Hospital	
Other numbers	

## Post-violent Incident Follow-up

Actions taken following violent incidents can have a major impact on the well-being of staff, students and the broader community.

Follow-up procedures may include the following:

- Involving the Board Crisis Response Team to provide counseling for staff and students
- Providing appropriate information to parents, guardians, staff, students and the broader school community regarding the incident
- Debriefing by police of all persons present at the time of the incident
- Coordinating police and school board news releases
- Evaluating the adequacy of the Violent Incident – Emergency Response Plan and making modifications as necessary
- Identifying lessons learned and developing further preventative measures
- Maintaining close contact with any injured victims and families
- Maintaining close co-operation with police services to facilitate completion of investigations
- Completing all necessary legal, insurance and administrative forms and documents as required.

**SUDBURY CATHOLIC DISTRICT SCHOOL BOARD**  
**SAFE SCHOOLS RESOURCES AND PROCEDURES MANUAL**

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**SECTION L**

**Guidelines for Conducting a Disciplinary Investigation**

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## **L.1 Conducting an Investigation**

### **L.1.1 Introduction**

A Principal has the duty to maintain proper order and discipline in the school. Ancillary to that duty is the authority to investigate incidents that may lead to suspensions or disciplines. Beyond complying with proper statutory duties and obligations, Principals and vice-Principals have a wide degree of discretion and flexibility in how they conduct these inquiries. These guidelines are meant to provide some direction and assist Principals and vice-Principals in conducting an investigation.

### **L.1.2 Role of the Principal in Incidents Involving the Police**

The first priority following an incident is the safety and well-being of all students and staff. The first step in any incident is to determine whether any person requires medical attention. In the event of an emergency (e.g. a person requires medical attention), 9-1-1 should be called immediately and the Board's Emergency Notification Guideline should be followed.

The Provincial Model for a Local Police/School Board Protocol requires Principals to notify the police for specific occurrences. For example, the occurrences that require police response at a school include:

- physical assault causing bodily harm requiring medical attention, including deaths;
- sexual assault;
- robbery;
- criminal harassment;
- relationship-based violence;
- weapons offences;
- drug offences (e.g. trafficking in illegal or controlled drugs or substances);
- hate and/or bias-motivated occurrences;
- gang-related occurrences;
- extortion;
- non-consensual sharing of intimate images; and
- bomb threats.

As a general rule, incidents that involve violence or an imminent threat to the safety and security of the school community will require police response.

Police will conduct their own investigation and make decisions with respect to criminal charges based on their assessment of the circumstances. **Regardless of whether or not charges are laid by the police, the Principal is still responsible for conducting an investigation independent of the police and taking appropriate disciplinary action under the *Education Act*.** The issue of double jeopardy does not apply because the purpose and nature of actions taken by the police under the *Criminal Code* are different from the purpose and nature of actions taken by the Principal under the *Education Act*.

During a police investigation at a school, it is the responsibility of the police to explain to a young person his or her rights in a manner that enables him or her to understand them. As part of the duty to act *in loco parentis*, the principal or other person present at the interview can request the police officer to explain these rights to the student. The principal/designate will also inform police of any special circumstances which may impede the student in expressing or understanding written/oral communication.

Whenever the police are called, absent exigent circumstances, the Principal or his/her designate will contact the parent or guardian of the student or, in the absence of a parent, an adult relative, or in the absence of a parent and adult relative, any other appropriate adult chosen by the young person, as long as that person is not a co-accused, or under investigation, in respect of the same offence.

Where there is no parent/guardian, adult relative or appropriate adult available, the Principal or his/her designate will act *in loco parentis* to the student, in order to ensure his or her Charter rights are maintained.

In acting *in loco parentis*, where appropriate, a Principal may inform a student who is being interviewed that he or she is under no obligation to make a statement and that he or she has a right to consult counsel and a parent, adult relative or any other appropriate adult chosen by the student.

The Principal or his/her designate will comply with a specific direction by the police not to contact a student's parents or guardians. Failure to comply with a police direction could expose the school administrator to possible liability under the *Criminal Code*. However, in these circumstances, the student should be given the opportunity to request and have the Principal or a designate be present for the police interview and such person will act *in loco parentis*.

Where the parent/guardian is not able to be physically present or present by speaker phone, the Principal or his/her designate should invite the parent/guardian to speak to his or her child prior to the interview being conducted. Where the Principal is not able to contact the parent(s) or guardian(s), suitable adult or others who may know or support the student, the Principal should record his or her attempts to make contact.

**When the police have been contacted, the educator should halt his or her review of the incident until the police investigation is complete.** There is a concern that if the school official persists in reviewing the incident, the official's actions in interviewing

witnesses or seizing property could prejudice the police investigation. **Once the police have concluded their investigation, the school can commence or resume its investigation.**

When conducting an investigation, police will make every effort to minimize disruption to school routines. Except in exigent circumstances, police officers are expected to report to the main school office prior to commencing an investigation in the school. This will permit the Principal (or appropriate vice-Principal) to greet the officer, and facilitate the process.

Exigent circumstances are defined as urgent, pressing, and/or emergency circumstances. Exigent circumstances usually exist when immediate action is required for the safety of the police or others. Such circumstances may include a bomb threat, a person possessing or using a weapon, or a fire on school property.

The police have an obligation to advise a student of his or her rights under the *Canadian Charter of Rights and Freedoms* and the *Youth Criminal Justice Act*. As part of the duty to act *in loco parentis*, the Principal or other person present at the interview can request the police officer to explain these rights to the student. In some cases, the student may prefer to have a teacher, guidance counsellor, or Principal present during a police interview or when making a statement. When it is determined that the parent/guardian cannot or will not be contacted prior to the interview, the student will be advised that he or she may request that such person be available to attend and act *in loco parentis* during the interview.

When the police effect an arrest of a student, the police are required to advise the student of his or her rights under the law, such as the right to retain counsel without delay and the right to remain silent, and are also required to notify the student's parents as soon as possible of the place of detention and the reasons for arrest, in accordance with the *Youth Criminal Justice Act*, the *Charter of Rights and Freedoms* and the common law.

The administrator should inform 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.

### **L.1.3 Investigation of Incidents**

Disciplinary consequences should only be considered after a thorough investigation of the incidents has been completed. The investigation should produce facts that clearly describe the activities of all participants and supports any disciplinary action that will be taken. Principals should take thorough and detailed notes. In cases of serious incidents, written witness accounts and/or signed statements should be requested.

The following are guidelines in conducting a school investigation:

- The Principal or his or her designate should consult the Superintendent School Effectiveness.

- Locate all witnesses and involved students and staff.
- Make reasonable efforts to speak with the student, the student's parent or guardian, or any other person whom the Principal has reason to believe may have relevant information.
- The scene should be protected as much as possible.
- Each suspect, victim or witness should be placed in a separate room under supervision.
- The name, address, telephone number or any other method of contact should be obtained from a witness unable to remain at the scene.
- Have the witnesses and victim provide written statements independently. Ensure that they sign and date their written statements.
- No part of the interview or related questioning should take place in the presence of other students.

The Principal should consult with the appropriate Superintendent School Effectiveness with regard to serious infractions that may involve student discipline. Fairness requires that the individual interviewer and those recommending disciplinary action should not be personally affected by the incident. For example, a vice-Principal or teacher who has been assaulted by a student should neither conduct the investigation nor make recommendations. In such cases, the Principal will be required to conduct the entire investigation. In situations where the Principal is personally affected, the appropriate Superintendent School Effectiveness or designate will manage the process. The appropriate Superintendent School Effectiveness will provide ongoing support and direction throughout the investigation. The appropriate Superintendent School Effectiveness will determine the disciplinary action to be taken.

#### **L.1.4 Role of the Principal**

Whenever the police are called, absent exigent circumstances, the Principal will contact the parent or guardian of the student(s) or, in the absence of a parent, an adult relative or, in the absence of a parent and an adult relative, any other appropriate adult chosen by the young person, as long as that person is not a co-accused, or under investigation, in respect of the same offence.

Where there is no parent/guardian or adult relative or appropriate adult available, the Principal or his/her delegate will act *in loco parentis* to the student(s).

Where the Principal is unable to contact a parent or guardian, the Principal will record his or her attempts to make such contact. Where the parent/guardian is not able to be physically present or present by speaker phone, the Principal should invite the parent or guardian to speak to his or her child prior to the interview being conducted.

By way of exception to this rule, where the police have determined the best interests of the student require that an interview take place without the prior knowledge and in the absence of the parent(s)/guardian(s), the Principal may permit an interview to take place in the school and without prior parental consent if the Principal is of the view that his/her discretion should be exercised in that way, based upon confirmation from the police that, to the best of the knowledge, information and belief of the police:

- the police are investigating an offence in which the student is at personal risk from the parent/guardian, or an offence in which the presence of the parent(s)/guardian(s) during the interview can reasonably be expected to compromise the safety of the student, the preservation of physical evidence, or where it can otherwise reasonably be expected that the parent/guardian would impede the police investigation. For greater certainty, the fact that a parent/guardian may advise a student to not speak to the police during the in-school interview, or to not cooperate, or to wait until the parent or counsel is present, does not by itself constitute an impeding of the investigation; and
- the police are of the opinion, having considered other forms of interview, that it would be in the best interests of the student that the interview take place within the school; and
- the police undertake to inform the parent(s)/guardian(s) of the interview as soon as possible.

In some cases, the young person may prefer to have a teacher, guidance counsellor, or Principal present during a police interview or when making a statement. When it is determined that the parent/guardian cannot or will not be contacted prior to the interview, the student shall be advised that he or she may request that such person be available to the student to attend and act *in loco parentis* during the interview.

The police have an obligation to advise a student of his or her rights under the *Charter of Rights and Freedoms* and the *Youth Criminal Justice Act*. As part of this duty to act *in loco parentis*, the Principal, teacher, guidance counsellor or other person present at the interview can request the police officer to explain these rights to the student.

### **L.1.5 Suspension Pending Possible Expulsion**

The *Education Act* sets out provisions regarding the timing of a Principal's investigation, who the Principal should interview and the contents of the Principal's report. Beyond complying with express statutory duties, Principals have a degree of discretion and flexibility in how they conduct their investigation.

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 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 to a minor.
- 7.1 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.
- 7.2 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.
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.

Where an “expulsion” offence is alleged to have occurred, the Principal is required to suspend the pupil pending an investigation. This investigation must commence “promptly” following the suspension. The requirement that any expulsion be imposed within 20 school days from the date the pupil is suspended is continued. In considering whether to recommend expulsion, the Principal is directed to consider any mitigating factors or other factors prescribed by the regulations.

### ***Principal’s Investigation***

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 must include 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 is required to submit the report “promptly” to the 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.

After his or her investigation, if the Principal decides not to recommend an expulsion, the Principal may:

- confirm the suspension and the duration of the suspension;
- confirm the suspension but shorten its duration and amend the record of the suspension accordingly; or
- withdraw the suspension and expunge the record of the suspension, even if the suspension has already been served.

### ***Expulsion Hearing***

If the Principal recommends an expulsion, the Board is required to hold an expulsion hearing. The hearing is required to be held within 20 school days from when the student

was suspended, unless the parties agree on a later deadline. The Board is entitled to authorize a committee of at least three members to conduct the expulsion hearing.

At the hearing, the Board or Committee is required to consider the submissions and views of the parties, any mitigating factors 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 or Committee must decide whether to expel the pupil 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.

### **L.1.6 Interviewing Witnesses**

The administrator's primary tool for gathering information is through interviews with the victim, any witnesses, and the student who is thought to be at fault. Since the investigation process must be conducted in accordance with the Board's duty to accord the student with procedural fairness, it is important that the administrator remain impartial and non-accusatory throughout the investigation. This ensures that the standard of fairness will be met, and that all of the evidence will be given appropriate consideration.

The interview process is an opportunity for the interviewer to obtain as much information about the incident and the students involved as possible. Interviews are a tool used to gather information in order to make a decision about appropriate discipline. The facts learned through the interviews may also be used as the basis for deciding what witnesses to call in the event of a suspension appeal or expulsion hearing. At the interview stage, the administrator should try to learn as much about the incident as possible. The administrator should not interrupt the witness, unless it is clear that the statements made are irrelevant to the incident.

All witnesses should be encouraged to speak freely about all facts that they consider to be relevant. At the end of the interview, each witness should be asked to provide an independent written statement regarding the incident.

If the police were involved, it may be necessary to interview the officer that was called to the scene. The police are often a valuable resource in these circumstances, since they are usually on the scene very shortly after the incident, they have conducted their own investigation, and they have drawn their own conclusions. A Principal or vice-Principal must remain aware of the fact, however, that the criminal process is separate from the suspension/expulsion process under the *Education Act*. The Principal or vice-Principal must conduct an independent investigation, and should not rely exclusively on the conclusions drawn by the police, or whether the police have charged a student with a criminal offence.

### **L.1.7 Preparing for the Interview**

Where possible, interviews should be arranged with students and staff members so as to minimize disruption to school routines, and attempts should be made to schedule interviews at times which will be less noticeable to other students, such as during spare periods. This will allow the individual to attend the interview without being noticed by other students, and decrease the rumours and intimidation that can follow such an interview.

The administrator should arrange in advance to conduct all interviews in a setting that will be private and will be free from any interruptions. The public address system should not be used to call students to an interview. Interviews should be arranged to preserve the confidentiality of the process so as to provide any witnesses with the comfort necessary to give full and frank accounts of incidents.

The administrator should attempt to determine the order of witnesses to be interviewed. Witnesses with the most involvement in the incident should be interviewed first. Their evidence will often lead the administrator to other relevant witnesses. However, in most cases, it will be appropriate to interview the student or students with an opportunity to respond to specific allegations made by other witnesses.

Prior to conducting an interview, the administrator should:

- evaluate the need for specialized resources where a student is known to have a behavioural, cognitive, physical, or learning disability;
- determine the need for an interpreter, including language interpreters and interpreters for deaf students;
- determine whether it is appropriate to contact the parents of a student and have the parent attend the interview; and
- determine whether any supports should be put in place for any victims.

### **L.1.8 Conducting the Interview**

At the outset of each interview, it should be explained to each individual that the investigation is being undertaken in order to ensure that the school remains a safe place, and that his or her cooperation is very important in learning about what has occurred. Each witness should be told that he or she is encouraged to share everything that he or she knows, and that it is very important for the administrator to learn all that he or she can about the incident so that he or she can reach a fair conclusion.

The following is a general checklist of questions that may be appropriate when conducting an interview with individuals who may have witnessed the incident:

- confirm the name, age and, if the person(s) being interviewed is a student, the school and grade of the person;
- determine whether and how the students know each other;
- try to get as many details as possible;
- ask open-ended, non-judgmental questions and avoid leading questions;
- determine whether the person(s) being interviewed has first-hand knowledge of relevant events or whether they are relying on versions of events that they have heard from others;
- attempt to determine the history or background to the events that preceded or precipitated the conduct by the other student;
- determine whether this was an isolated incident, or an ongoing problem;
- determine, to the extent possible, what date(s) and at what time(s) the incident occurred;
- determine where the incident(s) occurred;
- ask who witnessed the incident(s), if anyone;
- determine whether any individual intervened, or contacted a teacher or other administrator;
- ask the individual if he or she told anyone else about the incident(s). If so, obtain details concerning who, when, where, what was said, and the response, if any;
- ask the student how this made him or her feel at the time it occurred;
- determine whether there are any mitigating factors, such as whether the student was provoked or whether the student was acting in self-defence;
- determine whether the student has any fear of continuing to come to school (or fear of the other student returning to school, if the other student has been suspended pending investigation);
- ask the student if he or she knows or suspects that there are other victims by the same student; and
- advise the person(s) being interviewed that the administrator may have follow-up questions after the interview and invite the person(s) being interviewed to contact

the administrator if they wish to add anything or if they remember details at a later date.

When interviewing the student who has allegedly perpetrated the incident it is important to be as fair and open-minded as possible. In addition to the above checklist, the administrator should put the allegations to the student openly and provide the student with an opportunity to respond to those allegations. The Principal should also determine whether this student is aware of the Safe Schools policies.

### **L.1.9 Confidentiality of the Interview**

The Principal should inform the person(s) being interviewed that the contents of the interview will be kept in confidence, subject to the ability to conduct a full investigation. It is often necessary to provide the accused student with information about the allegations in order to give him or her an opportunity to respond. As well, the Principal will likely be called as a witness at any suspension appeal or expulsion hearing and may be required to give evidence in a criminal proceeding. Although expulsion hearings are held in private session, criminal proceedings are, unless otherwise ordered by the trial judge, open to the public. Accordingly, a Principal can never promise any of the participants that the information that they provide to the Principal will be kept strictly confidential.

At the same time, it should be stressed to the person(s) being interviewed that it is essential that they maintain confidentiality after the interview. Although it is natural for people involved in an incident to discuss it, it should be stressed to the person(s) being interviewed that discussing the matter with others can damage the credibility, further aggravate the situation, and lead to rumours and speculation. They should be informed that discussion of the matter outside of the investigation can ultimately affect the conclusions of the administrator, and can undermine the reliability of the investigation.

### **L.1.10 Taking Notes**

In undertaking an investigation, every interview should be thoroughly documented. Notes made by an administrator will be used to support the decision regarding school discipline. All notes should be made contemporaneously with the interview. Notes should be dated and should indicate the source of the information and the name of the recorder. Notes of an investigation should not be placed in a student's Ontario Student Record. A separate file should be kept by the administrator containing all notes.

Virtually all notes taken will contain personal information about an identifiable individual. Accordingly, the notes taken by the administrator should not be disclosed to any party except in accordance with the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA"). An important exemption that permits a Principal or vice-Principal to disclose notes under that statute is that notes may be disclosed to a law enforcement agency in Canada for the purposes of a law enforcement investigation. In addition, an educator's notes may be subpoenaed in a criminal or civil law proceeding.

In recording a description of the incident, the following guidelines should be kept in mind:

- keep the language clear and use simple terms and sentence structure;
- work with the data that you have collected;
- avoid mind reading and fortune-telling;
- avoid opinions or wording which appears to make judgments; just state the facts;
- use terms that the reader can picture; avoid “edu-babble” or jargon;
- set out events in a chronological order;
- all records should be objective, direct and forthright and avoid subjective comments or innuendo or any other indirect meaning;
- to the extent possible, information contained in a record should be based on the first-hand knowledge of the record made;
- investigation notes of a Principal or vice-Principal should not include irrelevant or third-hand information; and
- proofread all statements and complete the description in a neat and professional manner.

All staff involved with an incident should make detailed notes of observations, conversations and decisions simultaneous with the event. Such notes may be used to “refresh memories” in a legal proceeding and will assist with the preparation of the report for a possible suspension review, appeal or expulsion hearing. Notes that are made well after the event are usually not helpful and can come under criticism in the course of a proceeding if a witness tries to use notes “made after the fact” to refresh his or her memory.

When preparing investigation notes, it is important to be conscious of the fact that the notes may ultimately be admitted in evidence before a court or at an expulsion hearing. A witness who takes care in preparing investigation notes will likely be a more credible and reliable witness. With the introduction of the new regime for suspensions and expulsions, an investigation of an incident by school personnel that is thorough and accurate will assist the school in complying with the principles of procedural fairness.

Under the regulation of MFIPPA, all records containing personal information must be retained for the shorter of one year after use or the period set out in a resolution made by a school board.

### **L.1.11 Reaching a Conclusion**

At the conclusion of all interviews, the administrator must come to a conclusion about what actually occurred and who was at fault. Essentially, the administrator must make a decision about the truth of what the alleged victim, the witnesses and the alleged offender have said. The Principal's determination is based on "a balance of probabilities." In reaching this conclusion, the Principal 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 and which individuals were more candid with the administrator.

Under the provisions of the *Education Act*, an initial determination will have to be made by the Principal. First, the Principal will have to determine whether an incident for which suspension or suspension pending expulsion has occurred.

In making this determination, an important consideration for Principals is the weighing of mitigating factors or other factors established by the Suspension and Expulsion of Pupils Regulation (O. Reg 472/07). The Principal will have to consider whether the pupil does not have the ability to control, or to understand the foreseeable consequences of, his or her behaviour or whether the pupil's continuing presence does not create an unacceptable risk to the safety of any person.

In addition, the following other factors will 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. Where 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.

It is ultimately the Principal's decision as to the appropriate disciplinary action.

**L.2**

**PRINCIPAL’S REPORT**

*This investigation must be completed within five school days of the 20 day suspension*

<b>STUDENT INFORMATION</b>		<b>Student #: Board Number</b>
<b>Surname:</b>		<b>First Name:</b>
		<b>School:</b>
<b>Date of Birth: (yy/mm/dd)</b>	<b>Admission date to Board: (yy/mm/dd)</b>	<b>Credits Completed:</b>
<b>Current program or grade:</b>	<b>Special Education exceptionality:</b>	<b>Individual Education Plan</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Program modifications: (past/present)</b>		
<b>Academic history: (e.g., attendance, grades, achievement)</b>		
<b>Record of student discipline: (including temporary withdrawal, suspensions, etc.)</b>		
<b>Academic, behaviour or social interventions:</b>		
<b>Other agencies or services involved: (CAS, social work, psychology/psychiatry, police, etc.) )</b>		

**DESCRIPTION OF INCIDENT**

<b>Date(s): (yy/mm/dd)</b>		<b>Time: (i.e., 11:00 am)</b>
<b>Specific location of incident:</b>		
<b>If off school property, did the activity have an impact on the school climate?</b>		
<b>Specific details of the incident:</b>		
<b>Witnesses Students:</b>	<b>Staff:</b>	<b>Others:</b>
<b>Number of alleged perpetrators:</b>	<b>Number of victims involved:</b>	<b>Police involvement:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Specify police charges:</b>		

**POST INCIDENT UPDATE**

<b>Response of Victim(s):</b>
<b>Impact on Victim(s) and Victim's Family:</b>
<b>Response of Witness(es) – Any other person whom the Principal has reason to believe may have relevant information:</b>
<b>Response of Alleged Perpetrator(s):</b>
<b>Response of Alleged Perpetrator's Parent or Guardian:</b>
<b>Impact on School/Community:</b>

## REACHING A DECISION

### Prior to reaching a decision the Principal must:

1. 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 of age and has withdrawn from parental control), and any other person the Principal has reason to believe may have relevant information.
2. Consider "mitigating factors" or other factors prescribed by the regulations.

The Ministry of Education *Suspension and Expulsion of Pupils* Regulation (O. Reg 472/07) sets out the factors that 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.

For the purposes of the provisions 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:

- 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,
  - (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.

**If any mitigating factors exist in the case, please specify:**

**If any other factors exist in the case, please specify:**

**SUMMARY OF THE PRINCIPAL'S FINDINGS**

**Not to Proceed to Expulsion**

**Explanation:**

**If the decision of the Principal is not to proceed to expulsion, is the suspension and duration of suspension confirmed?**

**Is the suspension confirmed but the duration shortened?**

**Is the suspension quashed and the record of the suspension expunged?**

**Principal's Signature:**

**Date: (yy/mm/dd)**

\_\_\_\_\_

\_\_\_\_\_

**Refer to the Board for an Expulsion Hearing**

**Explanation:**

**If yes, should the student be:**

**Expelled from his/her school**

**Expelled from all schools of the Board**

**If the Principal recommends that the student be expelled from his/her school, what type of school might benefit the student?**

**If the Principal recommends that the student be expelled from all schools, what type of program for expelled students might benefit the student?**

**Principal's Signature:**

**Date: (yy/mm/dd)**

\_\_\_\_\_

\_\_\_\_\_

**Copies:**  **Superintendent of School Effectiveness**

**Ontario Student Record**

**Expulsion**

**Copy:**  **Director of Education**

## **L.3 How To Conduct a Disciplinary Investigation in Your School – Question and Answer Document**

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The following are basic rules to follow when interviewing witnesses in any matter that may lead to student discipline. The rules apply to interviews with any witness or potential witness, including students and teachers.

The purpose of interviewing any witness is simple: to determine what happened. Principals and vice-Principals conducting interviews must remain impartial and objective.

Students or other individuals who are interviewed should be afforded procedural fairness, and, in particular, an opportunity to tell his or her version of events.

### **1. Who should conduct the investigation?**

Investigations which may lead to a suspension or expulsion should be conducted by the Principal or vice-Principal. The Principal has the authority to determine whether a student should be suspended or referred to the school board for an expulsion hearing. Where a vice-Principal undertakes an investigation, the Principal must exercise this authority after reviewing the investigation and conclusions of the vice-Principal.

### **2. When should the inquiry take place?**

An inquiry should be initiated as soon as possible after the incident giving rise to the investigation. This will enhance the reliability of the conclusion and give the Principal an opportunity to interview witnesses while events are fresh in their minds.

### **3. What occurrences require a police response?**

While the Principal has the discretion to determine the appropriate level of police response, as a general rule, incidents that involve violence or the imminent threat to the safety or security of the school community will require police involvement.

The occurrences that require police response at a school include:

- physical assault causing bodily harm requiring medical attention, including deaths;
- sexual assault;
- robbery;
- criminal harassment;

- relationship-based violence;
- weapons offences;
- drug offences (e.g. trafficking in illegal or controlled drugs or substances);
- hate and/or bias-motivated occurrences;
- gang-related occurrences;
- extortion;
- non-consensual sharing of intimate images; and
- bomb threats.

Generally, the Principal or designate will be responsible for contacting the police. Contact in emergency situations should be made through 911.

#### **4. Are there other occurrences that may require police response?**

Occurrences where police may be involved include:

- giving alcohol to a minor;
- being under the influence of alcohol or illegal drugs;
- threats of serious physical injury, including those made on social networking sites or through instant messaging, text messaging, email, and so on;
- incidents of vandalism; and
- incidents of trespassing.

#### **5. What steps should I take where the police are conducting an investigation?**

When the police have been contacted, the educator should halt his or her review of the incident until the police investigation is complete. There is a concern that if the school official persists in reviewing the incident, the official's actions in interviewing witnesses or seizing property could hamper or prejudice the police investigation. Once the police have concluded their investigation, the school can commence or resume its investigation.

#### **6. What is the process regarding police contact at the school?**

When conducting an investigation, police will make every effort to minimize disruption to school routines. Except in exigent circumstances, or if the principal is being investigated, police officers are expected to report to the main school office prior to commencing an investigation in the school.

This will permit the principal (or appropriate vice-principal) to greet the officer, and facilitate the process.

The Principal or vice-Principal should co-operate with the officer and be prepared, upon request, to supply a copy of all notes to the police. The Principal or vice-Principal should keep an original copy of his or her notes.

**7. What steps should I take where the police request a copy of my notes?**

The Principal or vice-Principal should co-operate with the officer and be prepared upon request, to supply a copy of all notes to the police. The Principal or vice-Principal should keep an original copy of his or her notes.

The *Municipal Freedom of Information and Protection of Privacy Act* expressly permits a school board to disclose confidential information to the police to aid in an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result. Accordingly, since Principals and teachers are permitted to share information with police in such circumstances, in non-urgent situations, police should be prepared to provide a written statement that the identified information is required by the police to aid in an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result. In general, the Principal and his/her designate may provide the police with oral information about a student, such as a student's address or attendance information.

**8. What record should the Principal keep of a police visit?**

For the purpose of proper reporting, the Principal should prepare a record of the police visit which includes:

- name of the officer(s);
- badge number and any report number;
- time and date of the visit;
- the people being questioned;
- the name of the issuing authority of any search warrant or warrant for arrest; and
- the nature of charges laid, if any.

**9. Where should the police interview take place?**

It is the norm for interviews by the police to be conducted outside of the school. In some circumstances, it may be necessary to conduct police interviews during school hours. In such cases, interviews will be conducted in a manner that will minimize disruption to school routines. For example, a police interview in the school should take place in the privacy of the principal's

office or other similar private setting. No part of the interview or related questioning should take place in the presence of other students.

#### **10. When should I contact the student's parents or guardians?**

Whenever the police are called, and except in exigent circumstances, the Board will contact the parent or guardian of the student(s) or, in the absence of a parent, an adult relative or, in the absence of a parent and an adult relative, any other appropriate adult chosen by the young person, as long as that person is not a co-accused, or under investigation, in respect of the same offence. It is the principal's responsibility to contact the parents or guardians:

- of victims who have been harmed as the result of an activity for which suspension or expulsion must be considered, and of the student(s) who the principal believes engaged in the activity that resulted in the harm, unless, in the principal's opinion, notification of the parents would put the student at risk of being harmed by the parents. If that is the case, the parents must not be contacted (Education Act, s. 300.3(3));
- of students receiving a suspension (Education Act, s. 311);
- of all other students being interviewed by police during an investigation, except:
  - if the principal is otherwise directed by police because of exigent circumstances or where the police believe the parent may be implicated;
  - if the student is 18 years of age or older (unless the student consents to or requests such contact or is incapable of providing consent); or
  - if the student is 16 or 17 years of age and has withdrawn from parental control (unless the student consents to or requests such contact or is incapable of providing consent).

If a CAS is involved, school and police officials should discuss and come to agreement with the CAS regarding the timing and procedure for notifying the parents.

If a student is detained or arrested, the police will notify his or her parents unless the student is 18 years of age or older. The parents should not be contacted if the police determine that doing so may endanger the safety of the student or another person, or compromise the integrity of an investigation. In such cases, the student will be advised that he or she may contact another adult person.

Where there is no parent/guardian or adult relative or appropriate adult available, the principal or his/her delegate will act *in loco parentis* to the student(s), in order to ensure their *Charter* rights are maintained.

**11. What steps should I take if I cannot contact the parents or guardians?**

Where the Principal is not able to contact the parent(s) or guardian(s) or suitable adult, the Principal should record his or her attempts to make contact. Where the parent/guardian is not able to be physically present or present by phone, the Principal/designate may invite the parent/guardian to speak to his or her child prior to the interview being conducted. In these circumstances, the Principal or his/her designate will act *in loco parentis* to the student. In this role, the Principal or his/her designate should confirm to the student that any statement given to the police must be voluntary, the student is under no obligation to make a statement and that a statement may be used as evidence in a proceeding against the student.

**12. Can the school solely rely on the police investigation?**

No. The school's investigation must be separate from the police investigation. Once the police have concluded their investigation, the school can commence its investigation.

**13. What steps should I take in conducting a school investigation?**

The following are guidelines in conducting a school investigation:

- The Principal or his or her designate should contact the Superintendent School Effectiveness.
- Locate all witnesses and involved students and staff.
- Make reasonable efforts to speak with the student, the student's parent or guardian, or any other person whom the Principal has reason to believe may have relevant information.
- The scene should be protected as much as possible.
- Each suspect, victim or witness should be placed in a separate room under supervision.
- The name, address, telephone number or any other method of contact should be obtained from a witness unable to remain at the scene.
- Have the witnesses and victim provide written statements independently. Ensure that they sign and date their written statements.
- No part of the interview or related questioning should take place in the presence of other students.

**14. Who should I interview first?**

Where possible, interview the victim or complainant first. Interview him or her in a private, confidential setting, such as your office. Ask the victim or complainant to prepare a written

statement of the incident. You should ensure that the victim or complainant signs and dates his or her statement. Where possible, any witnesses should be interviewed next. Witnesses, including students, teachers or other adults who you have reason to believe may have relevant information should be asked to provide a written statement. Lastly, the alleged perpetrator should be interviewed. The evidence of the victim and witnesses should be reviewed with the alleged perpetrator. He or she should also be asked to prepare a written statement that should be signed and dated. This statement should be collected immediately after your interview.

Where a student, or other individual, is not able to provide a written statement, the Principal or vice-Principal, may prepare a statement arising from the interview with the student or other individual. The Principal or vice-Principal should ask the student to confirm the accuracy of the statement, and where possible, have the student sign and date the statement.

### **15. What types of questions should I ask?**

You should ask open-ended objective questions to get to the who, what, when, why and where answers. You should avoid leading questions. For example, you should avoid the question: “You saw student A with a knife, didn’t you?” But you may have to ask pointed questions. For example, “Did you see Student A with a knife? Describe what happened.”

### **16. How should I conduct the interview?**

The following is a general checklist of questions that may be appropriate when conducting an interview arising out of a school incident:

- Confirm the name, age and, if the interviewee is a student, the school and grade of the person.
- Determine whether and how the students know each other.
- Try to get as many details as possible.
- Determine whether the interviewee has first-hand knowledge of relevant events or whether they are relying on versions of events that they have heard from others.
- Attempt to determine the history or background to the events that preceded or precipitated the conduct by the other student.
- Determine whether this was an isolated incident, or an ongoing problem.
- Determine, to the extent possible, what date(s) and at what time(s) the incident occurred.
- Determine where the incident(s) occurred.
- Ask who witnessed the incident(s), if anyone.

- Determine whether any individual intervened, or contacted a teacher or other administrator.
- Ask the individual if he or she told anyone else about the incident(s). If so, obtain details concerning who, when, where what was said, and the response, if any.
- Determine whether there are any mitigating factors, such as whether the student has the ability to control his or her behaviour or to understand the foreseeable consequences of his or her behaviour.
- Determine whether the student has any fear of continuing to come to school (or fear of the other student returning to school, if the other student has been suspended pending investigation).
- Ask the student if he or she knows or suspects that there are other victims of the same student.
- Advise the interviewee that the administrator may have follow-up questions after the interview and invite the interviewee to contact the administrator if they wish to add anything or if they remember details at a later date.

#### **17. What should I do with my notes?**

In undertaking an investigation, every interview should be 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 should be dated and should indicate the source of the information and the name of the recorder. In general, notes of an investigation should not be placed in a student's Ontario Student Record. A separate file should be kept by the administrator containing all notes.

#### **18. What are the rules surrounding possible disclosure of notes?**

Virtually all notes taken will contain personal information about an identifiable individual. Accordingly, the notes taken by the administrator should not be disclosed to any party except in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*. An important exemption that permits a Principal or vice-Principal to disclose notes under that statute is that notes may be disclosed to a law enforcement agency in Canada for the purposes of a law enforcement investigation. In addition, an administrator's notes may be subpoenaed in a criminal or civil law proceeding.

#### **19. What is the best way to prepare a description of the incident?**

In preparing a description of the incident, the following guidelines should be kept in mind:

- Keep the language clear and use simple terms and sentence structure.
- Work with the data that you have collected.

- Avoid mind reading and fortune telling.
- Avoid opinions or wording which appears to make judgments; just state the facts.
- Use terms that the reader can picture; avoid “edu-babble” or jargon.
- Set out events in a chronological order.
- All records should be objective, direct and forthright; avoid subjective comments or innuendo or any other indirect meaning.
- To the extent possible, information contained in a record should be based on the first-hand knowledge of the record made.
- Investigation notes of a Principal or vice-Principal should not include irrelevant or third-hand information.
- Proofread all statements and complete the description in a neat and professional manner.

**20. Can I tell the interviewee that the contents of the interview will be kept in strict confidence?**

No. The Principal should inform the interviewee that the contents of the interview will be kept in confidence, subject to the ability to conduct a full investigation. It is often necessary to provide the accused student with information about the allegations in order to give him or her an opportunity to respond. As well, the Principal will likely be called as a witness at any expulsion hearing and may be required to give evidence in any criminal proceeding. Although expulsion hearings are held *in camera*, criminal proceedings, unless otherwise ordered by the trial judge, are open to the public. Accordingly, a Principal can never promise any of the participants that the information that they provide to the Principal will be kept strictly confidential.

**21. What should I do after all the interviews?**

At the conclusion of all interviews, the Principal must come to a conclusion about what actually occurred and who was at fault. Essentially, the Principal must make 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 Principal 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.

## **22. What is the role of the mitigating factors and other factors under the legislation?**

Under the provisions of the *Education Act*, an initial determination will have to be made by the Principal. First, the Principal will have to determine whether an incident for which suspension or expulsion is mandatory has occurred.

In making this determination, an important consideration for Principals is the weighing of mitigating factors or other factors established by the *Behaviour, Discipline and Safety of Pupils Regulation*. The Principal will have to consider whether:

- (a) the pupil does not have the ability to control his or her behaviour;
- (b) the pupil does not have the ability to understand the foreseeable consequences of his or her behaviour; or
- (c) the pupil's continuing presence in the school does not create an unacceptable risk to the safety of any person.

In addition, the following other factors will 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. Where 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.

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**SECTION M**

**Search and Seizure in a School Setting**

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## **Search and Seizure in a School Setting**

### **M.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?

#### **M.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.

#### **M.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.

### **M.1.3. Factors to Consider**

Educators assessing whether to undertake a personal search of a student should consider the following:

- A search should only be conducted when there are reasonable grounds to believe that a student or visitor is in possession of an object or substance that is prohibited by school policies or regulations
- Principals and their designates should exercise reason and judgment in determining the scope of any search. Searches should be conducted in a sensitive manner and be minimally intrusive. Consideration should also be given to the age and gender of the student and the gravity of the infraction.
- Only Principals or their designates should be permitted to conduct a search or to seize prohibited objects or substances, unless there is an immediate threat to the safety of a person or persons or the school premises.
- All searches should be conducted in the presence of at least one adult witness. To be prudent, searches of a student's locker, desk or knapsack should be conducted in the presence of the relevant student.
- All personal searches of a student should be conducted in the privacy of the Principal's office or another suitable room designated by the Principal. Where need for a personal search is indicated, the individual involved should be given the opportunity to produce the substance or object which he or she is suspected of possessing. School authorities are advised not to undertake a cross-gender search.
- When a search is conducted, a record of all pertinent information should be documented. Information to be documented includes details of allegations, names of relevant parties and possible witnesses, time of relevant incidents, time and place of the investigation, parties interviewed, efforts made to contact parents, discussions held to date, and details of police involvement, if any. The Principal should retain one copy of this documentation in a file separate from the student's Ontario Student Record. Access to, and disclosure of, such information is subject to the *Municipal Freedom of Information and Protection of Privacy Act*.
- Any prohibited substance or object discovered as the result of a search should be held and retained in a secure location. In all cases, a record should be kept of all seized substances or objects.

- In appropriate circumstances, where a prohibited substance or object is discovered as a result of a search, the Principal or his or her designate should promptly contact the parent or guardian of a student under 18 years of age who is the subject of the investigation. The Principal or designate should maintain a record of his or her attempts to contact the student's parent or guardian.

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**SECTION N**

**Trespass to Property and Access to School Premises**

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## Trespass to Property and Access to School Premises

### N.1 Trespass To Property And Access To School Premises

#### N.1.1 Access to School Premises

Principals are often faced with the difficult task of having to remove individuals from the school premises. First and foremost, however, unless there is imminent danger, a trespasser on school property must first be asked to leave peacefully.

Where a person does not have a lawful reason for being on school property and/or poses a threat to school safety, there are a number of ways for a school Principal to protect the safety of others in the school. Provisions of the *Education Act* permit a school Principal to direct persons who are not authorized by regulation to be there on a specific day or time to leave the premises (s. 305(2)). Under subsection 305(3), a person shall not enter or remain on school premises if he or she is prohibited under a board policy from being there. Section 305(5) provides that every person who contravenes subsection (2) is guilty of an offence.

On September 1, 2000, the *Access to School Premises Regulation* came into force. Section 2(1) of the regulation permits the following persons to be on school premises:

1. A person enrolled as a pupil in the school.
2. A parent or guardian of such a pupil.
3. A person employed or retained by the board.
4. A person who is otherwise on the premises for a lawful purpose.

It is important to note, however, that these individuals do not have unfettered access to all areas of the school premises and are not guaranteed automatic access. Subsection 3(1) of the Regulation provides that a person is not permitted to remain on school premises if, in the judgment of the Principal or vice-Principal, his or her presence is detrimental to the safety or well-being of a person on the premises. Subsection 3(2) of the Regulation provides that a person is not permitted to remain on school premises if a school board policy requires that person to report his or her presence and the person fails to do so.

It should be noted that subsections 3(1) and 3(2) do not apply to a pupil enrolled in the school or to a pupil attending a program for suspended or expelled pupils that is located on the school premises.

By virtue of the provisions of the *Education Act*, no person other than those set out in the regulation is permitted to remain on school property. Every person who contravenes this provision is guilty of an offence and, pursuant to the *Provincial Offences Act*, is subject to a fine of not more than \$5,000.

### **N.1.2 Trespass to Property**

It should also be noted that the Ontario *Trespass to Property Act* also applies to school premises and permits a school Principal to take action in order to meet his or her duty under the *Education Act*. School boards are expressly recognized as “occupiers” under the *Trespass to Property Act*, having all the rights and duties of an occupier with respect to school premises.

Trespassing is an offence under the Act and can result in a fine of up to \$2,000. Actions which constitute an offence under the *Trespass to Property Act* include:

- entering the premises when entry is prohibited under the Act;
- engaging in an activity on the premises when the activity is prohibited under the Act; or
- failing to leave the premises immediately after being so directed by the occupier or a person authorized by the occupier of the premises.

### **N.1.3 Notice Should be in Writing**

It is advised that notice under the *Education Act* or the *Trespass to Property Act* should be given in writing. The notice should indicate that the individual’s presence on school property has been considered detrimental to the safety and well-being of persons on the school premises. Further, the notice should provide that failure to comply with the request may result in prosecution under either the *Education Act* and the *Access to School Premises* regulation or the *Trespass to Property Act*.

The letter should be copied to the appropriate Superintendent School Effectiveness as well as the local police so that no confusion arises as to whether notice was provided to the individual names in the visitors’ book. Each school should ensure that signs stating “Please begin your visit to our school by attending the office” are posted at the entrances to the school. In addition, unknown visitors should be required to produce proper identification upon request.

### **N.1.4 Role of the Principal**

If a Principal or his or her designate becomes aware of a person who has entered the premises that is prohibited from being there, or is engaging in a prohibited activity, or fails to leave the premises immediately after being directed to do so, he or she may:

- if possible, confront the trespasser and verbally request that the trespasser leave and not return;
- ask the trespasser to identify himself or herself and give the reason for his or her presence on school property;

- where appropriate, send a letter of caution to the trespasser regarding a possible trespass notice and/or notice of denial of access; and
- send the trespasser a written notice, by registered mail, with a copy sent to the proper board official and the police.

Once a trespasser has been warned, if the school official becomes aware of the return of that person, the official should contact the police immediately and then monitor the situation pending the arrival of the police. In the event that there is an element of danger with respect to a trespass situation, the police should be contacted immediately in accordance with the Police/School Board Protocol (*refer to Section K*).

**N.2 TRESPASS LETTER**

**DELIVERED BY HAND or REGISTERED MAIL**

Insert Date

Insert Name of Recipient  
Insert Recipient's Address

Dear Insert Recipient's Name:

**Re: Insert Name and Address of the School**

This letter is notice to you that you are prohibited from entering upon the property known as **[Insert Name and Address of the School]**.

Failure to comply with this direction may result in a prosecution under the *Trespass to Property Act*.

The *Trespass to Property Act* provides that trespass is an offence that is punishable on conviction with a fine of not more than \$2,000.00. Furthermore, the court has the authority to award damages suffered by the **Sudbury Catholic District School Board**, caused during the commission of an offence.

Please note that under the provisions of the *Education Act*, the Principal has a duty to maintain proper order and discipline in the school. In my judgment, your presence on school property is detrimental to the physical and/or mental well-being of a person or persons on school premises. In this regard, you are directed not to return to **[Insert Name of School]**.

The reasons for this trespass notice are:

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This trespass notice will be reviewed on **[Insert Date]**.

If you require access to **[Insert Name of School]**, please contact me by phone at **[Insert Phone Number of School]** and we will discuss the matter.

In the event of an emergency, school staff will contact you. In these circumstances, you will report directly to the school office.

Yours truly,

Insert Principal's Name/Designate

Insert Title

Insert Name of School

- c. Police Service  
Superintendent School Effectiveness

**N.3 DENIAL OF ACCESS LETTER**

**DELIVERED BY HAND or REGISTERED MALL**

Insert Date

Insert Name of Recipient  
Insert Recipient’s Address

Dear Insert Recipient’s Name:

**Re: Insert Name and Address of the School**

This letter is notice to you that you are denied access to school property known as **[Insert Name and address of the School]**.

The *Education Act* and the *Access to School Premises Regulation* (O. Reg. 474/00) authorize a Principal, a vice-Principal or another person authorized by the Board to direct a person to leave the school premises where, in the judgment of the Principal, vice-Principal or other authorized person, the presence of that person is detrimental to the safety or well-being of a person on the premises. In my judgment, your presence on school property is detrimental to the safety and well-being of a person or persons on the school premises. In this regard, you are directed not to return to **[Insert Name of School]**.

Failure to comply with this direction may result in a prosecution under the *Education Act* and a possible fine to you of up to \$5,000.00.

The reasons for this denial of access are:

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This denial of access notice will be reviewed on **[Insert Date]**.

If you require access to **[Insert Name of School]**, please contact me by phone at **[Insert Phone Number of School]** and we will discuss the matter.

Yours truly,

Insert Principal's Name/Designate

Insert Title

Insert Name of School

- c. Police Service  
Superintendent School Effectiveness

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**SECTION O**

**Exclusion under the *Education Act***

<b>O.1</b>	<b><i>Education Act</i> .....</b>	<b>1</b>
<b>O.2</b>	<b>Exclusion Letter.....</b>	<b>2</b>

## **Exclusion under the *Education Act***

### **O.1 *Education Act***

Clause 265 (1) (m) of the *Education Act* addresses access to a school or classroom. It provides that it is the duty of a Principal of a school:

“Subject to an appeal to the board, to refuse to admit to the school or classroom a person whose presence in the school or classroom would in the principal’s judgment be detrimental to the physical or mental well-being of the pupils.”

In this regard, a Principal has the authority to refuse to admit to the school a person whose presence in the school would, in his or her judgment, be detrimental to the physical or mental well-being of the pupils, subject to an appeal to the school board.

In order to appeal this exclusion, a parent/guardian/adult student may write to the Superintendent School Effectiveness. An appeal of the decision to exclude a student must be in writing and the notice of appeal must include the specific reasons for the appeal, including why the party believes that the exclusion should not have been imposed.

## O.2 EXCLUSION LETTER

(For Students In Exceptional Circumstances)

### DELIVERED BY HAND or REGISTERED MAIL

Insert Date

Insert Name of Recipient  
Insert Recipient's Address

Dear Insert Recipient's Name:

#### **Re: Insert Name and Address of the School**

The *Education Act* authorizes a Principal to refuse to admit to the school a person whose presence in the school would, in the Principal's judgment, be detrimental to the physical or mental well-being of the pupils, subject to an appeal to the school board.

After careful consideration and examination of the information, in my judgment [**Name of Student**]'s presence is detrimental to the physical and/or mental well-being of the pupils of [**Name of School**]. I am formally notifying you that [**Name of Student**]'s presence at [**Name of School**] is no longer authorized at this time. If he/she enters or remains on [**Name of School**] property, contrary to this notice, he/she may be charged with trespassing under the *Trespass to Property Act*.

The reasons for this exclusion are:

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This exclusion will be reviewed on [**Insert Date**].

In order to appeal this exclusion, you may write to the Superintendent of School Effectiveness of the **Sudbury Catholic District School Board**. An appeal of the decision to exclude a student must be in writing and the notice of appeal must include the specific reasons for the appeal, including why the person who was excluded believes that the exclusion should not have been imposed.

Yours truly,

Insert Principal's Name/Designate

Insert Title

Insert Name of School

cc: Police Service  
Superintendent School Effectiveness

**SUDBURY CATHOLIC DISTRICT SCHOOL BOARD**  
**SAFE SCHOOLS RESOURCES AND PROCEDURES MANUAL**

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**SECTION P**

**Student Records and Confidentiality**

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## Student Records and Confidentiality

### P.1 Introduction

Freedom of information and protection of privacy are important issues in a school context. In the course of carrying out their duties under the *Education Act*, Principals and vice-Principals gather, generate and retain a great deal of information regarding their students. This information is often very sensitive and may include facts regarding a student's academic performance, conduct, health, family status and residence.

In the context of student discipline, the Ontario Student Record ("OSR") may include, where applicable, a suspension or expulsion record form or a Safe Schools Incident Reporting Form. These may contain:

- a description of the incident;
- a reference to the school disciplinary response to the incident, if applicable; and
- a copy of the school board's letter to the student and/or parents or guardians regarding the suspension or expulsion.

Under the *Education Act*, a Principal is responsible for collecting information for inclusion in a student's record. The OSR is the record of a student's educational progress through schools in Ontario. The Act regulates access to an OSR and states that the OSR is "privileged for the information and use of supervisory officers and the Principal and teachers of the school for the improvement of instruction" of the student.

School authorities may also collect information regarding students that is not maintained in their OSR. In this regard, the law places restrictions on what information can be collected or stored and under what conditions it may be used or disclosed to students, their parents or third parties. The law of confidentiality protects this expectation and relates to whether, and under what conditions, persons holding information may voluntarily disclose such information to third parties where it was communicated in confidence, or obtained with the expectation of confidence. Although the right to privacy is at the forefront of confidentiality legislation, there may be circumstances where the law will compel the disclosure of confidential information in the course of legal proceedings.

### P.2 Ontario Student Record

The *Education Act* provides the legislative authority for the collection and use of information contained in the OSR. According to section 265(1)(d) of the *Education Act*, the Principal of the school must collect information "for inclusion in a record in respect of each pupil enrolled in the school and to establish, maintain, retain, transfer and dispose of the record". In addition to the requirements set out in the *Education Act*, the *Ontario Student Record (OSR) Guideline, 2000* (the "Guideline"), also sets out the policy of the Ministry of Education with regard to the establishment, maintenance, use, retention, transfer and disposal of an OSR.

The Guideline provides that an OSR must be established for each student who enrolls in a school operated by a school board or the Ministry of Education. Each student and the parents of a student who is not an adult must be informed of the purpose and content of the OSR at the time of enrolment.

Each OSR should consist of several components, including the biographical information of a student, transcripts, report cards, health information, photographs, standardized or specialized testing results as well as court documentation on custody and access arrangements. A Principal may also include in the OSR any information that may be beneficial to teachers in the instruction of the pupil. However, relevant case law provides that there are restrictions regarding the type of information to be included in a student's OSR.

In *Cook v. Dufferin-Peel Roman Catholic Separate School Board*, at issue was whether a Principal has the underlying authority to include information in a student's OSR, therefore making it privileged and inadmissible as evidence. In *Cook*, a student was struck in the eye by a ballpoint pen during a general melee within the classroom that resulted in the loss of sight in one eye. Following the incident, the Principal of the school obtained written statements from various students who were in the classroom at the time and subsequently placed the statements in their respective OSRs. At issue was whether a Principal could make any document part of a student's record, thereby protecting the document from any form of production except in the limited exceptions of the *Education Act*.

After reviewing the relevant sections of the *Education Act*, including the provisions with respect to the purpose of the collection of student records, Master Garfield held that unlike a "pupil record", a witness statement does not fall within the categories of information described in the *Education Act* intended to assist in the instruction of the student. As a result, witness statements do not form part of a student's record, are not awarded privilege, and must therefore be disclosed. According to Master Garfield, "(t)o hold otherwise would defeat the litigation process requiring a full and open disclosure to allow the Court to render a just and equitable decision".

### **P.2.1 Access to the OSR**

Section 4 of the Guideline provides:

Access to an OSR means the right of those persons authorized by the *Education Act* or other legislation to examine the contents of the OSR. In addition, municipal and provincial freedom of information legislation permits persons who have the right to have access to personal information to receive copies of the information. This provision applies during both the period of use of the OSR and the period of retention and storage.

The use of and access to the OSR is governed by section 266 of the *Education Act*. Under the Act, every student, and his or her parent or guardian where the student is a minor, has the right to have access to the student's OSR.

Principals and teachers have a duty under the *Education Act* to maintain the private nature of the information contained in the OSR. Section 266(10) of the *Education Act* requires that every person shall “preserve secrecy in respect of the content of a record that comes to the person’s knowledge in the course of his or her duties or employment”. An individual with knowledge of a student’s record is, therefore, not permitted to communicate any such information to any other person without the written permission of the adult student or the parent or guardian of the student if under the age of 18.

The *Education Act* specifically addresses the use of the OSR in cases of student discipline. The Act does not prevent the use of a record in respect of a student by either the Principal of the school attended by the student or the school board for the purposes of a disciplinary proceeding instituted by the Principal in respect of conduct for which the student is responsible to the Principal. In this regard, the Act specifically authorizes a Principal to use documents in a student’s OSR for the purpose of disciplinary proceedings.

Due to the sensitive nature of the information contained within each OSR, there are a number of guidelines that may assist to ensure the security of such information. Principals should ensure that:

- each OSR is maintained in a secure area or lockable filing cabinet;
- there is a regular review of the OSR for the removal of any material that is no longer considered to be conducive to the improvement of the instruction of the student; and
- upon the disposal of the OSR, a Principal completely and confidentially disposes of material removed.

Despite the fact that there is a stringent requirement that the information held in a student’s OSR be kept confidential, like everything else, there are exceptions to the rule. Section 266 of the *Education Act* provides that contents of a student’s OSR may be disclosed without the written permission of the adult pupil or the parent or guardian of a minor pupil:

- for the improvement of the instruction of the pupil by supervisory officers, Principals, teachers, and designated early childhood educators at the school (section 266(2)). For practical purposes in a school, this restriction also means that persons such as parent volunteers and elected school council members are prevented from accessing information in an OSR without proper written consent;
- as evidence to prove its existence, establishment, maintenance, retention or transfer (section 266(2)(b)). Written permission of the parent or guardian of the student or, where the student is an adult, the written permission of the student is required for the record to be admitted in evidence for any other purpose at a trial, inquest, inquiry, examination, hearing or other proceeding;
- to provide the medical officer of health serving the school area with information in respect of a pupil (section 266(2.1));
- at a hearing to determine the accuracy of recorded information where inaccuracy is alleged by a pupil, parent or guardian (section 266(5));

- to assist the Principal in the preparation of reports required under the *Education Act* or its regulations (section 266(6)(a));
- where information is required by the Minister of Education or the school board (section 266(7));
- for the purposes of a disciplinary proceeding instituted by the Principal in respect of a student's conduct (section 266(13)); and
- to comply with a court order requiring the Principal to produce the OSR for inspection and copying by a children's aid society in cases of child abuse.

It is important to note that the information from an OSR may be used by the Principal to assist in the preparation of a report required under the *Education Act* or its regulations. Further, upon the receipt of a written request by an adult student, a former student or the parent or guardian of a student (if under the age of 18), information from an OSR may be used in the preparation of a report for an application for further education or an application for employment.

## **P.2.2 Legal Proceedings**

The *Education Act* provides that information contained in an OSR is privileged. Under the Act, a student's record is privileged for the use of the supervisory officers, as well as the Principal and teachers of the school for the improvement of instruction of the pupil. Section 266(2)(b) of the Act provides that, except for certain purposes, the OSR "is not admissible in evidence for any purpose in any trial, inquest, inquiry, examination, hearing or other proceeding, except to prove the establishment, maintenance, retention or transfer of the record", without the written permission of the student's parent or guardian or, where the student has attained the age of 18, the written permission of the student. The Act specifically provides that, except where the record has been introduced in evidence pursuant to section 266 of the *Education Act*, no one is required to testify in relation to the content of the record.

Notwithstanding these provisions, there may be occasions where access to the OSR of a current student or former student will be sought. In such an instance, the Board should obtain legal advice from its counsel in order to respond to such questions as:

- Does the *Education Act* prevent the production of the OSR?
- Is the OSR relevant to the proceedings?
- If the OSR is relevant to the proceedings, should a copy, rather than the original, be submitted to the court?

## **P.2.3 Civil Proceedings**

A Principal may be served with a subpoena requiring that he or she appear in court on a particular date and bring part or all of an OSR. Such civil cases could involve personal injury, divorce or custody disputes. In any of these situations, an adult student, or parent or guardian (where the student is under the age of 18), may provide written permission to

make the record available. Where a subpoena to produce the record is received but the adult student or the parent or guardian does not consent to its release, the school should refrain from releasing the OSR until a court order is obtained.

As a general rule, the Principal should go to the court with both the original OSR and a complete and exact photocopy of it, and should propose to the judge that the photocopy be submitted instead of the original. The Principal should also inform the judge that the subpoena is inconsistent with section 266(2) of the *Education Act*. The Principal must, however, release the documents if ordered to do so by the judge.

#### **P.2.4 Criminal Proceedings**

In criminal matters, the provisions of the *Education Act* are less effective at protecting the privacy of student records. This is due to the fact that the *Criminal Code* and the *Canada Evidence Act* (which govern criminal matters and are both federal statutes) take precedence over the *Education Act* (which is provincial legislation). The federally-legislated summons provisions prevail over the provisions of the *Education Act* dealing with access to student records.

If a Principal is served with a search warrant under the *Criminal Code* requiring the surrender of an OSR to the police, or is served with a subpoena requiring his or her attendance at court with the OSR, he or she is obliged to comply. In both cases, the Principal should obtain legal advice from the school board's legal counsel about any relevant issues. Again, the Principal should inform the relevant authority that use of any parts of the OSR as evidence in a court proceeding is inconsistent with section 266(2) of the *Education Act*. The Principal should also present the police or the judge with both the original OSR and a complete and exact photocopy of it and suggest that the copy be submitted instead of the original.

Overall, the following are guidelines the Principal should consider if served with a summons or subpoena:

- Under section 266 of the *Education Act* the documents contained in a student's OSR are privileged for the information and use of teachers, Principals and supervisory officers of the school.
- Where an adult student or his or her parent or guardian (where the pupil is under the age of 18) provides written consent to make a record contained in the OSR available, it may be released to such student, parent or guardian.
- A normal summons or subpoena requires the Principal to come to court (and, if so specified, to bring documents). It does not authorize or compel the Principal to give information or hand documents to defence counsel, the Crown or a third party out of court.
- The Principal should be prepared to attend court (or have a representative attend court) on the date and time set out in the subpoena.

- When asked to bring an OSR to court, the Principal should make a copy of the record and take both the original and the copy to court, and then propose that the photocopy be submitted to the court instead of the original.
- The school board lawyer should be contacted with respect to disclosure requirements and court procedure. Solicitor-client privilege protects the information and advice exchanged between the educator and the board lawyer.

### **P.2.5 Transfer of the OSR**

The OSR is an ongoing record and is transferable upon a student's move to another school. Upon a transfer of a student to another school in Ontario, the receiving school must be sent written notification of the student's transfer indicating that his or her OSR will be sent upon receipt of an official written request. A student's original OSR cannot be transferred outside of Ontario.

When a student transfers to another school outside of Ontario, the Guideline provides that a copy of the OSR may be sent to the new school only after the Principal who is responsible for the OSR has received:

- a written request for the information from the Principal of the education institution outside of Ontario; and
- a written statement indicating consent to the transfer, signed by the parent or guardian of the student if he or she is not an adult, or by the student over the age of 18.

Under the Guideline, a student is deemed to have "retired" from school when he or she ceases to be enrolled in school. In circumstances where a student does in fact retire from the school which maintained his or her OSR, the Principal should provide the parent or guardian of the student, if he or she is not an adult, or the adult student with:

- an up-to-date copy of the student's Ontario Student Transcript; and
- the information and materials stored in the OSR folder which are not required to be retained under the retention schedule.

The retention schedule set out in section 8 of the Guideline provides the following components of the OSR must be retained for five (5) years after a student retires from school:

- report cards;
- the documentation file; and
- additional information identified by the school board as appropriate for retention.

The following components of the OSR must be retained for 55 years after a student retires from school:

- the OSR folder;

- the Ontario Student Transcript; and
- the office index card.

### **P.2.6 Correction or Removal of Information in the OSR**

Section 266(4) of the *Education Act* permits a student and his or her parent or guardian to take steps towards correcting or removing information in the OSR. If, in the opinion of the adult pupil, or the parent or guardian of a pupil under the age of 18, the OSR contains information which is inaccurately recorded or is not conducive to the improvement of instruction of the pupil, the pupil or parent may make a written request to the Principal to correct the alleged inaccuracy or to remove the information from the record. If the Principal agrees with the request, the material will be corrected or will be removed from the file and destroyed or returned to the adult student or the parent or guardian of the student as the case may be. No record of the request is to be kept in the OSR.

If the Principal refuses to comply with the request to correct or remove information, the Act provides additional procedures for the parent or adult student. The student or parent may request in writing that the Principal refer the request to the appropriate supervisory officer. The supervisory officer will either require that the Principal comply with the request or submit the OSR as well as the request to a person designated by the Minister of Education. In the event that the supervisory officer requires that the Principal comply, no record of the request will be retained in the OSR.

Where the supervisory officer submits the request to a person designated by the Minister, that person will hold a hearing which will be attended by the Principal and the person who made the request. Following the hearing, a decision will be made by a person designated by the Minister. This decision is final and binding. If the person designated by the Minister requires that the Principal comply with the request, no record of the request will be retained in the OSR. If the person designated by the Minister denies the request, the original request, including the date on which it was made, and the statement of final decision will be retained in the documentation file.

### **P.3 Violence-Free Schools Policy, 1994 and PPMs 120, 144, and 145**

Previously, the *Violence-Free Schools Policy, 1994* required that information relating to serious incidents leading to reports to police, as well as information relating to serious incidents leading to suspension or expulsion, be maintained in a student's OSR. While the *Policy* is still referred to in the OSR Guideline, it was revoked by Policy/Program Memorandum No. 120 in 2011. PPM 120 requires that the Board report violent incidents to the Ministry of Education through the Ontario School Information System (OnSIS), and that the Board collect and analyse data on the nature of violent incidents to support the development of board policies and to inform board and school improvement plans.

Further, PPMs 144 and 145 implement a new system for reporting and filing documentation regarding safe schools-related incidents.

As discussed throughout the Safe Schools Resource and Procedures Manual, school board employees have a duty to report certain incidents to the Principal. All employee reports made to the Principal, including those made verbally, must be confirmed in writing, using the “Safe Schools Incident Reporting Form – Part I”. The Principal then must provide the employee who reported the incident with written acknowledgement, using the “Safe Schools Incident Reporting Form – Part II”.

In addition to employees of the board, third parties, specified below, who are under contract or agreement with the board are required to report such incidents in writing to the principal of the school. The requirements for boards are as follows:

- Boards are required to include reporting requirements for school bus drivers in their transportation policies and contracts.
- Boards are required to include reporting requirements for employees and contractors as a condition in their agreements with third-party operators who are providing before- and/or after-school programs for Full-Day Kindergarten on the school site in accordance with Ontario Regulation 221/11, “Extended Day and Third Party Programs”, made under the Education Act.

Early childhood educators in board-operated extended-day programs, as well as employees and contractors of third-party operators as described above, must report to the principal as soon as reasonably possible. Boards are expected to provide information to these third-party operators on how to complete the “Safe Schools Incident Reporting Form – Part I”.

Boards may also put policies in place to require other individuals who are not employees of the board and who come into direct contact with students on a regular basis, as outlined in subsection 302(3.1) of the Education Act, to report such matters to the Principal (e.g., outdoor education instructors).

If the Principal has decided that action must be taken as a result of an incident of bullying, he or she will file a copy of the reporting form with documentation indicating the action taken in the OSR of the student whose behaviour was inappropriate. The names of all other students that appear on the form – both students who have engaged in bullying and students who have been harmed – must be removed from the form before it is filed in the student’s OSR.

Where the Principal has taken action in the case of more than one student, a copy of the reporting form with documentation indicating the action taken must be filed in the OSR of each student whose behaviour was inappropriate. The names of all other students that appear on the form – both students who have engaged in bullying and students who have been harmed – must be removed from the form before it is filed.

In the case of the student who has been harmed, no information about the incident must be placed in his or her OSR, unless that student’s parents expressly request that it be placed in the OSR.

In situations where the student who has been bullied has also engaged in a serious student incident, information regarding the incident and the action taken will be placed in the student's OSR.

The form and documentation must be kept in the OSR for a minimum of one year.

If the Principal has identified the incident as violent, and if the student engaged in the incident is a student of the school, the reporting form must be retained in that student's OSR for:

- One year, if the student's suspension was quashed or withdrawn and the record of suspension expunged. Documentation of any other action taken (other than suspension or expulsion) must also be retained for this period;
- Three years, if the student was suspended for the violent incident;
- Five years, if the student was expelled for the violent incident.

For non-violent incidents, if no further action is taken by the Principal, the Principal is not required to retain the report.

#### ***P.4 Municipal Freedom of Information and Protection of Privacy Act***

In addition to the privacy provisions of the *Education Act*, as leaders of public institutions, educators must also comply with privacy legislation of a more general application, such as the *Municipal Freedom of Information and Protection of Privacy Act* (the "MFIPPA"). The MFIPPA governs the use, collection and storage of personal information by municipalities, school boards and many other agencies.

Provided that it is permitted by the provisions of the MFIPPA, educators can, and often do, collect and retain information about a student which does not form part of that student's OSR. For example, with respect to a violent incident that is school related, while the suspension or expulsion record form and violent incident form may be kept in the student's OSR, a Principal's interview notes and witness statements will generally be kept in a file outside the OSR. This information will not be subject to the restrictions of the *Education Act*, but will be managed in accordance with the MFIPPA. Although the *Education Act* does not affect records outside of a student's OSR, the MFIPPA places restrictions on the use of other information which may be collected and retained by school personnel.

The MFIPPA is divided into main parts, each serving a distinct purpose. In the context of a school, these purposes are:

- to provide the public with a right of access to information in the possession of a school board; and
- to protect the privacy of individuals, such as students, teachers or Principals, with regard to personal information about themselves which is held by a school or school board.

The MFIPPA establishes a right of access to existing public “records” in the custody or under the control of an institution. The term “record” is defined in the MFIPPA to include any record of information, however recorded. It includes correspondence, minutes, reports, photographs and computer tapes and any other recorded information regardless of medium or format. An access request under this legislation would only apply to records or recorded information in the custody or under the control of a school board. Therefore, it is important to recognize that an access request would not apply to any oral comments, discussions or deliberations. A Principal’s written notes made at a meeting or interview or in the context of a school investigation will, in most cases, be considered a record within the meaning of the MFIPPA. As with records in the OSR, student and parents will have a right to renew these notes where they contain personal information pertaining in the student and where they are specific and identifiable.

Under the MFIPPA, any person may make a request for information held by a school board. The MFIPPA sets out a procedure for handling such requests. Requests for information are made to “heads” of institutions. The head is responsible for administering the MFIPPA and complying with the access and privacy provisions of the legislation. The duties of a head include responding to access requests, adhering to time limits and notice requirements~ and making decisions about the disclosure of records, Most school boards in Ontario have designated the chairperson of the board as the head, nod he or she in turn has delegated certain powers and duties to the director of education and other board officials. The decisions of the head are subject to independent review by the Information and Privacy Commissioner.

A request must be made in writing and an individual making such a request must provide sufficient detail to enable an experienced employee to locate the record. The access scheme in the MFIPPA sets out specific time limits — usually 30 days — within which institutions must respond to requests for access to information. In addition, a school board must have information available which describes how the board is organized and is general responsibilities. Furthermore, the school board must provide a list of the general classes or types of records in its custody or control.

#### **P.4.1 Personal Information**

Under the MFIPPA, an individual has a *prima facie* right of access to any “personal information” about himself or herself in the custody or under the control of an institution with respect to which the individual is able to provide sufficient specific information to make it reasonably retrievable by the institution. All records containing personal information must be retained for the shorter of one year after use or the period set out in a resolution made by the school board.

“Personal information” is defined in the MFIPPA as recorded information about an identifiable individual. Such personal information can include recorded views or opinions of a student about other individuals. However, as indicated above, the MFIPPA does not apply to oral comments, discussions or deliberations.

Board employees, including Principals and vice-Principals, must be careful not to disclose personal information relating to any individual. Generally, personal information related to students may not be disclosed except in specific circumstances.

Section 32 of the MFIPPA establishes circumstances when a Principal or vice-Principal may disclose a record or other personal information. The most relevant exemption for Principals and vice-Principals are:

- if the person to whom the information relates has identified that information in particular and consented to its disclosure;
- for the purpose for which it was obtained or for a consistent purpose;
- if the disclosure is made to an officer or employee of the school board who needs the record in the performance of his or her duties and if disclosure is necessary and proper in the discharge of the school board's function;
- for the purpose of complying with an Act of the Legislature or an Act of Parliament;
- to an institution or a law enforcement agency in Canada to aid in an investigation with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
- in compelling circumstances affecting the health and safety of an individual if upon disclosure notification is mailed to the last known address of the individual to whom the information relates; and
- in compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or deceased.

As indicated above, the Act expressly permits a school or school board to disclose confidential information to the police to aid in an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result.

Accordingly, since Principals and teachers are permitted to share information with police in certain circumstances, in non-urgent situations, the police should be prepared to provide a written statement that the identified information is required by the police to aid in an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result.

It should also be noted that this exemption permits disclosure; it does not compel disclosure. A school board may require a search warrant to be executed before access to personal information is granted. For example, in cases dealing with records in the OSR, which are privileged, a search warrant or a subpoena must be served before such records are disclosed.

## **P.4.2 School Personnel Notes**

It is recognized that events occurring at school sometimes give rise to a Principal, vice-Principal or teacher having to appear in court or give evidence at a suspension appeal or expulsion hearing. With the passage of time, immediate recall of details of events becomes progressively more difficult. There is wisdom, therefore, in recording these events contemporaneously with the events themselves. Such details should be kept in a journal and available for reference when required. It should include dates, times, names of witnesses interviewed, relevant observations and, where appropriate, a summary of any action taken by school administration.

Principals and vice-Principals should follow a few simple guidelines when taking notes as part of an investigation:

- All records should be factual and avoid personal commentary except where required.
- All records should be objective, direct and forthright and avoid subjective comments, or innuendo or any other indirect meaning.
- To the extent possible, information contained in a record should be based on the first-hand knowledge of the record maker.
- As a rule, information in a record should not be disclosed to a third party unless the individual in charge of the record is certain that an exception under the MFIPPA permits disclosure.
- Personal notes of a Principal or vice-Principal should not include irrelevant or third-hand information.

Such notes made in the course of an investigation may also be used by Principals and vice-Principals to refresh memories in a legal proceeding. Notes which are made well after the event are usually not helpful and can come under criticism in the course of a proceeding if a witness tries to use notes made after the fact to refresh his or her memory.

When preparing notes or other documents, it is important to be conscious of the fact that the notes or documents may ultimately be admitted in evidence before a court. A witness who takes care in preparing investigation notes or other records will likely be a more credible and reliable witness. Notes that are thorough, accurate and free of subjective judgment or opinion will assist the Principal, vice-Principal or teacher in providing testimony. They will also help demonstrate that the educator has conducted himself or herself in a professional manner and avoid embarrassing or undermining cross-examinations at trial. Ultimately records that demonstrate objectivity and fairness will support the conclusions and recommendations of school administration.

## **P.5 Youth Criminal Justice Act**

The *Youth Criminal Justice Act* protects the privacy and identity of young persons. Young persons are individuals who are 12 years or older but less than 18 years old. Subject to

certain exceptions, the *Youth Criminal Justice Act* (“YCJA”) prohibits all persons, including police, youth courts and school board officials, from publishing the name of a young person, or any other information related to a young person, if that information would identify the individual as a young person dealt with under the Act.

Section 110(1) of the YCJA bans the publication of any information that could identify a young person who has been charged with an offence. Records, including police records, of an offence committed or alleged to have been committed by a young person are not to be disclosed unless authorized by the Act.

This does not prevent:

- disclosure to ensure safety of staff, students or other persons;
- disclosure pursuant to a court order;
- disclosure to facilitate the rehabilitation of a young person;
- disclosure to ensure compliance with an authorization to be released on a “reintegration leave” from a youth custody facility to attend school;
- disclosure relating to information of a young person who has received an adult sentence;
- Principals from suspending or expelling students for the reasons set out in the *Education Act*; or
- school boards from hearing an expulsion or the appeal of the parent or guardian or an adult student.

In addition, it does not prohibit school boards from exercising their right to hear an expulsion, expulsion appeal or suspension appeal regarding a student. In each of these cases, evidence of the events may be presented despite the existence of YCJA proceedings. Criminal proceedings were never intended to deprive Principals and school boards of the ability to enforce order and discipline in their schools. The courts have ruled that the two proceedings are of a different nature, having different burdens of proof and a different purpose.

Notwithstanding section 110 of the YCJA, there are circumstances in which the release of youth court records is authorized. Section 119 provides that, upon request, the criminal record of a youth may be made available to:

any person or member of a class of persons that a youth court judge considers has a valid interest in the record, to the extent directed by the judge, if the judge is satisfied that access to the record is:

- (i) desirable in the public interest for research or statistical purposes; or
- (ii) desirable in the interest of the proper administration of justice.

Section 123(1)(a) of the YCJA provides that a youth court judge may order that a criminal record be made available to any person for inspection, provided that the student to whom the information relates, and the individual or corporation holding the information, are given five days' written notice and an opportunity to be heard, and the following three-part test is met:

- (i) the person has a valid and substantial interest in the record or part;
- (ii) it is necessary for access to be given to the record or part in the interest of the proper administration of justice; and
- (iii) disclosure of the record or part or the information in it is not prohibited under any other Act of Parliament or the legislature of a province.

In addition, section 125(6) of the YCJA deals with a possible access request to court records by school administrators. It provides that the provincial director, a youth worker, the Attorney General, a peace officer or any other person engaged in the provision of services to young persons may disclose to a representative of any school board or school any information contained in a record if the disclosure is necessary to ensure the safety of staff, students or other persons. Schools may also use such information to monitor a young person's compliance with bail, probation, release or reintegration conditions, or to facilitate the rehabilitation of the young person.

Upon receiving the information, the school is required to keep the information separate from any other record of the young person to whom the information relates (to ensure that no one else has access to the record unless disclosure is necessary to ensure the safety of staff, students or others) and to destroy the information when it is no longer required.

Further, the YCJA provides that, upon an application to the court by a peace officer, the Attorney General or the provincial director with respect to the release of information, the judge may order release of the information if:

- (a) the young person has been found guilty of an offence involving serious personal injury;
- (b) the young person poses a risk of serious harm to persons; and
- (c) the disclosure of the information is relevant to the avoidance of that risk.

This process is costly, very time-consuming and should only be used in extenuating circumstances, such as when a youth has been involved in offence and when he or she poses a risk to others.

The question of whether the release of youth court dockets to a school board violates the non-disclosure and non-publication provisions of the *Young Offenders Act* (now the YCJA), has been addressed by the Supreme Court of Canada in the case of *N.F. (Re)*. In that case, a Youth Justice Concerns Committee (the “Committee”) was formed in Newfoundland to provide a link between the school system and the Youth Court Division of Newfoundland Provincial Court. The mandate of the committee is to assist the youth court in effectively dealing with young offenders to the extent that such young offenders are pupils enrolled in the respective school systems operated by the Newfoundland school boards. The committee is comprised of members of the RCMP, the Royal Newfoundland Constabulary, the Newfoundland Legal Aid Commission, youth court judges, representatives of the provincial departments of education, justice, health and social services and the Newfoundland and Labrador School Boards Association.

In order to further the work of the committee, the youth court in Newfoundland, on the authority of the judge of that court, supplied to the school boards copies of the weekly court dockets. The dockets contained a list of the cases to be heard in the youth court. The dockets disclosed the names of young persons charged with criminal offences and the offence with which they have been charged.

The Newfoundland school boards who received copies of the dockets developed specific procedures and safeguards for receiving the dockets. The youth court sent a copy of the docket to a specifically designated single employee of the board who, in each case, was a professionally trained and qualified education psychologist. This person was responsible for reviewing the dockets, contacting Youth Corrections for further information and passing the information to a person or persons within the system strictly on a “need-to-know basis”. The docket was never copied or distributed except as necessary and was kept in a locked cabinet to which only the recipient had access. In due course, the docket was shredded.

The matter came before the Newfoundland courts by way of an application by a young person for an order prohibiting the disclosure of the weekly youth court docket. The young offender challenged the established practice in Newfoundland and alleged that the disclosure of the docket violated the non-disclosure protection in section 44.1(1) of the *Young Offenders Act* (now the YCJA) and non-publication prohibition in section 38(1).

The Newfoundland school boards argued that the dockets were of invaluable assistance for the following reasons:

- to monitor students charged with a serious offence;
- to help make risk assessments in cases where students have been charged with serious violent crimes, narcotic offences or weapon offences;
- to assist the school boards to provide support and help for students in appropriate cases prior to trial;
- to be prepared to give input if asked at the trial and/or the sentencing process; and

- to allow the boards to monitor, when necessary, students who have been charged with serious crimes who might constitute a danger either to themselves or to other students in the school system

Both the Newfoundland Supreme Court, Trial Division and the Newfoundland Court of Appeal explicitly recognized the role of a school board in the administration of justice with respect to young persons and the requirement that, in order to effectively fulfil that role, the school boards must be entitled to receive the weekly dockets from the youth court. On appeal to the Supreme Court of Canada, the decision of the lower courts was overturned. The court issued a prohibition against the youth court's practice of releasing dockets to school boards. The case was heard by seven judges of the court; their unanimous decision was written by Mr. Justice Binnie.

The Supreme Court of Canada held that a purposive approach should be used in defining whether youth court dockets constitute a "report" or a "record" for the purposes of the relevant sections of the *Young Offenders Act*. Parliament's clear intention was to prohibit the unauthorized disclosure or publication of any information that links the identity of a young person to a charge, proceeding or disposition under the *Young Offenders Act*. Accordingly, the court held that the formal classification of youth court dockets was unnecessary.

What is important is not what the communication is called but the substance of what is communicated. The concern is with the message, not with the label applied to the medium of communication.

The court held that the restrictions for disclosure outlined in the *Young Offenders Act* were not met because: (a) the disclosure was not authorized by a judge; (b) distribution of the youth docket was not limited to the board responsible for the student's school; and (c) the information was distributed for school purposes and not purposes related to the administration of justice.

In respect to the provision of the Act that permits the disclosure of records in the course of the administration of justice, the court held that school boards are not generally involved in the administration of justice, and the distribution of dockets for school board purposes alone cannot be supported by this provision.

Further, the court held that the *Young Offenders Act* did not permit the disclosure of youth court dockets. Although disclosure is authorized where it is necessary either to ensure compliance with a court order or to ensure the safety of others, the release of youth dockets in this case was over-inclusive because it included the names of young persons who were not a safety risk or may not be students.

While recognizing the challenges faced by school authorities in confronting violence in schools and the need for court information in meeting those challenges, the Supreme Court of Canada was careful to balance these factors against a student's right to privacy. The blanket release of youth court dockets to school boards, regardless of the procedural

protections implemented by the school boards upon receipt of such information, was held to violate the public interest in the privacy and confidentiality of such information.

In light of the decision, school boards across Canada were called upon to revisit their practices. It is evident that unrestricted access to youth court dockets, which some school boards were able to obtain, is too broad.

In order for the release of youth court dockets to school boards to be justified, the following procedures should be considered:

- Relevant information concerning a young person who has been charged with an offence should only be released to a school/board by the following individuals: (a) the provincial director; (b) a youth worker; (c) a peace officer; or (d) any other person engaged in the provision of services to young persons. A youth court administrator does not qualify as a “person engaged in the provision of services to young persons”.
- Information contained in youth court dockets should be carefully screened before being released to the board. In particular, it should be determined whether the docket contains pertinent and sufficient information to allow the board to determine whether a student presents a risk to himself or herself, or others.
- The Board should only receive information in respect of students for which it is responsible.
- The Board should keep the record separate from other records of the young person to whom the information relates.
- The information should be sent to a designated individual within the Board who is responsible for protecting the privacy of such information and is trained to deal with it appropriately.
- The Board should destroy its copy of the record when the information is no longer required for the purpose for which it was disclosed.

Upon receipt of the court dockets, school authorities should assess the information to determine whether the student is a risk or threat to others. A plan should then be developed to ensure they discharge their duties to both provide a safe educational environment and maintain order and discipline in the school.

Balancing the privacy concerns of students presents a particular problem for two reasons. First, where a student is absent from school due to problems with the police, the school has a duty to inform itself as to the reasons for such absence. Further, under the *Education Act*, the Principal of every elementary and secondary school has an obligation to report students who have not attended school as required. Given this duty, the Principal has an obligation to obtain a full explanation with respect to a student’s absence. In this regard, school personnel should request the following information:

- complete disclosure from the student including the relevant allegations made against the student;

- whether the charges relate to the school;
- the nature of such charges; and
- the results of any trial and/or the terms of a probation order.

Secondly, a school board is potentially liable when, or if, a dangerous or potentially dangerous student causes injury to other students, board employees or strangers. Schools have a duty to protect students from foreseeable harm and to provide adequate control and supervision of students during the regular school day and during extra-curricular activities. Further, schools also have a duty of care to their employees to provide a safe work environment. Therefore, in order to minimize liability with respect to dangerous or potentially dangerous students, the board has a duty to inform itself of the details of relevant allegations or charges and to take appropriate action to ensure that other students and board employees are protected.

In order to ensure compliance with both of the above duties while also ensuring that information relating to federal or provincial penal charges against a student is not included in the student's OSR, the supervisory officer and/or Principal may share appropriate information with the relevant teachers on a "need-to-know" basis. In this regard, the school board should ensure the privacy of student records are protected under both the *Education Act* and MFIPPA, as well as ensuring the student's confidentiality rights have been addressed.

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**Safe Schools – Code Of Conduct**

**Q.1 Board Code of Conduct.....1**

**Q.2 Provincial Code of Conduct**

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**SECTION Q**

**Provincial Code of Conduct**

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**1. Legislative Framework**

The *Education Act* requires school boards to establish policies and guidelines with respect to the conduct of persons in schools. School board codes of conduct must address such matters and include such requirements as the Ontario Ministry of Education requires. School boards are required to consider the views of school councils with respect to those policies.

The School Councils Regulation requires schools to consult with school councils with respect to the development of implementation plans for the Board's code of conduct. This Code of Conduct will be consistently implemented in each school of the Board.

Policy/Program Memorandum No. 128, issued on December 5, 2012, requires that school boards revise their board code of conduct to incorporate changes in the Provincial Code of Conduct. The memorandum specifically requires school boards to ensure that their codes of conduct:

- include the standards stated in the Provincial Code of Conduct;
- set out standards of behaviour for all members of the school community, (e.g., parents, students, staff, visitors and volunteers);
- link locally developed standards to the relevant provincial standards (e.g., school board rules for the use of electronic devices such as cellphones could be linked to the provincial standard requiring those at school to “respect the need of others to work in an environment that is conducive to learning and teaching”);
- indicate where and/or when these standards will apply (e.g., in school sports activities, on school buses, in off-site school-sponsored activities, or in circumstances where engaging in an activity could have a negative impact on the school climate);
- include procedures and timelines for review (reviews must be conducted at least every three years).

In addition to requiring school boards to establish codes of conduct, the *Education Act* permits school boards to require Principals to establish a local code of conduct governing the behaviour of persons in the school. All local codes of conduct must be consistent with the Provincial Code of Conduct and with the Board's Code of Conduct.

The *Education Act* contains existing duties and responsibilities for Principals, teachers and students which will impact on the creation of local codes of conduct.

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The Board's Safe Schools Policy, adopted on May 3, 2000, reflects the Board's commitment to safety in our schools. The Board's Safe Schools Policy provides the foundation for this policy. All local school codes of conduct must be consistent with the legislative framework and the principles and standards established in the Safe Schools Policy. The Board's Code of Conduct is to serve as a guideline for ensuring such consistency.

**2. The Provincial Code of Conduct**

The *Education Act* permits the Minister of Education to establish a code of conduct governing the behaviour of all persons in schools. The purposes of the Provincial Code of Conduct are:

- to ensure that all members of the school community, especially people in positions of authority, are treated with respect and dignity;
- to promote responsible citizenship by encouraging appropriate participation in the civic life of the school community;
- to maintain an environment where conflict and difference can be addressed in a manner characterized by respect and civility;
- to encourage the use of non-violent means to resolve conflict;
- to promote the safety of people in schools;
- to discourage the use of alcohol and illegal drugs; and
- to prevent bullying in schools.

The Provincial Code of Conduct became policy of the Minister of Education on October 4, 2007 and was updated on December 5, 2012. The *Education Act* provides that every board shall take such steps as the Minister directs to bring the Provincial Code of Conduct to the attention of pupils, parents and guardians of pupils and others who may be present in schools under the jurisdiction of the board.

**3. Standards of Behaviour**

Under the Provincial Code of Conduct, all members of the school community must:

- respect and comply with all applicable federal, provincial, and municipal laws;
- demonstrate honesty and integrity;

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- respect differences in people, their ideas, and their opinions;
- treat one another with dignity and respect at all times, and especially when there is disagreement;
- respect and treat others fairly, regardless of, for example, race, ancestry, place of origin, colour, ethnic origin, citizenship, religion, gender, sexual orientation, age, or disability;
- respect the rights of others;
- show proper care and regard for school property and the property of others;
- take appropriate measures to help those in need;
- seek assistance from a member of the school staff, if necessary, to resolve conflict peacefully;
- respect all members of the school community, especially persons in positions of authority;
- respect the need of others to work in an environment that is conducive to learning and teaching; and
- not swear at a teacher or at another person in a position of authority.

All members of the school community must not:

- engage in bullying behaviours;
- commit sexual assault;
- traffic weapons or illegal drugs;
- give alcohol to a minor;
- commit robbery;
- be in possession of any weapon, including firearms;
- use any object to threaten or intimidate another person;

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- cause injury to any person with an object;
- be in possession of, or be under the influence of, or provide others with alcohol or illegal drugs;
- inflict or encourage others to inflict bodily harm on another person;
- engage in hate propaganda and other forms of behaviour motivated by hate or bias; and
- commit an act of vandalism that causes extensive damage to school property or to property located on the premises of the school.

***Electronic Communications and Media Devices***

In the spirit of creating a positive Catholic climate for all our school communities, with the aim of improving student achievement, increasing school safety, and protecting individual privacy, the Board will regulate the use of Personal Electronic Devices (PEDs). Please refer to APG #SS15 for Student use and APG #HR31 for Employee use.

**Suspension**

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.
3. Being under the influence of alcohol.
4. Swearing at a teacher or at another person in a position of authority.
5. Committing an act of vandalism that causes extensive damage to school property at the pupil's school or to property located on the premises of the pupil's school.
6. Bullying.
7. Any other activity that is an activity for which a Principal may suspend a pupil under the policy of the board.

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If a Principal decides to suspend a pupil for engaging in an activity described in subsection (1), the Principal will suspend the pupil from his or her 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.

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 or other factors prescribed by the regulations.

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.

Under Board policy, a Principal may suspend a pupil if he or she believes that the pupil 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. Persistent truancy (only non-compulsory school age pupils);
2. Persistent opposition to authority;
3. Habitual neglect of duty;
4. Wilful destruction of school property; vandalism causing damage to school or Board property or property located on school or Board premises;
5. Use of profane or improper language;
6. Use of tobacco;
7. Theft;
8. Aid/incite harmful behaviour;
9. Physical assault;
10. Being under the influence of illegal drugs;
11. Sexual harassment;
12. Racial harassment;

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13. Fighting;
14. Possession or misuse of any harmful substances;
15. Hate-motivated violence;
16. Extortion;
17. Distribution of hate material;
18. Inappropriate use of electronic communications/media; and/or
19. Other – defined as any conduct injurious to the moral tone of the school or to the physical or mental well-being of others.

**Suspension Pending Possible Expulsion**

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 to a minor.
- 7.1 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.

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- 7.2 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.
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.

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

Under Board policy, a Principal may suspend a pupil pending possible 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 other circumstances where engaging in the activity will have an impact on the school climate:

1. Possession of explosive substance;
2. Serious or repeated misconduct; and/or
3. Other – defined as any conduct injurious to the moral tone of the school or to the physical or mental well-being of others.

**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.

**Mitigating Factors**

Pursuant to the *Behaviour, Discipline and Safety of Pupils* Regulation, 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.

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**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.

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**4. Application of Standards of Behaviour**

The Board standards of behaviour apply to all members of the school community, including students, parents and guardians, teachers or other school staff members, volunteers and visitors.

The standards of behaviour apply:

- on school property;
- while travelling on a school bus that is owned by the Board or that is under contract to the Board;
- in-school sports activities;
- in off-site school-sponsored activities; or
- in circumstances where engaging in an activity could have a negative impact on the school climate.

**5. Roles and Responsibilities**

The Board's Code of Conduct recognizes that all members of the school community, including Principals, teachers and other staff members, students and parents have an obligation to comply with the standards of behaviour outlined in this policy. Each member of the school community has the following roles and responsibilities:

**The Board**

The Board will provide direction to its schools that ensure opportunity, excellence and accountability in the education system.

The Board is committed to the principles and standards established by the Safe Schools policy. The Board will not tolerate behaviour which jeopardizes the emotional wellbeing or physical safety of members of the school community.

As part of its broader mandate, the Board will:

- develop policies that set out how their schools will implement and enforce the Provincial Code of Conduct and all other rules that they develop that are related to the provincial standards that promote and support respect, civility, responsible citizenship, and safety;

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- establish a process that clearly communicates the Provincial Code of Conduct and school board codes of conduct to all parents, students, principals, teachers, other school staff, and members of the school community in order to obtain their commitment and support;
- review these policies regularly with those listed above;
- seek input from school councils, their Parent Involvement Committee, and their Special Education Advisory Committee;
- develop effective intervention strategies and respond to all infractions related to the standards for respect, civility, responsible citizenship, and safety; and
- provide opportunities for all of the staff to acquire the knowledge, skills, and attitudes necessary to develop and maintain academic excellence in a safe learning and teaching environment.

**Principals**

Under the direction of the Board, Principals take a leadership role in the daily operation of a school. They provide this leadership 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; and
- communicating regularly and meaningfully with all members of their school community.

Principals have a duty to maintain proper order and discipline within the school. Local codes of conduct are a key component of that duty. Principals shall develop local codes of conduct which are expressly tailored for their schools.

Under the provisions of the *Education Act*, Principals are responsible for suspending students and for referring expulsions to the school board in appropriate circumstances. Principals will conduct investigations in accordance with the *Guidelines for Conducting a Disciplinary Investigation* developed by the safe schools administrators of the Board.

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**Teachers and Other School Staff Members**

Under the leadership of their Principals, teachers and other school staff members maintain order in the school and are expected to hold everyone to the highest standard of respectful and responsible behaviour. As role models, teachers and other school staff uphold these high standards when they:

- help students work to their full potential and develop their sense of self-worth;
- empower students to be positive leaders in their classroom, school, and community;
- communicate regularly and meaningfully with parents;
- maintain consistent standards of behaviour for all students;
- must respond to any student behaviour that is likely to have a negative impact on the school climate;
- must report an activity for which suspension or expulsion must be considered to the principal as soon as reasonably possible;
- demonstrate respect for all students, staff, parents, volunteers, and other members of the school community; and
- prepare students for the full responsibility of citizenship.

Teachers shall also assist Principals in maintaining close co-operation with the school community and in establishing and maintaining consistent disciplinary practices in the school. In addition, teachers must assist the Principals by reporting incidents and assisting the Principal in conducting an investigation.

**Students**

Students are to be treated with respect and dignity. In return, they must demonstrate respect for themselves, for others, and for the responsibilities of citizenship through acceptable behaviour. Respect and responsibility are demonstrated when a student:

- comes to school prepared, on time, and ready to learn;
- shows respect for himself or herself, for others, and for those in authority;

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- refrains from bringing anything to school that may compromise the safety of others; and
- follows the established rules and takes responsibility for his or her own actions.

Students are also expected to:

- adhere to the teachings of the Roman Catholic Church;
- exercise self-discipline;
- accept such discipline as would be exercised by a kind, firm and judicious parent;
- be courteous to fellow pupils and obedient and courteous of teachers;
- show respect for school property; and
- understand and comply with the Board's code of conduct.

**Parents**

Parents play an important role in the education of their children and have a responsibility to support the efforts of school staff in maintaining a safe and respectful learning environment for all students. Parents fulfill their role when they:

- show an active interest in their child's school work and progress;
- communicate regularly with the school;
- help their child be neat, appropriately dressed and prepared for school;
- ensure that their child attends school regularly and on time;
- promptly report to the school their child's absence or late arrival;
- show that they are familiar with the Provincial Code of Conduct, the Board's Code of Conduct, and school rules;
- encourage and assist their child in following the rules of behaviour; and
- assist school staff in dealing with disciplinary issues involving their child.

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**Community Partners and the Police**

Police and community members are essential partners in making our schools and communities safer. Community agencies are resources that the Board uses to deliver prevention or intervention programs. Protocols are effective ways of establishing linkages between the Board and community agencies and of formalizing the relationship between them. Community partners need to support and respect the rules of their local schools. Police will investigate and respond to incidents in accordance with the Police/School Board Protocol.

**6. Review**

The Board's Code of Conduct will be reviewed for possible revisions to be conducted every three years. The Board will continue to solicit input from school councils, parents, staff and students in the review process.

**7. Code of Conduct for Schools**

The Board's Code of Conduct applies to each school site as the School's Code of Conduct.



# SUDBURY CATHOLIC DISTRICT SCHOOL BOARD

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## APG #SS10: Code of Conduct

Adopted:	February 1, 2010	APG Number:	SS10
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### POLICY STATEMENT

The mission of the Sudbury Catholic District School Board is to provide all students with a Catholic education that includes the knowledge, skills and values required to live a meaningful and faith-filled life. The Sudbury Catholic District School Board recognizes that all people are created in the image and likeness of God, and as such deserve to be treated with dignity, respect, and fairness. The Board is committed to making each and every one of its Catholic schools a caring place where all members of the school community feel safe, welcomed and accepted. The Board fosters a Christ-centered, positive school climate, free from discrimination or harassment where principles of equity and inclusive education support positive student behaviour. The Board's Code of conduct will be consistently implemented in each school and facility of the Board.

### 2. THE PROVINCIAL CODE OF CONDUCT

The *Education Act* permits the Minister of Education to establish a code of conduct governing the behaviour of all persons in schools. The purposes of the Provincial Code of Conduct are:

- to ensure that all members of the school community, especially people in positions of authority, are treated with respect and dignity;
- to promote responsible citizenship by encouraging appropriate participation in the civic life of the school community;
- to maintain an environment where conflict and difference can be addressed in a manner characterized by respect and civility;
- to encourage the use of non-violent means to resolve conflict;
- to promote the safety of people in schools;
- to discourage the use of alcohol and illegal drugs; and
- to prevent bullying in schools.

### 3. STANDARDS OF BEHAVIOUR

#### ***Respect, Civility, and Responsible Citizenship***

All members of the SCDSB school communities must:

- respect and comply with all applicable federal, provincial, and municipal laws;
- demonstrate honesty and integrity;
- respect differences in people, their ideas, and their opinions;
- treat one another with dignity and respect at all times, and especially when there is disagreement;
- respect and treat others fairly, regardless of, for example, race, ancestry, place of origin, colour, ethnic origin, citizenship, religion, gender, sexual orientation, age, or disability;
- respect the rights of others;
- show proper care and regard for school property and the property of others;
- take appropriate measure to help those in need;
- seek assistance from a member of the school staff, if necessary, to resolve conflict peacefully;
- respect all members of the school community, especially persons in positions of authority;
- respect the need of others to work in an environment that is conducive to learning and teaching; and/or
- not swear at a teacher or at another person in a position of authority.

#### ***Safety***

All members of the SCDSB school communities must not:

- engage in bullying behaviours;
- commit sexual assault;
- traffic weapons or illegal drugs;
- give alcohol to a minor;
- commit robbery;
- be in possession of any weapon, including firearms;
- use any object to threaten or intimidate another person;
- cause injury to any person with an object;
- be in possession of, or be under the influence of, or provide others with alcohol or illegal drugs;
- inflict or encourage others to inflict bodily harm on another person;
- engage in hate propaganda and other forms of behaviour motivated by hate or bias; and/or
- commit an act of vandalism that causes extensive damage to school property or to property located on the premises of the school.

## ***Electronic Communications and Media Devices***

In the spirit of creating a positive Catholic climate for all our school communities, with the aim of improving student achievement, increasing school safety, and protecting individual privacy, the Board will regulate the use of Personal Electronic Devices (PEDs). Please refer to APG #SS15 for Student use and APG #HR31 for Employee use.

### **4. APPLICATION OF STANDARDS OF BEHAVIOUR**

SCDSB standards of behaviour apply to all members of the school community, including students, parents and guardians, teachers or other school staff members, volunteers and visitors.

The standards of behaviour apply:

- on school property;
- while traveling on a school bus or vehicle that is owned by the Board or that is under contract to the Board;
- in-school sports activities;
- in off-site school-sponsored activities; or
- in circumstances where engaging in an activity could have a negative impact on the school climate

### **5. ROLES AND RESPONSIBILITIES**

The SCDSB's Code of Conduct recognizes that all members of the school community, including principals, teachers and other staff members, students and parents have an obligation to comply with the standards of behaviour outlined in this policy. Each member of the school community has the following roles and responsibilities:

#### **a) The Board:**

The Board will provide direction to its Catholic schools that ensure opportunity, academic excellence and accountability in the education system.

The Board is committed to the principles and standards established by the Safe Schools policy. The Board will ensure all are treated with fairness, equity and respect. The Board will not accept behaviour which jeopardizes the well-being of members of the school community.

As part of its broader mandate, the SCDSB will:

- develop policies that set out how their schools will implement and enforce the Provincial Code of Conduct and all other rules that they develop that are related to the provincial standards that promote and support respect, civility, responsible citizenship, and safety;
- review these policies regularly with students, staff, parents, volunteers, and the community;
- seek input from school councils, their Regional Parent Involvement Committee, their Special Education Advisory Committee, their Aboriginal Advisory Committee,

- community partners, social service agencies, parents, students, staff members, and the school community;
- establish a process that clearly communicates the Provincial Code of Conduct and the Board Code of Conduct to all parents, students, staff members, and members of the school community in order to obtain their commitment and support;
  - develop effective intervention strategies and respond to all infractions related to the standards for respect, civility, responsible citizenship, safety and equity and inclusive education; and
  - provide opportunities for all of the staff to acquire the knowledge, skills, and attitudes necessary to develop a Catholic school community and maintain academic excellence in a safe learning and teaching environment.

**b) Principals**

Under the direction of the Board, principals take a leadership role in the daily operation of a school. They provide this leadership by:

- demonstrating care for the school community and a commitment to academic excellence in a safe 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; and,
- communicating regularly and meaningfully with all members of their school community.

**c) Teachers and Other School Staff Members:**

Under the leadership of their principals, teachers and other school staff members maintain order in the school and are expected to hold everyone to the highest standard of respectful and responsible behaviour. As role models, teachers and school staff uphold these high standards when they:

- help students work to their full potential and develop their sense of self-worth;
- empower students to be positive leaders in their classroom, school, and community;
- communicate regularly and meaningfully with parents;
- maintain consistent standards of behaviour for all students;
- must respond to any student behaviour that is likely to have a negative impact on the school climate;
- must report an activity for which suspension or expulsion must be considered to the principal as soon as reasonably possible;
- demonstrate respect for all students, staff, parents, volunteers, and the members of the school community; and
- prepare students for the full responsibility of citizenship

Teachers and school staff shall also assist principals in maintaining close co-operation with the school community and in establishing and maintaining consistent disciplinary practices in the school. In addition, teachers and school staff must assist the principals in conducting an investigation.

#### **d) Students**

Students must demonstrate respect for themselves, for others, and for the responsibilities of citizenship through acceptable behaviour and valuing diversity within the school community. Respect and responsibility are demonstrated when a student:

- comes to school prepared, on time, and ready to learn;
- shows respect for himself or herself, for others, and for those in authority;
- refrains from bringing anything to school that may compromise the safety of others; and
- follows the established rules and takes responsibility for his or her own actions.

Students are expected to:

- adhere to the teachings of the Roman Catholic Church;
- exercise self-discipline;
- accept such discipline as would be exercised by a kind, firm and judicious parent;
- be accepting and courteous to fellow pupils and obedient and courteous of teachers;
- show respect for school property; and
- understand and comply with the Board's Code of Conduct.

#### **e) Parents:**

Parents play an important role in the education of their children and have a responsibility to support the efforts of school staff in maintaining and promoting initiatives to support and promote equity and inclusive education, and a safe and respectful learning environment for all students. Parents fulfill their role when they:

- show an active interest in their child's school work and progress;
- communicate regularly with the school;
- help their child be neat, appropriately dressed and prepared for school;
- ensure that their child attends school regularly and on time;
- promptly report to the school their child's absence or late arrival;
- show that they are familiar with the Provincial Code of Conduct, the Board's Code of Conduct and school rules;
- encourage and assist their child in following the rules of behaviour; and
- assist school staff in dealing with disciplinary issues involving their child.

#### **f) Community Partners and the Police:**

Police and community members are essential partners in making our schools and communities safer. Community agencies are resources that the Board uses to deliver prevention or intervention programs. Protocols are effective ways of establishing linkages between the Board and community agencies and of formalizing the relationship between them. Community partners need to support and respect the rules of their local schools. Police will investigate and respond to incidents in accordance with the Police/School Board Protocol.

To facilitate the building of partnerships, and in keeping with our denominational rights as Catholic schools with a specific mandate that must be respected, the school board will:

- direct schools to work with agencies or organizations that have professional expertise in gender-based violence, sexual assault, homophobia, sexual harassment, and

inappropriate sexual behaviour to provide appropriate support to students, parents, and teachers in addressing these issues.

- maintain an up-to-date contact list of community agencies or organizations that have professional expertise in these areas, making the list available to staff and students of every school;
- ensure that schools provide access to public health units to deliver their mandated public health curriculum.

## **6. REVIEW**

The Board's Code of Conduct will be reviewed for possible revisions to be conducted as per Board policy. The Board will continue to seek input from school councils, their Regional Parent Involvement Committee, their Special Education Advisory Committee, their Aboriginal Advisory Committee, community partners, social service agencies, parents, students, staff members, and the school community in the review process.

## **7. CODE OF CONDUCT FOR SCHOOLS**

The Board's Code of Conduct applies to each school site as the School's Code of Conduct.

## **8. SUSPENSION AND EXPULSION OF PUPILS**

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.
3. Being under the influence of alcohol.
4. Swearing at a teacher or at another person in a position of authority.
5. Committing an act of vandalism that causes extensive damage to school property at the pupil's school or to property located on the premises of the pupil's school.
6. Bullying.
- \*7. Any other activity that is an activity for which a principal may suspend a pupil under the policy of the board.

If a principal decides to suspend a pupil for engaging in an activity described in subsection (1), the principal will suspend the pupil from his or her 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.

In considering how long the suspension should be, a principal will take into account any mitigating factors prescribed by the regulations.

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

Under Board policy, a principal may suspend a pupil if he or she believes that the pupil 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:

- Persistent truancy;
- Persistent opposition to authority;
- Habitual neglect of duty;
- Willful destruction of school property; vandalism causing damage to school or Board property or property located on school or Board premises;
- Use of profane or improper language;
- Use of tobacco;
- Theft;
- Aid/incite harmful behaviour;
- Physical assault;
- Being under the influence of illegal drugs;
- Sexual harassment;
- Racial harassment;
- Fighting;
- Possession or misuse of any harmful substances;
- Hate-motivated violence;
- Extortion;
- Distribution of hate material;
- Inappropriate use of electronic communications/media; and/or
- Other - defined as any conduct injurious to the moral tone of the school or to the physical or mental well-being of others.

### ***Suspension Pending Possible Expulsion***

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:

- possessing a weapon, including possessing a firearm;
- using a weapon to cause or to threaten bodily harm to another person;
- committing physical assault on another person that causes bodily harm requiring treatment by a medical practitioner;
- committing a sexual assault;
- trafficking in weapons or in illegal drugs;
- committing robbery;
- giving alcohol to a minor;

- 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.

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

A principal must suspend a pupil pending possible 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 other circumstances where engaging in the activity will have an impact on the school climate:

- possession of explosive substance;
- serious or repeated misconduct; and/or
- other - defined as any conduct that is seriously injurious to the moral tone of the school or to the physical or mental well-being of others.

### ***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.

### ***Mitigating Factors***

Pursuant to the Suspension and Expulsion of Pupils Regulation, the following mitigating factors shall be taken into account:

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

### ***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:

- the pupil's history
- whether a progressive discipline approach has been used with the pupil
- 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
- how the suspension or expulsion would affect the pupil's ongoing education
- the age of the pupil
- in the case of a pupil for whom an individual education plan has been developed;
- whether the behaviour was a manifestation of a disability identified in the pupil's individual education plan,
- whether appropriate individualized accommodation has been provided, and

- whether the suspension or expulsion is likely to result in an aggravation or worsening of the pupil's behaviour or conduct

#### Notice to Parent or Guardian

If the principal believes that a pupil of the school has been victimized, the principal shall, as soon as reasonably possible, notify the parent or guardian of the pupil. A principal may 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 interest. If the principal does not notify a parent or guardian because of the circumstances described above, the principal shall,

1. document the rationale for the decision not to notify a parent or guardian of the pupil;
2. inform the appropriate supervisory officer of the decision not to notify a parent or guardian of the pupil;
3. if a teacher informed the principal of the harm, inform the teacher of the decision not to notify a parent or guardian of the pupil; and
4. if the principal determines it is appropriate to do so, inform other board employees of the decision not to notify a parent or guardian of the pupil.

An employee of a board who observes a pupil of a school of the board behaving in a way that is likely to have a negative impact on the school climate is not required to respond if responding would, in the employee's opinion, cause immediate physical harm to himself or herself or to that of a student or another person.

A principal must not notify a parent or guardian of a student who is 18 years or older; or is 16 or 17 years old and has withdrawn from parental control. This does not prohibit the principals from contacting parents/guardians if the student gives consent.

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**SECTION R**

**Bullying Prevention and Interventions**

**R.1 Bullying Prevention and Intervention .....1**

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**SECTION R**

<b>Policy</b>	<b>Code of Conduct</b>
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**Statement**

The mission of the Sudbury Catholic District School Board is to provide all students with a Catholic education that includes the knowledge, skills and values required to live a meaningful and faith filled life. This mission is affirmed in Board policies, including the Safe Schools policy. The Board is committed to making each and every one of its Catholic schools a caring place that is safe for learning. The purpose of the Board’s Code of Conduct is to further promote the mission of the Board and to provide a consistent Code of Conduct for individual schools.

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1. Legislative Framework

The *Education Act* requires school boards to establish policies and guidelines with respect to the conduct of persons in schools. School board codes of conduct must address such matters and include such requirements as the Ontario Ministry of Education requires. School boards are required to consider the views of school councils with respect to those policies.

The School Councils Regulation requires schools to consult with school councils with respect to the development of implementation plans for the Board's code of conduct. This Code of Conduct will be consistently implemented in each school of the Board.

Policy/Program Memorandum No. 128, issued on December 5, 2012, requires that school boards revise their board code of conduct to incorporate changes in the Provincial Code of Conduct. The memorandum specifically requires school boards to ensure that their codes of conduct:

- include the standards stated in the Provincial Code of Conduct;
- set out standards of behaviour for all members of the school community, (e.g., parents, students, staff, visitors and volunteers);
- link locally developed standards to the relevant provincial standards (e.g., school board rules for the use of electronic devices such as cellphones could be linked to the provincial standard requiring those at school to “respect the need of others to work in an environment that is conducive to learning and teaching”);
- indicate where and/or when these standards will apply (e.g., in school sports activities, on school buses, in off-site school-sponsored activities, or in circumstances where engaging in an activity could have a negative impact on the school climate);
- include procedures and timelines for review (reviews must be conducted at least every three years).

In addition to requiring school boards to establish codes of conduct, the *Education Act* permits school boards to require Principals to establish a local code of conduct governing the behaviour of persons in the school. All local codes of conduct must be consistent with the Provincial Code of Conduct and with the Board's Code of Conduct.

The *Education Act* contains existing duties and responsibilities for Principals, teachers and students which will impact on the creation of local codes of conduct.

The Board's Safe Schools Policy, adopted on May 3, 2000, reflects the Board's commitment to safety in our schools. The Board's Safe Schools Policy provides the foundation for this policy.

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All local school codes of conduct must be consistent with the legislative framework and the principles and standards established in the Safe Schools Policy. The Board's Code of Conduct is to serve as a guideline for ensuring such consistency.

**1. The Provincial Code of Conduct**

The *Education Act* permits the Minister of Education to establish a code of conduct governing the behaviour of all persons in schools. The purposes of the Provincial Code of Conduct are:

- to ensure that all members of the school community, especially people in positions of authority, are treated with respect and dignity;
- to promote responsible citizenship by encouraging appropriate participation in the civic life of the school community;
- to maintain an environment where conflict and difference can be addressed in a manner characterized by respect and civility;
- to encourage the use of non-violent means to resolve conflict;
- to promote the safety of people in schools;
- to discourage the use of alcohol and illegal drugs; and
- to prevent bullying in schools.

The Provincial Code of Conduct became policy of the Minister of Education on October 4, 2007 and was updated on December 5, 2012. The *Education Act* provides that every board shall take such steps as the Minister directs to bring the Provincial Code of Conduct to the attention of pupils, parents and guardians of pupils and others who may be present in schools under the jurisdiction of the board.

**2. Standards of Behaviour**

Under the Provincial Code of Conduct, all members of the school community must:

- respect and comply with all applicable federal, provincial, and municipal laws;
- demonstrate honesty and integrity;
- respect differences in people, their ideas, and their opinions;

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- treat one another with dignity and respect at all times, and especially when there is disagreement;
- respect and treat others fairly, regardless of, for example, race, ancestry, place of origin, colour, ethnic origin, citizenship, religion, gender, sexual orientation, age, or disability;
- respect the rights of others;
- show proper care and regard for school property and the property of others;
- take appropriate measures to help those in need;
- seek assistance from a member of the school staff, if necessary, to resolve conflict peacefully;
- respect all members of the school community, especially persons in positions of authority;
- respect the need of others to work in an environment that is conducive to learning and teaching; and
- not swear at a teacher or at another person in a position of authority.

All members of the school community must not:

- engage in bullying behaviours;
- commit sexual assault;
- traffic weapons or illegal drugs;
- give alcohol to a minor;
- commit robbery;
- be in possession of any weapon, including firearms;
- use any object to threaten or intimidate another person;
- cause injury to any person with an object;

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- be in possession of, or be under the influence of, or provide others with alcohol or illegal drugs;
- inflict or encourage others to inflict bodily harm on another person;
- engage in hate propaganda and other forms of behaviour motivated by hate or bias; and
- commit an act of vandalism that causes extensive damage to school property or to property located on the premises of the school.

***Electronic Communications and Media Devices***

All personal communication devices will be powered off and stored out of view during an instructional class and other areas in the school, unless otherwise authorized by the Principal.

**Suspension**

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.
3. Being under the influence of alcohol.
4. Swearing at a teacher or at another person in a position of authority.
5. Committing an act of vandalism that causes extensive damage to school property at the pupil's school or to property located on the premises of the pupil's school.
6. Bullying.
7. Any other activity that is an activity for which a Principal may suspend a pupil under the policy of the board.

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

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The minimum duration of a suspension is one school day and the maximum duration is 20 school 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 or other factors prescribed by the regulations.

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.

Under Board policy, a Principal may suspend a pupil if he or she believes that the pupil 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. Persistent truancy (only non-compulsory school age pupils);
2. Persistent opposition to authority;
3. Habitual neglect of duty;
4. Wilful destruction of school property; vandalism causing damage to school or Board property or property located on school or Board premises;
5. Use of profane or improper language;
6. Use of tobacco;
7. Theft;
8. Aid/incite harmful behaviour;
9. Physical assault;
10. Being under the influence of illegal drugs;
11. Sexual harassment;
12. Racial harassment;
13. Fighting;
14. Possession or misuse of any harmful substances;
15. Hate-motivated violence;

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16. Extortion;
17. Distribution of hate material;
18. Inappropriate use of electronic communications/media; and/or
19. Non-Consensual Distribution of Intimate Images
20. Other – defined as any conduct injurious to the moral tone of the school or to the physical or mental well-being of others.

**Suspension Pending Possible Expulsion**

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 to a minor.
- 7.1 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.
- 7.2 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

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disability, sexual orientation, gender identity, gender expression, or any other similar factor.

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.

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

Under Board policy, a Principal may suspend a pupil pending possible 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 other circumstances where engaging in the activity will have an impact on the school climate:

1. Possession of explosive substance;
2. Serious or repeated misconduct; and/or
3. Other – defined as any conduct injurious to the moral tone of the school or to the physical or mental well-being of others.

**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.

**Mitigating Factors**

Pursuant to the *Behaviour, Discipline and Safety of Pupils* Regulation, 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.

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**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.

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**3. Application of Standards of Behaviour**

The Board standards of behaviour apply to all members of the school community, including students, parents and guardians, teachers or other school staff members, volunteers and visitors.

The standards of behaviour apply:

- on school property;
- while travelling on a school bus that is owned by the Board or that is under contract to the Board;
- in-school sports activities;
- in off-site school-sponsored activities; or
- in circumstances where engaging in an activity could have a negative impact on the school climate.

**4. Roles and Responsibilities**

The Board's Code of Conduct recognizes that all members of the school community, including Principals, teachers and other staff members, students and parents have an obligation to comply with the standards of behaviour outlined in this policy. Each member of the school community has the following roles and responsibilities:

**The Board**

The Board will provide direction to its schools that ensure opportunity, excellence and accountability in the education system.

The Board is committed to the principles and standards established by the Safe Schools policy. The Board will not tolerate behaviour which jeopardizes the emotional wellbeing or physical safety of members of the school community.

As part of its broader mandate, the Board will:

- develop policies that set out how their schools will implement and enforce the Provincial Code of Conduct and all other rules that they develop that are related to the provincial standards that promote and support respect, civility, responsible citizenship, and safety;

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- establish a process that clearly communicates the Provincial Code of Conduct and school board codes of conduct to all parents, students, principals, teachers, other school staff, and members of the school community in order to obtain their commitment and support;
- review these policies regularly with those listed above;
- seek input from school councils, their Parent Involvement Committee, and their Special Education Advisory Committee;
- develop effective intervention strategies and respond to all infractions related to the standards for respect, civility, responsible citizenship, and safety; and
- provide opportunities for all of the staff to acquire the knowledge, skills, and attitudes necessary to develop and maintain academic excellence in a safe learning and teaching environment.

**Principals**

Under the direction of the Board, Principals take a leadership role in the daily operation of a school. They provide this leadership 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; and
- communicating regularly and meaningfully with all members of their school community.

Principals have a duty to maintain proper order and discipline within the school. Local codes of conduct are a key component of that duty. Principals shall develop local codes of conduct which are expressly tailored for their schools.

Under the provisions of the *Education Act*, Principals are responsible for suspending students and for referring expulsions to the school board in appropriate circumstances. Principals will conduct investigations in accordance with the *Guidelines for Conducting a Disciplinary Investigation* developed by the safe schools administrators of the Board.

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**Teachers and Other School Staff Members**

Under the leadership of their Principals, teachers and other school staff members maintain order in the school and are expected to hold everyone to the highest standard of respectful and responsible behaviour. As role models, teachers and other school staff uphold these high standards when they:

- help students work to their full potential and develop their sense of self-worth;
- empower students to be positive leaders in their classroom, school, and community;
- communicate regularly and meaningfully with parents;
- maintain consistent standards of behaviour for all students;
- demonstrate respect for all students, staff, parents, volunteers, and other members of the school community; and
- prepare students for the full responsibility of citizenship.

Teachers shall also assist Principals in maintaining close co-operation with the school community and in establishing and maintaining consistent disciplinary practices in the school. In addition, teachers must assist the Principals by reporting incidents and assisting the Principal in conducting an investigation.

**Students**

Students are to be treated with respect and dignity. In return, they must demonstrate respect for themselves, for others, and for the responsibilities of citizenship through acceptable behaviour. Respect and responsibility are demonstrated when a student:

- comes to school prepared, on time, and ready to learn;
- shows respect for himself or herself, for others, and for those in authority;
- refrains from bringing anything to school that may compromise the safety of others; and
- follows the established rules and takes responsibility for his or her own actions.

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Students are also expected to:

- adhere to the teachings of the Roman Catholic Church;
- exercise self-discipline;
- accept such discipline as would be exercised by a kind, firm and judicious parent;
- be courteous to fellow pupils and obedient and courteous of teachers;
- show respect for school property; and
- understand and comply with the Board's code of conduct.

**Parents**

Parents play an important role in the education of their children and have a responsibility to support the efforts of school staff in maintaining a safe and respectful learning environment for all students. Parents fulfill their role when they:

- show an active interest in their child's school work and progress;
- communicate regularly with the school;
- help their child be neat, appropriate dressed and prepared for school;
- ensure that their child attends school regularly and on time;
- promptly report to the school their child's absence or late arrival;
- show that they are familiar with the Provincial Code of Conduct, the Board's Code of Conduct, and school rules;
- encourage and assist their child in following the rules of behaviour; and
- assist school staff in dealing with disciplinary issues involving their child.

**Community Partners and the Police**

Police and community members are essential partners in making our schools and communities safer. Community agencies are resources that the Board uses to deliver prevention or intervention programs. Protocols are effective ways of establishing linkages between the Board and community agencies and of formalizing the relationship between them. Community partners

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need to support and respect the rules of their local schools. Police will investigate and respond to incidents in accordance with the Police/School Board Protocol.

**5. Review**

The Board's Code of Conduct will be reviewed for possible revisions to be conducted every three years. The Board will continue to solicit input from school councils, parents, staff and students in the review process.

**6. Code of Conduct for Schools**

The Board's Code of Conduct applies to each school site as the School's Code of Conduct.



# SUDBURY CATHOLIC DISTRICT SCHOOL BOARD

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## APG #SS11: Bullying Prevention and Intervention

Adopted:	February 1, 2010	APG Number:	SS11
Revised:	January 24, 2013	Former APG Number (if applicable):	
Reviewed:		APG Category:	Academic & Student Services
Subsequent Review Date(s):		Page(s):	6

### POLICY COMPONENTS AND IMPLEMENTATION STRATEGIES

#### 1. Policy Statement

The Sudbury Catholic District School Board is committed to providing a safe, inclusive, accepting, and nurturing learning and teaching environment rooted in Gospel values. The Board is committed to identifying, addressing, and removing all forms of harassment, discrimination and bullying through the implementation of equity and inclusive education principles. We recognize that bullying adversely affects a student's ability to learn; affects healthy relationships and the school climate; and a school's ability to educate its students. Bullying will not be accepted on school property, at school-related activities, on school buses, through electronic media, or in any other circumstances where engaging in bullying will have a negative impact on the school climate. We recognize that relationships are founded in mutual acceptance and inclusion, and when modelled by all, a culture of respect becomes the norm.

#### 2. The Definition of Bullying

“Bullying” means aggressive and typically repeated behavior by a pupil where,

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

- 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
- creating a negative environment at a school for another individual,

(b) the behavior 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

For the purposes of the definition of “bullying” behavior includes the use of any physical, verbal, electronic, written or other means.

#### Cyber-bullying

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.

### ***3. Prevention and Awareness Raising***

All schools within the Sudbury Catholic District School Board will:

- develop a Catholic Community Culture and Care Goal that addresses school needs which have been identified through voluntary school climate surveys. Progress will be monitored by the principal and the Safe and Accepting School Team.
- participate in annual professional development.
- participate in the Bullying Awareness and Prevention Week beginning the third Sunday of November each year.
- utilize related ministry, board, and community documents made available in the Safe and Accepting School Conference on First Class.

### ***4. Programs, Interventions and Other Supports***

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

SCDSB supports the comprehensive intervention strategies to address incidents of bullying. This includes appropriate and timely responses to inappropriate behavior, as well as establishing expectations for appropriate student behavior in each of our schools.

All those who have been bullied, students who have witnessed incidents of bullying and students who have engaged in bullying, will be provided individualized support. This may include referral to community based service providers.

Programs and activities that focus on the building of healthy relationships, inclusive and equitable learning environments, character development, and positive peer relations all provide the foundation for an effective continuum of strategies within a school and school-related activities.

Examples are as follows:

- Board social worker
- Mental Health Nurse
- Child and Youth Worker
- VTRA (Violent Threat Risk Assessment)
- Partnerships with the Child and Family Centre (Section Program and School Preservation Program)
- Police / school partnerships and programs
- Roots of Empathy
- Virtues Programming
- Tribes philosophy
- Aboriginal and multicultural programs and awareness

- Peer Mediation
- Fully Alive curriculum
- Conflict Management Programs ex. Kelso and Friends, Unity in Community (primary/junior)
- Cyber Bullying Programs (intermediate/senior)
- Intervention Support Resource for teachers (k - 12)
- Aboriginal Programs and Services
- etc.

Each school is to develop and maintain a mechanism for students to safely report bullying.

### **5. Notifying Parents**

Section 300.3 of the Education Act specifies when principals are required to notify the parents of students who have been harmed as the result of a serious student incident. Principals shall disclose the following information:

- the nature of the activity that resulted in harm to the student
- the nature of the harm to the student
- the steps taken to protect the student's safety, including the nature of any disciplinary measures taken in response to the activity
- the supports that will be provided for the student in response to the harm that resulted from the activity

This section of the act now also specifies that principals are required to notify the parents of students who have engaged in serious student incidents. Principals shall disclose the following information:

- the nature of the activity that resulted in harm to the other student
- the nature of the harm to the other student
- the nature of any disciplinary measures taken in response to the activity
- the supports that will be provided for the student in response to his or her engagement in the activity

When notifying parents of these incidents, the principal must invite parents to have a discussion with him or her about the supports that will be provided for their child.

Under subsection 300.3(3) of the Education Act, a principal shall not notify a parent of a student if, in the opinion of the principal, doing so would put the student at risk of harm from a parent of the student, such that notification is not in the student's best interest. 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, as described above, 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.

Principals shall also, if they determine it is appropriate to do so, inform other board employees of this decision.

In addition, principals should refer students to board resources or to a community-based service provider that can provide the appropriate type of confidential support when his or her parents are not called (e.g., counselling; a sexual assault centre; Kids Help Phone; Lesbian, Gay, Bisexual, Transgendered Youth Line17).

In circumstances where board employees have reason to believe that a student may be in need of protection, board employees **must** call a Children's Aid Society according to the requirements of the Child and Family Services Act.18

## **6. Reporting Bullying to the Principal**

The purpose of reporting serious student incidents is to ensure that the principal is aware of any activities taking place in the school for which suspension or expulsion must be considered and to help ensure a positive school climate.

- Section 300.2 of Part XIII of the Education Act states that an employee of the board who becomes aware that a student at a school of the board may have engaged in a serious student incident shall report the matter to the principal as soon as reasonably possible. The employee must consider the safety of others and the urgency of the situation in reporting the incident, but, in any case, must report it to the principal no later than the end of the school day.
- In cases where an immediate action is required, a verbal report to the principal may be made. A written report must be made when it is safe to do so.
- In certain situations, members of the College of Psychologists of Ontario or the Ontario College of Social Workers and Social Service Workers who are engaged in a clinical relationship with a student shall report incidents of behavior for which suspension or expulsion must be considered to the principal as soon as it is, in their professional opinion, reasonably possible to do so without having a negative impact on the nature of the clinical relationship, in accordance with section 300.2 of Part XIII of the Education Act. They shall also report, in a manner that is consistent with the code of ethics and the standards of practice of their respective professions, matters that could result in the student's doing physical, emotional, or psychological harm to him- or herself or to others.
- All employee reports made to the principal, including those made verbally, must be confirmed in writing, using the "Safe Schools Incident Reporting Form – Part I". This form may be modified by boards, but must retain the elements set out in the Appendix to this memorandum. *Where the principal is the sole witness to an incident, the principal is similarly required to use the reporting form to confirm in writing what he or she witnessed.* Boards must specify on this form any other activities for which a student may be suspended or expelled, according to board policy. Each report should be assigned a number for filing and retrieval purposes.
- The board will provide information to board employees on completing the safe schools incident reporting forms.
- The principal must investigate all reports submitted by board employees, as outlined in subsection 300.2(3) of the Education Act. Once the investigation is complete, the principal must communicate the results of the investigation to the teacher who made the report. If a board employee who is not a teacher made the report, the principal will communicate the results of the investigation to that employee if the principal considers it appropriate. Communication between the principal and school staff about the investigation and the results of the investigation is a shared responsibility, and is an important factor in meeting student needs and fostering collaboration in the school.

- The principal must not disclose more personal information than is reasonably necessary for the purpose of communicating the results of the investigation, in accordance with subsection 300.2(5) of the Education Act. This information must be provided in a timely manner so that school staff can work with the principal to best meet the needs of students, support a positive school climate, and help prevent future inappropriate behavior from taking place.
- In all cases, the principal must provide the employee who reported the incident with written acknowledgement, using the “Safe Schools Incident Reporting Form – Part II”. This form may be modified by boards, but must retain the elements set out in the Appendix to this memorandum, and must specify whether the investigation has been completed or is still in progress. If no further action is taken by the principal, the principal is not required to retain the report. Information that could identify the student(s) involved must not be part of the acknowledgment.
- In addition to employees of the board, third parties, specified below, who are under contract or agreement with the board are required to report such incidents in writing to the principal of the school. The requirements for boards are as follows:
  - The board is required to include reporting requirements for school bus drivers in their transportation policies and contracts.
  - The board is required to include reporting requirements for employees and contractors as a condition in their agreements with third-party operators who are providing before- and/or after-school programs for Full-Day Kindergarten on the school site in accordance with Ontario Regulation 221/11, “Extended Day and Third Party Programs”, made under the Education Act.
    - Early childhood educators in board-operated extended-day programs, as well as employees and contractors of third-party operators as described above, must report to the principal as soon as reasonably possible. Boards are expected to provide information to these third-party operators on how to complete the “Safe Schools Incident Reporting Form – Part I”.
    - All other individuals who are not employees of the board and who come into direct contact with students on a regular basis, as outlined in subsection 302(3.1) of the Education Act are to report such matters to the principal (e.g., outdoor education instructors).
    - If the principal has decided that action must be taken as a result of an incident of bullying, he or she will file a copy of the reporting form with documentation indicating the action taken in the OSR19 of the student whose behavior was inappropriate. The names of all other students that appear on the form – both students who have engaged in bullying and students who have been harmed – must be removed from the form before it is filed in the student’s OSR.
    - Where the principal has taken action in the case of more than one student, a copy of the reporting form with documentation indicating the action taken must be filed in the OSR of each student whose behavior was inappropriate. The names of all other students that appear on the form – both students who have engaged in bullying and students who have been harmed – must be removed from the form before it is filed.

- In the case of the student who has been harmed, no information about the incident must be placed in his or her OSR, unless that student's parents expressly request that it be placed in the OSR.
- In situations where the student who has been bullied has also engaged in a serious student incident, information regarding the incident and the action taken will be placed in the student's OSR.
- The form and documentation must be kept in the OSR for a minimum of one year.

### **7. Professional Development Strategies for Administrators, Teachers, and other School Staff**

*SCDSB will establish and provide annual professional development programs to educate teachers and other school staff about bullying prevention and strategies for promoting a positive school climate, in accordance with subsection 170(1) of the Education Act.*

*SCDSB will put in place curriculum-linked training strategies on bullying prevention and intervention to give all administrators, teachers, and other school staff the resources and support they need. The strategies include ways of responding to all forms of bullying, including responding to gender-based and homophobic bullying, that are consistent with equity training on cultural sensitivity, on respect for diversity, and on special education needs.*

### **8. Communication and Outreach Strategies**

To support a whole-school approach, the board must actively communicate their policies and guidelines on bullying prevention and intervention to principals, teachers, and other school staff; students; parents; their Special Education Advisory Committee; school councils; and school bus operators and drivers.

### **9. Monitoring and Revising**

The board will monitor, review, and evaluate the effectiveness of board policies and guidelines, using indicators established in consultation with teachers, other school staff, students, parents, school councils, their Special Education Advisory Committee, and community-based service providers. Boards may also consult with their Parent Involvement Committees. Boards will also conduct a cyclical review of their policies and guidelines in a timely manner.

## **SAFE AND ACCEPTING SCHOOL TEAMS**

Each school must have in place a Safe and Accepting School Team responsible for fostering a safe, inclusive, and accepting school climate that will reflect the social teachings of the Catholic Church and be responsible for school safety. Teams should include at least one student and must include at least one parent, one teacher, one non-teaching staff member, one community partner, and the principal. An existing school committee (e.g., the healthy schools committee) can assume this role. The chair of this team must be a staff member.

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SAFE SCHOOLS RESOURCES AND PROCEDURES MANUAL**

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**SECTION S**

**Progressive Discipline and Promoting Positive Student Behaviour**

**S.1 Progressive Discipline and Promoting Positive Student Behaviour .....1**



## SUDBURY CATHOLIC DISTRICT SCHOOL BOARD

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### APG #SS12: Progressive Discipline and Promoting Positive Student Behavior

Adopted:	February 1, 2010	APG Number:	SS12
Revised:	January 24, 2013	Former APG Number (if applicable):	
Reviewed:		APG Category:	Academic & Student Services
Subsequent Review Date(s):		Page(s):	12

#### DEFINITION

**Progressive discipline** is a whole-school approach that utilizes a continuum of interventions, supports, and consequences to address inappropriate student behavior and to build upon strategies that promote positive behaviours. When inappropriate behavior 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. Schools should utilize a range of interventions, supports, and consequences that are developmentally appropriate and include learning opportunities for reinforcing positive behavior while helping students to make good choices.

#### 1. Policy Statement

The Sudbury Catholic District School Board is committed to progressive discipline and promoting positive student behavior. The goal of the policy is to support a safe inclusive, and accepting learning and teaching environment in which every student can reach his or her full potential as a person created in the likeness and image of God. The Board supports developmentally appropriate action to address behaviours that are contrary to the provincial and the board code of conduct including but not limited to bullying, harassing behavior and discrimination based on race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offenses, family status or disability. All Employees of the board are required to report serious incidents to the principal and all those who work directly with students are required to respond to all incidents that may have a negative impact on the school culture. The Board is committed to progressive discipline and a continuum of prevention and intervention programs, supports, and consequences and will consider all mitigating and other factors. Information in the student's I.E.P. will be considered in the determination of interventions, supports, and consequences for students with special education needs. The Board will engage the whole school community and its partners in building healthy relationships and promoting positive behaviours.

## **2. Prevention and Awareness Raising**

In order to promote a positive school climate, SCDSB will provide opportunities for all members of the school community to increase their knowledge and understanding of such issues as bullying; violence; inappropriate sexual behavior; bias, stereotyping, discrimination, prejudice, and hate; critical media literacy; and safe Internet use. Ontario's curriculum provides many opportunities for students to develop an understanding of these topics and the skills to make safe and healthy choices.

The board policies on prevention and awareness raising will include the requirements for the provision of special education programs and services for students with special education needs in a respectful caring, safe, and inclusive environment.

As part of the monitoring and evaluation of their policies, the school board will conduct anonymous school climate surveys of students, staff, and parents at least once every two years. These surveys must include questions on bullying/harassment related to sexual orientation, gender identity, and gender expression, as well as questions on sexual harassment.

Parents will be informed that these surveys are voluntary and that they can choose not to have their child participate. The board will not collect any name or any identifying number, symbol, or other particular assigned to a person, in accordance with subsection 169.1(2.2) of the Education Act.

Schools are to share school climate survey results with their safe and accepting schools teams and to build strategies into their school improvement plans to improve the school climate regarding issues identified through their climate surveys.

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 the principal shall 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 a 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.

## **3. Responding to Incidents**

The purpose of responding to incidents that can have a negative impact on school climate is to stop and correct it immediately so that the students involved can learn that it is unacceptable. "Behavior that is not addressed becomes accepted behavior."

SCDSB employees who work directly with students – including administrators, teachers, and non-teaching staff (including staff in social work, child and youth work, psychology, and related areas, and educational assistants) – must respond to any student behavior that is likely to have a

negative impact on the school climate. Such behavior includes serious student incidents and all inappropriate and disrespectful behavior at any time at school and at any school-related event if, in the employee's opinion, it is safe to respond to it, in accordance with subsection 300.4 of Part XIII of the Education Act and Ontario Regulation 472/07. Such inappropriate behavior may involve bullying, swearing, homophobic or racial slurs, sexist comments or jokes, graffiti, or vandalism, and behavior identified under sections 306 and 310 of the Education Act.

Responding may include asking a student to stop the inappropriate behavior; naming the type of behavior and explaining why it is inappropriate and/or disrespectful; and asking the student to correct the behavior (e.g., to apologize for a hurtful comment and/or to rephrase a comment) and to promise not to do it again. By responding in this way, board employees immediately address inappropriate student behavior that may have a negative impact on the school climate. When board employees are aware that an incident involves a student with special education needs, they are expected to respond in a way that takes into account information in the student's I.E.P.

Ontario Regulation 472/07 specifies that board employees are not required to respond to incidents when, in their opinion, responding would cause immediate physical harm to themselves or to a student or another person. However, incidents for which suspension or expulsion must be considered, must be reported to the principal and confirmed in writing (see also "Reporting to Principals" on page 8). For other incidents, where suspension or expulsion would not be considered but board employees feel it is not safe to respond, they will be expected to inform the principal verbally as soon as possible. For example, a board employee would not be required to respond if it would mean putting themselves or a student in an unsafe situation.

#### **4. Disclosure of Student's Personal Information**

Given their obligation to respond to serious student incidents and all inappropriate and disrespectful student behavior that is likely to have a negative impact on the school climate, board employees (including occasional employees) who work directly with students may need to know, for any particular student, those behavior(s) that may present a potential risk of physical harm to school staff or students as documented as part of progressive discipline in the student's Ontario Student Record (OSR) (see also section 8, "Reporting to the Principal", on pages 10–13). Principals are only permitted to share information documented in the OSR with board employees who do not have access to the OSR, if disclosure is necessary, so that employees can carry out their duties, including their duty to respond to inappropriate and disrespectful student behavior. In such cases, principals may share only the necessary information pertaining to behavior that may present risk of physical harm.

SCDSB has clear policies in place for both teaching and non-teaching staff regarding the confidentiality of student information. Prior to disclosure, the principal must inform staff that they must treat any information disclosed about a student or incident as confidential.

The board may also consult *A Guide to Ontario Legislation Covering the Release of Students' Personal Information, rev. 2011* by the Information and Privacy Commissioner of Ontario.<sup>15</sup> This guide describes how the Municipal Freedom of Information and Protection of Privacy Act intersects with the Education Act and other statutes, including Bill 168, Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace), 2009, to protect privacy but also to allow access to the personal information of students. It also distinguishes between instances when personal information must be disclosed and instances when it may be disclosed.

## **5. Supports for Students**

SCDSB will provide supports for all students who are affected by serious student incidents and all inappropriate behavior, and for those who engage in these types of incidents, to assist them in developing healthy relationships, making choices that support continuing their learning, and achieving success. Supports may be provided by employees of the board, through board programs and resource personnel, or through community-based service providers,<sup>16</sup> including social service agencies and mental health services.

In responding to any incident, board employees who work directly with students must act in a timely, sensitive, and supportive manner. They are expected to support students – including those who disclose or report incidents and those who wish to discuss issues of healthy relationships, gender identity, and sexuality – by providing them with contact information about professional supports (e.g., public health units, community-based service providers, Help Phone lines).

The board will outline in their progressive discipline policy the procedures that are in place to support students who have been harmed or students who have engaged in serious student incidents. These policies and procedures must outline what schools are required to do to support these students, including the development of specific plans to protect students who have been harmed and must outline a process for parents to follow if they are not satisfied with the supports that their children receive.

## **6. Notifying Parents**

Section 300.3 of the Education Act specifies when principals are required to notify the parents of students who have been harmed as the result of a serious student incident. Principals shall disclose the following information:

- the nature of the activity that resulted in harm to the student
- the nature of the harm<sup>17</sup> to the student
- the steps taken to protect the student's safety, including the nature of any disciplinary
- measures taken in response to the activity
- the supports that will be provided for the student in response to the harm that resulted from the activity.

This section of the act now also specifies that principals are required to notify the parents of students who have engaged in serious student incidents. Principals shall disclose the following information:

- the nature of the activity that resulted in harm to the other student
- the nature of the harm to the other student
- the nature of any disciplinary measures taken in response to the activity
- the supports that will be provided for the student in response to his or her engagement in the activity

When notifying parents of these incidents, the principal must invite parents to have a discussion with him or her about the supports that will be provided for their child.

Under subsection 300.3(3) of the Education Act, a principal shall not notify a parent of a student if, in the opinion of the principal, doing so would put the student at risk of harm from a parent of the student, such that notification is not in the student's best interest. 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, as described above, 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. Principals shall also, if they determine it is appropriate to do so, inform other board employees of this decision. In addition, principals should refer students to board resources or to a community-based service provider that can provide the appropriate type of confidential support when his or her parents are not called (e.g., counselling; a sexual assault centre; Kids Help Phone; Lesbian, Gay, Bisexual, Transgendered Youth Line18).

In circumstances where board employees have reason to believe that a student may be in need of protection, board employees must call a Children's Aid Society according to the requirements of the Child and Family Services Act.19

### ***7. School Transfers Related to school Safety***

There are extreme cases where students may be transferred to another school in order to preserve school safety. These situations are unique and must have approval of the school Superintendent. In these cases, the board is required to coordinate a "transfer meeting" between the school from which the student is being transferred and the receiving school. In cases where the transfer is necessary to protect a student, it is preferable that the student who has been harmed not be moved. The purpose of the transfer meeting is to put in place a transition strategy to identify any additional supports and resources that the student may require (e.g., supports provided by school-based employees of the board, by board personnel, or through a community-based service provider, including mental health services).

The meeting must include the teachers and other school staff that will have regular direct contact with the student. The student that is being moved and his or her parents should also be invited to the transfer meeting. Schools must make reasonable efforts to accommodate parent participation at this meeting. The transfer meeting must occur prior to the day or on the day the student is transferred. When the meeting occurs on the day the student is transferred, it must occur before the student attends class. The receiving school must also be in possession of the student's OSR prior to the occurrence of the transfer meeting, and the OSR must be available to be consulted at the meeting.

### ***8. Reporting to the Principal***

The purpose of reporting serious student incidents is to ensure that the principal is aware of any activities taking place in the school for which suspension or expulsion must be considered and to help ensure a positive school climate.

Section 300.2 of Part XIII of the Education Act states that an employee of the board who becomes aware that a student at a school of the board may have engaged in an activity for which suspension or expulsion must be considered, including sexual assault, shall report the matter to the principal as soon as reasonably possible. The employee must consider the safety of others and the urgency of the situation in reporting the incident, but, in any case, must report it to the principal no later than the end of the school day.

In cases where an immediate action is required, a verbal report to the principal may be made. A written report must be made when it is safe to do so.

In certain situations, members of the College of Psychologists of Ontario or the Ontario College of Social Workers and Social Service Workers who are engaged in a clinical relationship with a student shall report incidents of behavior for which suspension or expulsion must be considered to the principal as soon as it is, in their professional opinion, reasonably possible to do so without having a negative impact on the nature of the clinical relationship, in accordance with section 300.2 of Part XIII of the Education Act. They shall also report, in a manner that is consistent with the code of ethics and the standards of practice of their respective professions, matters that could result in the student's doing physical, emotional, or psychological harm to him- or herself or to others.

All employee reports made to the principal must be confirmed in writing, using the "Safe Schools Incident Reporting Form". Where the principal is the sole witness to an incident, the principal is similarly required to use the reporting form to confirm in writing what he or she witnessed. The board will specify on this form any other activities for which a student may be suspended or expelled, according to board policy. Each report should be assigned a number for filing and retrieval purposes.

The board will provide information to board employees on completing the safe schools incident reporting forms. For example, employees who are reporting an incident must submit the "Safe Schools Incident Reporting Form – Part I" to the principal in a timely manner.

The principal must investigate all reports submitted by board employees, as outlined in subsection 300.2(3) of the Education Act. Once the investigation is complete, the principal must communicate the results of the investigation to the teacher who made the report. If a board employee who is not a teacher made the report, the principal will communicate the results of the investigation to that employee if the principal considers it appropriate. Communication between the principal and school staff about the investigation and the results of the investigation is a shared responsibility, and is an important factor in meeting student needs and fostering collaboration in the school.

The principal must not disclose more personal information than is reasonably necessary for the purpose of communicating the results of the investigation, in accordance with subsection 300.2(5) of the Education Act. This information must be provided in a timely manner so that school staff can work with the principal to best meet the needs of students, support a positive school climate, and help prevent future inappropriate behavior from taking place.

In all cases, the principal must provide the employee who reported the incident with written acknowledgement, using the "Safe Schools Incident Reporting Form – Part II". This form may be modified by the board, but must retain the elements set out in Appendix 2 to this memorandum, and must specify whether the investigation has been completed or is still in progress. If no further action is taken by the principal, the principal is not required to retain the report. Information that could identify the student(s) involved must not be part of the acknowledgement.

In addition to employees of the board, third parties, specified below, who are under contract or agreement with the board are required to report such incidents in writing to the principal of the school. The requirements for the board are as follows:

- SCDSB is required to include reporting requirements for school bus drivers in their transportation policies and contracts.
- SCDSB is required to include reporting requirements for employees and contractors as a condition in their agreements with third-party operators who are providing before- and/or after-school programs for Full-Day Kindergarten on the school site in accordance with

Ontario Regulation 221/11, “Extended Day and Third Party Programs”, made under the Education Act.

Early childhood educators in board-operated extended-day programs, as well as employees and contractors of third-party operators as described above, must report to the principal as soon as reasonably possible. The board is expected to provide information to these third-party operators on how to complete the “Safe Schools Incident Reporting Form – Part I”.

Individuals who are not employees of the board who come into direct contact with students on a regular basis, as outlined in subsection 302(3.1) of Part XIII of the Education Act are to report such matters to the principal (e.g., outdoor education instructors).

The board will also follow the direction provided in the ministry document *Provincial Model for a Local Police/School Board Protocol, 2011* with respect to incidents that require police notification and response.

If the principal has decided that action must be taken as a result of a serious student incident, he or she will file a copy of the reporting form with documentation indicating the action taken in the OSR of the student whose behavior was inappropriate. The names of all other students that appear on the form – both students who engaged in the activity and students who have been harmed – must be removed from the form before it is filed.<sup>20</sup>

Where the principal has taken action in the case of more than one student, a copy of the reporting form with documentation indicating the action taken must be filed in the OSR of each student whose behavior was inappropriate. The names of all other students that appear on the form – both students who have engaged in the activity and students who have been harmed – must be removed from the form before it is filed.

In the case of the student who has been harmed, no information about the incident must be placed in his or her OSR, unless that student’s parents expressly request that it be placed in the OSR.

In situations where the student who has been harmed has also engaged in a serious student incident, information regarding the incident and the action taken will be placed in the student’s OSR.

The form and documentation must be kept in the OSR for a minimum of one year.

If the principal has identified the incident as violent,<sup>21</sup> and if the student engaged in the incident is a student of the school, the reporting form must be retained in that student’s OSR for:

- one year, if the student’s suspension was quashed or withdrawn and the record of suspension expunged. Documentation of any other action taken (other than suspension or expulsion) must also be retained for this period;
- three years, if the student was suspended for the violent incident;
- five years, if the student was expelled for the violent incident.

For non-violent incidents, if no further action is taken by the principal, the principal is not required to retain the report.

## **9. Building Partnerships**

Relationships that engage the whole school community and its partners promote a positive school environment and support the progressive discipline approach. Protocols between the board and community-based service providers are effective ways to establish linkages and to formalize the relationship between them. These protocols facilitate the delivery of prevention, intervention, and response programs, the use of referral processes, and the provision of services and support for students and their parents and families. Where such protocols already exist, they should be reviewed, and where they do not, protocols should be developed to increase the board's capacity to respond to the needs of students. These partnerships must build upon provincially developed protocols, principles, and frameworks for collaborative strategies that have been designed to support the school board in meeting the needs of students. These partnerships must also respect collective agreements.

The board should refer to Policy/Program Memorandum No. 149, "Protocol for Partnerships with External Agencies for Provision of Services by Regulated Health Professionals, Regulated Social Service Professionals, and Paraprofessionals", September 25, 2009, which sets out the requirements for the development of a local protocol between a school board and external agencies.

To facilitate the building of partnerships, every SCDSB will:

- direct schools to work with community-based service providers, mental health agencies, or other organizations that have professional expertise in the areas of bullying, discrimination, violence, and harassment to provide appropriate support to students, parents, and teachers, and other school staff in addressing these issues;
- maintain an up-to-date contact list of community-based service providers that have professional expertise in these areas, making the list available to staff and students of every school;
- ensure that all publicly funded schools work in partnership with, and provide access to, public health units in order to support implementation of the Ontario curriculum together with mandated public health policies.

The board should, wherever possible, collaborate to provide coordinated prevention and intervention programs and services and, where possible, share effective practices.

## **10. Implementation Strategy**

The board recognizes the following principles:

- require schools to implement a school-wide progressive discipline policy that is consistent with the board's policy;
- outline a range of prevention programs, interventions, supports, and consequences, including circumstances in which short-term suspension, long-term suspension, or expulsion may be the response required;
- require use of the most appropriate response, as outlined in the board's or school's progressive discipline policy, to respond to a student's behavior. For students with special education needs, the information in the student's IEP must be considered in the determination of intervention, consequences, and supports;

- develop a process for building on existing partnerships and for developing new partnerships with community agencies, including local police services, to support students and their families;
- provide for ongoing dialogue with parents on student achievement and behavior at every step of the progressive discipline continuum;
- provide opportunities for students to improve the school climate through assuming leadership roles (e.g., peer mediation, mentorship);
- ensure that the board's code of conduct is aligned with its progressive discipline approach.

### ***11. Professional Development Strategies for Administrators, Teachers, and Other School Staff***

SCDSB is required to establish and provide annual professional development programs to educate teachers and other school staff about the prevention of inappropriate behavior and strategies for promoting a positive school climate, in accordance with subsection 170(1) of the Education Act.

Training should include opportunities for teachers to explore curriculum connections related to bullying prevention, social and emotional skills (e.g., interpersonal skills, personal-management skills), and critical and creative thinking skills to help students develop healthy relationships.

The board will put in place a strategy on the board's progressive discipline policy for all administrators, teachers, and other school staff. The strategy must include ways of responding to serious student incidents, including inappropriate sexual behavior.

To further support students, SCDSB will work with the local Children's Aid Society to develop and implement annual training for board staff concerning their duty to report under the Child and Family Services Act.

The board should make sure that members of the school community are aware of the board's policy on progressive discipline, including students, parents, school secretaries, custodians, volunteers, community-based service providers, school bus operators and drivers, early childhood educators, and employees and contractors of third-party operators of before- and/or after-school programs supporting the Full-Day Kindergarten program on the school site.

The training should address the fact that creating and sustaining a safe, inclusive, and accepting learning environment through appropriate interactions between all members of the school community is the responsibility of the whole school community.

The board will support ongoing training for teachers, administrators, and other school staff through such opportunities as new-teacher induction programs and e-learning.

### ***12. Communications Strategy***

For a progressive discipline approach to be effective, it is important that all members of the school community, including teachers, other school staff, students, and parents, understand and support the progressive discipline approach. To support a whole-school approach, the board will actively communicate policies and guidelines to all students, parents, staff members, their Special Education Advisory Committee, and school council members. The board will also provide this information to their Parent Involvement Committees and other relevant groups.

### **13. Monitoring and Review**

SCDSB will monitor, review, and evaluate the effectiveness of board policies and procedures established in consultation with teachers, non-teaching staff, students, parents, school councils, their Special Education Advisory Committee, their Parent Involvement Committee, and service providers in the community. SCDSB will conduct regular reviews of their policies and procedures in a timely manner.

In evaluating and monitoring safe school policies and programs, the board must direct schools to address serious student incidents, as well as other inappropriate behavior (including inappropriate sexual behavior), in their school improvement plans.

Schools are to evaluate the effectiveness of their safe schools policies and programs through the use of school climate surveys of students, parents, and staff, which must be undertaken every two years at a minimum.

### **14. Delegation Of Authority Regarding Discipline**

Changes to the Education Act provide a principal with the authority to delegate – any applicable board policies and guidelines – powers, duties, or functions under Part XIII – “Behavior, Discipline and Safety”. Whenever possible, SCDSB will ensure that at least one school administrator is present on school property.

Changes to the Education Act provide a principal with the authority to delegate – in accordance with this memorandum and any applicable board policies and guidelines – powers, duties, or functions under Part XIII – “Behavior, Discipline and Safety”. Whenever possible, the board must ensure that at least one school administrator is present on school property.

A delegation under Part XIII of the Education Act must be in writing and is subject to any restrictions, limitations, and conditions set out in the delegation, which, at a minimum, must be as follows.

#### **Vice-Principals**

Delegation may include all authority of the principal under Part XIII of the Education Act except the final decision regarding a recommendation to the board to expel a student and the authority to suspend a student for six or more school days.

#### **Teachers**

Board policies and guidelines must include the following:

- The principal’s authority under Part XIII of the Education Act may only be delegated in writing to a teacher in the absence of the principal and vice-principal, and must respect the terms of all applicable collective agreements.
- Teachers may be delegated the authority to initially deal with situations involving activities that occur that must be considered for suspension or expulsion. The most important consideration in these circumstances is the safety of those involved. Any initial investigation must be undertaken according to board direction. The teacher must report all details of the initial investigation to the principal as soon as possible.

- The teacher must report to the principal or vice-principal any activities that must be considered for suspension or expulsion that are received from staff or others during the principal's absence. A teacher may not be delegated authority regarding suspension decisions or recommendations regarding expulsion of students.
- A teacher may be delegated limited authority to contact the parents of a student who has been harmed as the result of a serious student incident and the parents of the student who has engaged in the activity. The information provided to the parents by a teacher must be limited to the nature of the harm to the student and the nature of the activity that resulted in the harm.
- The teacher must not be delegated the authority to discuss the nature of any discipline measures taken in response to the activity.
- If the teacher is not sure whether he or she should call the parents, the teacher should contact the principal or supervisory officer for direction. The principal or vice-principal will follow up with the parents as soon as possible.

### **Board-Operated Extended-Day Programs**

Board policies and guidelines must include the following:

- The principal's authority under Part XIII of the Education Act may only be delegated in writing to early childhood educators (ECEs) working in board-operated extended-day programs and their supervisors, in the absence of the principal and vice-principal. The delegated authority is only exercised with respect to a student enrolled in an extended-day program in the school, and is only exercised during the time that the extended-day program is operated in the school. The delegation of authority must respect the terms of all applicable collective agreements.
- ECEs working in board-operated extended-day programs, and their supervisors, may be delegated the authority to initially deal with situations involving activities that occur that must be considered for suspension or expulsion. The most important consideration in these circumstances is the safety of those involved. Any initial investigation must be undertaken according to board direction. The ECE or supervisor must report all details of the initial investigation to the principal as soon as possible.
- The ECE or supervisor must report to the principal or vice-principal any activities that must be considered for suspension or expulsion that are received from staff or others during the principal's absence. ECEs working in board-operated extended-day programs, and their supervisors, may not be delegated authority regarding suspension decisions or recommendations regarding expulsion of students.
- ECEs working in board-operated extended-day programs, and their supervisors, may be delegated limited authority to contact the parents of a student who has been harmed as the result of a serious student incident and the parents of the student who has engaged in the activity. The information provided to the parents by the ECE or supervisor must be limited to the nature of the harm to the student and the nature of the activity that resulted in the harm.

- The ECE or supervisor must not be delegated the authority to discuss the nature of any disciplinary measures taken in response to the activity.
- If the ECE or supervisor is not sure whether he or she should call the parents, he or she should contact the principal or supervisory officer for direction. The principal or vice-principal will follow up with the parents as soon as possible.

### **15. Exclusion**

***SCDSB does not support the use of exclusion as a disciplinary measure. However, the Education Act Part X, 265 (1) (m) permits a principal, or delegate, to refuse to admit to the school or to a class, someone whose presence in the school or classroom would, in the principal's judgment, be detrimental to the physical or mental wellbeing of others. If the principal, or delegate, does decide that it is necessary to exclude a student from school, s/he is expected to notify the students' 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). Exclusion from school should be temporary and for the purpose of putting in place a plan to promote the students' inclusion while supporting the safety of others.***

### **16. School-Level Plans**

All schools must develop and implement a school-wide progressive discipline plan. This plan must be consistent with the policies in this memorandum and with the policies and procedures of the board.