Northeastern Catholic District School Board

SAFE SCHOOLS
EXPULSION HEARINGS - STUDENTS

Administrative Procedure Number: APE034-5

POLICY STATEMENT

The Northeastern Catholic District School Board (NCDSB) believes that all people are created in the image and likeness of God and that every person has the right to be treated with dignity, respect and fairness. The Board recognizes that a positive school climate exists when all members of the school community feel safe, included and accepted and actively promote positive behaviours and interactions. The NCDSB is committed to building and sustaining safe Catholic school communities where all members and stakeholders share the responsibility of eliminating violence in accordance with our Catholic faith and gospel values.

The NCDSB believes that safe learning environments enable students to reach their full academic and spiritual potential.

REFERENCES

Education Act
Child and Family Services Act
Policy Program Memorandum (PPM)
- 128 The Provincial Code of Conduct and School Board Codes of Conduct
- 142 School Board Programs for Expelled Students

NCDSB Policy
- E-34 Safe Schools

NCDSB Procedure
- APE034-4 Safe Schools: Suspension and Expulsion
- APE034-6 Safe Schools: Appeals-Student Discipline

DEFINITIONS

Nil.

PROCEDURES

1.0 RECOMMENDATION FOR AN EXPULSION BY PRINCIPAL

Where the Principal decides, within seven (7) school days from the date of the suspension, to refer a matter to the Board for an expulsion hearing, the Principal will immediately notify the Superintendent of Education and will provide a copy of related documentation.

2.0 PRINCIPAL OUTLINE OF ALLEGATIONS

In consultation with the Superintendent of Education, the Principal will prepare an outline of the allegations which form the basis of the recommendation for expulsion.

3.0 EXPULSION HEARING PANEL

3.1 The powers and duties of the Board to conduct an expulsion hearing and to make an expulsion determination will be exercised by the Student Discipline Committee (hereafter "the panel"), consisting of three members, as designated by the Chair of the Board.

3.2 When, despite best efforts, one of the appointed members of the panel is unavoidably unable to be present on the appointed hearing date, the Chair may appoint the alternate trustee to substitute.

3.3 The hearing will be postponed unless all three members of the panel are present, except in a case where the Chair has been able to replace one member of the panel by appointing another trustee to substitute.

3.4 The panel will be assisted by such Board staff as it requires, including the Chief Executive Officer who will act as advisor to the panel (hereafter "the advisor"), with responsibility for proper notification and recording of the appeal hearing decision.

4.0 PARTIES

4.1 The parties to the hearing will be the student, adult student if the student is 18 years or older, or 16 or 17 years old and withdrawn from parental control, or if the student is a minor, the parent/guardian, and interpreter if required, and the principal. The panel may interview such other persons as it considers necessary or appropriate to ascertain the relevant facts.

4.2 The suspended student has the right to be present at the hearing and to make a statement on their own behalf.

5.0 DATE OF HEARING

The panel will meet promptly to hear an expulsion referral from a Principal. A decision to expel a student must be made within 20 school days of the date on which the Principal suspended the student, unless the parties agree to a later date and/or there are circumstances beyond the control of the parties.

6.0 NOTICE OF HEARING

The advisor will send prompt notice to the parties of place, date, time, and details of the proceedings of the hearing.

7.0 NOTICE OF POSITION

At least 24 hours prior to the hearing, each party will disclose to the other party the following information:

i) An outline of the party's position on the circumstances that gave rise to the recommendation for expulsion;
ii) Copies of any documentation which the party proposes to submit at the hearing.

8.0 AGREEMENT ON ISSUES

The parties will be encouraged, where possible, to agree on facts, documents or other evidence which are not in dispute between them.

9.0 FAILURE TO ATTEND

Where notice has been given to a party to the hearing in accordance with this procedure, and that party fails to attend the hearing, the panel may proceed in the absence of the party and the party is not entitled to any further notice of the proceedings.

10.0 LEGAL REPRESENTATION

All parties have the right to legal representation. Such information will be shared in advance of the scheduled hearing date.

11.0 TIME LIMITS

A maximum of two hours will be allocated for the hearing. Each party will have 20 minutes to present their information and 10 minutes will be allotted for questions. Where either or both parties persuade the panel that additional time is reasonably required in order to have a fair opportunity to present the case, the panel may extend the time.

12.0 ORDER OF PRESENTATION

The order of presentation at the hearing will be as follows:
i) The Principal or designate will make their presentation.
ii) The adult student or parent/guardian and/or suspended student will make their presentation.
iii) The Principal may reply to the adult student or parent/guardian and/or suspended student's presentation.

The panel may ask questions for clarification after each presentation or as required.

13.0 LIMITATION ON EVIDENCE

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

14.0 MAINTENANCE OF ORDER

The panel may make such orders or give such direction at a hearing as it considers necessary for the maintenance of order at the hearing.

15.0 SUBMISSION AND VIEW OF PARTIES

At the panel, the panel shall:
i) Consider the submissions of each party in whatever form the party chooses to deliver the presentation (orally, written, both);
ii) Solicit the view of all the parties as to whether the student, if they are expelled, should be expelled from their school or from all schools of the Board;

iii) Solicit the views of all parties as to whether, if the student is not expelled, the panel should confirm the suspension originally imposed, confirm the suspension but reduce its duration or withdraw the suspension.

16.0 PANEL DETERMINATION

16.1 Where there is conflict in the findings presented by the parties on the issue of whether the student committed an expulsion activity the panel will assess the findings and determine whether on the balance of probabilities, it is more probable than not that the student did committed the activity.

16.2 Where the panel determines that the student committed an expulsion activity, before imposing an expulsion, the panel will consider the mitigating factors set out as follows:

i) The student does not have the ability to control their behaviour;
ii) The student does not have the ability to understand the foreseeable consequences of their behaviour;
iii) The student's continuing presence in the school does not create an unacceptable risk to the safety of any other individual at the school.

16.3 In addition to the mitigating factors listed above the panel will consider whether the following other factors mitigate the seriousness of the activity for which the student may be or is being suspended or expelled:

i) The student's academic, discipline and personal history;
ii) Whether progressive discipline has been attempted with the student, and if so, the progressive discipline approach(es) that has/have been attempted and any success or failure;
iii) Whether the activity for which the student might be disciplined was related to any harassment of the student because of race, ethnic origin, religion, creed, disability, gender or gender identity, sexual orientation or to related harassment of any other reason;
iv) The impact of the discipline on the student's prospects for further education;
v) The student's age;
vi) Where the student has an individual education plan (IEP):
    a) Whether the behaviour was a manifestation of a disability identified in the student's IEP;
    b) Whether the appropriate individualized accommodation has been provided; and
    c) Whether the suspension or expulsion is likely to result in an aggravation or worsening of the student's behaviour or conduct.

16.4 A written notification of the decision will be issued by the advisor:

i) Impose an expulsion from the school or all schools of the Board;
ii) No expulsion, but the suspension stays;
iii) Rescind the suspension and expunge all records.

17.0 NOTICE OF DECISION

The advisor will communicate the decision promptly, on behalf of the Chair of the hearing panel, in the format in accordance with the provisions noted in section 16.4.

18.0 OPTION TO APPEAL

An expulsion decision of the Board may be appealed to the Child and Family Services Review Board of the Province of Ontario.

19.0 RELATED FORMS AND DOCUMENTS

DOCUMENT: Hearing Before the Student Discipline Committee
LETTER: Expulsion Decision – School
LETTER: Expulsion Decision – Board
LETTER: Notice of Determination for Alternative Discipline to Expulsion
LETTER: Notice of Expulsion Hearing
LETTER: Notice of Non-Commission of Expulsion Infraction by Expulsion Hearing Panel

Chief Executive Officer: *Tricia Stefanic Weltz*
Date: May 2024