

**ADMINISTRATIVE PROCEDURE
STUDENTS, PARENTS AND COMMUNITY**

Effective:	September 1, 2014
Last Revised:	December 13, 2018

STUDENT DISCIPLINE: EXPULSION

1. PURPOSE

This administrative procedure has been developed to support a progressive discipline approach that uses a continuum of interventions, supports, and consequences to address inappropriate student behaviour. When these efforts to promote positive behaviour have not met with success and a student is involved in serious incidents, the principal may find that an expulsion is the response that is required.

Rainbow District School Board, the provincial code of conduct, the *Education Act*, regulations, and policy/program memoranda create expectations for behaviour for all persons on school property. It is important that all students have a safe and caring school environment in order to maximize their learning potential.

As directed by the *Education Act*, principals are required to maintain proper order and discipline in schools and students are responsible to the principal for their conduct and are required to accept such discipline as would be exercised by a reasonable, kind, firm, and judicious parent.

2. DEFINITIONS

School Climate: School climate refers to the sum total of all the personal relationships within a school. A positive climate exists when all members of the school community feel safe, comfortable, and accepted.

Progressive Discipline: Progressive discipline is the consistent use of a range of disciplinary interventions, supports, and consequences consistent with Ministry of Education direction and Policy/ Program Memorandum No. 145.

Mitigating and Other Factors: Mitigating and other factors must be taken into account when discipline is being considered. These factors are described in Ontario Regulation 472/07 Behaviour, Discipline and Safety of Pupils.

Adult Student: An adult student is 18 years of age or older, or 16 or 17 and has removed himself or herself from parental control.

Bullying: Bullying is 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.

Harassment: Harassment means words, conduct, or action that is directed at an individual and serves no legitimate purpose and which annoys, alarms, or causes that individual emotional distress. The term is often, but not always, related to the grounds enumerated in the Ontario *Human Rights Code*.

Suspension: A suspension means students are removed from school temporarily for a specific period of time. Students may be suspended for a period of time ranging from one school day to twenty school days. Students who are suspended for more than five school days are considered to be on long-term suspension. Students cannot take part in school activities or events while suspended.

Expulsion: A school expulsion is an expulsion from the school that the student was attending at the time of the incident(s). A board expulsion is an expulsion from all schools of the board.

Weapon: A weapon is any object or thing used to threaten or inflict harm on another person and includes, but is not limited to, knives, guns, replica guns, and animals.

Tribunal: The Tribunal is a committee of three or more members of the Board of Trustees designated to decide upon the principal's recommendation for expulsion.

Parent: A reference to "parent" in this administrative procedure refers to both parents if applicable and to a guardian or guardians. "Parent" means the custodial parent or guardian of a minor child who is not an adult student.

3. APPLICATION

This administrative procedure applies to any student of the Rainbow District School Board that has committed one or more of the infractions outlined in this administrative procedure on school property, during a school-related activity or event, and/or in circumstance where the infraction has an impact on school climate.

PROCEDURES

4. Expulsion Infractions

- 4.1 Expulsion shall be considered when a principal's investigation of an incident, including consultation with the student's parent and student or the adult student, determines that the student has committed one or more of the infractions outlined below. The infractions may occur on school property, during a school-related activity or event, and/or in circumstances where the infraction has an impact on school climate.
- 4.2 The infractions for which a principal shall suspend a student and may consider recommending to the Board of Trustees that a student be expelled from the student's school or from all schools of the board include:
 - a) possessing a weapon, including possessing a firearm;
 - b) using a weapon to cause or to threaten bodily harm to another person;
 - c) committing physical assault on another person that causes bodily harm requiring treatment by a medical practitioner;

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- d) committing sexual assault;
 - e) trafficking in weapons, cannabis and/or in illegal drugs, and/or possessing weapons, cannabis and/or illegal drugs for the purpose of trafficking;
 - f) committing robbery;
 - g) giving alcohol and/or cannabis to a minor;
 - h) bullying, if:
 - the student has previously been suspended for engaging in bullying, and
 - the student's continuing presence in the school creates an unacceptable risk to the safety of another person;
 - i) any activity that is a suspension infraction under subsection 306 (1) of the *Education Act* 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;
 - j) an act, including opposition to authority, considered by the principal to be significantly injurious to the school climate and/or to the physical or mental well-being of others;
 - k) a pattern of behaviour that is so inappropriate that the student's continued presence is injurious to the effective learning and/or working environment of others;
 - l) activities engaged in by the student on or off school property that have caused extensive damage to the property of the board or to goods that are or were on board property;
 - m) a pattern of behaviour that demonstrates that the student has not prospered by the instruction available to him or her and that the student is persistently resistant to making changes in behaviour which would enable him or her to succeed; or
 - n) any act considered by the principal to be a serious violation of the board or school code of conduct.

5. Factors to be Considered by the Principal

- 5.1 A principal may suspend a student for up to twenty (20) school days pending a possible recommendation for expulsion. In considering how long the suspension should be, the principal shall take into account any mitigating or other factors as prescribed by the regulations.
- 5.2 The principal will make every effort to consult with the student, where appropriate, and the student's parent if the student is not an adult, to help identify whether any mitigating or other factors might apply in the circumstances.

Mitigating Factors:

- 5.3 The mitigating factors to be considered by the principal before deciding how long the suspension should be are:
 - a) whether the student has the ability to control his or her behaviour;
 - b) whether the student has the ability to understand the foreseeable consequences of his or her behaviour; and
 - c) whether the student's continuing presence in the school does or does not create an unacceptable risk to the safety of any other individual at the school.
- 5.4 If the student poses an unacceptable risk to the safety of others in the school, the principal will consult with the supervisory officer regarding the accommodations and/or strategies that could be instituted to ensure the safety of students, the staff, and others in the school.

Other Factors:

- 5.5 The following other factors shall be taken into account if they would mitigate the seriousness of the activity for which the student may be expelled:
- a) the student's academic, discipline, and personal history;
 - b) the history of progressive discipline attempted, as described in section 6;
 - c) whether the infraction 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 harassment for any other reason;
 - d) the impact of the discipline on the student's prospects for further education;
 - e) the student's age;
 - f) if the student has an Individual Education Program (IEP) or disability-related needs:
 - whether the behaviour causing the incident was a manifestation of the student's disability;
 - whether appropriate individualized accommodation has been provided; and
 - whether an expulsion is likely to result in aggravating or worsening the student's behaviour or whether an expulsion is likely to result in further inappropriate conduct; and
 - g) whether or not the student's continuing presence at the school creates an unacceptable risk to the safety of anyone in the school.

6. Review of Progressive Discipline

- 6.1 The principal will review whether progressive discipline has been attempted with the student, and if so, the approaches that have been attempted and any success or failure. The principal will consider whether or not early and ongoing interventions and alternative consequences for inappropriate behaviour have been attempted.
- 6.2 In circumstances where one or more of the factors to be considered mitigate the principal's decision to apply a recommendation for expulsion as a form of discipline, the principal may consider whether alternative discipline and/or other intervention is appropriate in the circumstances.

7. Consultation

Before imposing a suspension pending recommendation for expulsion, the principal will consult with the superintendent of the school regarding:

- a) the investigation undertaken;
- b) the circumstances of the incident;
- c) whether or not one or more of the factors outlined above are applicable in the circumstances; and
- d) the appropriate length of the suspension if an expulsion is not recommended.

8. Suspension Pending Recommendation for Expulsion

- 8.1 If the student is to be suspended pending an investigation, the student will be suspended for twenty (20) school days.

- 8.2 If the student has been suspended pending an investigation to determine whether the student will be recommended for expulsion, the principal must assign the student to an alternative suspension program while the principal is conducting the investigation.
- 8.3 The principal's investigation will determine whether to recommend to the Tribunal of the Board that the student be expelled.

9. Procedural Steps

- 9.1 When imposing a suspension pending investigation for expulsion, the principal is required to take the following steps:
- 9.1.1 Within 24 hours of the decision, the principal will make all reasonable efforts to orally inform the parent or adult student of the suspension.
- 9.1.2 The principal must inform the student's teacher(s) and bus driver(s), if applicable, of the suspension.
- 9.1.3 The principal will provide written notice of the suspension to the student's parent or to the adult student and the appropriate superintendent.
- 9.1.4 The written notice of suspension will include the following information:
- a) the reason for the suspension;
 - b) the duration of the suspension;
 - c) details about the alternative suspension program to which the student is assigned;
 - d) information about the investigation the principal is conducting under section 311.1 of the *Education Act* and this administrative procedure to determine whether to recommend that the student be expelled;
 - e) a statement indicating that there is no immediate right to appeal the suspension until the principal decides whether to recommend an expulsion;
 - f) notification that if the principal does not recommend to the Board that the student be expelled following the investigation, the suspension will become subject to appeal to the Tribunal; and
 - g) notification that if there is an expulsion hearing, the suspension may be addressed by parties at the hearing.

10. School Work

- 10.1 Every effort should be made to include school work with the notice of suspension to the student's parent or adult student on the day the student is suspended, if the notice is provided to the student to take home. If the student and/or a parent is not available, the notice shall be mailed, couriered, faxed, or e-mailed to the home address that day. School work should be made available for the student's parent or designate or adult student's designate to pick up as soon as it can be made available.
- 10.2 If the notice is sent by mail or courier, it will be deemed to have been received on the fifth school day after it was sent.
- 10.3 If the notice is sent by fax or e-mail, it will be deemed to have been received the first school day after it was sent.

10.4 A suspended student shall not engage in school or school-related activities.

11. Violent Incidents

If the incident is a serious violent incident, including a credible threat to inflict serious bodily harm or vandalism causing extensive damage to board property, a Violent Incident Form shall be filled out and filed in the student's Ontario Student Record.

12. Alternative Suspension Program

12.1 When a student has been suspended pending an investigation to determine whether to recommend an expulsion, the student will be assigned to an alternative program for a student subject to a long-term suspension.

12.2 A student cannot be compelled to participate in an alternative suspension program. If a student's parent or the adult student decides against participation in a program, the student will be provided with school work consistent with the Ontario curriculum or that student's modified or alternative curriculum, to be completed at home for the duration of the suspension. This school work will be available at the school for pick-up by the student's parent or designate or the adult student's designate at regular intervals during the suspension period, beginning the school day after the parent or adult student declines participation in the alternative suspension program. If the school work has not been picked up, the school will contact the parent or adult student to determine whether the school work will be picked up. The principal or designate shall record this follow-up and the response from the parent or adult student.

12.3 Agreement to participate in an alternative suspension program or refusal to participate may be communicated to the school orally by the parent or adult student. If the parent or adult student declines the offer to participate in an alternative suspension program, the principal shall record the date and time of such refusal.

12.4 A Student Action Plan will be developed for every student who agrees to participate in an alternative suspension program.

13. Planning Meeting

13.1 The principal of the school or designate will hold a planning meeting for the purpose of developing the Student Action Plan. The purpose of the planning meeting is to:

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

13.2 The student's parent and the student, or the adult student, as well as the appropriate teaching and support staff members will be invited to participate in the planning meeting.

- 13.3 The planning meeting will be held within two (2) school days of the parent or adult student informing the school that the student will participate in an alternative suspension program.
- 13.4 If a parent or adult student is not available to participate in the planning meeting, the meeting will proceed in his or her absence and a copy of the Student Action Plan will be provided to the parent or adult student following the meeting.

14. Student Action Plan

- 14.1 The Student Action Plan will be developed under the direction of the principal or designate of the school with assistance, as appropriate, from the provider(s) of alternative programs, the classroom teacher, vice-principal, guidance counsellor, special education teacher, a system consultant or administrator, and/or social worker.
- 14.2 A student subject to a suspension pending an investigation to determine whether to recommend an expulsion will be provided with both an academic and a non-academic program component, which will be identified in the Student Action Plan.
- 14.3 The Student Action Plan will identify:
- a) the incident for which the student was suspended;
 - b) the progressive discipline steps taken prior to the suspension, if applicable;
 - c) any alternative discipline measures imposed in addition to the suspension;
 - d) any other disciplinary issues identified by the school staff;
 - e) any learning needs or other needs that might have contributed to the inappropriate behaviour;
 - f) any program(s) or service(s) that can be provided to address those learning or other needs;
 - g) the academic program to be provided and details regarding how that program will be accessed by the student;
 - h) if the student has an Individual Education Plan, information as to how the accommodations or modifications of the academic program will be provided during the alternative suspension program;
 - i) the non-academic program and services to be provided and details about how the non-academic program and services will be accessed; and
 - j) the measurable goals the student will be striving to achieve during the alternative suspension program.
- 14.4 The principal or designate will make every effort to complete the Student Action Plan within five (5) school days of learning that the student will participate in an alternative suspension program. This timeline will be communicated to the parent or adult student if he or she is unable to attend the planning meeting.
- 14.5 Once completed, the Student Action Plan will be shared with the parent and student or the adult student and all staff members involved in facilitating the alternative suspension program.
- 14.6 A copy of the Student Action Plan will be stored in the student's Ontario Student Record (OSR) until such time as it is no longer conducive to the improvement of instruction of the student.

15. The Principal's Investigation

- 15.1 The principal shall conduct an investigation promptly following the suspension of the student to determine whether to recommend to the Tribunal that the student be expelled.
- 15.2 As part of the investigation, the principal will consult with the appropriate superintendent regarding any issues of process and/or timing for conducting the investigation.
- 15.3 The investigation must be completed at the earliest opportunity, and the decision made whether or not to recommend that the student be expelled. Should the decision be made to refer the matter to the Tribunal of the Board with a recommendation for expulsion, the student must be referred to and dealt with by the Discipline Committee within twenty (20) school days from the date of suspension, unless timelines are extended by consent.
- 15.4 Any police investigation will be conducted separately from the principal's inquiry.
- 15.5 As part of the investigation, the principal will:
- a) make all reasonable efforts to speak with the parent and student or adult student;
 - b) include interviews with witnesses who the principal determines can contribute relevant information to the investigation;
 - c) make every reasonable effort to interview any witnesses suggested by the parent or adult student; and
 - d) consider the mitigating and other factors when determining whether to recommend to the Discipline Committee that the student be expelled.

16. Decision Not to Recommend Expulsion

- 16.1 Following the investigation and consideration of the mitigating and other factors, if the principal decides not to recommend expulsion to the Tribunal, the principal shall:
- a) consider whether alternative discipline is appropriate in the circumstances;
 - b) confirm the suspension and its duration;
 - c) confirm the suspension but shorten its duration, even if the suspension has already been served, and amend the record accordingly; or
 - d) withdraw the suspension and expunge the record of the suspension, even if the suspension has already been served.
- 16.2 If the principal has decided not to recommend an expulsion of the student, the principal shall provide written notice of this decision to the parent or adult student. The notice will include:
- a) a statement of the principal's decision not to recommend expulsion;
 - b) a statement indicating whether the suspension has been confirmed, confirmed and shortened, or withdrawn;
 - c) if the suspension has been confirmed or confirmed and shortened, information about the right to appeal the suspension to the Tribunal, including:
 - a copy of Board Policy No. GOV-12 Learning and Working Environment: Safe Schools;
 - contact information for the superintendent;

- a statement that written notice of an intention to appeal must be given within five (5) school days following receipt of the decision not to recommend expulsion; or if the length of the suspension has been shortened, notice that the appeal is of the shortened length of the suspension.

17. Recommendation to the Board for an Expulsion Hearing

- 17.1 If a principal, in consultation with the appropriate superintendent, determines that a referral for expulsion is warranted, the principal must refer the recommendation for expulsion to the Tribunal to be heard and dealt with within twenty (20) school days from the date the principal suspended the student, unless the parties to the expulsion hearing agree upon a later date.
- 17.2 For the purposes of the expulsion proceeding, the principal shall prepare a report to be submitted to the Tribunal and provide the report to the parent or adult student prior to the hearing. The report shall include:
- a) a summary of the findings the principal made in the investigation;
 - b) an analysis of which, if any, mitigating or other factors might be applicable;
 - e) a recommendation of whether the expulsion should be from the student's school only or from all schools of the board.
- 17.3 The Superintendent shall provide written notice of the location, date, and time of the pre-hearing meeting and expulsion hearing to the parent or adult student. The notice shall include:
- a) a statement that the student is being referred to the Tribunal to determine whether the student will be expelled for the activity that resulted in the suspension;
 - b) a copy of this administrative procedure about student expulsion;
 - c) a copy of Board Policy No. GOV-12 Learning and Working Environment: Safe Schools;
 - d) information about the procedures and possible outcomes of the expulsion hearing.
- 17.4 The name and contact information for the superintendent must also be provided.
- 17.5 The chair of the Tribunal will arrange a meeting with the principal, student and parent or adult student, as appropriate, to review the process for expulsion hearings and respond to any questions about the process.

18. The Expulsion Hearing

The expulsion hearing will be conducted following the procedures in the Appendix and Board Policy No. GOV-12 Learning and Working Environment: Safe Schools.

19. Re-entry Requirements Following an Expulsion

- 19.1 Each expelled student must have a Student Action Plan that outlines expectations for learning and behaviour, including provision for regular reviews of the student's progress with the Student Action Plan.

- 19.2 When a student has been subject to a school expulsion, and has been assigned to another school of the board, the student and parent or the adult student may apply in writing to the director of education to be reassigned to the school from which the student was expelled. The student will be required to demonstrate that he or she has learned from the situation, has achieved the expectations in the Student Action Plan, will not have a negative impact on the school climate, and has sought counselling, where appropriate.
- 19.3 The student will be required to sign a contract to adhere to the school Code of Conduct.
- 19.4 The director may, in the director's sole discretion, determine that a different school than the one from which the student was expelled is a more appropriate placement for the student.
- 19.5 When a student has been subject to a board expulsion, and has been expelled from all schools of the board, the student and parent or the adult student may apply to the director of education for readmission of the student to a school of the board. This application may only be made once the student has successfully completed a program for expelled students and has satisfied the objectives required for completion of the program, as determined by the person who provides the program.
- 19.6 When a student is considered ready to be readmitted to school, a re-entry plan must be developed as part of the Student Action Plan to assist with the transition and integration back into the school. As part of the plan, the school must hold a meeting of appropriate staff members, the student and, where possible, the parent.

Appendix:

Timing of the Hearing

The Tribunal must hear and/or determine the appeal within twenty (20) school days of date of the suspension (unless parties agree to an extension) in accordance with the Board's administrative procedures. The hearing will be no more than two hours in length.

Tribunal

The powers and the duties of the Board under the *Education Act* and *Regulations and the Statutory Powers Procedure Act*, in dealing with the appeal of a suspension, shall be exercised and performed by 3 members or fewer of the Tribunal. Quorum for this committee is one (1) member. The chair of the board selects the Tribunal members.

The Director or designate will act in an advisory role to the committee on procedural matters during the expulsion hearing and the Tribunal's subsequent deliberations.

The Superintendent of the school will act as advisor to the principal.

Parties

The parties to the expulsion hearing shall be the pupil's parent/guardian and/or designate or the adult pupil and/or designate and the principal. The chair of the Tribunal may require that other interested parties be a party to the expulsion hearing. The chair of the Tribunal may grant party status to any other person who makes a request to be a party to the expulsion hearing.

Pre-hearing Conference

A pre-hearing conference will be held at least five (5) working days in advance of the hearing or as soon as reasonably possible prior to the hearing. Pre-hearing conferences may be conducted electronically.

Pre-hearing Disclosure

The parties, under the direction of the chair or designate, of the Tribunal shall exchange the following:

- an outline of the party's position, setting out with particularity the party's position on the circumstances which gave rise to the suspension pending expulsion and the party's position on the expulsion
- copies of any documents which the party proposes to submit at the hearing
- where the party proposes to call witnesses, a list of the witnesses whom the party intends to call and a brief outline of what the witnesses will say.

Hearing Procedures

The hearing will be conducted in accordance with this policy, the Board's administrative procedures, and the Statutory Powers Procedure Act.

In-camera Hearing

Since intimate personal matters involving the pupil and in some cases, other persons, will be disclosed at the hearing, the interests of the privacy of the pupil and such other persons outweigh the desirability of holding a public hearing and require that the hearing be conducted in-camera. However, this may be reconsidered by the Tribunal in any particular case and the Tribunal may direct that the hearing be open to the public where the Tribunal determines that the holding of an open public hearing outweighs the concern for privacy of the pupil or other persons.

Disposition

The Tribunal may:

- confirm the principal's recommendation and expel the student
- confirm or modify the duration of the suspension, or
- expunge the suspension record.

The decision of the Tribunal is final. The decision shall be communicated to the appellant in writing. In the case of an expulsion, the outcome will contain information regarding:

- if the student is expelled from the school, he or she will be assigned to another school;
- if the student is expelled from the board, he or she will be assigned to a program for expelled students; and
- if the student is expelled there is a right of appeal to the Child and Family Services Review Board.

REFERENCE DOCUMENTS**Legal:**

Education Act, Section 169.1 Positive School Climate
Education Act, Section 265 Duties of Principals: Discipline
Education Act, Part XIII Behaviour, Discipline and Safety
Ontario Regulation 298, Section 23 Requirements for Pupils
Ontario Regulation 472/07 Behaviour, Discipline and Safety of Pupils
Ontario Regulation 474/00 Access to School Premises
Ontario Student Record Guideline
PPM No. 120 Reporting Violent Incidents to the Ministry of Education
PPM No. 128 The Provincial Code of Conduct and School Board Codes of Conduct
PPM No. 141 School Board Programs for Students on Long-term Suspension
PPM No. 142 School Board Programs for Expelled Students
PPM No. 144 Bullying Prevention and Intervention
PPM No. 145 Progressive Discipline and Promoting Positive Student Behaviour
Ontario Human Rights Code
Youth Criminal Justice Act
Municipal Freedom of Information and Protection of Privacy Act

Board:

Board Policy No. GOV-11 Learning and Working Environment: Equity and Inclusion
Board Policy No. GOV-12 Learning and Working Environment: Safe Schools
Administrative Procedure Alcohol/Substance Abuse
Administrative Procedure Bullying Prevention and Intervention
Administrative Procedure Code of Conduct
Administrative Procedure Electronic Communication: Acceptable Use of Information Technologies
Administrative Procedure Equity and Inclusion Framework
Administrative Procedure Personal Information of Students
Administrative Procedure Progressive Discipline and Promoting Positive Student Behaviour
Administrative Procedure Safe Schools
Administrative Procedure Searches of Students
Administrative Procedure Student Discipline: Suspension
Administrative Procedure Substance Abuse: Prevention, Intervention for Students
Administrative Procedure Youth Criminal Justice Act

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