

# NIPISSING-PARRY SOUND CATHOLIC DISTRICT SCHOOL BOARD

## EXPULSION HEARING PROCEDURES

AS 29.0  
Section G  
June 2014

### **PREAMBLE**

The Nipissing-Parry Sound Catholic District School Board will afford the parents (or student, if an adult) a hearing regarding: a referral for the expulsion of one of its students, and an appeal of the suspension of one of its students; and to conduct the hearing in accordance with these guidelines.

### **HEARING PROCESS**

#### **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  - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.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  - (ii) the pupil is 16 or 17 years old and has withdrawn from parental control.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. Such other person as may be specified by Board policy.

#### **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 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 K*).
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. 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.

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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. In consultation with the Superintendent of Education, 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.
6. Written notification of the principal's recommendation that a pupil be expelled will be made to the appropriate superintendent of education.
7. Following the hearing, if the Committee of the Board decides to modify or overrule the decision, the principal will revise, replace or remove the relevant documentation.

### **Role of the Committee of the Board**

1. The Board will hear and determine the recommendation for expulsion, and for that purpose, the Board has powers and duties set out in its policy.
2. The Board may delegate its powers and duties to hear and determine a suspension appeal or expulsion proceeding to a Committee of the Board.
3. The Committee of the Board will consist of three members of the Board.
4. 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.
5. 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.
6. 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.

### **Procedure/Requirement for Board Hearings**

1. The Board may delegate its powers and duties to a Committee of the Board and may impose conditions and restrictions on the Committee of the Board. The Committee of the Board shall consist of no less than three members of the Board.

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2. The Board shall hear and determine a recommendation for expulsion, and, for that purpose, the Board has the powers and duties set out in its policy. The decision of the Board is final.
3. Expulsion hearings are governed by the Statutory Powers Procedures Act (SPPA). This Act imposes a number of procedural requirements on the conduct of the hearing. Those requirements include:
  - A 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.

### **RECOMMENDATION TO EXPEL STUDENT**

#### **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 appropriate Superintendent of Education of the decision to refer the matter to the Board for a hearing.
2. 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.

#### **Content of Referral**

A principal who refers the matter under section 311.1 of the *Education Act* will deliver the following to the appropriate superintendent of education:

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.

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### 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.

### Principal Bears Onus of Proof

In a recommendation by a principal to expel a pupil, the principal shall bear the onus of proof.

### 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.

### Pupil May Attend

The pupil who is not a party to the expulsion hearing has the right to be present at the hearing and to make a statement on his or her own behalf.

### 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. In making a determination, the Board 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 Board before the completion of the hearing.

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4. At the hearing, the Board will:
  - (a) consider the submissions of each party in whatever form the party chooses to deliver his or her submissions, whether orally, in writing or both;
  - (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.
5. After completing the hearing, the Board 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 students.
7. If the Board 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 5 above, the Board 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;

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<p>(b) any mitigating or other factors prescribed by the regulations.</p> <p>9. The decision of a majority of the members of a panel is the Board's decision.</p> <p>10. The Committee has the power to reserve its decision.</p> <p>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.</p> <p>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.</p>	

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 Violent Incident 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 latest "Student Progress Inquiry"
18. Copy of the student's "Credit Counselling Summary".
19. Copy of the student's "Ontario Student Transcript".
20. Copy of the student's latest "Provincial Report Card".
21. Copy of the student's "Attendance Profile" for the current school year.
22. Copy of "Ontario Student Record" of schools attended (back cover of OSR folder).
23. Copies of the "Office Index Card – Short Version" for the accused student, victim(s) and witnesses.

24. Copies of all suspension letters and suspension forms recorded for the accused student.
25. Copies of documentation related to any previous expulsions.
26. Copies of documentation related to any previous "Safe Schools Transfers" or "Administrative Transfers".
27. Copies of "Support Services Referral Forms".
28. Copies of correspondence and reports from any medical or mental health professionals.
29. Copies of all IPRC reports.
30. Copies of all IEP documentation.
31. Copies of reports from any alternative programs.
32. Copy of the School's Code of Conduct.
33. Copy of proof that the accused student received information regarding the School's Code of Conduct and the Board's "Consequences of Inappropriate Student Behaviour".
34. Copy of the Student Action Plan.