



# ALGONQUIN AND LAKESHORE CATHOLIC DISTRICT SCHOOL BOARD

## ADMINISTRATIVE PROCEDURES

### SUSPENSION APPEAL (Policy Statement: Caring and Safe Catholic Schools)

#### Purpose

The suspension appeal process set out in the Board Policy, Suspension Appeal, is consistent with the requirements of the Education Act.

#### References

*The Education Act and Regulations*

*Safe Schools Act, 2000, Sections 306, 307, 308, 312, 315; Regulations 37/01(2), 106/01*

*Bill 212, Education Amendment Act (Progressive Discipline and School Safety), 2007*

*Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990*

#### Procedures

#### **1. Suspension Appeal Rights and Information (Education Act, s. 309)**

##### 1.1 Parties Entitled to Appeal:

The following persons may appeal, to the Board, a Principal's decision to suspend a pupil:

- a) 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  - ii) the pupil is 16 or 17 years old and has withdrawn from parental control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) 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  - ii) the pupil is 16 or 17 years old and has withdrawn from parental control;
- c) in the event that a pupil does not have a parent or a formal guardian, such other persons as the Chair of the Hearing Committee in his or her discretion may direct.

##### 1.2 School Board Contact:

- a) The current Superintendent of School Effectiveness – Caring and Safe Catholic Schools or his or her designate shall be the person appointed by the Board for the purposes of receiving notices of intention to appeal a suspension.

- b) A person who has given notice of intention to appeal may contact the current Superintendent of School Effectiveness – Caring and Safe Catholic Schools to discuss any matter respecting the appeal of the suspension.

### 1.3 Notice of Appeal Timeline:

A person who is entitled to appeal a suspension must give written notice of his or her intention to appeal to the current Superintendent of School Effectiveness – Caring and Safe Catholic Schools within 10 school days of the commencement of the suspension. The written notice must set out the grounds or reasons why the suspension is being appealed.

### 1.4 Status of Suspension pending Appeal:

A Notice of Intention to appeal a suspension does not stay the running of the suspension.

## **2. General Suspension Appeal Procedure (Education Act, s. 309 and Board Policy):**

### 2.1 Parties:

The parties to the appeal are:

- a) the principal who suspended the pupil;
- b) 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
- c) the pupil's parent or guardian, if the pupil's parent or guardian appealed the decision to suspend the pupil; and
- d) in the event that a pupil does not have a parent or a formal guardian, such other persons as the Chair of the Hearing Committee in his or her discretion may direct.

### 2.2 Pupil Right to Attend:

A pupil who is not a party to the appeal under the above subsection has the right to be present at the appeal and to make a statement on his or her own behalf.

### 2.3 Hearing Committee (Suspension Appeals / Expulsions):

The Board will appoint three trustees to serve as members of the Hearing Committee. In the event that any of the appointed trustees are unable to hear the appeal, the Chair of the School Board or his or her designate may appoint replacement trustees.

### 2.4 Confirmation of Notice of Intent to Appeal:

After receiving a notice of intention to appeal a suspension, the board shall promptly contact every person entitled to appeal the suspension and inform him or her that it has received the notice of intention to appeal.

### 2.5 Notice of Appeal Hearing:

The Notice of Appeal Hearing shall be sent to every person entitled to appeal the suspension and shall

state:

- a) the date, time and place of the Appeal Hearing;
- b) the purpose of the Appeal Hearing;
- c) the Appeal Hearing is being held pursuant to the Education Act ;
- d) if a party does not attend the Appeal Hearing, the Hearing Committee may proceed in their absence and determine the outcome of the appeal without further notice of the proceeding;
- e) each party and his or her representative (lawyer or agent) are entitled to attend the Appeal Hearing.

## 2.6 Hearing Timeline:

The Board shall hear and determine the appeal within 15 school days of receiving notice of intent to appeal, unless the parties agree on a later deadline, and shall not refuse to deal with the appeal on the ground that there is a deficiency in the notice of appeal.

## 2.7 Documents:

A copy of all documents which are given to the Hearing Committee shall be given to every person entitled to appeal the suspension.

## 2.8 Hearing Closed to Public:

- a) Information relating to the education of an individual is personal information under sections 2 (1) and 32 of the Municipal Freedom of Information and Protection of Privacy Act and there are restrictions on its disclosure.
- b) Section 207 (2) (b) of the Education Act gives the Board the authority to close a Committee proceedings to the public, if the subject under consideration involves the disclosure of personal information about an employee, student, parent or guardian.
- c) Therefore, the Suspension Appeal Hearing will be closed to the public.

## 2.9 Conduct of the Hearing:

- a) Hearings shall be conducted in accordance with the relevant provisions of the Education Act and the Regulations made under it, any applicable Ministry of Education Policy and Program Memoranda, and Board Policy.
- b) General guidelines for the conduct of the Hearing are set out in Appendix A.

## 2.10 Powers of the Hearing Committee (Education Act, s. 309 (10) & (11)):

The Hearing Committee shall have the power 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.

The decision of the Hearing Committee on a suspension appeal is final.

## 2.11 Additional Powers of the Hearing Committee :

The Hearing Committee also has the power to:

- a) waive any procedural requirements that apply to the proceeding with the consent of the Parties (s. 4);
- b) direct the Chair of the Hearing Committee to assign one person or two persons to hear the Suspension Appeal with the consent of the Parties (s. 4.2.1 (2));
- c) prior to the hearing, direct any of the Parties to disclose to the other Parties any documents they will be introducing at the hearing, any witness statements and/or any reports of expert witnesses (s. 5.4);
- d) require the attendance of any person, including a Party, by summons, to give evidence on oath or affirmation at a hearing and to produce in evidence at the hearing any documents specified by the summons (s. 12); and
- e) make interim decisions and orders (s. 16.1).

## 2.12 Notice of Decision:

The Hearing Committee's written decision including reasons shall be sent by registered mail to every person entitled to appeal the suspension.

## 3. Settlement Meeting (Education Act, s. 309 (5) and Board Policy):

### 3.1 Board Contact:

The current Superintendent of School Effectiveness – Caring and Safe Catholic Schools or his or her designate shall be the person appointed by the Board for the purposes of conducting any settlement meetings prior to the commencement of the Suspension Appeal Hearing by the Board Hearing Committee.

### 3.2 Settlement Meeting:

- a) If possible, prior to the commencement of the Suspension Appeal Hearing by the Board Hearing Committee, the current Superintendent of School Effectiveness – Caring and Safe Catholic Schools shall convene a settlement meeting with the principal and the person or persons appealing the suspension (the Parties) and their representatives.
- b) The purpose of the above meeting is to hear the positions and interests of the Parties to the appeal and to attempt to reach a settlement of any or all of the issues in dispute and/or an agreement on any matters which may expedite the hearing.
- c) The communications of the Parties in this settlement process is privileged and shall not be released to the Hearing Committee.
- d) In the event that the current Superintendent of School Effectiveness – Caring and Safe Catholic Schools conducts a settlement meeting, the said Superintendent shall not be called as a witness at the Hearing and the Superintendent shall not be involved as an advisor for one or other of the Parties to the Hearing.
- e) If the Parties to the suspension appeal reach agreement on all of the issues or some of the issues in dispute, the Parties shall sign a binding memorandum of settlement setting out their agreement. This memorandum of settlement shall be released to the Hearing Committee.
- f) In the event that all of the issues in dispute have not been settled, the remaining issues in dispute will be dealt with by the Hearing Committee.

### 3.3 Powers of the Superintendent of School Effectiveness – Caring and Safe Catholic Schools:

Prior to the commencement of the Suspension Appeal Hearing by the Board Hearing Committee, the current Superintendent of School Effectiveness – Caring and Safe Catholic Schools shall have the power to:

- a) make a decision that the pupil not be suspended;
- b) make a decision on alternatives to suspension, including alternative educational arrangements for the pupil;
- c) confirm the suspension and the duration of the suspension;
- d) 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
- e) 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
- f)

#### **Appendices**

Appendix 1: General Guidelines for the Conduct of the Hearing

#### **Forms**

Approved: October 25, 2011

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