

AVON MAITLAND DISTRICT SCHOOL BOARD

ADMINISTRATIVE PROCEDURE

NO. 358

SUBJECT: EXCLUSION OF STUDENTS

Legal References: Education Act: Section 265(1)(m) Access to School or Class; Ministry of Education Policy/Program Memorandum (PPM) 145 Progressive Discipline and Promoting Positive Student Behaviour; O. Reg. 472/07: Behaviour, Discipline and Safety of Pupils

Related References: Administrative Procedure (AP) 351 Code of Conduct; AP352 Promoting Positive Student Behaviour Including Progressive Discipline and Bullying Prevention and Intervention; AP353 Student Suspension; AP354 Student Expulsion; Form 358A Exclusion Letter; Form 358B Re-Entry Letter; Form 358C Notice of Exclusion Review; Form 358D Exclusion Review Decision; Form 358E Notice of Exclusion Appeal; Form 358F Exclusion Appeal Decision; Form 358G Exclusion Appeal Committee Decision

The Avon Maitland District School Board believes that effective learning environments must be safe for students, staff and parents. In some cases, the principal may need to prevent individuals from accessing the school or classes to ensure a safe environment and to allow for development of appropriate programming and supports for a student.

Section 265(1)(m) of the *Education Act* indicates that one of the duties of the Principal is: “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”.

Policy/Program Memorandum 145 stipulates that Section 265 (1) (m) of the Act is not to be used as a disciplinary measure but is a short term measure to ensure the safety of students, staff and parents in the school.

Exclusion under Section 265(1)(m) is subject to appeal to the board.

1. There are rare times when a student, for variety of reasons, needs to be excluded from school for a period of time. Principals must carefully and thoughtfully review the past history and current situation in consultation with the Superintendent. Each case must be considered individually and mitigating circumstances need to be taken into consideration when determining if exclusion should take place.
2. The decision to exclude is a last resort and needs to be made in consultation with the appropriate Superintendent. Usually, the final decision is determined when the safety of the student or safety of others is extremely compromised. However, it is not to be seen as a mechanism to “remove” the student from school without great effort from the administrator, school team and the parents to keep them in school and planning appropriate academic programs.
3. **Criteria**
A student could be excluded due to a medical condition, a physical condition, a mental

health concern, or a behavioural concern. Sometimes, the student's extreme behaviour could indeed be one which we would have the authority to expel.

- 3.1 **Medical Condition:** In the case of exclusion due to a medical condition, the community partners are essential when making this determination. The Health Unit may exclude a student from school and notify the school principal that such an action has already been decided (for example, communicable diseases). In other cases, the Health Unit may suspend students under the authorization of the *Immunization of School Pupils Act*.
 - 3.2 **Physical or Mental Health Condition:** A physician may provide written notification that the student is unwell and should be excused from attending school while under their care. Some examples of a physical condition or mental health conditions could be chronic disease, such as cancer or anxiety disorders.
 - 3.3 **Behavioural:** Extreme behavioural concerns sometimes stem from mental health needs that require a student to be excluded until more information is collected (e.g. a report from a psychiatrist or psychologist in order to plan an educational program that meets the student's needs).
4. Excluding students based on mental health and/or behaviour conditions are not to be confused with the disciplinary provisions found in Part XIII of the *Education Act*. Policy/Program Memorandum 145 (Progressive Discipline and Promoting Positive Student Behaviour) stresses the need to build on strategies to maintain student behaviours that are conducive to learning and that do not place anyone in the school at risk. All discipline needs to be corrective yet supportive; the ultimate goal is to help students succeed at school. Principals should consider the differences between exclusion and expulsion, as outlined in Appendix A, at the outset of considerations related to exclusion.
 5. When considering exclusion, there must be conditions outlined in the exclusion letter (Form 358A) to facilitate the student's return to school. The conditions need to be reasonable, realistic and in the best interest of the student. In some cases, the conditions can be modified as more information, for example a report from a doctor, is received. The team is encouraged to meet frequently to review the status of the conditions. In some cases, the exclusion may overlap the end of one school year and the beginning of another school year, or may begin prior to entering school.
 6. While the student is excluded from school, it does not absolve the school of its responsibility to provide an educational program for that student. Schools consult with the Superintendent of Education (School Operations) to explore options for alternative programming which could include Home/Hospital Instruction or e-Learning (secondary).
 7. In order to fulfill the conditions as set out on the exclusion letter, the co-operation and partnership of the parent/guardian is critical; the principal is key to making this relationship strong and positive. While the parent/guardian has the option to appeal as noted in the *Education Act*, the purpose of the exclusion is to have time to appropriately plan the educational program and ensure student safety based on information available. Clear and concise communication is needed to ensure that the team, including the parent/guardian, is moving toward the same goal.
 8. Appeals should be made in writing to the Director of Education or Designate (Superintendent of Education – School Operations).

9. Process for Principals

- 9.1 Exhaust all of the school based and community based resources. While the decision is ultimately the principal's, the input of information from the school team is vital;
- 9.2 Consult with the Superintendent of Education (School Operations);
- 9.3 Meet with the parents/guardians to discuss the process including reasons, conditions of return, the plan, and possible return date;
- 9.4 Write the exclusion letter and copy it to recipients as outlined in the letter (Form 358A);
- 9.5 Provide for instruction. Students who are being excluded due to physical conditions may require instruction in the home. Carefully determine if the instruction should take place in a public location, for example, the public library or a local school. Transportation, if necessary, is the parent/guardian's responsibility;
- 9.6 Regularly monitor the status of the conditions as set out in the exclusion letter. Keep the lines of communication open with the parents/guardians. Provide follow-up documentation to parents/guardians, if necessary;
- 9.7 Plan to have the student return to the school with an appropriate transition plan as determined in consultation with the members of the school team;
- 9.8 When the conditions have been met, the team is to begin the transition process back to school. The Superintendent of Education is to be involved, especially when there is a transition from elementary to secondary school;
- 9.9 Write the re-entry letter (Form 358B) and copy recipients as outlined in the letter; and
- 9.10 Copies of all documentation and correspondence related to the exclusion should be returned in the documentation folder of the OSR.

10. Appeals

- 10.1 The adult-student or the student's parent/guardian may appeal the exclusion. All exclusion appeals will be received by the Director of Education or designate.
- 10.2 An appeal of an exclusion does not stay the exclusion.
- 10.3 A person who intends to appeal an exclusion must give written notice of their intention to appeal the exclusion within ten (10) school days of the commencement of the exclusion.
- 10.4 An individual who appeals an exclusion may argue that their rights pursuant to the *Human Rights Code* have been infringed.
- 10.5 In addition, a separate right to apply to the Human Rights Tribunal of Ontario exists where an individual believes their rights pursuant to the *Human Rights Code* have been infringed.

- 10.6 The board must hear and/or determine the appeal within fifteen (15) school days of receiving the notice of intention to appeal (unless the parties agree to an extension).
- 10.7 Upon receipt of written notice of the intention to appeal the exclusion, the Director of Education or designate:
- a) Will promptly advise the school principal of the appeal;
 - b) Will promptly advise the adult-student or the parent/guardian that a review of the exclusion will take place and invite the appellant to contact the Director of Education or designate to discuss any matter respecting the incident and/or appeal of the exclusion (see the template letter, Form 358C);
 - c) Will review the exclusion (reason, duration, and any mitigating or other factors);
 - d) May consult with the principal and regional Superintendent of Education regarding modification repeal of the exclusion;
 - e) Will request a meeting with the adult-student or the parent/guardian and the principal to narrow the issues and try to effect a settlement, and arrange a date for the appeal before the Student Matters, Appeals and Hearings Committee;
 - f) Will, where a settlement is not effected, provide notice of the review decision to the adult-student or parent/guardian (see the template letter, Form 358D).
- 10.8 Where the exclusion is upheld on review and the parent chooses to continue with the appeal, the Director of Education or designate will:
- 10.8.1 Coordinate the preparation of a written report for the board. This report will contain at least the following components:
- a) A report of the rationale for exclusion and the program currently in place for the student, as prepared by the principal;
 - b) A copy of the original exclusion letter;
 - c) A copy of the letter requesting the Exclusion Appeal; and
 - d) A copy of the Correspondence with respect to the decision of the Director of Education or designate regarding the exclusion review.
- 10.8.2 Inform the adult-student or the parent/guardian of the date of the Exclusion Appeal, provide a guide to the process for the appeal, a copy of the documentation that will go to Student Matters, Appeals and Hearings Committee (see the letter template, Form 358E) and ensure that the item is placed on the committee's agenda.
- 10.9 The parties in an appeal to the Student Matters, Appeals and Hearings Committee shall be:
- 10.9.1 The principal; and,
- 10.9.2 The adult-student or the parent/guardian, if they appealed the decision.
- 10.10 Exclusion Appeal before the Student Matters, Appeals and Hearings Committee
- 10.10.1 Exclusion appeals will be heard orally, in camera, by a committee of Trustees. The committee may grant a person with Daily Care authority to make submissions on behalf of the student. An adult-student or student's parent/guardian may bring legal counsel, an advocate, or support person with them to the appeal.
- 10.10.2 The appellant and/or the person with Daily Care will proceed first by making oral submissions and/or providing written submissions regarding the reason for the appeal and the result desired.
- 10.10.3 The student will be asked to make a statement on their own behalf.
- 10.10.4 The regional Superintendent of Education and/or the principal will make oral submissions on behalf of the administration, including a response to any issues raised in the appellant's submissions.

- 10.10.5 The Superintendent/principal may rely on the report prepared for the committee.
- 10.10.6 The appellant may make further submissions addressing issues raised in the Administration's presentation that were not previously addressed by the appellant.
- 10.10.7 The committee may ask any party, or the student where appropriate, questions of clarification.
- 10.10.8 Legal counsel for the board may be present at the appeal if the appellant is represented by legal counsel or agent. The committee may make such orders or give such directions at an appeal, as it considers necessary for the maintenance of order at the appeal.
- 10.10.9 Should any person disobey or fail to comply with any such order and direction, a Trustee may call for the assistance of a police officer to enforce any such order or direction. Where any party who has received proper notice of the location, date and time of the appeal fails to attend the appeal or comply with the necessary time lines, the appeal may proceed in the absence of the party and the party is not entitled to any further notice of the proceedings.
- 10.10.10 The committee will consider, based on the written and/or oral submissions of both parties, whether the decision to discipline and the discipline imposed were reasonable in the circumstances, and shall either:
 - a) Confirm the exclusion and its conditions;
 - b) Confirm the exclusion and modify its conditions, as necessary;
 - c) Quash the exclusion; or
 - d) Make such other appropriate order.
- 10.11 The decision of the Student Matters, Appeals and Hearings Committee is final. The decision shall be communicated to the appellant in writing (see the template letter, Form 358F and Form 358G) .

DIFFERENCES BETWEEN EXCLUSION AND EXPULSION

	Exclusion	Expulsion (from all schools)
Support from Parents/Guardians	Parents/guardians are part of the process. Approach from a problem solving stance. Parents know that we are not suspending or expelling their child.	Parents are part of the proceedings; however, the relationship may be strained.
Educational Program	Home instruction or alternate is provided, where possible. Location is flexible. Principal to arrange.	Board officials set up Alternative Suspension Program.
Conditions	Flexibility in setting the conditions for re-entry. Conditions can range from physician's report to engaging in counseling to having a risk assessment completed.	Participation in Alternative Suspension Program is optional. The condition is that the student must complete the program prior to re-entry into our schools.
Legality	Education Act 265 (1) (m) allows principals to exclude students.	Legal proceeding with Ontario Regulations to guide educators.
Monitoring	Continuous monitoring of the student throughout the process.	Monitor when the student tries to re-enter our schools.
Modified Days	Can be arranged. Plan must be written out with timelines with the goal of full time attendance. School based team must be involved in the decision. All modified days as part of the exclusion process must be approved by the Superintendent.	Not allowed. Either expelled from one school or from all schools.
Case Manager	Principal is responsible.	Superintendent is responsible.
Time Frame	Flexible. Constant monitoring must be conducted.	The length depends on the completion of the Alternative Suspension Program.
Attendance Marking	Mark the student as present in Maplewood.	The student is withdrawn in Maplewood.
Intent of Action	Plan to reintroduce the student back to school as quickly as is reasonably possible under the circumstances as determined at a case conference meeting which includes board and community partners.	Plan to complete the Alternative Suspension Program, then integrate back into a school within the board.
Appeal Process	Reconsideration by board official(s) for exclusions under s. 265 (1) (m). Parents would have to contact the Health Unit for medical exclusions or physician for physical exclusions.	To the Child and Family Services Review Board.