

# AVON MAITLAND DISTRICT SCHOOL BOARD

## ADMINISTRATIVE PROCEDURE

### NO. 353

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#### **SUBJECT: STUDENT SUSPENSION**

Legal References: *Education Act: Section 265 Duties of Principal; Part XIII Behaviour, Discipline and Safety; Ontario Regulation 298 Operation of Schools Section 23 Requirements for Pupils; Ontario Regulation 106/01 Suspension of a Pupil; Bill 157 Keeping Our Kids Safe at School; Bill 212: Progressive Discipline and School Safety, Regulation 472/07 Suspension and Expulsion of Pupils, Regulation 474/00 Access to School Premises, P/PM 128 The Provincial Code of Conduct and School Board Code of Conduct, P/PM 144 Bullying Prevention and Intervention, P/PM 145 Progressive Discipline and Promoting Positive Student Behaviour; Youth Criminal Justice Act; Child and Family Services Act; Criminal Code of Canada; P/PM 119 Developing and Implementing Equity and Inclusive Education Policies in Ontario Schools (2009)*

Related References: *Board Policy No. 13 Appeals and Hearings Regarding Student Matters; AP138 Positive Workplace Environment; AP 160 Access to School Premises; AP 179 Lockdown and Hold/Secure; AP 266 Field Trips and Excursions; AP 351 Code of Conduct; AP 352 Promoting Positive Student Behaviour; AP 354 Student Expulsion; AP 356 Substance Abuse by Students; AP357 Violence Free Schools; AP 364 Search and Seizure Guidelines; AP 370 Ontario Student Record; AP467 Delegation of Authority; Police/School Board Protocol (Appendix B, AP 351)*

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#### **Definitions**

*Adult-Student* – is a student who is 18 years of age or older, or 16 or 17 years of age who has removed him/herself from parental control.

*Delegate* – is the vice-principal or a teacher-in-charge, in the absence of administration, delegated authority by the principal to undertake specified duties with respect to student discipline.

*Student Matters, Appeals and Hearings Committee* – a committee of three (3) or more Trustees designated to determine suspension appeals and recommendations for expulsion.

*Parent/Guardian* – where there is reference to involving or informing a parent/guardian it means the custodial parent or guardian of a minor child who is not an adult-student.

The following AMDSB documents should be used in conjunction with the *Student Suspension* policy:

- AP 352 *Promoting Positive Student Behavior*
- AP 354 *Student Expulsion*

The following documents may also be considered in reference to the *Student Expulsion* policy:

- AP 351 *Code of Conduct*
- AP 357 *Violence Free Schools*

#### **1. Suspension from School**

- 1.1 The Director of Education has developed this administrative procedure to describe system expectations for dealing with the suspension of students. Suspensions shall be handled in accordance with Part XIII of the *Education Act*, as amended by the *Education Amendment Act (Progressive Discipline and School Safety)*, 2007, the Ontario Regulations and Bill 157 *Keeping Our Kids Safe at School*.

- 1.2 This procedure provides direction to school administrators for implementing administrative procedures related to the Provincial Code of Conduct and Ontario Human Rights Code.
- 1.3 When a principal's investigation of an incident, which may include consultation with the adult-student or parent(s)/guardian(s) and student, determines that a student has committed one or more infractions outlined below on school property, during a school-related activity or event, and/or in circumstances where the infraction has an impact on the school climate, a principal will consider whether that student shall be suspended, taking into account any mitigating and other factors that might be applicable under the circumstances.
- 1.4 A student may be suspended only once for any incident and may be suspended for a minimum of one (1) school day and a maximum of twenty (20) school days. Suspensions should be applied in the least restrictive manner possible to be effective and so as not to add to the historical disadvantage of racialized students and/or students with disabilities.
- 1.5 The principal or delegate is required to provide information, in accordance with Board procedures, to the parent/guardian of a student who is less than 18 years of age, is not 16 or 17 and withdrawn from parental control and where the principal is NOT aware that informing the parent/guardian would put the student at risk of harm and would not be in the student's best interests. The principal may inform a parent/guardian of an adult-student if that student consents in writing to the disclosure of information.
- 1.6 Principals are required to notify the parent/guardians of the student who has been the victim of a student incident that must be considered for suspension and/or expulsion, unless in the opinion of the principal providing the information would put the victim at harm and would not be in the victim's best interest; or if the victim is an adult-student, unless that adult-student consents to the disclosure of the information. Please refer to AP152, 6.0 *Notifying the Parent/Guardian of the Victim*.
- 1.7 A suspension of more than five (5) days is deemed a *long-term* suspension. Students who are suspended for six (6) to ten (10) days require a Student Action Plan (SAP), which will include academic support. The suspension/expulsion academic program type is required to be documented in the Student Information System (Maplewood).
- 1.8 Students who are on a *long-term* suspension of eleven (11) to twenty (20) days require a Student Action Plan, which will include both an academic and a non-academic component. The suspension/expulsion academic and non-academic program type is required to be documented in the Student Information System (Maplewood).
- 1.9 The board will review annually the Student Information System (Maplewood) documentation steps for expulsion with principals and vice-principals.

## **2. Background Information**

- 2.1 The purposes of a suspension are:
  - 2.1.1 To caution students and deter them from continuing with, or repeating, unacceptable behaviour;
  - 2.1.2 To prevent other students from being exposed to or involved in dangerous and damaging activities;

- 2.1.3 To discipline students who have broken the rules of the school or Provincial/Board Code of Conduct; and
- 2.1.4 To reinforce with parents/guardians of serious discipline problems with their children and to serve notice that progressive discipline approaches, used to date, have not been successful.
- 2.2 The police will be involved as necessary in accordance with the Police and School Response Protocol as per Appendix B of AP351 Code of Conduct.
- 2.3 The Education Act and Regulation 298 provide the necessary legislative framework for principals, vice-principals and teachers to deal with matters of discipline within the school.

Specific student responsibilities are stated in Regulation 298, Section 23:

A student shall:

- a) Be diligent in attempting to master such studies as are part of the program in which the student is enrolled
  - b) Exercise self-discipline
  - c) Accept such discipline as would be exercised by a kind, firm and judicious parent
  - d) Attend classes punctually and regularly
  - e) Be courteous to fellow students and obedient and courteous to teachers
  - f) Be clean in person and habits
  - g) Take such tests and examinations as are required by, or under the *Act* or as may be directed by the Minister, and
  - h) Show respect for school property
- 2.4 Incidents Occurring Off Home School Property
- 2.4.1 According to Regulation 298, Section 23(4) every student is responsible for his/her conduct to the principal of the school that the student attends,
    - a) On the school premises
    - b) On out-of-school activities that are a part of the school program, and
    - c) While travelling on a school bus that is owned by a board or on a bus or school bus that is under contract to a board
  - 2.4.2 Students who cause difficulties in another school or during board-sponsored events shall be disciplined by their own schools in accordance with these procedures.
  - 2.4.3 Principals may suspend a student for conduct off school property when, in the principal's judgement, that conduct was a result of incidents that occurred on school property or where engaging in such activity resulted in a negative impact on the school climate.

### **3. Infractions for Which a Principal Shall Consider Suspension**

A principal or vice principal, as per Administrative Procedure 467 (Delegation of Authority), shall consider whether to suspend a student if he or she believes that the student has engaged in any of the following activities while at school, at a school-related activity or in other circumstances where engaging in the activity will have an impact on school climate.

- a) Uttering a threat to inflict serious bodily harm on another person;
- b) Possessing alcohol, illegal and/or restricted drugs;
- c) Being under the influence of alcohol;
- d) Swearing at a teacher or at another person in a position of authority;
- e) Committing an act of vandalism that causes damage to school or board property at the student's school, or to property located on the premises of the student's school;
- f) Bullying, including cyber-bullying;
- g) Fighting

- h) Any act considered by the principal to be contrary to the board or school code of conduct.

#### **4. Factors to Consider Before Deciding to Impose a Suspension**

- 4.1 Before deciding whether to impose a suspension, or some other form of discipline, a principal will make every effort to consult with the student, where appropriate, and the student's parent(s)/guardian(s), if the student is not an adult -student, to identify whether any mitigating or other factors might apply in the circumstances.

#### **4.2 Mitigating Factors**

The mitigating factors to be considered by the principal before deciding whether to impose a suspension are:

- a) Whether the student has the ability to control his/her behaviour;
- b) Whether the student has the ability to understand the foreseeable consequences of his/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 school.

If the student does not have the ability to control his/her behaviour or does not understand the foreseeable consequences of his/her behaviour, the principal should consider not suspending the student. Alternative discipline and/or other intervention may be considered by the principal in such circumstances consistent with the Human Rights Code. If the student poses an unacceptable risk to the safety of others in the school, the principal will consult with the regional superintendent regarding appropriate accommodations and/or strategies that might be instituted to ensure the safety of students, staff, and others in the school.

#### **4.3 Other Factors to be Considered**

Where the student is able to control his/her behaviour and is able to understand the foreseeable consequences of his/her behaviour, the principal will consider whether the following factors mitigate the length of suspension or the decision to apply a suspension as a form of discipline for the student:

- a) The student's academic, discipline and personal history;
- b) Whether progressive discipline has been attempted with the student, and if so, the progressive discipline approach(es) that has/have been attempted and any other success or failure;
- c) Whether the infraction for which the student might be disciplined was related to any other harassment of the student because of race, ethnic origin, religion, creed, disability, gender or gender identity, sexual orientation or harassment for any other reasons;
- d) The impact of the discipline on the student's prospects of further education;
- e) The student's age;
- f) Where the student has an IEP or disability related needs,
  - i) Whether the behaviour causing the incident was a manifestation of the student's disability;
  - ii) Whether appropriate individualized accommodation has been provided; and
  - iii) Whether a suspension is likely to result in aggravating or worsening the student's behaviour or conduct or whether a suspension is likely to result in greater likelihood of further inappropriate conduct; and
- g) Whether or not the student's continuing presence at school creates an unacceptable risk to the safety of anyone in the school.

#### 4.4 Progressive Discipline

Progressive Discipline is a non-punitive, whole school approach that uses a continuum of corrective and supportive interventions, supports and consequences to address inappropriate behaviour and build upon strategies that promote positive behaviour. In reviewing whether progressive discipline approaches have been attempted with a student and the success or failure of the interventions the principal or vice principal will consider:

- whether the teacher, principal or vice-principal has utilized early and on-going intervention strategies to prevent unsafe or inappropriate behavior; and
- whether the principal or delegate has used a progressive discipline approach to address inappropriate behavior for which suspension could have been imposed

Please refer to AP 352 Promoting Positive Student Behaviour, section 3.0.

#### 4.5 Non-disciplinary Reason for Suspension

In accordance with the Immunization of School Students Act, Regulation 645, the Medical Officer of Health may order that a student be suspended or excluded from school where the student is not immunized as required by legislation and is not legally exempt from being immunized.

### 5. Procedural Steps When Imposing a Suspension

5.1 Where a principal or vice-principal has determined that it is appropriate in the circumstances to impose a suspension, the principal or vice-principal is required to affect the following procedural steps:

5.1.1 Within 24 hours of the decision, the principal must make all reasonable efforts to orally inform the adult-student or the student's parent(s) /guardian(s) of the suspension and consult with them throughout the process.

5.1.2 The principal must inform the parent/guardian of the victim as per AP 352 *Promoting Positive Student Behaviour*, section 6.0.

5.1.3 The principal must inform the student's teacher(s) of the suspension;

5.1.4 The principal in conjunction with the student's teacher(s) must organize schoolwork to be provided for the student to be completed during the duration of the student's suspension. The schoolwork must be available to the adult-student's designate or the student's parent/guardian or designate the day the student is suspended, if the student is suspended for one (1) school day. If this is not possible, the student must be given an opportunity to catch-up on missed schoolwork as part of the re-entry process.

5.1.5 Where a student has been suspended for between two (2) and five (5) days, the principal will ensure that the school work provided to the student will be available the day the student is suspended or the following day.

5.1.6 In addition to receiving schoolwork for the first five (5) school days of suspension, a student who is subject to a suspension of six (6) or more school days must be assigned an alternative program for students subject to lengthy suspension (Alternate Suspension Program). A student participating in an Alternate Suspension Program is not considered to be engaging in school or school-related activities.

5.1.7 The principal must provide written notice of the suspension to the student, the student's parent/guardian (unless the student is an adult-student) and the regional Superintendent of Education;

5.1.8 The written notice of suspension, printed from Maplewood, will include:

- a) The reason for suspension;
- b) The duration of the suspension;

- c) Information about the Alternate Suspension Program the pupil is assigned to, where the pupil is suspended for six (6) or more school days;
  - d) Information about the right to appeal the suspension, including the relevant policies and guidelines and the contact information for the Superintendent of School Operations
- 5.2 Every effort should be made to include the schoolwork with the letter of suspension to the student and the student's parent/ guardian (unless the student is an adult - student) on the day the student is suspended if the letter is provided to the student to take home. If it is not possible to provide the letter because the student and/or his/her parent/guardian are not available, the letter should be mailed, couriered, faxed or emailed to the home address that day and schoolwork should be made available for the adult-student's designate or student's parent/guardian or designate to pick up from the school the following day.
- 5.2.1 If notice is sent by mail, fax or email, the principal will ensure that the work provided to the student will be available for the student's parent/guardian (unless the student is an adult -student) or designate to pick-up from the school the day the student is suspended or the following day, if the suspension is between two (2) and five (5) days.
  - 5.2.2 If notice is sent by mail or courier, it will be deemed to have been received on the fifth school day after it was sent.
  - 5.2.3 If notice is sent by fax or e-mail, it is deemed to have been received the first school day after it was sent.
  - 5.2.4 The principal and vice-principal are encouraged to include the *Parent Guide to the Suspension & Expulsion Process* (Form 353A).
- 5.3 Where the incident is a serious violent incident, including a credible threat to inflict serious bodily harm or vandalism causing extensive damage to board property or property located on board property, consideration should be given to filling out and filing a *Violent Incident Form* in the student's Ontario Student Record (Form 353B)
- 5.4 Before imposing a suspension of eleven (11) or more school days, the principal will consult with the Superintendent of Education 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.

## **6. Alternative Suspension Program (ASP) – Suspension of Six (6) or More Days**

Where a student has been suspended for six (6) or more school days, the student will be provided with schoolwork for the first five (5) school days or until the Student Action Plan (SAP) is implemented and will be assigned an alternative program for students subject to lengthy suspension (Alternative Suspension Program or ASP). The principal or vice-principal will communicate to the adult-student or parent/guardian the purpose and nature of the ASP.

- 6.1 A student cannot be compelled to participate in an Alternative Suspension Program.

- 6.2 Should the adult-student or his/her parent(s)/guardian(s) choose not to have the student participate in an ASP, 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 his/her suspension. The school work will be available at the school for pick-up by the adult-student's designate or the student's parent/guardian or designate at regular intervals during the suspension period. Where school work has not been picked up, the school should contact the adult-student or the student's parent/guardian to determine whether the school work will be picked up. The principal should record the follow-up and response.
- 6.3 A Student Action Plan (SAP) will be developed for every student subject to a suspension of six (6) or more days who agrees to participate in an Alternate Suspension Program. (See 7.0)
- 6.4 Agreement or refusal to participate in an ASP may be communicated to the school orally by the adult-student or the student's parent/guardian. Where the adult-student or his/her parent/guardian declines the offer to participate in an ASP, the principal shall record the date and time of such refusal.
- 6.5 Planning Meeting for the development of the Student Action Plan (SAP):

For students subject to a suspension of six (6) or more school days who choose to participate in an ASP, the principal of the school or designate will hold a planning meeting for the purpose of developing the SAP.

- 6.5.1 The adult-student or student's parent/guardian and the student (where appropriate) as well as any appropriate teaching and support staff will be invited to participate in the planning meeting.
- 6.5.2 The planning meeting will be scheduled to occur within two (2) school days of the adult-student or the parent/guardian informing the school that the student will participate in an ASP.
- 6.5.3 If the adult-student and/or the parent/guardian are not available to participate in the planning meeting, the meeting will proceed in their absence and a copy of the SAP will be provided to them following the meeting.
- 6.5.4 During the planning meeting the principal or vice-principal will review the issues to be addressed in the student's SAP.

## **7. Student Action Plan**

A student subject to suspension for eleven (11) or more school days will be provided with both academic and nonacademic supports, which will be identified in the student's SAP (Form 353C).

- 7.1 Students subject to a suspension of fewer than eleven (11) school days may be offered non-academic supports where such supports are appropriate and available.
- 7.2 The SAP will be developed under the direction of the principal of the school with assistance, as appropriate, from the principal of alternative programs, vice-principal of the school, guidance counselor, special education teacher, classroom teacher, child and youth worker and/or social worker.
- 7.3 The principal will make every effort to complete the SAP within five (5) school days following the adult-student or the parent/guardian informing the school that the student will participate in an ASP.

- 7.4 This timeline will be communicated to the adult-student and/or the parent/guardian if he/she is unable to attend the planning meeting for the purpose of providing input. The principal must ensure that the student is provided with schoolwork until the SAP is in place.
- 7.5 Once completed, the SAP will be shared with the adult-student, or the student's parent/guardian, the student and all necessary staff to facilitate implementation.
- 7.6 A copy of the SAP will be stored in the student's Ontario Student Record until such time as it is no longer conducive to the improvement of instruction of the student.
- 7.7 The SAP will identify:
- a) The incident for which the student was suspended;
  - b) The progressive discipline steps taken prior to the suspension, if any;
  - c) Any alternative discipline measures imposed in addition to the suspension;
  - d) Any other disciplinary issues regarding the student that have been identified by the school;
  - e) Any learning needs or other needs that might have contributed to the underlying infraction resulting in discipline;
  - f) Any program(s) or service(s) that might be provided to address those learning or other needs;
  - g) The academic program to be provided to the student during the suspension period and details regarding how that academic program will be accessed by the student;
  - h) Where the student has an IEP, information regarding how the accommodations /modifications of the student's academic program will be provided during the period of suspension;
  - i) The non-academic program and services to be provided to the student, if applicable, during the suspension and details regarding how that non-academic program and those services will be accessed; and
  - j) The measurable goals the student will be striving to achieve during the period of suspension.

## **8. Suspension Appeal Process**

The adult-student or the student's parent/guardian may appeal a suspension. All suspension appeals will be received by the Director of Education or Designate.

- 8.1 An appeal of a suspension does not stay the suspension.
- 8.2 A person who intends to appeal a suspension must give written notice of his/her intention to appeal the suspension within ten (10) school days of the commencement of the suspension.
- An individual who appeals a suspension may argue that his/her rights pursuant to the *Human Rights Code* have been infringed.
  - In addition, a separate right to apply to the Human Rights Tribunal of Ontario exists where an individual believes his/her rights pursuant to the *Human Rights Code* have been infringed.
- 8.3 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).

- 8.4 Upon receipt of written notice of the intention to appeal the suspension, 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 suspension 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 suspension; (see the template letter, Form 353D)
  - c) Will review the suspension (reason, duration, and any mitigating or other factors);
  - d) May consult with the principal and regional Superintendent of Education regarding modification or expunging the suspension;
  - 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 353E)
- 8.5 Where the suspension is upheld on review and the parent chooses to continue with the appeal, the Director of Education or Designate will:
- 8.5.1 Coordinate the preparation of a written report for the board. This report will contain at least the following components:
- a) A report of the incident and rationale for suspension prepared by the principal;
  - b) A copy of the original suspension letter;
  - c) A copy of the letter requesting the Suspension Appeal; and
  - d) A copy of the Correspondence with respect to the decision of the Director of Education or Designate regarding the suspension review.
- 8.5.2 Inform the adult-student or the parent/guardian of the date of the Suspension Appeal, provide a guide to the process for the appeal, a copy of the documentation that will go to the Student Matters, Appeals and Hearings Committee, (See the letter template, Form 353F) and ensure that the item is placed on the Student Matters, Appeals and Hearings Committee's agenda.
- 8.5.3 The parties in an appeal to the Student Matters, Appeals and Hearings Committee shall be:
- a) The principal; and
  - b) The adult-student or the parent/guardian, if they appealed the decision.
- 8.6 **Suspension Appeal before the Student Matters, Appeals and Hearings Committee of the Board**

Suspension appeals will be heard orally, in camera, by the Student Matters, Appeals and Hearings Committee of Trustees. The Student Matters, Appeals and Hearings 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.

- 8.6.1 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.
- 8.6.2 The student will be asked to make a statement on his/her own behalf.
- 8.6.3 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.
- 8.6.4 The Superintendent/principal may rely on the report prepared for the Student Matters, Appeals and Hearings Committee.

- 8.6.5 The appellant may make further submissions addressing issues raised in the Administration's presentation that were not previously addressed by the appellant.
- 8.6.6 The Student Matters, Appeals and Hearings Committee may ask any party, or the student, where appropriate, questions of clarification.
- 8.7 Legal counsel for the board may be present at the appeal if the appellant is represented by legal counsel or agent. The Student Matters, Appeals and Hearings Committee may make such orders or give such directions at an appeal, as it considers necessary for the maintenance of order at the appeal. 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.
- 8.8 The Student Matters, Appeals and Hearings 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:
  - 8.8.1 Confirm the suspension and its duration; or
  - 8.8.2 Confirm the suspension but shorten its duration and amend the record, as necessary; or
  - 8.8.3 Quash the suspension and order that the record be expunged; or
  - 8.8.4 Make such other appropriate order.
- 8.9 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, Forms 353G and 353H)

## **9. Re-Entry into School Setting**

Following a suspension of six (6) or more school days, a re-entry meeting will take place with appropriate staff, the student, and the student's parent(s)/guardian(s) if possible, to provide positive and constructive redirection for the student.

- 9.1 Where the student has participated in an ASP, the student's success in achieving the goals outlined in the SAP will be reviewed with the adult-student or the parent/guardian and student.
- 9.2 Further programs and services might be recommended by the principal for the purpose of achieving additional or greater success in meeting the goals outlined in the SAP.