

SUSPENSIONS

Having your child sent home from school can be one of the most difficult situations for a parent or guardian, and can be very disruptive for your family. If your child is suspended, expelled, or excluded (banned) from school, you may have to stay home from work or arrange daycare; your child may fall behind in school, and may fail to be promoted to the next grade.

Suspension Basics

If your child is suspended from school, he or she will not be allowed to attend school or participate in school-related activities for a period of one school day to a maximum of 20 school days.

The parent, guardian or adult student must receive written notice of the suspension. The written notice of the suspension should tell you how long your child will be suspended, and the reason for the suspension.

A record of the suspension will be included in your child's Ontario Student Record (OSR).

Parents should talk to the teacher or Principal to make sure that schoolwork is sent home during a suspension.

Parents and adult students have a right to request a review of a decision to suspend, and to appeal these decisions.

How Long can a Student be Suspended?

The minimum duration of a suspension is one school day; the maximum duration is 20 school days.

Students that are suspended are not allowed to return to school or to be on school property for the duration of the suspension.

The Principal of the school may decide to suspend a student for only part of the day, or allow the student to participate in some school activities. Ask the Principal whether exclusion from extra-curricular activities is part of the formal suspension.

Talk to the Principal and classroom teacher if the suspension is going to interfere with important activities outside of classroom hours.

Who can Suspend a Student from School?

Teachers can suspend a student for one school day. If a teacher directly observes a student committing an infraction for which a suspension is mandatory, the teacher has a

duty to suspend the student for one day. The teacher may also recommend to the Principal that the suspension be longer than one day.

Principals can suspend a student for one school day to a maximum of twenty school days.

A Principal has a duty to suspend students that have committed an infraction for which suspension is mandatory.

For what reasons can a student in Ontario be suspended from school?

There are two kinds of suspensions in Ontario—**mandatory suspensions** and **discretionary suspensions**.

If a student commits any infraction for which a suspension is **mandatory**, a teacher or principal of the school must immediately suspend the student.

If a student commits an infraction for which a suspension is **discretionary**, it is the decision of the teacher or principal to suspend.

Mandatory Suspensions

A teacher or principal **must** suspend a student for the following reasons.

Immediate Suspension will be the minimum penalty for:

- uttering a threat to inflict serious bodily harm
- possessing alcohol or illegal drugs
- being under the influence of alcohol
- swearing at a teacher or another person in a position of authority
- vandalism that causes extensive damage to school property or property located on school premises

Students will also be immediately suspended from school for any activity that may result in an expulsion (see **Expulsions**).

The police will be involved by the school as required by School Board policy.

Mitigating Factors

A suspension for any of the offences listed is **not mandatory** if:

- a) the student does not have the ability to control his or her behaviour

- b) the student does not have the ability to understand the foreseeable consequences of his or her behaviour, or
- c) the student's continuing presence in the school does not create an unacceptable risk to the safety or well-being of other students or staff.

Even in situations where these exceptions or “mitigating factors” apply, a teacher or principal can still suspend the student. (See **Suspending Students with Special Education Needs**).

Discretionary Suspensions

If a teacher observes a pupil committing an infraction for which suspension is discretionary, the teacher may suspend the student for a period of one day, or refer the matter to the principal.

A teacher or Principal **can** suspend a student for the following reasons:

- persistent truancy
- persistent opposition to authority
- habitual neglect of duty
- willful destruction of property
- use of profane or improper language
- conduct injurious to the moral tone of the school
- conduct injurious to the physical or mental well-being of others in the school

School Boards have the option to add to this list of reasons that will result in a discretionary suspension. A complete list of infractions resulting in a suspension should be provided in your school's **Code of Conduct**.

There are No Re-entry Requirements for Suspensions.

Students that are suspended from school are not subject to re-entry requirements. The Minister of Education may, however, require boards to establish and maintain specified programs, courses and services for students who are suspended. Successful completion of any such program cannot be a requirement for re-entry.

Programs and Services for Students that have been Suspended

If your child is suspended from school, request a complete list of programs, services or courses offered by the School Board to students that have been suspended.

“What should I do if there is a problem?”

If there is a problem, you should try to resolve the issue by talking to the Principal of the school, and to your child's classroom teacher(s).

If the problem cannot be resolved by talking to the Principal, you can write a letter of concern to the Superintendent of Education at your School Board, who is responsible for the schools in your area.

Requesting a Review of a Suspension Decision

If the suspension is longer than one day, you may request in writing a formal review of the decision to suspend. This written request must be made within 3 days of receiving written notice of the suspension.

Even if 3 days have already passed since you received written notice of the suspension, you can still send in your request for a review of the suspension decision. If the written request is made promptly, some School Boards will still allow a formal review of a suspension decision.

When the School Board grants your request to review the suspension decision, a supervisory officer will be assigned to review the decision.

The supervisory officer in charge of the review can decide to:

- Confirm the principal's decision;

- Modify the duration of the suspension; or,

- Remove or modify the record of suspension from the student's Ontario Student Record (OSR).

Just because you request a review of a decision to suspend does not mean that your child will be allowed to return to school for the duration of the suspension.

Regardless of the outcome of this review, the decision to suspend may still be appealed. Information about the procedures for appealing a suspension decision will be provided to you at the review.

“My child's suspension has already ended. Should I still request a review or appeal the school's decision to suspend?”

Parents may not think it is a good idea to request a review of a decision to suspend, even though they disagree with the decision, because . . .

- parents only have 3 days after receiving written notification of the suspension to request a review in writing;

- the suspension will have already ended before the decision to suspend has been reviewed.

You might think to yourself . . .

“My child will not get back the time lost at school. The best I can hope for is to have the record of suspension removed from my child’s OSR [Ontario Student Record].”

If you disagree with the school’s decision to suspend your child, here are some reasons you might still want to request a review of the decision.

1. Parents will probably know about the suspension before they receive written notice of the suspension. This means that parents will have more than 3 days to prepare a written request for review.
2. The written request for a review of a suspension decision does not need to be complicated. It can be a short letter [2 or 3 sentences] addressed to the Principal, or the Superintendent of Education responsible for the schools in your area.

Dear Ms./Mr. [Superintendent or Principal]:

I, the mother/father/guardian of [student’s name], would like to request a review of the decision to suspend my child dated [date on written notice of suspension].

[A brief statement of why you disagree with the decision].

Sincerely yours,

[your signature]

3. Reviewing a decision to suspend can be an opportunity to discuss how to prevent problems and avoid suspensions in the future.
4. If the record of suspension is not removed from your child’s OSR, and your child changes schools, the new school may think your child is a “problem child.”

Working with the School to Prevent Problems

You can help to prevent your child from being suspended by talking to your child about the rules at school—the school’s **Code of Conduct**—and the consequences of breaking these rules.

If you have had problems with your child’s behaviour in the past that may lead to problems at school, let the teacher know. Good parent advocates will form relationships with their child’s teachers, and work with them to decide what to do if there is a problem.

The consequence of sending a student home from school for bad behaviour is to leave it up to the parent or guardian to decide on the appropriate punishment or instruction. Suspensions are supposed to be a form of punishment which teaches children that some forms of behaviour are unacceptable and will not be tolerated. If children or youth

are free to watch T.V. or play video games all day, it is not difficult to imagine your child getting to like this kind of suspension. Parents thus have some responsibility to work with the school when educators and parents agree that some form of discipline is necessary.

The following link to the HWDSB Newsletter provides a recent account of the public School Board's perspective on School Discipline.

[The Community Blackboard \(HWDSB\)-Fall 2005-PDF](#)

“I Disagree with the School’s Decision to Suspend my Child?”

You or your child may disagree with the school’s decision to suspend.

Parents may disagree about whether the student has committed the infraction for which he or she is being punished. If your child did not do what the school is suspending your child for, why is the school suspending your child?

Sometimes parents and educators will disagree about what level of discipline is appropriate—about how serious the behaviour is, and how severe the punishment should be.

Parents and the school may also disagree about whether some sort of positive instruction would be a better solution in some situations than punishment.

In some situations, you may be able to resolve the disagreement by talking with the teachers and Principal of your child’s school.

If you disagree with the school’s decision to suspend your child from school, you have the right to request a review of the decision, and to appeal the decision.

If you wish to appeal a decision to suspend, you may want to consult a lawyer with experience in Education Law issues.

We have included information on how to find a lawyer in Ontario with Education Law experience in the section on **Basic Advocacy Skills—I Need a Lawyer!**

“I’m Not Sure if my Child has been Suspended?”

If you are not sure your child has been suspended, he or she has probably **not** been suspended.

If your child has not been suspended, but you have been told your child cannot attend school, there is a problem.

Your child has **not** been suspended if:

There is no paper work (If you did not receive written notice of the suspension);

You are not told how long your child will be suspended from school; or

You are not informed of your right to review or appeal the decision.

Lindsay Moir, a special education consultant, has written that *“Many parents report ‘suspensions’ that are ‘indefinite’.*”

If your child is sent home, and you are told that they are finished for the school year, and to try again for the following school year, this is not a suspension unless you

receive written notice of the suspension, and you are informed that you may request a review, or appeal, the decision to suspend.

Moir writes that if . . .

*there is no paper work and no appeal process—they are not suspended—they are parentally withdrawn [see **Voluntary Withdrawal** below].*

For the school, they have achieved their goal of not having to deal with the student—without having to go through the legal process.

If everyone acts like the child is suspended—they are de facto suspended! I get 15 to 20 cases of pseudo-suspension and expulsion every year.

Find out from the Principal, why your child has been banned (excluded) from school. Ask for this reason in writing. If you are not satisfied with the Principal's response, write a letter of concern to a supervisory officer (Superintendent of Education) at the School Board, or call the School Board to find out the maximum duration of a voluntary withdrawal.

If you have not agreed to voluntarily withdraw your child from school, your child's right to an education may be being violated. Remember your main goal is to get your child back into school as quickly as possible. Finding a support person, and staying involved is the only way to make this happen.

“My Child has been Banned from School because of Safety Concerns for other Students or Staff!”

Principals have the power to refuse to allow your child to attend school.

One of these powers is to suspend a student. Parents (and students 16 years or older) have the right to request a review of a suspension to the School Board.

Students can also be excluded from school for failing to be immunized, or there is some other health concern, such as lice, chickenpox, measles, etc.

O. Reg. 474/00 – Access to School Premises

A Principal (or other person authorized by the Board) can exclude you, or your child, from school premises if he or she determines that your presence, or the presence of your child, is detrimental to the safety or well-being of another person on the premises.

Banning a student from school is not the right way to deal with behaviour issues. When the issue is a student's behaviour, Principals have the power to suspend or expel a student.

Under O. Reg. 474/00 or Section 305 of the *Education Act*, there is no formal right to appeal a decision to ban a person from school premises.

If a student is suspended, at least parents have the right to request a review or appeal the decision.

Section 265 (m) — Duties of Principals

Under section 265 (m) of the *Education Act*, Principals have a duty to refuse to admit to the school or classroom any person whose presence in the school or classroom, in the Principal's judgment, would be detrimental to the physical or mental well-being of students in the school.

The decision to ban a person from school premises under Section 265 can be appealed to the School Board.

In general, Section 265 (m) is not intended for students, but for unwelcome visitors to the school.

“I have been Banned from School Premises!”

If you have been banned from school premises see **Basic Advocacy Skills -- Access to School Premises**

“I have been Told to Seek Care or Treatment for my Child before he/she can Return to School?”

It is not the teacher's or principal's role as an educator to make medical or psychological assessments of your child. And, it is the decision of the parent or guardian to seek care or treatment for their child from a doctor or psychologist. It is

If a teacher or principal tells you . . .

to seek medical or psychological Care or Treatment for your child, or
recommends that your child take medication,

you can tell the teacher or principal that you do not think it is the role of an educator to make medical or psychological judgments about your child.

It is your decision as parent or guardian to seek care or treatment for your child, and the role of a professional physician or psychologist to make medical or psychological assessments of your child.

Send a letter of concern to the principal and send copies to your School Board trustee and a School Board supervisor (a Superintendent of Education).

Suspending Students with Special Education Needs

Students with special education needs can sometimes be harder to handle than other children and youth. And can get in trouble more often.

In some communities in Ontario, special education students are suspended at twice the rate of students generally. In some cases, students that have difficult special education needs are receiving serial (multiple) suspensions, not as a disciplinary measure, but as a means of making it easier for the school to maintain control in the classroom. This solves the school's problem, but is disruptive for the child and his or her family, and is discriminatory.

Punishing students with special education needs is not always appropriate, especially when students

- cannot control their behaviour in some situations
- do not understand the consequences of their behaviour, or
- do not understand how the “punishment” is connected with the behaviour

Mitigating Factors

If a student cannot control their behaviour, or does not understand the consequences of their behaviour, it is the decision of the teacher or principal whether they should be suspended.

The suspension of a pupil is **not mandatory** if,

- a) the pupil does not have the ability to control his or her behaviour;
- b) The pupil does not have the ability to understand the foreseeable consequences of his or her behaviour; or
- c) the pupil's continuing presence in the school does not create an unacceptable risk to the safety or well-being of any person.

In circumstances when one of these “mitigating factors” applies, a teacher or Principal is **not required to** suspend a student. Instead, it is the decision of the teacher or principal to suspend a student.

According to the current laws in Ontario, special education students can be suspended even if they cannot control the behaviour for which they were suspended, or they do not

understand the consequences of their behaviour. For example, a student with Tourette's syndrome can be suspended for swearing at a teacher, without it being necessary for school personnel to decide whether this behaviour was related to the student's diagnosis.

Punishing a student for disability-related behaviour, however, is discriminatory. In the United States, *The Individuals with Disabilities Education Act* provides that, before a disciplinary decision is made regarding a student with a disability, a review must be conducted, and a determination made regarding "the relationship between the child's disability and the behavior subject to the disciplinary action."

Banning a student from school is not the right way to deal with behaviour issues that are related to a disability or diagnosis.

If the appropriate support and resources are provided in the school, it should be possible to control or contain the behaviour of students with special needs that may otherwise pose a safety risk to other students or staff.

Parents and the school will need to work together to find ways of accommodating students with special needs; simply because parents or school personnel do not want to do this work is not a good enough reason to keep a child with special needs out of school.

If a psychologist has told the Principal or School Board that your child does not pose an on-going safety risk to other students or staff at the school, the school and the School Board should be working to get your child back into school immediately.

If your child has special education needs and is being suspended on a regular basis, you can request a review or appeal of the suspension. You should also be working with the school to find ways to address the school's concerns, and to prevent your child from being suspended in the future.

If you wish to appeal a decision to suspend, or file a human rights complaint (See **Basic Advocacy Skills—Filing a Human Rights Complaint**), you may want to talk to a lawyer with experience in education law issues.

We have information on how to find a lawyer in Ontario with education law experience in the section on **Basic Advocacy Skills—I need a Lawyer!**

“I have been Asked to Voluntarily Withdrawal my Child from School.”

Parents or guardians of children with special education needs may be asked to **voluntarily withdraw** their children from school. This will mean keeping your child at home or arranging for daycare.

Schools require your consent to withdraw your child from school. You thus have a right to refuse to consent to voluntarily withdraw your child from school.

You may be asked to withdraw your child from school because there is no educational assistant to work with your child, or because some other resource or support is not available.

Find out from the Principal or a School Board supervisor where School Board funding for special education services is being spent, and why these services cannot be provided for your child at this time. If resources are not available for your child, ask the Principal to provide you with a written report of how this funding is being spent.

If the Principal agrees with you that the problem is funding, and that you are being asked to withdraw your child because of a lack of funding, finding these resources is something you and the Principal can work on together.

Ask the Principal whether the school has requested funding from the School Board to provide these services.

If you think that your child's safety or well-being may be at risk if your child stays in school at this time, you may consider keeping your child at home. However, if you agree to voluntarily withdraw your child from school, get a firm commitment from the Principal as to the date your child will be able to return to school.

Ask the Principal:

What steps will the school need to take to get my child back in school as quickly as possible?

Are there any steps that I need to take to make sure that my child returns to school as quickly as possible?

If a Principal threatens to suspend your child from school unless you agree to voluntarily withdraw your child from school, find out from a School Board supervisor whether this is allowed by School Board policy. These kinds of threats are not appropriate and may be a violation of your right to consent to a voluntary withdrawal.

If you are threatened with suspension unless you "voluntarily" withdraw your child from school, send a letter of concern to the principal and send copies to your School Board trustee and a School Board supervisor (a Superintendent of Education).

EXPULSIONS

When a student commits an infraction for which an expulsion is mandatory or at the discretion of the Principal, the police will be contacted if a criminal offence has been committed, and the student will immediately be suspended for the maximum 20 school days.

During this time, the Principal (or School Board) will consider whether to expel the student, and conduct an investigation.

An expulsion hearing must be convened within 20 school days from the day the student was first suspended.

If an expulsion hearing is not held within 20 school days, the student cannot be expelled.

A notice of the date of the expulsion hearing will be sent to the student, the parent or guardian of the student, and to the Principal of the school.

Expulsions hearings are not open to the public, and are conducted according to rules set out in the *Statutory Powers Procedures Act*.

If the adult student, or parent/guardian wishes to invite a support person, or lawyer, to the expulsion hearing, the School Board must be notified in writing at least 3 days in advance of the scheduled hearing, and provide the name and the role of the person that the parent or adult student wishes to invite to the hearing.

The decision of the School Board or committee will be made in private, and parties to the expulsion hearing will be notified in writing of the School Board's decision.

If the decision of the School Board is to expel the student, a record of the expulsion will be included in the students OSR [Ontario Student Record].

If the parent/guardian or adult student is not satisfied with School Board's decision, they may appeal the expulsion decision to the Child and Family Services Review Board. The appeal to the CFSRB must be made within 60 days of the decision by the School Board to expel the student.

Child and Family Services Review Board

2 Bloor Street West, 24th Floor

Toronto, ON

M7A 1E9

Phone: 416-327-4673

What is the Child and Family Services Review Board?

The Child and Family Services Review Board provides an avenue of appeal of decisions in a number of areas of law. These areas include appeals of School Board decisions to expel a student.

The CFSRB is an independent body, and its decisions are not subject to review by the minister or an official of the ministry.

The Review Board may do any of the following:

- Agree with the School Board's decision.
- Modify the type or duration of the expulsion.
- Impose, change or remove conditions that must be satisfied if the pupil is to return to school in Ontario following an expulsion
- Overrule the decision of the board and reinstate the pupil
- If the decision of the board is overruled, order that any record of the expulsion be expunged, if appropriate.

If you wish to appeal a decision to suspend, or file a human rights complaint (See Basic Advocacy Skills--), you may want to consult a lawyer with experience in education law issues.

We have information on how to find a lawyer in Ontario with education law experience in the section on **Basic Advocacy Skills—I need a Lawyer!**

How long can student be expelled?

The minimum duration of an expulsion is 21 school days, the maximum duration is one school year.

Mandatory Expulsions

The student will be immediately suspended and proceed to an expulsion hearing for the following:

- possession of a weapon, including, but not limited to firearms;
- trafficking in drugs or weapons;
- robbery;
- use of a weapon to cause bodily harm, or to threaten serious harm;
- physical assault causing bodily harm requiring professional medical treatment;
- sexual assault;
- providing alcohol to minors

Police will be involved according to the police/school protocol.

Discretionary Expulsions

Discretionary infractions that may result in expulsion are set by board policy. These should be listed in your school's **Code of Conduct**.

Mitigating factors

Under what circumstances is the expulsion of a pupil not mandatory?

The expulsion of a pupil is not mandatory if:

- a) the pupil does not have the ability to control his or her behaviour;
- b) the pupil does not have the ability to understand the foreseeable consequences of his or her behaviour; or
- c) the continuing presence of the pupil in the school does not create an unacceptable risk to the safety of any person.

Re-entry Requirements

What are the re-entry requirements for a fully expelled pupil?

A pupil who is subject to a full expulsion may attend a school in Ontario if he or she has successfully completed a strict discipline program, or has satisfied the objectives for the successful completion of a strict discipline program.

Who decides if the objectives have been satisfied?

The determination of whether a pupil has satisfied the objectives required for the successful completion of a strict discipline program must be made by a person who provides a strict discipline program.

"I Need More Information?"

If you need more information about Hamilton-Wentworth District School Board policy regarding the expulsion of students, see . . .

[Expulsion of Students--HWDSB](#)

If your child is a student of the **Hamilton-Wentworth Catholic District School Board**, you may request a copy of their *Safe Schools Policy* and *Safe Schools Manual* from the HWCDSB.

If you live outside of the Hamilton-Wentworth District, you may request information from your local School Board.

You may also contact Ontario's Ministry of Education directly at 1-800-387-5514.