



**G.15**

## **GUIDELINES FOR AN EXPULSION HEARING February 2008**

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It is a basic principle of the law that persons facing disciplinary consequences be treated fairly. Procedural fairness requires that the disciplinary consequences to a student be imposed by a school administrator who conducts an investigation in an impartial and fair manner. This includes:

- the right to know what rule has been violated and what conduct he/she is being accused of; and
- the opportunity to respond to the allegations against him/her – to tell his/her side of the story.

The following is a guideline regarding the rules of procedure for an expulsion hearing. An expulsion hearing will be heard by a Committee of the Board of Trustees that will consist of at least 3 Trustees.

### **Who are the parties to the hearing?**

A “party” to a hearing is a person who has a legal right to participate in the hearing. The parties to an expulsion hearing are:

- the parent/guardian of a student under the age of 18;
- an adult student;
- a student who is 16 or 17 years old and has withdrawn from parental control; and/or
- the school principal.

### **Can the student who has been suspended attend the hearing even if he or she is not a party?**

Yes. The student named in the expulsion referral has the right to be present at the hearing and to make a statement on his or her behalf.

### **Does every party have a right to representation?**

Yes. A party to the hearing may be represented by counsel or an agent. Counsel is a lawyer. An agent may be a trusted family friend, a religious advisor or other person who can assist with the presentation of the case.

### **What is the role of the Committee?**

The Committee will hear and determine whether a student will be expelled. Members of the Committee who may have had any direct involvement in the matter prior to the Principal's decision to refer the matter for an expulsion hearing will disqualify themselves and will not take part in the hearing, the deliberations, the decision or the reasons. Members of the Committee who have not been present for the whole hearing will not take part in the deliberations, the decision or the reasons.

### **Is there a requirement for each party to provide its evidence to the Committee and to the other party before the hearing?**

Yes. Unless otherwise ordered by the Committee, before the hearing begins, each party will provide to the Committee and to the other party the following information:

- a list of the witnesses that the party intends to call to give evidence in the proceeding; and
- a copy of documents that the party intends to rely on at the hearing.

### **Will the hearing be held in private?**

The Committee will normally order that the hearing will be held in private session, unless there is an objection by one of the parties.

### **When will an expulsion hearing take place?**

A hearing will be held by the Committee within 20 school days since the student was suspended, unless the parties to the hearing agree otherwise.

### **What is the order of presentation at the hearing?**

When the Committee hears a recommendation of a principal to expel a student, the principal will be the first party to call and examine witnesses, present evidence, and make submissions to the Committee. The parent or adult student will call and examine witnesses, present evidence, and make submissions to the Committee after the principal, unless the parties agree otherwise.

### **How will the expulsion hearing be organized?**

The Chair of the Committee introduces the matter and the parties appearing. The Chair sets out the process for the Committee. The process includes:

- opening statement by the principal, counsel or agent;
- opening statement by the parent/guardian/adult student or counsel/representative;
- Committee consults with the parties to determine, and narrow, the facts and issues in dispute;
- a presentation of evidence, including witnesses, by the principal, counsel or agent;
- cross-examination by the parent/guardian/adult student or counsel/representative;
- re-examination;
- questions or points of clarification, through the Chair, by the Committee, on the principal's presentation;
- a presentation of evidence, including witnesses, by the parent/guardian/adult student or counsel/representative;
- cross-examination by principal, counsel or agent;
- re-examination;
- questions or points of clarification, through the Chair, of the presentation of the student/parents;
- summation by the principal, counsel or agent;
- summation by the parent/guardian/adult student or counsel/representative;
- a statement by the student, if the student chooses to make a statement to the Committee, when the student is not a party and attends the hearings;
- reply by the principal, counsel or agent;
- statement by legal counsel to the Committee on responsibilities of the Committee;
- Committee debates the issue in private and comes to a decision;
- In the event that the recommendation for expulsion is accepted, any motion passed in the private session would be read to the parties in open session; and
- The director and secretary-treasurer of the Board or designate will inform the student/parent of the decision of the Board.

**What will the Committee consider to make its decision?**

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 committed the infraction. If the Committee determines that the student committed the infraction, the Committee will determine whether the principal considered the mitigating factors or other factors prescribed by the regulations. If the principal failed to consider the mitigating factors or other factors, then the Committee will do so.

The Committee will also consider the parties' submissions on whether the student should be expelled from his or her school only, or from all schools of the Board, and the parties' submissions on whether, if the student is not expelled, the Board should confirm the suspension, confirm the suspension but shorten its duration, or withdraw the suspension.

### **What types of decisions can the Committee make?**

After completing the hearing, the Committee will decide:

- (a) whether to expel the student; and
- (b) if the student is to be expelled, whether the student is expelled from his or her school only or from all schools of the Board.

### **What if the Committee decides to expel the student?**

If the Committee expels a student, the Committee will assign the student to:

- (a) in the case of a student expelled from his or her school only, another school of the Board; and
- (b) in the case of a student expelled from all schools of the Board, a program for expelled students.

### **What if the Committee decides not to expel the student?**

If the Committee does not expel a student, with respect to the original suspension, it will:

- (a) confirm the suspension and the duration of the suspension; or
- (b) confirm the suspension, but shorten its duration, even if the suspension 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 has already been served.

### **Can the Committee reserve its decision?**

Yes. The Committee has the power to reserve its decision to take more time for its deliberations and conclusions.

**Will the Committee issue a decision in writing?**

Yes. The decision of the Committee will be in writing and signed by the Chair of the Committee. When requested by a party, the Committee will give written reasons. Copies of the decision, along with written reasons if requested, will be sent to all parties who took part in the hearing at their respective addresses last known to the Board.

**Is the Committee's decision final?**

No, not if the Committee decides to expel the student, either from his or her school only, or from all schools of the Board. There is a right of appeal to the Child and Family Services Review Board.

However, if the Committee decides not to expel the student, the Committee's decision regarding the suspension is final.

*The Rules of Procedures for Suspension Appeals and Expulsion Hearings, which provide more detail about this process, are available on-line at: [www.tdsb.on.ca](http://www.tdsb.on.ca).*