
Title: **Exclusion of a Student**

Procedure No:

Effective Date: **2020, TBD**

Department: **Learning Support Services**

Reference(s):

- *Ministry of Education Violence Free Schools Policy 1994*
- *Education Act, RSO 1990 c E.2, s. 265(1)(m) and s. 305, as amended*
- *O. Reg. 474/00: Access to School Premises*
- *Occupational Health and Safety Act, RSO 1990 c O.1, as amended*
- *Trespass to Property Act, RSO 1990 c T.21, as amended*
- *Ministry of Education Policy/Program Memorandum No. 145: Progressive Discipline and Promoting Positive Student Behaviour (December 5, 2012)*
- *TVDSB Policy Exclusion of a Student*

1.0 Overview

The Thames Valley District School Board (TVDSB) is committed to fostering and maintaining learning environments that are safe for students, staff, and parents / guardians. Our schools welcome all students to their home school and have the expressed goal of meeting each student's educational and developmental needs through the use of a wide variety of available resources in the TVDSB.

2.0 Duty of the Principal

The Education Act, Section 265(1)(m) confirms that it is the duty of a Principal to, "*refuse to admit to a school or classroom a person whose presence would, in the Principal's judgment, be detrimental to the physical or mental well-being of the pupils*". That duty can result in the decision to exclude a student from a classroom or the school and school-related activities. This decision is subject to appeal to the School Board.

The temporary exclusion of a student from the school or a classroom is considered to be a serious matter and is intended to be a short-term measure taken only when all other reasonable efforts to manage the behaviour(s) have been exhausted.

The decision to exclude a student cannot be disciplinary in nature and cannot be used in lieu of a consequence such as a suspension or an expulsion.

3.0 Before Rendering a Decision to Exclude

It is the responsibility of the Principal to, in advance of making a decision to exclude a student from a classroom or the school and school-related activities, seek approval from the Superintendent of Student Achievement responsible for the student's school and the Superintendent of Student Achievement (Special Education). The approval process shall include a full discussion of the incident(s) that precipitated the principal

contemplating the exclusion and any relevant history regarding the student (progressive discipline, safety plans, a review of Program Development Team (PDT) minutes, et cetera).

4.0 **Once a Decision to Exclude Has Been Reached**

After a decision to temporarily exclude a student for a short period of time has been agreed upon by the abovementioned parties, the Principal may impose an exclusion pursuant to TVDSB Policy (*TBD*).

It is the responsibility of the Principal to inform the excluded person and / or parent(s) / guardian(s) verbally and in writing of the exclusion. The Principal shall send, by registered letter, a copy of the original letter of exclusion. (See Appendix A). The original copy of the letter shall be placed in the student's Ontario Student Record (OSR). This letter shall include measures that will need to be in place in order for a safe re-entry to school or the classroom (See Appendix B).

5.0 **Enrolment Registers**

Pupils excluded under clause 265(1)(m) of the Education Act are not to be demitted from the enrolment register as the School Board is actively working to reintegrate the pupil back to the education system.

During the exclusion period, the pupil's absence is recorded with a "G" on the Daily Attendance Record. An excluded student can remain on the enrolment register until the end of the current school year, as it is expected that the School Board is actively working to reintegrate the pupil back to the education system.

6.0 **Provision of Schoolwork**

In conjunction with the teacher(s), the Principal must arrange to have schoolwork prepared and provided to the student for the duration of the exclusion. Principals need to recognize that an excluded student may not be available for learning and / or the completion of schoolwork during the period of exclusion. This needs to be discussed with the parent(s) / guardians(s) at the onset of the exclusion, as well as throughout the duration of the time that the student is absent from the school or the classroom.

7.0 **Re-Entry Meeting**

Once the terms for re-entry, as stipulated in the Principal's letter of exclusion, have been met, the Principal shall, verbally and in writing invite the parent(s) / guardian(s) of the student to a re-entry meeting (See Appendix C). The original copy of the letter shall be placed in the student's Ontario Student Record (OSR). This meeting must occur in advance of the student returning to class / school. If the parent(s) / guardian(s) cannot attend the meeting, reasonable efforts must be made to reschedule the meeting at a mutually convenient time. If a timely rescheduling of the meeting is not possible, alternative arrangements to discuss the student's re-entry

must be made so that the student may return to class / school in a timely manner.

8.0 Appeal of an Exclusion

- 8.1 The student's parent(s) / guardian(s), the student who is eighteen (18) years old or older, or the student who is sixteen (16) or seventeen (17) years old and has withdrawn from parental control (hereafter referred to as the "*Appellant*"), may appeal an exclusion. All exclusion appeals will be received by the Director of Education.
- 8.2 The Director of Education may choose to delegate their oversight of the appeal process to a designate.
- 8.3 The Appellant must give written notice to the Director of Education of their intention to appeal within ten (10) school days of the commencement of the exclusion (hereafter referred to as the "*Notice of Appeal*"). The Notice of Appeal shall include the grounds and facts upon which the Appellant relies in support of the appeal.
- 8.4 A Notice of Appeal of an exclusion does not create a stay of the exclusion.
- 8.5 Upon receipt of a Notice of Appeal, the Director of Education or Designate will:
 - 8.5.1 Advise the Principal, the Superintendent of Student Achievement (Special Education), and the Superintendent of Student Achievement responsible for the school of the receipt of a Notice of Appeal;
 - 8.5.2 Provide a copy of the Notice of Appeal to the Principal, the Superintendent of Student Achievement (Special Education), and the Superintendent of Student Achievement responsible for the school;
 - 8.5.3 Acknowledge receipt of the Appellant's Notice of Appeal; and
 - 8.5.4 Direct the Superintendent of Student Achievement responsible for the school to convene a facilitation meeting between the Appellant and the Principal with a view of resolving the appeal.
- 8.6 In the absence of a resolution, the Director of Education or Designate shall commence the Exclusion Appeal process to review the exclusion as soon as reasonably possible, but no longer than fifteen (15) school days from the date of receiving the Notice of Appeal. The Director of Education or designate and the Appellant may extend the above timeline by mutual agreement.
- 8.7 To initiate the Exclusion Appeal process, the Director of Education or designate shall:
 - 8.7.1 Establish an Exclusion Appeal Committee (hereafter referred to as "*the Committee*"). The Director of Education or designate shall be the chair of the Committee and will ensure the additional participation of one (1) System Principal, and one (1) Superintendent

of Student Achievement (not responsible for the student's school);

- 8.7.2 Coordinate the preparation of a written report for the Committee; This report shall set out the following:
 - i. A rationale for the exclusion, as prepared by the Principal (See Appendix D);
 - ii. A copy of the original exclusion letter issued by the Principal;
 - iii. A copy of the Notice of Appeal of the exclusion;
 - iv. A copy of the Superintendent of School's report regarding the facilitation meeting (as stipulated in Section 8.5.4 of this Procedure); and
 - v. Any other relevant document.
- 8.7.3 Establish a hearing date and time within the timeline stipulated in Section 8.6 of this Procedure;
- 8.7.4 Coordinate the Committee's agenda for the Exclusion Appeal hearing; and
- 8.7.5 Inform the Appellant of the date and time of the Exclusion Appeal hearing, and provide the Appellant with guidance to the procedure for the Appeal, as well as a copy of all the documentation submitted to the Committee.
- 8.8 The following individuals (hereafter referred to as the "the Party" or "the Parties") shall be invited by the Director of Education, or designate to attend and/or present evidence at the Exclusion Appeal hearing:
 - 8.8.1 The Principal;
 - 8.8.2 The Superintendent of Student Achievement with responsibilities for the student's school;
 - 8.8.3 The Superintendent of Student Achievement (Special Education);
 - 8.8.4 The Appellant; and
 - 8.8.5 In the event that the Appellant determines that they will be represented by legal counsel, an advocate, or support person, the Director of Education may also invite the TVDSB's General Counsel.
- 8.9 The Appellant shall provide written submissions and any additional supporting documents to the Director of Education at least forty-eight (48) hours prior to the Exclusion Appeal hearing date. Documents not received within the mandatory timeline shall not be considered by the Committee.
- 8.10 Exclusion Appeal Committee hearing:
 - 8.10.1 Appeals will be heard orally, in camera, by the Committee;
 - 8.10.2 The Appellant may be represented by legal counsel, an advocate, or support person during the meeting. The cost of retaining a representative will be at the Appellant's own expense;

Should the Appellant be represented by legal counsel, the TVDSB's General Counsel will attend the hearing representing the School Board.

- 8.10.3 The Committee, at its own discretion, may be assisted by staff from the District's Corporate Services Department to act as a resource to the committee;
- 8.10.4 The Parties shall not be entitled to present witnesses before the Committee and there shall be no cross-examination;
- 8.10.5 The Principal and / or the Superintendent of Student Achievement responsible for the school will proceed first by making oral representations in support of the decision to issue the exclusion;
- 8.10.6 The Superintendent of Student Achievement (Special Education) shall make oral representations of the facts surrounding the Special Education Department's involvement with the student. This may include, but is not limited to, the involvement of staff from Thames Valley DSB's Professional Services Team, details of any Individual Education Plan, and/or Management of Aggressive Behaviour Plan, and/or Safety Plan that has been developed by District staff;
- 8.10.7 The Appellant or representative will then make representations either orally and / or in writing regarding the reason for the Appeal and the desired outcome. Written representations shall be read aloud by the Appellant, or their representative. School Board staff shall, at the request of the Appellant, read aloud the Applicant's written representation;
- 8.10.8 The Principal, the Superintendent of Student Achievement responsible for the school, and / or the Superintendent of Student Achievement (Special Education) may respond to new issues presented by the Appellant;
- 8.10.9 The Committee may, at its discretion, ask questions of clarification of either Party;
- 8.10.10 The Committee may, during the meeting, make such orders or give such directions as is considered necessary for the maintenance of order during the meeting;
- 8.10.11 Should any person fail to comply with any such order or direction, the Committee may call for the assistance of a police officer to enforce any such order or direction as it deems necessary;
- 8.10.12 Where any Party having received proper notice of the hearing, including the location, the date, and the time of the Appeal hearing, fails to attend or to comply with the necessary timelines set out in this Procedure, the Appeal may proceed in the Party's absence. The Party is not entitled to any further notice of the proceedings;
- 8.10.13 The Committee will consider, based on the representations of both Parties, whether the exclusion is reasonable in the circumstances, and shall either:

- i. Confirm the exclusion; or
- ii. Overturn the exclusion.

8.10.14 The Committee shall render a decision in writing within three (3) school days after the close of the Exclusion Appeal hearing. The Committee's decision is final. A copy of the written decision shall be sent to the Appellant by registered mail; and

8.10.15 Should the Committee overturn the exclusion, the Director of Education or Designate shall determine the date that a student may return to the school or classroom. The Director of Education or designate shall determine if a re-entry meeting (as stipulated in Section 7.0 of this Procedure) is required.

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