

Suspension Appeal

Appendix V

The following document has been developed to assist parents in understanding the suspension appeal process.

SUSPENSION APPEAL HEARING COMMITTEE

Three Algoma District School trustees or designate have been authorized by the board to hear suspension appeals and arrive at a decision.

PERSONS WHO CAN APPEAL A SUSPENSION

The following persons may appeal, to the board, a principal's decision to suspend a pupil under Section 306 of the Education Act:

- a) the student's parent or guardian; or
- b) the pupil;
 - i) if the pupil is at least 18 years old, or
 - ii) if the pupil is 16 or 17 years old and has withdrawn from parental control.

NOTIFYING THE BOARD OF INTENT TO APPEAL

A person who wishes to appeal a suspension is encouraged to contact the school superintendent as soon as possible. To submit a formal appeal, the person must give written notice of his or her intention to appeal to the school superintendent **within ten (10) school days** of the commencement of the suspension.

DESIGNATED SUPERVISORY OFFICER

The board designate will be the Superintendent of Well-Being to receive notices of Intention to appeal a suspension and to coordinate the suspension appeal hearings. A person who has given notice of intention to appeal may contact the Superintendent Well-Being to discuss any matter respecting the appeal of the suspension.

APPEAL TIMELINES

The board shall hear and determine the appeal within **fifteen (15) school days** of receiving notice, unless the parties agree on a later deadline. Requests for extensions will not be unreasonably withheld by either party.

PARTIES TO APPEAL

The parties to the appeal are:

1. the principal who suspended the pupil;
2. the pupil;
 - if the pupil is at least 18 years old; or
 - if the pupil is 16 or 17 years old and has withdrawn from parental control;
3. the pupil's parent/guardian, if the pupil's parent/guardian appeals the decision to suspend the pupil; or
4. such other persons as may be specified by legislation or board policy.

NOTICE OF HEARING

The Superintendent of Well-Being shall send a written *Notice of Suspension Appeal Hearing* to all parties involved in the hearing.

At the same time, an opportunity will be provided to the parents/student to deal with any procedural issues which the parties may have, including any issues relating to disclosure, length of the hearing, procedure or any other matter which you may wish to discuss.

There will also be a discussion to review whether there are any facts or issues on which the parties are in agreement. It will be recommended that all information be made to both parties prior to the appeal hearing.

DETERMINATION ON CALLING WITNESSES

Where the appellant has indicated that he/she seeks to call witnesses at the suspension appeal hearing, the parties shall discuss whether it is possible to agree to a statement of facts which can be considered by the Suspension Appeal committee in lieu of calling witnesses. Both parties are responsible for notifying and arranging for the attendance of their own witnesses at the hearing.

DOCUMENTATION TO BE SHARED AT THE HEARING

In preparation for the hearing, both parties will arrange to have the following documents provided to the Superintendent of Well-Being, usually five (5) business days in advance of the hearing, or as outlined in the Notice of Hearing:

- in the case of the student/parent/guardian: A written outline of the circumstances which give rise to the suspension appeal and position on the discipline.
- in the case of the principal: A copy of the Principal's Investigation Report, setting out with particularity the circumstances which give rise to the suspension decision.
- copies of any documents that the party would like to share with the Committee at the hearing.
- a list of witnesses, together with a statement of what any witnesses will say.

All documents will be shared by the Superintendent of Well-Being with both parties, prior to the hearing.

TIME ALLOTMENTS FOR PRESENTATIONS

The maximum time allotted for each hearing will be two hours, with up to an hour allotted to each party. Opening statements, cross-examination of the other party's witnesses, if any, and closing comments shall be taken into account in the hour allotted to each party. Where either or both parties persuade the Suspension Appeal Hearing Committee that additional time is reasonably required in order to have a fair opportunity to present/his/her/their cases in the particular circumstances, the Suspension Appeal Hearing Committee may extend the time lines for the presentation including scheduling additional hearing dates.

ORDER OF PRESENTATION

The appellant will proceed to make his/her presentation first, commencing with an opening statement. The principal/superintendent may choose to make an opening statement at this point or may choose to wait until the beginning of his/her case to make an opening statement. If the appellant calls any witnesses the principal/superintendent will be given an opportunity to cross-examine any such witnesses. Following the completion of the appellant's presentation, the principal/superintendent will make his/her presentation. If the principal/superintendent calls any witnesses, the appellant will have any opportunity to cross-examine such witnesses. Each party may make a closing statement, commencing with the appellant.

MAINTENANCE OF ORDER AT HEARING

The Suspension Appeal Hearing Committee may give such directions at a hearing as it considers necessary for the maintenance of order at the hearing. Should any person disobey or fail to comply with any such order or direction, the Suspension Appeal Committee may call for the assistance of a peace officer to enforce the order or direction.

FAILURE OF PARTY TO ATTEND HEARING AFTER DUE NOTICE

Where a notice of a hearing has been given to a party in accordance with this procedure, and that party fails to attend the hearing, the Suspension Appeal Hearing Committee may proceed in the absence of the party and the appeal may be deemed to have been withdrawn. A hearing can be attended in person, by teleconference or video teleconference.

CRITERIA FOR DETERMINING SUSPENSION

In the event the Suspension Appeal Hearing Committee determines that the student did commit an infraction for which a suspension may be imposed, the committee shall consider the duration of the suspension which the principal imposed on the student, having regard to the following factors:

- i) mitigating and other circumstances;
- li) progressive disciplines; and
- iii) board policy.

DECISIONS OF THE HEARING COMMITTEE

The Committee shall:

- a) confirm the suspension and the duration of the suspension;
- b) confirm the suspension and the duration of the suspension and order that the record be removed from the O.S.R. at an agreed upon date;
- c) confirm the suspension, but shorten it's duration, even if the suspension that is under appeal has already been served, and order that the record of the suspension be amended accordingly;
- d) expunge the suspension and have the record of suspension removed from the O.S.R. even if the suspension that is under appeal has already been served; or
- e) arrive at a solution that in the opinion of the committee is acceptable under the circumstances.

NOTICE OF THE SUSPENSION APPEAL HEARING COMMITTEE DECISION

In any event, notice of the Suspension Appeal Hearing Committee's decision shall be provided in a timely fashion to the pupil if the pupil is over eighteen (18) years of age, or is sixteen (16) or seventeen (17) years of age and has withdrawn from parental control; or the parent/legal guardian of a student under eighteen (18) years of age.

(Notice of Decision Appendix VIII.).

REASONS FOR DECISION

If requested by either party, the Suspension Appeal Hearing Committee will provide a brief statement of the reasons for its decision.

DECISION FINAL

The decision of the Suspension Appeal Hearing Committee is considered to be final.