Education Law:

Expulsions

See also:

- Right to Attend School
- Special Education
- Suspensions

Why should you care whether you get expelled?

Expulsions last 4 weeks or much longer and will disrupt your education because you might fall behind in your classes, not graduate at the same time as your peers, and you may have to go to a different school. They are also recorded in your Ontario Student Record and teachers who see this may have a different attitude towards you.

If you are facing an expulsion hearing, you should take it seriously and think about how you want to respond. If you think an expulsion would be unfair, you should attend your hearing to give your side of the story and you can also appeal the school board's expulsion decision.

What does it mean to be expelled?

There are two different kinds of expulsions: being expelled from your school only or being expelled from every school in your school board. No matter what kind of expulsion you receive, you will still belong to the same school board unless you move to another school board or your parents change their tax support (regular school vs. Catholic school).

During your suspension pending an expulsion recommendation decision by your Principal, you will be assigned to a program for suspended students.

What is an expulsion from my school only?

This means that you are not allowed to go to your school or to participate in any of your school's related activities. Your Principal will suspend you first, then investigate, and then make a recommendation on whether or not you should be expelled. A recommendation to expel means that there will be a hearing before the school board trustees to determine if you will be expelled (this process is described later on).

The expulsion will last 21 school days or more. If the board decides to expel you from your own school only, you must be assigned to another school in the school board. The Principal will have input into which school would benefit you. At the end of the expulsion you can ask to return to your own school, however, many schools do not allow students to return after being expelled.

The day the expulsion starts is the day you were suspended pending an expulsion. For example, if you are given a 90 day expulsion and you have already been suspended for 20 days while you waited to find out if you are expelled, then you only have 70 more days before the expulsion is over.

What is an expulsion from all schools in the board?

This means that you are not allowed to attend any school or school-related activities in any school of your school board.

If you receive this kind of expulsion you will be assigned to a program for expelled students. Once you have successfully completed the program or satisfied the objectives of those programs in another way, you can return to school. You can apply to another school board if you have received an expulsion from all the schools in your school board, however, they will know about your expulsion and may not accept you until you complete their program for expelled students.

What can lead to an expulsion?

Students involved in an incident contrary to the school board's *Code of Conduct* can be expelled. The Principal must consider an expulsion if you:

- have a weapon, including a firearm
- use a weapon to threaten or hurt another person
- physically hurt another person so that person requires medical attention
- sexually assault someone
- traffic (sell) weapons or illegal drugs
- rob someone
- give alcohol to a person under 19 years old
- have previously been suspended for bullying and present an unacceptable risk to the safety of another person by being at your school, or
- are motivated by bias, prejudice or hate based on race, national or ethnic color, religion, sex, age, mental or physical disability, sexual orientation, gender identity, gender expression, or any other similar factor and:
    - threaten to seriously hurt another person
    - have alcohol or illegal drugs
    - are under the influence of alcohol (drunk)
    - swear at a teacher, principal or another person in a position of authority
    - vandalize the school or property such as cars, on school property;
    - bully someone, or
    - engage in any other activity listed in your school board's *Code of Conduct*

The location of the incident can have occurred:

- at school,
- at a school-related activity, or
- off school property and will have a negative impact on the school climate. For example, harming another student on the way home from school or harassing another student on a social networking website. The school must show a direct and causal link.

If the incident involves a criminal act, the Principal may also have to notify the police. Whatever you say to the Principal can be passed on to the police. You do not have to answer any questions the police ask you, and you have the right to have a parent or other adult with you when the police question you. In addition to a suspension or expulsion, the police may also charge you.

Even if I did it, do they HAVE to expel me? What are "Mitigating Circumstances"?

No. Your Principal does not always have to recommend an expulsion and the school board does not have to expel you. Some of the things they must take into account are whether:

- you are unable to control your behaviour
- you are unable to understand the "foreseeable consequences" of your behaviour (what was likely to happen), or
- your being at school does not create an unacceptable risk to the safety of any other person at school.

They should also consider:

- your history at the school (including whether you have had other problems with teachers or other students)
- whether you have been identified as an exceptional student or have a disability
- whether you understood what might happen because
- of your conduct (for example, if you understood that your actions would cause harm to another student), and
- whether letting you stay at school would put other students' or teachers' safety at risk.

These factors are called **"mitigating circumstances"**. Your Principal and the school board are required to take into account any special or mitigating circumstances you may have when determining whether you should be expelled, for how long, and the type of expulsion. They must also make sure they have accommodated any disabilities that you have - *see our pamphlet on Special Education.*

What does the Principal do if they think I should be expelled?

First, the Principal will suspend you for 20 days pending an investigation. The Principal must tell you, your teachers, your parents or legal guardians (unless you are 16 or 17 years old and have withdrawn from parental control, or you are over 18 years old) that you have been suspended.

You must also receive written notice. The letter must say why you are suspended, for how long, and if the Principal is carrying out an investigation for a possible expulsion. The letter will also tell you which suspended students program you are being referred to while the investigation is taking place. You should attend the program to keep up with your school work while you are waiting.

If the Principal does not recommend an expulsion, the Principal must give you written notice of this decision and you can return to school once the suspension period is over. You should also be told that you can now appeal the suspension; because you cannot appeal the suspension until after the non-recommendation decision has been made.

If the Principal recommends expulsion, they will prepare a report and refer the matter to the school board for a hearing; and the hearing committee will decide if you should be expelled.

What is involved in the Principal's Investigation?

The principal must investigate in accordance with the school board's policy. As part of the investigation, the principal must make all reasonable efforts to speak with you and your parents (unless you are 16 or 17 years old and have withdrawn from parental control, or over 18 years old) and any other person who may have relevant information, such as other students or teachers who were witnesses.

What is in the Principal's Report?

If the Principal recommends that you should be expelled after their investigation, they must prepare a report containing:

- a summary of the their findings, and either
- a recommendation to expel you from your school only and the type of school that you might benefit from, or
- a recommendation to expel you from all of the schools in the school board and the type of expelled students program that you might benefit from.

A copy of this report must be given to you, and to your parents or guardians (unless you are 16 or 17 years old and have withdrawn from parental control, or you are over 18 years), and any other person specified in the school board policy (for example, safe schools personnel).

You are entitled to know who the Principal spoke to. If the report does not include these name and a summary of what they said, you should ask for this information.

Before the hearing, you will be given notice of the recommendation to expel, as well as a copy of the Principal's report, a copy of the school board's policies and procedures, and what the possible outcomes of an expulsion hearing are.

You will also be told you have a right to respond to the Principal's report. You can and should attend the hearing.

Who will make the decision and when will the Expulsion Hearing take place?

A committee of at least three school board trustees will listen to both sides at your hearing and make a decision about whether or not to expel you.

The hearing must be held within 20 school days of the original suspension unless everyone agrees to an extension. If more than 20 school days have passed without a hearing or an agreement to extend the deadline, you can return to school. You should not agree to an extension until after you speak to a lawyer.

Before the Hearing: "Minutes of Settlement"

Before the expulsion hearing, you may be asked by the school board if you want to "settle" the situation before the hearing date. You and/or your parents may be asked to sign a document called the "Minutes of Settlement" which usually explains why the Principal thinks you should be expelled.

Signing this document does not mean that the expulsion process is over because it is only an agreement between you and the school board.

The trustees will still hold an expulsion hearing and they will have a choice as to whether or not they wish to accept the Minutes of Settlement or to make different conclusions.

The Minutes of Settlement may also contain a release clause which says you cannot make any other future claims against the school board, including a Human Rights complaint. Be sure that you agree with all of the terms including the "facts" outlined in the Minutes of Agreement before signing. If you have

criminal charges, talk to your criminal lawyer first.

What happens at a School Board Expulsion Hearing?

Each school board can decide on its own hearing process, but they must provide you with a copy of their procedures and information on their process.

At the hearing, both the Principal and the school board trustees may have a lawyer. The Principal will present evidence to the trustees about why you should be expelled.

You and your parents have rights during this process, including the right to:
- have a lawyer with you
- present your side of the story
- call witnesses
- cross-examine or question all the witnesses
- explain why there are mitigating circumstances, and
- explain your disabilities and how the school board should accommodate them.

If you are not allowed to do these things, you should speak to a lawyer.

What evidence will the Principal use at the hearing?

The Principal must be specific in showing what evidence they considered for making their recommendation; they can not just summarize what they think happened. For example, the Principal can not just say you had drugs; they have to say what was found, where it was found and how the Principal knows it is an illegal drug. The Principal must also explain any special or mitigating circumstances they considered and why an expulsion is the right outcome.

The trustees may or may not accept the evidence as valid, depending on whether the Principal's investigation was conducted properly and fairly. The evidence used can not be based only on hearsay (information passed on by word of mouth).

What can the trustees decide?

The trustees can impose one of four things on you:
- expel you from your school only
- expel you from all the schools in the school board
- not expel you and either confirm or shorten your 20 day
- suspension, or
- not expel you and remove the suspension from your record.

The decision of the trustees must be in writing and must be given to you, your parents (unless you are 16 or 17 years old and have withdrawn from parental control, or you are over 18 years old) and other parties to the expulsion hearing. It must give reasons for an expulsion. If you are expelled from your school only, it must state which school you will now be attending. If you were expelled from all the schools in the school board it must state the name and location of the expelled students program you will be attending. It must also give you information on how to appeal their decision if you are expelled.

If you are not expelled, you can return to school. A decision of non-expulsion is final and cannot be

appealed by the school.

Can I appeal if the trustees expel me?

Yes. You can appeal the decision to the Child and Family Services Review Board if you feel that:
- you have been expelled unfairly, or
- that the expulsion is too long, or
- that the school board imposed conditions on you that are unfair or you can't meet them.

What is the Child and Family Services Review Board?

The Child and Family Services Review Board ("Review Board") is independent of the schools and school boards. The members are appointed by the Government of Ontario.

Your parents or guardian, (or you if you are 16 or 17 years old and have withdrawn from parental control, or you are over 18 years old), must submit an "Application to Appeal a School Board Expulsion Decision" form within 30 days after the trustees' decision to expel you. When the Review Board receives an Application for an Appeal, it has 30 days to start a hearing.

For more information and the forms for an appeal:
- http://www.sjto.gov.on.ca/cfsrb/
- 416-327-4673 or 1-888-728-8823

Am I allowed to have a lawyer for the Review Board?

Yes. It is a good idea to have a lawyer because the process at the Review Board is formal and complicated. If you cannot afford a lawyer, contact one of the resources listed at the end of this pamphlet.

What happens at the Review Board hearing?

The school board, usually with the help of their Lawyer, will provide evidence about why you have been expelled. You will have the chance to explain why you think the school board is wrong.

The hearing is formal and you should:
- listen quietly to the Review Board proceedings
- remove non-religious headwear
- not chew gum or bring food and drinks
- turn off cell phones
- dress neatly

What can the Review Board decide?

The Review Board has the power to:
- confirm the trustees' decision to expel you
- confirm the expulsion but change how long the expulsion will be or change the type of expulsion (from your school only to all schools in the school board; or vice versa)
- overturn the school board's decision, find that you should not have been expelled, and allow you to return to your school; they may also remove the expulsion from your school record.

Is the Review Board's decision final?

Yes. The decision of the Review Board is final. You, the school board and the Principal must follow it. The decision should be in writing and must give reasons for their decision.

Occasionally, you can ask a court to review the decision; this can happen for example, if the panel was biased or the process was unfair. Speak to a lawyer about this.

Can I go to my regular school while waiting for my appeal to the Review Board?

No. You will be attending a different school or an expelled students program.

What does it mean if I'm expelled from my school only?

This means that the school board must admit you to another school. You do not get to choose the other school. The school board will make their decision with input from your Principal.

What does it mean if I'm expelled from all schools in the school board?

This means you must be assigned to an Expelled Students Program. Each school board must have at least one of these programs. Ask the school board where the nearest program for you is.

What is an Expelled Students Program?

An Expelled Students Program is designed to help you make academic progress and help you with any behaviour problems that may have led to your expulsion. This could include anger-management, dispute resolution or other non-academic programs.

The program must meet your special education needs, including anything that is outlined in your Individual Education Plan (IEP). If it does not, you should speak to the school board staff person in charge.

Before you can return to school after an expulsion, you will be expected to show:

- respect for yourself, for others and for authority
- that you understand and can accept the consequences of your actions
- the ability to participate in a school without compromising the safety of yourself or others, and
- that you can follow the standards set out in the Provincial Code of Conduct.

The decision about whether you have completed these requirements is made by the expelled students program staff.

You do not have to go to one of these programs; but you can not return to school if you do not satisfy the objectives of the program in some other way acceptable to the school board.

How can my Parents be involved?

It is important that you talk to your parents if you have been expelled. The Principal is required to tell them in writing that you are facing an expulsion and only your parents can ask for an appeal (unless you are 16 or 17 years old and have withdrawn from parental control or you are over 18 years old).

Parents sometimes know more about your history at school and your special education needs, especially when you were younger. It is also sometimes easier for your parents to find help, such as supports and legal services.

If your parents refuse to help or appeal, speak to a lawyer.

What is an Exclusion?

An exclusion is when the Principal can "refuse to admit" a student if they believe the student's presence is "detrimental to the physical or mental well-being of pupils". Parents and students have a right to appeal this. Speak to a lawyer if this happens.

What is a School Transfer?

Students can sometimes be transferred from one school to another, occasionally this is to provide the student with a "fresh start". If you don't agree with the transfer, you may have a right to appeal. Speak to a lawyer if this happens.

I am a parent – what can I do?

Being expelled from school is a serious matter that may affect your child's future success in school. If your child is at risk of being expelled, it is important that you read and keep the letters that your child brings home from school.

It is also important that you establish regular contact with the Principal. You should work to ensure that your child is treated fairly, that the principal investigates thoroughly and that the principal properly considers the special and mitigating circumstances that may apply for your child.

As soon as your child has been suspended and is facing a possible expulsion, you should ask how to access the necessary resources for continuing their education. This includes homework packages and the programs for suspended and expelled students. If your child is expelled from their school only, make sure your child is registered in the new school as soon as possible.

To discuss your child's situation with school staff, you should make an appointment before going to the school. The Ministry of Education has a Code of Conduct that applies to all people involved in the school system, *including parents and legal guardians*. Schools are also allowed to add their own rules. If you don't follow these rules, the school may exclude you from being on school property.

Complaints about school boards can be made to:

Ontario Ombudsman
1-800-263-1830
www.ombudsman.on.ca

RESOURCES:

Kids Help Phone - www.kidshelpphone.ca, 1-800-668-6868
24/7 free and confidential counselling by phone, online and texting, up to 20 years

People for Education - www.peopleforeducation.ca
Information and tip sheets for parents in multiple languages

Toronto 211 - www.211Toronto.ca - dial 211 from any phone in Toronto
Free information on government and non-government services: locating food, shelter, health and financial assistance, etc.

Human Rights Tribunal of Ontario - www.hrto.ca, 416-326-1312 or 1-800-598-0322

FOR HELP FINDING A LAWYER:

Justice for Children and Youth – www.jfcy.org

Pro Bono Law Ontario – www.probonoontario.org/education/

Law Society of Ontario's Referral Service - www.lso.ca

Human Rights Legal Support Centre - www.hrlsc.on.ca, 416-597-4903 or 1-800-625-5179

Organizations should feel free to add local resources:

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This pamphlet gives general information about Expulsions in the public school system in Ontario. Speak to a lawyer or legal worker about specific questions. December 2022.

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Cette publication est également disponible en français sur demande.