Education Law:

Suspensions

See also:
- Right to Attend School
- Special Education
- Expulsions

Why you should care whether you get suspended?

The longest suspension can last up to 20 school days and can seriously affect your marks, especially in a semestered school. They are also recorded in your Ontario Student Record and teachers who see this may have a different attitude toward you. You should take a suspension seriously. If you think a suspension is unfair, you should ask to appeal it.

What can lead to a student being suspended?

Students involved in an incident contrary to the school board's *Code of Conduct* can be suspended. 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.

a) Possible Suspensions

A Principal must consider suspending you if you:
- threaten to seriously hurt another person
- have alcohol or illegal drugs
- are under the influence of alcohol
- swear at a teacher, Principal or another person in a position of authority
- vandalize the school or items on school property
- bully someone, or
- engage in *any other activity* listed in your school board's *Code of Conduct.*

b) Mandatory suspensions

The Principal must suspend you and conduct an investigation to decide whether to recommend expelling you 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
- engage in an activity listed in "a) Possible Suspensions" and the activity was 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, or
- engage in any other activity listed in your school board's Code of Conduct.

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

Even if I did it, do I have to be suspended? What are "Mitigating Circumstances"?

No. Your Principal does not always have to suspend 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 is required to take into account any special or mitigating circumstances when determining whether you should be suspended and for how long.

They must also make sure they have accommodated any disabilities that you have - see our pamphlet on Special Education.

What does the Principal do after being told about an incident?

Teachers are required to report any serious student incidents to the Principal. It is then up to the Principal to decide how to discipline the student(s) involved. The Principal should try to talk to you and anyone else involved before deciding. They should tell you what they think you did wrong and let you have a chance to give your side of the story.

If the Principal decides to suspend you, they must tell you, your parents (unless you are 16 or 17 years old and have withdrawn from parental control, or if you are over 18 years old) and teachers as soon as possible.

The Principal must promptly follow this up with a notice of suspension in writing stating:

- why you are suspended
- how long the suspension will last
- what suspended students program you are assigned to (if the suspension is for over 5 days)
- information about the right to appeal including a copy of the school board's policies and guidelines for appeals
- the name of the supervisory officer that you must send your notice of appeal to, and
- whether the principal is considering expulsion.

How long can suspensions last for?

Suspensions can be anywhere between one and 20 days. During that time, you are not allowed to attend classes or participate in any school-related activities.

I feel I've been suspended unfairly, what can I do?

Within 10 school days of the start of the suspension, you (if you are 16 or 17 years old and have withdrawn from parental control, or you are over 18 years old) or your parents must write a letter to the supervisory officer named in your notice of suspension and ask for an appeal. Suspension appeals must be held within 15 school days of receiving your written notice of appeal unless everyone agrees to an extension. If you want to ask for an appeal but your parents refuse, speak to a lawyer.

If you have received a "suspension pending an expulsion" notice, then you cannot appeal the suspension until after the Principal has decided whether or not to recommend an expulsion. If your Principal does not recommend an expulsion, then you can appeal the suspension. If your Principal does recommends an expulsion, there will be a hearing - *see our pamphlet on Expulsions.*

When can I go to back to school?

You will not be allowed to go to your school until the appeal is heard or your suspension period is over. For example, if your suspension period ends on May 1st, and your appeal is heard on May 4th, you may return to school on May 1st.

How do I keep up with my school work?

You should ask the school to provide homework and assignments and to make arrangements to write any missed tests or exams. If your suspension is longer than five days, you have a right to attend a Suspended Students Program.

What happens at a Suspension Appeal Hearing?

A committee of the school board trustees will listen to any evidence you provide about why the suspension is unfair and will listen to the Principal about why you should be suspended. 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 were suspended.

You and your parents have rights during this process, including the right to:

- have a lawyer with you
- present your side of the story and 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.

The trustees will decide one of three things and give you written notice of their decision:

- to maintain or uphold your suspension;
- to modify the length of the suspension; or
- find that you should not have been suspended and remove it from your record.

What if I do not agree with the appeal decision?

The decision is final and there is no further right of appeal.

Occasionally it is possible for you to have this decision reviewed by a court. This can happen for example, if the trustees or committee was biased against you or the process was unfair - *speak to a lawyer.*

If you believe your suspension is discriminatory, you can file a complaint with the Human Rights Tribunal of Ontario. The Human Rights Legal Support Centre can assist you with this.

How can my parents be involved?

It is important that you talk to your parents if you have been suspended. The Principal is required to tell them in writing that you are being suspended 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; and can assist 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?

A 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 an exclusion. 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.

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 Suspensions in the public school system in Ontario. Speak to a lawyer or legal worker about specific questions. December 2022.

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