

BUSINESS – SCHOOL OPERATIONS

PROCEDURE ADOPTED UNDER DDSB's CODE OF CONDUCT AND DISCIPLINE FOR STUDENTS POLICY

EXCLUSION APPEAL

1. The DDSB is committed to providing learning environments, services and workplaces that are welcoming, respectful, safe, inclusive, equitable, accessible and free from harassment and discrimination. This procedure must be carried out in a manner that is consistent with this commitment and the DDSB's legal duty to accommodate to the point of undue hardship and to proactively identify, prevent and address potential discrimination and harassment under the Ontario Human Rights Code and/or the Occupational Health and Safety Act.
2. This procedure sets out the process for the appeal of an exclusion from Durham District School Board ("DDSB" or "Board") school(s) or classroom(s), pursuant to section 265(1)(m) of the *Education Act*, RSO 1990, c. E-2, as amended from time to time.
3. An exclusion may be appealed to the Board of Trustees ("Exclusion Appeal") by a student's parent/guardian or an adult student (the "Appellant"). For the purpose of this procedure, "Adult Student" means a student who is 18 years old or older or a student who is 16 or 17 years old and has withdrawn from parental control.
4. An Exclusion Appeal does not stay the exclusion.

COMMENCING THE APPEAL PROCESS

5. The Appellant shall deliver written Notice of Intent to Appeal the exclusion to the Superintendent with the portfolio over safe schools (the "Safe Schools Superintendent").
6. The parties to the Exclusion Appeal are the Appellant and the School Principal (the "Parties"). The Superintendent of Education of the Family of Schools ("FOS Superintendent") may also be a Party. The student who is not an Adult Student is not a Party but may attend all meetings related to the Exclusion Appeal.

PRE-APPEAL MEETING

7. Upon receipt of the Notice of Intent to Appeal, the Safe Schools Superintendent shall provide a copy to the Associate Director of Education - Academic Services who shall schedule a pre-appeal meeting to attempt to resolve the Exclusion Appeal on consent of both Parties, narrow the issues on Appeal and/or set alternate timelines for the appeal with the consent of the Parties (the "Pre-Appeal Meeting"). The Associate Director of Education - Academic Services shall invite the Appellant, the student (if the student is not the Appellant), and the School Principal and/or the FOS Superintendent to the Pre-Appeal Meeting, subject to the following:
 - a) The Pre-Appeal Meeting shall be convened within 5 school days of receipt of the Notice of Intent to Appeal;

- b) The Parties shall be invited to bring documentation to share with the other Parties at the Pre-Appeal Meeting; and
- c) The Pre-Appeal Meeting shall be held in private.

NOTICE AND SCHEDULING REQUIREMENTS

- 8. If the Exclusion Appeal is not resolved at the Pre-Appeal Meeting, the Associate Director of Education – Academic Services shall advise the Safe Schools Superintendent who shall, in consultation with the Secretary of the Board, or designate, facilitate the convening of the Exclusion Appeal Meeting on a date when members of the Board of Trustees will be expected to be together for a Board or Committee meeting and that will allow for the timelines below to be met.
- 9. The Safe Schools Superintendent shall provide written notice of the Exclusion Appeal Meeting to the Appellant, the School Principal and the FOS Superintendent of Schools.
- 10. The written notice shall include the date, location and time of the Exclusion Appeal Meeting together with a copy of this procedure. It shall include notice that if a Party or their representative does not attend, the Board of Trustees shall wait for 30 minutes and then proceed in their absence. No further notice will be provided.
- 11. The Parties shall exchange documents on which they intend to rely 5 school days before the Exclusion Appeal Meeting. The Principal shall provide any Report in respect of the Exclusion to the Appellant in accordance with the timeline above. Relevant documents should not be withheld by either Party.

EXCLUSION APPEAL MEETING

- 12. The Exclusion Appeal Meeting shall be conducted in private, or *in camera*, by the Board of Trustees, properly constituted under the Board By-Laws. The Chair of the Board of Trustees, or designate, shall act as Chair of the Exclusion Appeal Meeting.
- 13. An Exclusion Appeal Meeting may be held electronically in accordance with the Board's By-Laws and applicable regulations.
- 14. A lawyer or other representative may attend with the Appellant to represent the Appellant. Prior notice of a lawyer's or other representative's attendance at the Exclusion Appeal Meeting must be provided to the Safe Schools Superintendent. If such prior notice is not provided, it may be necessary to reschedule the Exclusion Appeal Meeting.
- 15. The Board's General Counsel will attend to provide advice to the Board of Trustees on any legal or procedural issues.
- 16. The Principal or FOS Superintendent may be represented by legal counsel. Should the Principal or FOS Superintendent be represented by legal counsel, prior notice shall be provided to the Appellant.
- 17. The Exclusion Appeal Meeting shall be scheduled for two (2) hours.
- 18. The Safe Schools Superintendent shall provide the documents on which the Parties intend to rely to the Board of Trustees prior to the Exclusion Appeal Meeting.
- 19. If a Party wishes to submit additional documents to the Board of Trustees, the documents shall be provided to the other Party before being provided to the Board of Trustees.
- 20. The Safe Schools Superintendent will introduce the Board of Trustees and will confirm:

- a) that the Board of Trustees is authorized under section 265(1)(m) of the *Education Act* to address the matter;
 - b) that the individual members have had no prior involvement with the matter that has come before them;
 - c) that this matter will be heard *In Camera* (in private) consistent with the *Education Act*, s. 207(2)(b); and
 - d) that the decision of the Board of Trustees is final.
21. The Safe Schools Superintendent call the Exclusion Appeal Meeting to order.
 22. The Safe Schools Superintendent will outline:
 - a) the process to be followed during an Exclusion Appeal Meeting;
 - b) the matter under appeal before the Board of Trustees.
 23. The Parties may make oral or written submissions to the Board of Trustees.
 24. The Board of Trustees may admit relevant documents or other evidence, including hearsay evidence, whether or not admissible in the court of law, and attribute weight to the evidence at the Board of Trustee's discretion.
 25. The Appellant will have 15 minutes to make oral submissions to the Board of Trustees as to why the exclusion should be quashed or lifted.
 26. The Principal or FOS Superintendent will have 15 minutes to make oral submissions to the Board of Trustees as to why the exclusion should continue and respond to any issues raised by the Appellant.
 27. The Appellant will have 10 minutes to respond to any new issues raised in the Principal's presentation.
 28. The Student, if not a Party, will have the opportunity to make a statement on their own behalf.
 29. The Board of Trustees may ask the Parties questions. The Student shall not be compelled to answer questions.
 30. At the conclusion of both presentations, the Appellant and the Principal / FOS Superintendent will be invited to make summary statements.
 31. All Parties will be asked to leave the room while the Board of Trustees deliberate and make their decision. Immediately following deliberations, the Parties will be orally informed of the decision of the Board of Trustees.
 32. The Board of Trustees will either:
 - a) uphold the exclusion;
 - b) lift the exclusion from the date of the Exclusion Appeal Meeting; or,
 - c) quash the exclusion.
 33. The decision of the Board of Trustees is final. The decision shall be communicated to the Parties in writing within five (5) school days after the Exclusion Appeal Meeting.
 34. The Board of Trustees may give such directions or make such orders at an Exclusion Appeal Meeting as it considers necessary for the maintenance of order at the meeting. Should any person disobey or fail to comply with any such order and direction, the Chair may call for the assistance of a police officer to enforce the direction.

35. The Board of Trustees shall have discretion to address and make orders in respect of procedural matters that arise during the Exclusion Appeal Meeting.
 36. In circumstances as determined by the Board of Trustees, or on consent of both Parties, the Board of Trustees shall have the right to adjourn the Exclusion Appeal Meeting to another date determined by the Secretary of the Board.
 37. The *Statutory Powers Procedure Act* is not applicable to the Exclusion Appeal Meeting.
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Effective Date:
September, 2020

Amended/Reviewed: