

Tuesday, April 14, 2020

Memorandum to: Directors of Education
School Authorities
Executive Director, Provincial and Demonstration
Schools

From: Nancy Naylor
Deputy Minister

Subject: Response to COVID-19 Outbreak: Extending School
Closures, Suspensions, Expulsions and Expiring
Education Development Charge By-laws

Thank you for your continued leadership and partnership to support students and school communities during this uncertain time. I know we share our commitment and focus on supporting student learning in this unprecedented time and as we begin our second week of teacher-led continuity of learning I know that we will continue to work together to ensure the successful completion of the school year for all students, and to support students to advance to the next school year, earn credits and to graduate.

As noted in the March 31, 2020 memo, the decision to re-open schools would continue to be re-evaluated based on public health advice. I am writing to confirm today that the school closure period will be extended beyond May 4, 2020 and commit to you that further details will be provided as quickly as possible. We are working with the COVID Command Table to analyze the most updated data, which will inform our decisions.

The closure is being extended to protect the health and safety of students, families and staff. Our province is facing a public health emergency with the COVID-19 outbreak and new measures continue to be introduced in an effort to put the health and well-being of Ontarians first.

During this unprecedented time of school closures, I appreciate your efforts to identify circumstances where policy clarification is needed. In this memo I would like to address two areas identified through discussions with school boards, including expiring education development charge (EDC) by-laws and suspension and expulsions.

On April 14, 2020, Ontario amended the *Education Act* through Bill 189, *Coronavirus (COVID-19) Support and Protection Act, 2020*. These amendments will:

- help ensure consistency, equity and fairness in how suspended students are treated if the review of their case for potential expulsion has been impacted by the school closure; and,
- allow school boards to continue using existing EDC by-laws that are set to expire during the COVID-19 emergency and six months thereafter.

Suspensions and Expulsions

This amendment recognizes the special circumstances of boards, parents and students during the current state of emergency and provides the flexibility needed to carry out necessary suspension and expulsion procedures once school closures end. It applies to students who were suspended under section 310 of the *Education Act* (suspensions that could lead to expulsions) before all schools were ordered closed, but where no decision has been made yet regarding their expulsion.

The amendment permits a Director of Education to allow principals and boards to carry out investigations and expulsion hearings for these students up to 20 school days after the school closure order ends. While this amendment provides flexibility, we encourage principals and boards to resolve matters related to suspensions as soon as possible, to protect the safety of students, educators, and staff.

This would have no effect on suspension durations; that is, the 20-day maximum allowable suspension period would still apply, and students would not have their suspension terms extended. Please see the attached Question and Answer document for details about this legislative change.

During the school closure period, boards may choose to consider other options that may be available to them, such as electronic methods of holding hearings. We encourage school boards to take appropriate steps to ensure continuity of learning and continue to communicate with parents to ensure they have the information they need to support their child during the school closure period.

In addition, we also encourage you to share the ministry's parents' resource which has been updated with the suspension and expulsion changes. It can be found at: <http://www.edu.gov.on.ca/eng/safeschools/suspexp.html>

If you have any inquiries regarding the amendments relating to suspensions and expulsion, please contact Denise Dwyer, Assistant Deputy Minister, Indigenous Education and Well-being, at denise.dwyer@ontario.ca.

Expiring Education Development Charge By-laws

This amendment to the *Education Act* recognises the difficulties facing school boards in hosting public meetings regarding their EDC Background Studies and proposed by-laws. While some school boards may have the capacity to host a 'virtual' public meeting, their efforts to do so may take resources away from addressing more urgent educational needs during the COVID-19 outbreak, and limit the feedback school boards can receive from their key stakeholders and the public.

The amendment allows school boards with expiring EDC by-laws to continue using their existing by-laws for six months after the termination of the emergency, unless the board repeals the by-law before then. This would ensure that school boards are able to

continue to collect EDC revenue throughout the emergency and would provide time for public consultation before a board is able to pass a new EDC by-law.

If you have any inquiries regarding the amendments relating to EDCs, please contact Didem Proulx, Assistant Deputy Minister, Capital and Business Support, at didem.proulx@ontario.ca.

Sincerely,

Nancy Naylor
Deputy Minister

ATTACHMENT – QUESTIONS AND ANSWERS ON SUSPENSIONS AND EXPULSIONS

Q1: What will this legislative amendment change with regards to suspension and expulsions?

A1: The amendment addresses subsection 311.3 (8) of the *Education Act* which states that boards shall not expel a pupil suspended under section 310 (suspension that could lead to expulsion) if more than 20 school days have expired since the pupil was suspended, unless parties to the expulsion hearing agree to a later deadline.

The amendment applies to students who were suspended under section 310 before schools were ordered closed, but where no decision has been made yet regarding their expulsion.

The amendment allows a Director of Education, upon the recommendation of a principal, to provide that a board may expel a student even if more than 20 days have passed since the suspension, but not if more than 20 days have passed after the school closure order ends. During this time, principals may hold investigations and boards may hold expulsion hearings.

The changes do not impact the current 20-day maximum allowable suspension for students. Students would not have their suspension terms extended.

Q2: Do the legislative changes mean that a student can be suspended for more than 20 days?

A2: No. Students would not have their suspension term extended as a result of the changes.

The amendment provides more time for principals and school boards to conduct investigations and hold expulsion hearings. These steps must be completed within 20 school days once school resumes (after the closure order expires).

Q3. Does this change impact students who were already expelled when schools were closed?

A3: No. Students can be expelled from their school or from their board. When a student is expelled from the board, there are no legislated (or policy-mandated) timelines as to its length. When a student is expelled from their own school, but not from the board, the board can assign them to another school or board. There are no legislated timelines associated with this process either (i.e. how quickly the student must be reassigned).

Q4. Will this legislative change be retroactive – would it apply to a student who was suspended before the first school closure order made by the Minister of Education on March 14, 2020?

A4: Yes, the amendment applies to students who were suspended before schools were ordered closed, but where no decision has been made regarding whether the student would be expelled.

This includes students whose suspensions expire during the school closure period, whether before or after the legislative amendment comes into force.

Q5. What will happen to suspended/expelled students if schools remain closed for the balance of the school year?

A5: Students can be suspended for a period of one to 20 school days. The current 20-day maximum allowable suspension of students still applies when the Minister orders schools closed. Students would not have their suspension terms extended.

The amendment would provide more time for school boards to conduct investigations and hold expulsion hearings, for students that were suspended under section 310 of the *Education Act* before the school closure order began but where no decision has been made yet on expelling the pupil. These steps must be completed within 20 school days once school resumes (after the closure order expires).

For students who are expelled from all schools of the board, in order to return to school, they must complete a program for expelled pupils or satisfy the objectives required for the successful completion of a program for expelled pupils. If they have not done so, they remain expelled.

Q6: What options are available to a board that is required to hold an expulsion hearing during the time of the school closure?

A6: There is no impediment to an expulsion hearing being held electronically. An electronic hearing means a hearing held by conference telephone, videoconference or some other form of technology allowing persons to hear one another. Boards are required to ensure that privacy and security obligations are also met when meeting electronically.

Q7: Can a student who is currently suspended still participate in distance/online learning with their school/teachers and use Learn at Home?

A7: Yes, all students who are currently suspended will receive academic supports, including distance learning, tailored to their specific needs.

Students can be suspended for a period of one to 20 school days. Students who are suspended for more than five school days are considered to be on a long-term suspension.

Students who are suspended for one to five school days are expected to receive a homework package from the school. School boards should make best efforts to offer a homework package through distance/online learning.

Policy/Program Memorandum (PPM) 141 - *School Board Programs for Students On Long-Term Suspension* - provides direction to school boards regarding the development of board programs for students on a long-term suspension. The PPM indicates that students who are suspended for six to 10 school days must be offered an academic program that will help them continue learning.

PPM 141 also provides that students who are suspended for 11 to 20 school days must be offered a program with an academic component as well as a non-academic component to promote positive behaviour. These could include supports like anger management, substance-abuse counselling or life skills coaching to help engage and motivate the student and encourage positive behaviour. Students are encouraged to participate in the program. Typically, these programs are offered at an alternative location and students participate in person. It is unknown whether school boards have the capacity to meet all their program elements via distance/online learning. School boards should make best efforts to meet these requirements.

Q8: Are boards expected to provide programs for suspended students that support continued learning and non-academic programs for behavioural issues (e.g. anger management) during the school closure period?

A8: Yes. School boards are expected to meet their legal obligations under the *Education Act* related to suspensions / expulsions during the school closure

period. Boards should consider alternative methods of program delivery that are available and suitable for the suspended student so they can meet any requirements related to re-entry to school.

Q9. Will school boards be required to report back to the ministry on the status of students whose suspensions are in progress and students whose suspension could lead to an expulsion?

A9. No. The ministry will not require school boards to report back to the ministry on the status of suspensions that are in progress.

School boards will continue to be required to submit their annual suspension and expulsion data to the ministry through OnSIS.

Q10. How will this affect students scheduled to graduate this year?

A10. The amendments would not impact whether or not a student would graduate. Students can be suspended for a period of one to 20 school days. All 20-school day suspensions currently in place will have been served, when graduation is anticipated to take place.

For students who are expelled from all schools of the board, in order to return to school, they must complete a program for expelled pupils or satisfy the objectives required for the successful completion of a program for expelled pupil. If they have not done so, they remain expelled.

Q11. Do boards have to wait until school resumes (the school closure order expires) to hold a student's expulsion hearing?

A.11 No. The effect of this legislative amendment is to delay the timeline for holding an expulsion hearing to a maximum period of 20 school days after the school closure order expires (once school resumes). The amendment will not prevent a principal from resolving the suspension matter earlier and in fact, principals are encouraged to resolve matters related to suspensions as soon as possible.