

Suspension: What You Need to Know

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The panic has been growing in you since you found the suspension notice that fell out of your child's knapsack five minutes ago. Suspension? Conduct injurious to...? Then the phone rings. It's the school.

Suspension – What is it?

“A suspension means students are removed from school temporarily for a specific period of time... Students cannot take part in school activities or events while suspended.”¹ Principals can suspend a child as a result of inappropriate behaviour. A suspension is, at its heart, a form of discipline, a punishment. It is a means to “teach” a student that a given behaviour is wrong.

The Limits of Suspension

The Ontario Ministry of Education, in accordance with Human Rights Tribunal decisions and input, stresses that suspensions are only appropriate when the student is capable of “learning” from the action. Suspensions are not supported in legislation when a child, as a result of a disability such as a developmental disability or ASD (Autism Spectrum Disorder), cannot understand that their behaviour is “wrong”.

- Consider the following. A child profoundly challenged by autism with no speech and little connection to the classroom bites another child who took away a string he habitually plays with. Clearly, a suspension would not be supported in this scenario.
- A second situation where a child would not be expected to “learn” from a suspension would be where they might understand that an act is “wrong” but, due to a disability, have little or no control over their behaviour at the time in question. For example:
- A child with Tourette’s yells an obscenity

- A student with a specific seizure disorder strikes out during their seizure
- A child with autism becomes over-stimulated in physical education class due to sensory challenges and strikes out at staff

Realities

Parents must understand the reality of suspensions. First, the courts have indicated in recent decisions that a condition such as ASD does not, in and of itself, mean that a suspension is not appropriate. A principal might argue that even though a child has ASD, he/she is aware of the difference between right and wrong and has control over his/her behaviour.

A second practical consideration is that a principal has the power to suspend and it is the obligation of the family to challenge the suspension. In addition, even if the suspension is challenged successfully, this will likely happen after the fact and the student will miss the time in school during the suspension.

Therapeutic Withdrawal

“Your son is out of control and has hit another child. He will have to go home and stay home tomorrow.”

The practice of informal stays at home is common throughout the province. A parent is asked to take their child home. Some parents might believe this to be a suspension, but unless a child is formally suspended or excluded, a principal has no power to send a child home unless a parent agrees to the action.

Responding – Things to Consider

- Consider requesting a suspension over an informal arrangement. For the most part, a suspension is not a judgment of your child but instead evidence of his need for individualized programs and services
- Work with medical and other professionals to validate and document the needs your child has that may result in challenging behaviour
- Consider appealing the suspension to the school board. This is your right
- Understand that, in some cases, repeat suspensions might constitute ample evidence of missing accommodations based on your child's disability, an inappropriate placement and/or missing programming. These inadequacies might be addressed in potential Special Education or Human Rights Tribunals
- Cooperate in developing strategies to meet your child's needs. Be an active and positive participant in seeking further support from both educational and medical sources

This article is for educational purposes only and is in no way to be construed as legal advice.

Information

For information about upcoming advocacy workshops and/or individual consulting, contact Ed Mahony at ed.mahony.advocacy@gmail.com.

References

¹ Suspension and Expulsion - What Parents Need to Know www.edu.gov.on.ca/eng/safeschools/needtoknowsexp.pdf

Students with special needs are not necessarily treated the same as non-exceptional students - Supreme Court of Canada - Eaton v. Brant County Board of Education (1997), 142 D.I.R. (4th) 385 S.C.R.241.

School Advocacy Hamilton: www.schooladvocacy.ca/left_level3/suspensions9.html

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