

KAWARTHA PINE RIDGE DISTRICT SCHOOL BOARD

ADMINISTRATIVE REGULATION

Regulation Name: Sexual Misconduct by Students
Section: Educational Services

Regulation Code: ES-1.1.12
Policy Code Reference: ES-1.1

Established: October 24, 2019
Revised or
Reviewed: June 20, 2023

1. OBJECTIVE

This administrative regulation is written in accordance with the guiding principles in Board Policy ES-1.1, Safe and Caring Schools. This administrative regulation outlines the processes to follow when sexual misconduct by students is reported and works in conjunction with the Police/School Board Protocol (2016).

2. DEFINITIONS

Administrative Regulation

A document issued through the Director of Education, governing the implementation of a Board policy, or required to coordinate and control certain aspects of system operations.

Board

The corporate Board which maintains the daily operation of the system; Kawartha Pine Ridge District School Board; a reference specifically pertaining to Kawartha Pine Ridge District School Board as a legal entity; also referred to as KPR or KPRDSB.

CAS

Children's Aid Society

An agency whose responsibility is to protect and care for vulnerable children and youth through the provision of resources, programs, and services that support youth and their families.

Expulsion

Reasonable Grounds

Reasonable grounds refers to the information that somebody using honest judgment would need to decide to report. The person making the report does not determine if there is sufficient evidence to warrant an investigation; this determination remains with the Children’s Aid Society.

Sexual Assault

Any type of unwanted sexual act done by one person to another that violates the sexual integrity of the victim. The term refers to a range of behaviours that involve the use of force or control over the victim. In some cases, no overt physical force is used – instead, the victim may be threatened with words or pressured into doing something they do not want to do.

Suspension

A suspension means a student is removed from school temporarily for up to 20 school days. During this time, the student: cannot attend or take part in regular school activities or events and has other opportunities to continue learning to help them stay on track with their education.

3. APPLICATION

This administrative regulation applies to all Board employees who work with students, students, and parents/guardians.

4. RESPONSIBILITY

Responsibility for this administrative regulation is as outlined in the Board Policy ES-1.1, Safe and Caring Schools.

5. PROCEDURE – PART A: Sexual Misconduct by a Student 12 Years of Age and Over

5.1 Reporting Disclosures

5.1.1 Inform the Principal

When any person (including a student) reports sexual assault or sexual abuse to an employee, that is allegedly perpetrated by a student 12 years of age and over, the employee shall inform the principal or designate immediately. Disclosures should be received in a non-judgmental, culturally competent and responsive, and trauma-informed manner.

REMEMBER: Do not investigate the disclosure once you reasonably suspect that an offense may have occurred. Police should be notified immediately. Staff should ensure that all students are safe and if required, medical assistance should be provided. Once a disclosure has been made, a disclosing student will not be questioned by any other school staff, nor shall any other students or staff be spoken to until specific directions are received from the investigating police service as per the Police/School Board Protocol (2016) (Appendix A).

- 5.1.2 The principal shall report an allegation to their family of schools superintendent and/or the Superintendent of Safe and Caring Schools who will assist the principal to determine the appropriate response, which may include:
- 5.1.2.1 informing the Senior Manager, Professional Services who will determine if the Children's Aid Society (CAS) should be contacted.
 - 5.1.2.2 the appropriate intervention strategy with the alleged perpetrator.
 - 5.1.2.3 support for the victim(s).
- 5.1.3 Guidelines for Reporting to Police
- 5.1.3.1 The principal or designate must call the police. Appropriate support for the victim(s) shall be provided during the reporting process through the:
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5.1.4 Notify Parent(s)/Guardian(s) of Victim(s)

5.1.4.1 Notification of parent/guardian of victim is required in accordance with the Education Act, Section 300.3, where the principal believes a student has been physically or emotionally harmed by the sexual misconduct. Such notice **shall not be given** if, in the opinion of the principal, to do so would put the victim at risk or harm from the parent/guardian.

5.1.4.2 When notifying the parent/guardian, in consultation with the police, the principal shall disclose the nature of the activity that resulted in harm, the nature of the harm and steps taken to protect the victim's safety, including the nature of any disciplinary action taken.

5.1.5 Principal's Duties While Reporting

5.1.5.1 Ensure that police, and where necessary the CAS, are aware of the timelines (such as when a child victim or alleged perpetrator is expected at home) so responses can be prioritized accordingly. The police also require time to make arrangements for the investigation.

5.1.5.2 As the safety and protection of the student is the Board's paramount concern, the principal should inform the police regarding the child victim or their family of circumstances which may help in the investigation. In addition, the principal should ask the following questions of police in respect to the victim and the alleged perpetrator:

- name and badge number of responding police officer(s);
- how and when should the parents of the alleged perpetrator be contacted;
- will the victim/perpetrator be interviewed;
- do the investigators plan to come to the school or home and if so when;
- may the victim/perpetrator go home at lunch or after school if the interview has not yet taken place; if the victim is a child that is scheduled for childcare can the child be released to the childcare centre; what information can be shared with the childcare centre;
- if no interview of the victim has taken place, and the victim is under 16, do the police have instructions for the supervision of the child;

- what should the principal do if the parent of the victim/perpetrator arrives at the school;
- what information can be shared with the victim/perpetrator and their parent(s)/guardian(s) if the interview has not yet taken place.

5.2 When to Inform the Children's Aid Society

Peer sexual assault should be reported to the police as per the Police/School Board Protocol (2016). Peer sexual assault is not considered to be sexual harm under the Child, Youth and Family Services Act (CYFSA) and therefore, is not subject to the mandatory reporting requirement. However, a report should be made to a Society when such assault results in a situation that gives rise to reasonable grounds to believe either the victim or the perpetrator is in need of protection under the CYFSA.

In the event that the alleged perpetrator is under 16 years of age, and is a sibling of the victim who is under 16 years of age, or has siblings under the age of 16 at home, or is a babysitter, or is in any other way in a position of authority over the victim or other children, the CAS must be contacted. If in doubt, contact the Senior Manager, Professional Services.

Children's Aid Societies	KPR Region	Contact Number
Dnaagdawenmag Binnoojiiyag Child & Family Services	All – Students who self-identify as Indigenous	1-844-523-2237
Durham Children's Aid Society Highland Shores Children's Aid	Clarington	905-433-1551

5.2.1.1 The Reporting Form – Suspicion of Child in Need of Protection will be forwarded electronically to the Senior Manager, Professional Services for secure storage.

5.2.1.2 Written records may be subject to subpoena or disclosure in any subsequent court hearing.

5.3 Follow-up with Police/CAS

If it is not apparent that an investigation has commenced within 24 hours, or no assistance has been provided for the victim/perpetrator, it is the responsibility of the principal or designate to contact the police to ascertain the status of the case.

5.4 Procedures for Dealing with the Alleged Perpetrator

5.4.1 Investigation begun: Where the police or CAS have begun an investigation of a student, in consultation with the family of schools superintendent and Superintendent responsible for Safe and Caring Schools it may be determined that the alleged perpetrator may not attend the school during the course of the investigation if the safety and security of the victim cannot be maintained. The alleged perpetrator shall be refused admittance to the school pursuant to the Education Act; Section 265 (1) (M) if the parent does not voluntarily withdraw the alleged perpetrator for the duration of the investigation. Administrative procedures will be consistent with guidelines outlined in both the Police/School Board Protocol (2016) and Administrative Regulation ES1.1.3, Expulsion.

5.4.2 Student charged: Where a student has been charged with a sexual offence involving another student, the charged student shall be placed in another school or program in order to prevent contact with the alleged victim. The family of schools superintendent will ensure the development of a Safety Plan takes place in consultation with the Senior Manager, Professional Services and appropriate school staff.

5.4.3 Student not charged: Where a student has been investigated by the police for a sexual offence involving another student and the alleged perpetrator has not been charged with an offence, the Superintendent responsible for Safe and Caring Schools and family of schools superintendent will determine the appropriate placement for the (alleged) perpetrator. The principal of the school at which the incident occurred will conduct an investigation into the circumstances in consultation with the appropriate superintendent and according to Administrative Regulation ES-1.1.3, Expulsion. The family of schools superintendent will ensure the development of a Safety Plan takes place in consultation with the Senior Manager, Professional Services and appropriate school staff.

6.1.1.3 The principal will inform the family of schools superintendent if the behaviour is deemed sexually intrusive (see Chart 2).

6.2.1 Notify Parent(s)/Guardian(s) of Victim(s)

6.2.1.1 Notification of parent/guardian of victim(s) is required in accordance with the Education Act, Section 300.3, where the principal believes a student has been physically or emotionally harmed by the sexual misconduct. Such notice shall not be given if in the opinion of the principal to do so would put the victim at risk of harm from the parent/guardian.

6.2.1.2 When notifying the parent/guardian the principal shall disclose the nature of the activity that resulted in harm, the nature of the harm and steps taken to protect the victim's safety including the nature of any disciplinary action taken.

6.3.1 Intervene According to the Following Criteria

In order to assess the category of the behaviour, see Chart 1.

Inappropriate sexual behaviour does not require notification of any person or agency although resources may be used at the principal's discretion. Interventions should be based on Chart 2.

Problematic sexual behaviour requires consultation with the Senior Manager, Professional Services to determine which agency, if any, will do further investigations. The parents of any party should not be contacted until after consultation has occurred. Interventions should be based on Chart 2.

Sexually intrusive behaviour requires consultation with the Senior Manager, Professional Services. The student who is acting out will be refused admittance to school while the investigation takes place. The family of schools superintendent will be informed as to which agency will complete further investigation. Interventions should be based on Chart 2.

Chart 1: Concerning Sexual Behaviour of Students Under 12 Years

1. INAPPROPRIATE	2. PROBLEMATIC	3. INTRUSIVE
<ul style="list-style-type: none"> • no physical harm to self or others reported • occurs spontaneously or intermittently • is not the sole focus of the 		

- children feel free to “take it or leave it”
- no coercion, bribery or trickery is involved
- the age or power differential between the children is minimal
- does not cause any of the children strong uncomfortable feelings, such as anger, shame, fear, or anxiety
- often decreases with appropriate caregiver intervention
- explicit sexual language or re-enactment may be included
- one or more incidents may occur – these incidents may be progressive
- behaviours may be either consensual or coercive
- may include involvement of younger or same age children
- may

1. INAPPROPRIATE	2. PROBLEMATIC	3. INTRUSIVE
<ul style="list-style-type: none"> no withdrawal from class or refuse to admit to school 	<ul style="list-style-type: none"> student with problematic behaviour may be temporarily withdrawn or excluded if they pose a risk to others 	<ul style="list-style-type: none"> student with intrusive behaviour will be temporarily excluded until the investigation has been concluded
<ul style="list-style-type: none"> CAS not called 	<ul style="list-style-type: none"> CAS may be called 	<ul style="list-style-type: none"> CAS will be called
	<ul style="list-style-type: none"> Safety Plan to be established Child may be referred for further supports 	<ul style="list-style-type: none"> Safety Plan will be established if child not excluded or expelled will be a recommendation for further supports
	<ul style="list-style-type: none"> principal will convene meeting with parent/guardian of 	

- contain questions asked of the student, information seen or heard by the teacher, principal or designate, and other observers.

6.5.1.1 The Reporting Form – Suspicion of Child in Need of Protection will be forwarded electronically to the Senior Manager, Professional Services for secure storage.

6.5.1.2 Written records may be subject to subpoena or disclosure in any subsequent court hearing.

7. Safety Considerations for Students of All Ages

7.1 Safety Plan

7.1.1 In the case of either sexually problematic or sexual intrusive behaviour, the principal will meet with the parents of the student who is acting out.

7.1.2 Where the behaviour is sexually intrusive the principal shall, with the assistance of the school mental health clinician or the Senior Manager, Professional Services, establish a school Safety Plan with the parents of all parties. The Safety Plan must be stored in the student's Ontario Student Record (OSR) to maintain safety and security in the student's placement.

7.1.3 If it is determined that the student's continued presence in the school would be detrimental to other students, the student will be refused admittance to the school (see Section 7.2 below) and a suitable alternate program will be established.

7.2 Student Who is Acting Out – Refusal to Admit – Discipline

7.2.1 If a student is to be removed from a school under this procedure, the principal should consult with the family of schools superintendent and the Superintendent of Safe and Caring Schools and exclude pursuant to the Education Act, Section 265(m), which states:

It is the duty of the principal of a school, subject to an appeal to the Board to refuse to admit to the school or classroom a person whose presence in the classroom would, in the principal's judgement, be detrimental to the physical and mental well-being of the pupils.

Every effort must be made to continue the academic program of an excluded student.

7.2.2 The principal, in conjunction with the family of schools superintendent and the Superintendent of Safe and Caring Schools,

Regulation ES-1.1.3, Expulsion, to determine what, if any, discipline may be required. If following a principal's inquiry, a student is found to have engaged in sexually intrusive behaviour, the student may be subject to disciplinary actions such as suspension or expulsion consistent with Part XIII of the Education Act.

- 7.2.3 Appropriate assessment will be required for re-entry into a regular program.
- 7.2.4 In the event a student who has been refused admittance under this procedure is registered at another school or program, such student shall not be admitted to the new school or program until the new school or program receives the OSR and any documents generated pursuant to this procedure.
- 7.3.5 A student returning from a refusal to admit under this procedure shall have a transition plan prepared by the principal in consultation with the sending school (if any), school mental health clinician, the Family and Treatment Agency (if any).

8. RELATED POLICIES, ADMINISTRATIVE REGULATIONS OR PROCEDURAL DOCUMENTS

Board Policies:

[B-3.2, Equity, Diversity and Inclusion](#)

[B-3.3, Human Rights: Code-Based Discrimination and Harassment](#)

[ES-1.1, Safe and Caring Schools](#)

Administrative Regulations:

[ES-1.1.1, Discipline/Promoting Positive Student Behaviour/Code of Conduct](#)

[ES-1.1.1A, Appendix A: Discipline/Promoting Positive Student/Behaviour/Code of Conduct](#)

[ES-1.1.2, Suspension](#)

[ES-1.1.3, Expulsion](#)

[ES-1.1.4, Child in Need of Protection](#)

[ES-1.1.8, Procedures in the Event of a Bomb Threat](#)

[ES-1.1.9, Substance Use](#)

[ES-1.1.10, Safe Arrival Program](#)

[ES-1.1.12A, Appendix A: Police/School Board Protocol](#)

[ES-1.1.13, Anti-Sex Trafficking](#)

Procedural Documents (internal):

[Ensuring Student Safety and Protection Together Protocol, 2019](#)

9. REFERENCE DOCUMENTS

Legislation:

[Accessibility for Ontarians with Disabilities Act](#)

[Child and Family Services Act](#)

[Education Act](#)

[Municipal Freedom of Information and Protection of Privacy Act](#)

[Ontario Human Rights Code](#)

[Ontario Regulation 440/20 – Suspension of Elementary School Pupils](#)

[Ontario Regulation 472/07 – Behaviour, Discipline and Safety of Pupils](#)

[Ontario Safe Schools Act](#)

Other Documents:

[Caring and Safe Schools in Ontario](#)

[Ministry of Education, Policy and Program Memoranda 9: Reporting of Children in Need of Protection](#)

[Ministry of Education, Policy and Program Memoranda 120: Reporting Violent Incidents to the Ministry of Education](#)

[Ministry of Education, Policy and Program Memoranda 128: The Provincial Code of Conduct and School Board Codes of Conduct](#)

[Ministry of Education, Policy and Program Memoranda 141: School Board Programs for Students on Long-Term Suspension](#)

[Ministry of Education, Policy and Program Memoranda 142: School Board Programs for Expelled Students](#)

[Ministry of Education, Policy and Program Memoranda 145: Progressive Discipline and Promoting Positive Student Behaviour](#)

10. APPENDICES

[ES-1.1.12A, Appendix A: Police/School Board Protocol](#)