

Toronto District School Board

Operational Procedure PR724

Title: **REFUSAL TO ADMIT**

Adopted: January 4, 2019

Effected: January 4, 2019

Revised: NA

Reviewed: NA

Authorization: Executive Council

1.0 RATIONALE

The Refusal to Admit Operational Procedure (“the Procedure”) is in accordance with section 265(1) (m) of the *Education Act*, which establishes the duty to refuse to admit to the school or classroom a person whose presence in the school or classroom would be detrimental to the physical or mental well-being of the pupils. This Procedure supports the implementation of the Caring and Safe Schools Policy (P051).

2.0 OBJECTIVE

To establish an operational procedure that balances the legislative authority of the principal with the needs of students and families when considering to refuse to admit a student to the school for reasons of safety.

3.0 DEFINITIONS

Board refers to the Toronto District School Board, which is also referred to as “TDSB”.

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4.0 RESPONSIBILITY

Executive Superintendent, Human Rights and Indigenous Education

5.0 APPLICATION AND SCOPE

This Procedure applies to all principals of the TDSB when determining to refuse to admit a student to the school and issuing a student a refusal to admit.

6.0 PROCEDURES

6.1 Principal's Duty for Student Well-Being

- (a) The physical and mental well-being of all pupils is paramount to their education. The safety and physical and mental well-being of all pupils is of primary importance to school principals. The duty of a school principal in regards to ensuring student physical and mental well-being are outlined under section 265 of the *Education Act* and *Education Act Regulation 298*.
- (b) Specifically, section 265(1) (m) of the *Education Act* states: "It is the duty of a principal of a school, in addition to the principal's duties as a teacher, subject to an appeal to the board, to refuse to admit to the school or classroom a person whose presence in the school or classroom would in the principal's judgment be detrimental to the physical or mental well-being of the pupils".

6.2 Students' Right to Attend School

- (a) Notwithstanding a principal's duties under section 265(1) (m) of the *Education Act*, it is important to remember that school-aged students who live in the TDSB's area of jurisdiction have the right to attend one of the TDSB's schools without payment of a fee. The right of a student to attend at TDSB schools is outlined in section 32 of the *Education Act*.
- (b) Pursuant to these rights and as a last resort, the issuance of a refusal to admit should only be used to support student safety and physical and mental well-being when all other interventions and strategies have been exhausted with the expressed intent to return the student to school as quickly as possible.
- (c) Principals and Superintendents should consider the following strategies or interventions prior to issuing a refusal to admit (this list is not exhaustive):
 - (i) Can the student's presence that is detrimental to the physical or mental well-being of pupils be minimized by:
 - Reviewing and modifying the programming related to the students learning profile
 - Reassigning staff within the school
 - Temporarily relocating the student within the school
 - Temporarily assign appropriate staff to the school

- Providing a program at an alternative location such as another school or appropriate board location.

6.3 Refusal to Admit Consultation and Determination

- (a) For a refusal to admit to be issued, consultation with the learning network Superintendent of Education (SOE) and appropriate central staff (as detailed below) must occur.
- (b) Persons engaging in behaviour that affects the well-being of other pupils (regardless if they have a special education identification) and where the school principal is contemplating issuing a refusal to admit, the Board may be able to argue that to accommodate the persons, it would cause undue hardship based on health and safety concerns, specifically, that the accommodation would pose a risk to public safety. The Principal must provide evidence of undue hardship arising from 'bona fide' health and safety concerns by admitting certain persons into the school or classroom.
- (c) The principal and superintendent must hold a meeting or conference call with all appropriate staff to ensure that an analysis has occurred that includes a variety of viewpoints to ensure that alternative options to a refusal to admit have occurred. Parent/guardian/caregiver partnership is important to this process and must occur as part of this consultation.
- (d) Clear communication will be maintained with the student's parents/guardians throughout Refusal to Admit process.
- (e) A principal may issue a refusal to admit in the following circumstances:
 - (i) Where the school principal has been told that they cannot commence an investigation of an incident (ordered by Toronto Police Service) and the principal and Superintendent of Education believes that the presence of the student will be detrimental to the physical or mental well-being of pupils (Consultation with Caring and Safe Schools and SOE is required.)
 - (ii) When a risk management review meeting (PR. 699) has been held for a student with special education needs and the use of 265(1)(m) has been recommended as a means to ensure a student's continued presence at the school is not detrimental to the physical or mental well-being of pupils (Consultation with the

Learning Centre Centrally Assigned Principal for Special Education and SOE is required.)

- For students with special education needs, the TDSB is required to accommodate in the provision of educational services and ensure that all modifications, accommodations and/or alternative programming, whether set out in the IEP or not, have been implemented prior to issuing a refusal to admit.
- (iii) As a means to ensure a student's continued presence at the school is not detrimental to the physical or mental well-being of pupils when dealing with intrusive sexualized behaviour (PR 608) (Consultation with Manager of Social Work, SOE and Caring and Safe Schools is required.)
- (iv) Where a student's behaviour is in the judgement of the school principal detrimental to the physical or mental well-being of pupils all other interventions and strategies have been exhausted. (Consultation with the SOE and appropriate central staff is required.)

6.4 Analysis of Student Discipline

- (a) A principal's determination of when to issue a refusal to admit must include an analysis of whether school discipline is an appropriate course of action. Discipline is a form of corrective behaviour which assumes that a student can recognize the impact and implications of their actions. Refusal to admit is not an alternative to school discipline.
- (b) However, if a history of discipline exists and the behaviour of the student has not been corrected, it may be appropriate to issue a refusal to admit while interventions are put in place to minimize the risk of harm to the physical or mental well-being of pupils. In all instances like this consultation with the SOE and appropriate central staff must occur.

6.5 Modified School Day

- (a) While legally a modified school day is not a refusal to admit, it is important to remember that a modified school day will have an impact on the student and the student's family. A student's day may be modified for reasons that may include medical, clinical, therapy, social, environmental, and/or part of behavioural intervention strategies focused on individual student goals in consultation with parents. Therefore, a principal must consult with parents, all appropriate central

staff including their Superintendent of Education, medical, behavioural, psychology, and/or social work when considering if modifying a student's school day is in the best interests of the student.

Much the same as a refusal to admit, a modified school day must only be issued as part of a collaborative plan which includes input from parents, staff, and when appropriate medical, clinical, behavioural and/or social work professionals after all other available interventions and supports have been exhausted. Please consult PR 699, your Superintendent of Education and your local Special Education for more information.

6.6 Issuing a Refusal to Admit

- (a) Once consultation has occurred and the principal has determined it is appropriate to refuse to admit a student, a letter outlining the principal's decision as well as requirements for the student's return must be sent to the parent/guardian/caregiver or adult student. This letter will also contain information on how to appeal the Principal's decision to issue a refusal to admit.
- (b) Principals should refer to the following template letters where they have determined that the student's continued presence in the school is detrimental to the physical and mental wellbeing of other pupils:
 - (i) Appendix A - Template Refusal to Admit Letter - Where a Principal Cannot Investigate due to an on-Going Police Investigation.
 - (ii) Appendix B - Template Refusal to Admit Letter - Following and further to a Risk Management Review Meeting.
 - (iii) Appendix C - Template Refusal to Admit Letter Where Intrusive Sexualized Behaviour has occurred.
 - (iv) Appendix D – Template Refusal to Admit Letter - Where Appropriate Interventions and Strategies have been exhausted.
- (c) If a refusal to admit is issued an alternative program through the Caring and Safe Schools Policy (P051) will be offered.
- (d) Refusal to admit template letters will be accessed through the Caring and Safe Schools database.

6.7 Attendance Reporting During a Refusal to Admit

- (a) A refusal to admit is not an indefinite measure, but put in place while a school principal works with the family, school staff and the appropriate central staff to find a viable solution for the student's return to appropriate educational programming.
- (b) When a refusal to admit has been issued the school Principal must ensure that a student's attendance record reflects that they are absent due to a refusal to admit. This absence must be recorded with a "G" absence code on the daily attendance record and must specify the reason as "refusal to admit". This absence code and reason must be recorded for annual tracking and auditing purposes.
- (c) All refusal to admits will end no less than 5 consecutive school days after the refusal to admit was issued unless the board can demonstrate that there are no appropriate strategies or interventions that can be put in place to minimize the behaviour that is deemed to be detrimental to the physical or mental well-being of pupils. If the refusal to admit is not rescinded the school principal, Superintendent of Education, appropriate central staff and the family will review the refusal to admit every 2 school days until the factors that necessitated the refusal to admit have been minimized or eliminated.
- (d) The following documentation must be retained for audit purposes: Documentation of successful notification of exclusion and the response between the school board and the pupil (if the pupil is an adult) or the pupil's parent or guardian, documentation of the plan (signed by the principal) to re-integrate the pupil into the education system, documentation of communication with other parties involved with re-engaging the pupil, and data on the number of students who have been excluded during the school year (including the name of student, OEN, length of exclusion, and reason for exclusion).
- (e) Upon the student's return to appropriate educational programming, the school principal will send a letter to reflect the refusal to admit no longer being in effect. Principals should refer to Appendix E or Appendix F for a template letter.

6.8 Appealing and Evaluating Refusal to Admit

- (a) All refusals to admits are subject to appeal from the moment they are issued. The TDSB has an established procedure for this. For more information please refer to PR 602.
- (b) All refusals to admit will be properly documented and reported to the appropriate Learning Centre Executive Superintendent. Consolidated

reports on refusals to admit will be provided to Executive Council on a quarterly basis.

- (c) Determinations regarding refusal to admit as well as reviews of the status will involve staff overseeing implementation of the Equity Policy and the Integrated Equity Framework.

7.0 EVALUATION

This operational procedure will be reviewed as required, but at a minimum every four (4) years after the effective date.

8.0 APPENDIX

- Appendix A: Template Refusal to Admit Letter where a Principal Cannot Investigate Due to an On-Going Police Investigation.
- Appendix B: Template Refusal to Admit Letter Following and further to a Risk Management Review Meeting.
- Appendix C: Template Refusal to Admit Letter Where Intrusive Sexualized Behaviour has occurred.
- Appendix D: Template Refusal to Admit Letter where Appropriate Interventions and Strategies have been exhausted.
- Appendix E: Template Letter where Refusal to Admit is No Longer in Effect
- Appendix F: Template Letter where Refusal to Admit is No Longer in Effect – Issuing a 20 day suspension pending possible expulsion

9.0 REFERENCE DOCUMENTS

Policies:

- Caring and Safe Schools Policy (P051)

Operational Procedures:

- Board Code of Conduct (PR585)
- Police/School Board Protocol (PR698)
- Progressive Discipline and Promoting Positive Student Behaviour (PR702)
- Sexual Misconduct by Students (PR608)
- Students with Special Education Needs: Management for Risk of Injury Behaviours (699)

Legislative Acts and Regulations:

- *Education Act, R.S.O. 1990, Chapter E.2. (as amended)*