



## FACT SHEET

# EXCLUSION AND SHORTENED DAYS

There are a number of ways that children with disabilities can be excluded from school outside of the regular suspension and expulsion process. This frequently happens in three separate ways:

1. The Exclusion Clause in the Education Act - S. 265(1)(m);
2. Through a Shortened Day under Regulation 298 of the *Education Act*;
3. or Via informal requests to leave a child at home.

Section 265(1)(m) states that a principal has a “duty” to exclude a student from school or a classroom if, in his or her opinion, the student’s presence would be “detrimental to the physical or mental well-being of the pupils”.

### THE EXCLUSION CLAUSE

In some cases, this provision is unjustifiably used to exclude a student with a disability from school. Its use can be very problematic if it is used as a disciplinary measure or if it is used in response to disability-related behaviours which have not been properly accommodated.

The *Education Act* places very few restrictions on when and how this section is used. For instance, there is no time limit on how long it can be used for. The provision also provides only limited options for a parent to appeal a decision to exclude a student.

It is important to know that, despite the limited protections in the *Education Act*, this provision must not be used in a way that violates Ontario's *Human Rights Code*. The *Code* gives students the right not to be excluded from school unless they have been properly accommodated by a school board.

## SHORTENED DAYS

In other situations, parents may be told by a school that they are reducing the amount of time that their child can spend in school. Many children's days are reduced for legitimate reasons related to their stamina and/or health. However, in many cases these reductions are not legitimate and are based on reasons unrelated to the needs of the child.

Section 3(3) of Regulation 298 allows for the shortening of school days to less than the required five hours a day of instruction "for an exceptional pupil in a special education program". While there are no legislated limitations on how this power may be used, the Ministry of Education's policy states that a child's day should only be shortened in circumstances where it is for the benefit of the child.

In some circumstances, shortened days may be an inappropriate response by school boards to disability-related behaviour or complex disability-related needs. The school board may feel that it does not have the necessary resources to properly accommodate a student for a full day. Justification by school boards may include the limited availability of an educational assistant.

As a result, a shortened day may be formally presented to parents in early grades, as the only option due to their child's disability. However, it is important to understand that these are not appropriate reasons to shorten a child's school day. If a student has had their day unjustifiably shortened, they should seek legal advice.

## INFORMAL REQUESTS

On some occasions, schools may request that parents not bring their children into school. When these requests are made for the benefit of the child, this may be an acceptable request. However, as discussed above, such requests may not be made for the convenience of the school.

If a child you are advocating for is consistently being asked to stay home for reasons unrelated to their well-being, you should seek legal advice on how to address this situation.

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