

Divisional Court upholds suspension of student with letter opener in school

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On February 19, 2004, the Ontario Divisional Court affirmed that the "highest form of deference" will be given to decisions by principals and Appeals Panels to suspend and expel under the *Education Act*. This is the first decision to rule on the appropriate standard of review to apply when reviewing disciplinary measures imposed under the *Education Act* as amended by the *Safe Schools Act, 2000*.

The ruling came about as a result of a decision by the principal of a school to suspend a seven year old pupil for five days when the student brought a 28 cm letter opener in the shape of a knife to school for "show and tell". When the student described the object as something "soldiers use to kill people with", the principal called in the school's Resources Officer and the object was "deemed" by the principal to be a weapon under the school board's policy prohibiting weapons. The student was suspended for five days, a penalty which was upheld by the Appeals Panel. There was no evidence that the student had intended to use the object as a weapon.

The student applied to have the decision judicially reviewed, but a panel of three judges of the Divisional Court was not inclined to intervene. The Court held that, while it would not in the circumstances have come to the same conclusion as the principal, in cases involving the exercise of powers of suspension and expulsion, the Court would accord such decisions by principals and Appeals Panels the "highest form of deference". As it could not be concluded that the decision of the Principal or the Appeals Panel had been irrational, the student's application must be dismissed, the Court ruled.

In reaching this conclusion, the Divisional Court confirmed the Board's obligations vis-a-vis students and endorsed the no weapons policy of the Board. The Court held:

"The principal has a general obligation to maintain order in the school and to preserve the safety of his students and a specific duty to enforce this important policy of the School Board which prohibits the possession of weapons in the school."

In Our View

The decision affirms that School Board staff and trustees have not only the right but the duty to ensure the safety of pupils in their charge. By this decision, the Court has taken a "hands off" approach to school disciplinary matters and has given Board staff and Appeals Panels considerable discretion in managing their schools.

For more information, please contact [Jennifer Birrell](#), who argued the case on behalf of the Ottawa-Carleton District School Board, at 940-2740