

**MOOSE FACTORY ISLAND
DISTRICT SCHOOL AREA BOARD**

BOARD POLICY NO. GOV-23	
Approved	
Last Revised	
Board Motion	

PROGRESSIVE DISCIPLINE: STAFF

PURPOSE

The Moose Factory Island District School Area Board is responsible for employing staff members who conduct themselves appropriately and professionally. It is the responsibility of all employees to consistently carry out their responsibilities in a co-operative and professional manner, working in compliance with Board policies and procedures, the *Education Act*, and other related legislation.

This Board policy will provide, when necessary, corrective measures in order to ensure that employees maintain appropriate behaviour and carry out their duties responsibly, effectively and diligently. It will, if necessary, provide for the orderly dismissal of an employee who fails to meet appropriate standards.

DEFINITIONS

Progressive Discipline: Progressive discipline is a series of increasingly serious steps, ranging from a recorded verbal warning to termination of employment that the employer initiates in order to correct unacceptable behaviour or conduct.

Non-disciplinary Steps: It is recognized that there may be non-disciplinary steps taken before formal discipline occurs. They could include but are not limited to:

- a) a verbal, written or email reminder, caution, or clarification;
- b) a “letter of expectation” which clearly states what is expected of the individual (regarding the rule, policy, procedure, practice) in non-disciplinary language.

APPLICATION

Board Policy GOV-23 Progressive Discipline: Staff does not deal with the ongoing performance appraisal process, because this process is not considered to be disciplinary. Administrators and supervisors are responsible for evaluating the performance of their staff. Performance appraisals speak to the issues of competency and capability.

When performance is appraised and standards are not being met, the employee is informed, resources to assist are provided, and the employee is given time to improve.

Only after professional support, resources, and time to improve have not produced a satisfactory performance, does the performance appraisal process become a matter of discipline as set out in the *Education Act* and in Board policy, and that process is entirely distinct from the one described in this document.

Board Policy GOV-23 applies to any staff member when there has been a breach of rules or pattern of inappropriate conduct. The proper course of action in response to such misconduct is normally “progressive discipline”, recognizing that serious misconduct may result in immediate dismissal.

PROCEDURE

1. Behaviour Leading to Disciplinary Procedures

1.1. Behaviour that does not conform to expectations includes, but is not limited to:

- a) lateness;
- b) unsubstantiated absenteeism;
- c) dishonesty;
- d) inappropriate communication/interaction with others;
- e) inappropriate use of computer technology;
- f) insubordination;
- g) failure to carry out expected duties;
- h) breach of Board policy or administrative procedure;
- i) alcohol or drug use at work;
- j) workplace bullying or harassment of a staff member;
- k) inappropriate behaviour involving a student;
- l) criminal offences such as theft, forgery, damage to Board property, assault.

1.2. It is expected that there will be immediate correction of the behaviour and that no time for improvement will be necessary. Imposing consequences for these culpable behaviours is discipline.

2. Fair and Consistent Disciplinary Procedures

2.1. The Moose Factory Island District School Area Board strives to facilitate good working relationships between and among its staff as well as to foster job satisfaction and an effective workplace.

2.2. The Board believes that its employees are responsible, trustworthy, and capable of making decisions appropriate to their sphere of responsibility.

2.3. Respect and trust in a working environment is achieved by fair, objective, and consistently implemented disciplinary procedures, including fair investigation techniques.

2.4. Disciplinary action taken must be consistent with the concept of “just cause”.

- 2.5. It is the general approach of the Board to correct inappropriate behaviour, not punish it. The emphasis will be on identification and isolation of problem situations in a supportive and non-intrusive manner before formal corrective action is undertaken.
- 2.6. Employees will be made aware of the expectations of the employer, the reasons for the corrective action, and possible future consequences of any repetition of the proscribed behaviour. Efforts will be made to ensure that the employee understands that discipline is the result of his/her own actions.
- 2.7. Most incidents of culpable behaviour are unique; therefore, responses to such behaviour will have to be considered in light of all of the circumstances. There can be no rigid or arbitrary rules of application.
- 2.8. Inappropriate or unacceptable behaviour that is not addressed effectively by the employer lowers the standards in the workplace, acts as a disincentive for other employees, and is potentially a poor model for students.
- 2.9. Failure to respond to inappropriate or unacceptable behaviour could serve as an excuse to other employees to act in a similar fashion.

3. Investigation of Complaints or Allegations

- 3.1. In responding to all matters which will potentially lead to significant disciplinary action, administrators must involve the supervisory officer and work with the supervisory officer throughout the process.
- 3.2. Matters which may be criminal in nature will be reported to police by the supervisory officer or designate. However, the requirement of the employer to investigate allegations is separate from any other investigation which may be occurring.
- 3.3. In certain circumstances an employee may be placed, at the employer's discretion, at an alternate work site or on home assignment during the investigation. The period of time during which the employee is placed at an alternate location will be with pay, under the condition that the employee is readily available to attend meetings related to the investigation. The employee may be assigned duties related to his/her job that can be completed at the alternate location or on home assignment during the investigation.
- 3.4. Detailed documentation must be kept throughout the process of the investigation.
- 3.5. The employer has an obligation to investigate, form an opinion, and take appropriate action to ensure a safe, healthy, and productive workplace.
- 3.6. Complaints and allegations must be investigated promptly, professionally, and without bias.
- 3.7. The employee must be informed of the investigation and of his/her right to appropriate representation.

4. Results of the Investigation

- 4.1. Following review of the results of the investigation by the supervisory officer or designate, a decision must be made regarding whether culpable behaviour occurred.
- 4.2. In making this decision, the test to be applied is that of “balance of probabilities”. This is not the same as “proof beyond reasonable doubt”. If the evidence indicates that an event likely happened, then it will be concluded to have happened. If it is likely that it did not happen, then the employee receives the benefit of the doubt.
- 4.3. If there is insufficient evidence of culpable behaviour or if it is determined that discipline is not warranted, the employee must be informed, in writing, that the allegation was not substantiated.
- 4.4. If there is evidence of culpable behaviour, a decision must be made as to whether an employee should be informally counseled or formally disciplined. If formal discipline is warranted, the specific action to be taken must be decided upon.
- 4.5. There are several questions that will be considered before the determination of action to be taken is made:
 - a) Considering all of the circumstances, did the employee neglect his/her duties or responsibilities?
 - b) Did the employee violate any rules or practices and were there harmful or potentially harmful consequences for the Board, its employees, and/or its students?
 - c) Are there any mitigating circumstances?
 - d) Has the employee been given the opportunity to explain or deny the conduct with appropriate representation present?
 - e) What is the length of service of the employee?
 - f) Is there a past disciplinary record?

5. Stages of Progressive Discipline

- 5.1. In general, there are five potential steps within the progressive discipline process. However, it is recognized that each situation is unique and that responses will have to be considered in light of all of the circumstances. There are no rigid or arbitrary rules of application. Serious situations may result in immediate and significant disciplinary consequences, including termination of employment.
- 5.2. In general, the potential stages in the process are:
 - a) recorded verbal warning;
 - b) letter of reprimand;
 - c) suspension;
 - d) demotion and/or transfer;
 - e) dismissal.

5.2.1. Recorded Verbal Warning:

If the seriousness of the issue warrants this step, a meeting will be held at which a verbal warning will be issued. A written record of the warning will be made and forwarded for inclusion in the personnel file.

The employee will be invited to have appropriate representation at the meeting. Discussion at the meeting must include: an explanation of the steps in progressive discipline; a clear outline of the issue with specific dates, times and examples of the problem; specific expectations for correction/improvement; and consequences and next steps should correction/improvement not take place.

Details of the meeting will be documented.

5.2.2. Letter of Reprimand:

If the behaviour does not improve or if the seriousness of the issue warrants this action, a letter of reprimand will be issued by the supervisory officer or designate. A meeting with the employee must be convened. The employee will be invited to have an appropriate representative at the meeting.

At the meeting, the employee is told that he/she is being formally disciplined and that a letter of reprimand will be placed in his/her personnel file. The letter of reprimand must state:

- a) the specific facts such as date, time, place, and actions of the individual involved;
- b) the reason for the reprimand;
- c) any previous disciplinary action (e.g. recorded verbal warning, or non-disciplinary actions such as reminder/caution/ clarification of expectations);
- d) a statement that the letter constitutes a reprimand;
- e) the action expected to be taken by the employee and time frame for review; and
- f) further consequences, up to and including dismissal, should such action not be taken or should the employee repeat the behaviour which resulted in the reprimand.

5.2.3. Suspension without Pay and/or Demotion:

If the employee's behaviour does not improve, or if there is a significant issue that requires disciplinary action of a serious nature, the employee may be suspended and/or demoted.

A disciplinary suspension without pay is a temporary removal from the workplace by the employer which is imposed as a disciplinary consequence. A demotion is a permanent reassignment to a job within the board at a lower level of responsibility and remuneration than the current job of the employee.

A meeting with the employee and appropriate representation must be convened. The employee must be told that he/she is being suspended and/or demoted, the reason for the suspension and/or demotion and, in the case of suspension, the length and

conditions of the suspension as well as expectations of the employee upon returning to the workplace.

A letter from the supervisory officer or designate informing the employee of the suspension and/or demotion must be written and issued to the employee. The letter must include:

- a) the specific facts such as date, time, place, and actions of the individual involved;
- b) the reason for the suspension or demotion;
- c) details relating to the suspension or demotion (e.g. length of suspension, description of new position);
- d) reference to any previous disciplinary action (recorded verbal warning, letter of reprimand), or to any non-disciplinary actions (reminder/caution/clarification of expectation), if applicable;
- e) action expected to be taken by the employee and time frame for review; and
- f) further consequences, up to and including dismissal, should such action not be taken or should the employee repeat the behaviour responsible for the suspension or demotion.

5.2.4. Just Cause Dismissal:

Just cause dismissal: will be considered if the progressive discipline process thus far is unsuccessful, or if there is a significant issue or incident which is cause for dismissal.

Before the decision to terminate is made, all aspects of the situation will be reviewed in order to ensure that all necessary steps were taken. There should be the ability to demonstrate that:

- a) The employee knew what was expected;
- b) The employee was informed verbally and in writing of the deficiencies;
- c) The employee did not sufficiently remedy the problem(s);
- d) The employee knew that employment was at risk;
- e) The employee ignored or continued to fail to meet job expectations.

A formal disciplinary meeting must be convened, which includes appropriate representation for the employee. The employee must be informed, in advance of the meeting, that his/her employment status with the board will be discussed at the meeting.

At the meeting, the employee will be told of the decision to terminate employment and the reasons for that decision.

6. Final Steps:

6.1. The supervisory officer will make the final decision regarding termination of employment for "just cause". This decision will be brought forward to the Moose Factory Island District School Area Board at its next regular meeting.

- 6.2. The employee must receive a letter from the supervisory officer or designate informing him/her of the decision to terminate his/her employment and the reasons for this decision.
- 6.3. The employee shall receive a Record of Employment, relevant information regarding salary, benefits and vacation pay, and any outstanding monies owed to him/her by the Board.

REFERENCE DOCUMENTS

Legal References:

Education Act, section 264 Duties of Teachers

Education Act, section 265 Duties of Principals

Education Act, section 283 Chief Executive Officer: Maintain Effective Organization

Ontario Regulation 298 Operation of Schools, section 20 Duties of Teachers

Ontario Regulation 298 Operation of Schools, section 11 Duties of Principals

Ontario Regulation 437/97 Professional Conduct made under the Ontario College of Teachers Act 1996

Ontario Regulation 223/08 Professional Misconduct under the Early Childhood Educators Act 2007

Guideline Ontario Schools Code of Conduct

Ontario College of Teachers Act

Employment Regulation Standards Act 2000, section 54 Termination and Severance of Employment

Child and Family Services Act

Ontario Occupational Health and Safety Act 1990

Municipal Freedom of Information and Protection of Privacy Act

Canadian Charter of Rights and Freedoms

Ontario Human Rights Code

Criminal Code of Canada

Board References:

Board Policy GOV-03 Role of the Corporate Board--Accountability

Board Policy GOV-04 Role of the Supervisory Officer--Personnel Management

Board Policy GOV-05 Delegation of Authority—Authority for Staff

Board Policy GOV-08 Learning and Working Environment: Safe Schools

Board Policy GOV-09 Safe Schools: Board Code of Conduct

Board Policy GOV-17-A Hearings on Termination of Teacher Employment

Board Policy GOV-17-B Hearings on Termination of Principal and Vice-Principal Employment

Board Policy GOV-18 Personnel Decisions

Administrative Procedure 147 Staff and Student Use of the Internet

Administrative Procedure 325 Reporting Child Abuse

Administrative Procedure 435 Staff Recruitment and Selection

Administrative Procedure 435 Procedural Guide: Staff Recruitment and Selection

Administrative Procedure 458 Prevention of Abuse and Protection of Students

Administrative Procedure 493 Workplace Conflict and Harassment

Administrative Procedure 494 Violence in the Workplace