

**MOOSE FACTORY ISLAND
DISTRICT SCHOOL AREA BOARD**

ADMINISTRATIVE PROCEDURE NO. 458	
Effective	
Revision Date	

PREVENTION OF ABUSE AND PROTECTION OF STUDENTS

PURPOSE

The Moose Factory Island District School Area Board believes that every student has the right to work and play in a safe and orderly environment, without fear of his/her personal safety.

The prevention of abuse and protection of students involves a commitment of all supervisors and academic staff of the Board.

DEFINITIONS

Employees: For the purposes of this administrative procedure, “employees” includes dependent and independent contractors and their employees.

Volunteers: Volunteers includes anyone acting on behalf of the board, whether or not the person receives an honorarium.

PROCEDURE**1. Application**

This administrative procedure applies:

- a) to all employees and volunteers of the board; and
- b) on all board premises, and at all school and board events, be they academic, athletic, cultural or social.

2. Unacceptable Conduct

2.1. The Moose Factory Island District School Area Board considers the following to be unacceptable conduct:

- a) physical, sexual, or emotional abuse of a student, which includes any act that threatens the personal well-being of students or undermines public confidence in the board’s protection of its students;
- b) sexual misconduct, which is offensive conduct of a sexual nature which may affect the personal integrity of any student or the school environment;
- c) any criminal offense

- i. involving children;
- ii. of a sexual or moral nature; or
- iii. of a violent nature on a person;

[The above include, but are not limited to: sexual interference, invitation to touching, sexual exploitation, corrupting children, indecent acts, nudity, indecent exhibition, procuring, offenses in relation to prostitution, sexual assault, abduction of a child, kidnapping, assaults and related offenses, and criminal harassment.]

- d) child abuse, as defined in the *Child and Family Services Act*.
- e) failure to report child protection concerns, as defined in the *Child and Family Services Act*.
- f) sexual relations with students under 18, or with adult students where there is a trust relationship; and
- g) unlawful forms of harassment, as defined by the *Human Rights Code*.

3. Preventative Measures in Hiring Procedures

3.1. Verification of Criminal and Non-Criminal Records

- a) Any candidate applying for new employment with the board shall be required to provide, on the application form for employment, the details of any conviction(s):
 - i. for offense(s) under any federal statute, including the *Criminal Code of Canada* and the *Narcotics Control Act*, for which a pardon has not been granted;
 - ii. for sexual offenses for which the applicant has or may have obtained a pardon.
- b) Any offer of employment shall be subject to confirmation of the above information through a current Criminal Record Check, and a Non-Criminal Record Certificate (Verification of Pardon Declaration).
- c) As a general rule, no person shall commence employment with the board until he/she has supplied current verifications, as described above. Only in an exceptional case will an employee be permitted to commence employment with the board before the board has received these verifications. Before any such exception is made, a binding agreement shall be entered between the employee, any applicable representative of the employee, and the supervisory officer (or his/her designate) on behalf of the board, ensuring that verification shall be provided without delay and preserving the board's power to revoke the offer of employment.

- d) An offer of employment may be revoked if the individual refuses to consent to the above verifications, or if the board later discovers offenses on record which the individual did not disclose.
- e) The applicant shall provide an original of the Criminal Record Check and Non-Criminal Record Certificate (Verification of Pardon Declaration).
- f) The above requirements apply to employees of the board, including casual/replacement employees.
- g) A Criminal Record Check is not mandatory when:
 - i. an employee transfers to another position within the board within the same bargaining unit; or
 - ii. a retired teacher applies to be placed on the occasional teachers' list within one year of retirement from the Moose Factory Island District School Area Board.
- h) The board may request a Criminal Record Check and Non-Criminal Record Certificate or updates when an existing employee is offered a position in a different bargaining unit. If such request is made, the offer shall be under the terms and conditions described in this section of the policy.
- i) Criminal Record Checks and Non-Criminal Record Certificates shall consist solely of searches through the Canadian Police Information Computer (CPIC) system.
- j) Only Criminal Record Checks and Non-Criminal Record Certificates that are less than one year old shall be accepted.

3.2. Confidential Records

- a) Any information obtained through verification as described above is confidential, and shall be accessible only by an interviewer, a senior administrator, and/or the successful candidate's immediate supervisor.
- b) The Criminal Record Check and Non-Criminal Certificate and the statements made pursuant to 3.1 a) shall be stored with a candidate's application or, in the case of a successful candidate, in the individual's personal file in the personnel office.

4. Reference Checks

- a) In addition to the Criminal Record Check, each application for employment shall consist of at least one written personal reference and names of at least two other references.
- b) Each interview team shall identify a chair for the interviews and the chair shall endeavour to check references, and contact other employers and agencies. The interview process will also serve to screen candidates.

- c) A written record will be kept of persons contacted.

Implementation

5. Duty to Report

5.1. Reporting abuse involving children under 16 years of age

In accordance with the *Child and Family Services Act* (s. 72), board employees have a legal duty to report forthwith to the Payukotayno: James and Hudson Bay Family Services or police when they have reasonable grounds to believe that a child (under 16) is in need of protection.

Detailed information about this duty is presented in Administrative Procedure 325 Reporting Child Abuse.

Reporting Abuse by Employees and Volunteers

5.2. Self-reporting:

When an employee or a volunteer of the board is informed that an outside agency is conducting an investigation in relation to an alleged conduct listed in subsection 2.1, or that he or she has been accused of or charged with such, the employee or volunteer shall immediately inform his or her supervisor or principal.

5.3. Reporting by other employees:

- a) As noted above, all employees of the board have a duty to formally report to the Payukotayno: James and Hudson Bay Family Services or police immediately when they have reason to believe that a child is in need of protection. In addition, all employees have a duty to formally report to their immediate supervisor or principal when they have reason to believe that another employee has committed, is the subject of an investigation, has been accused of, charged with, or found to have committed an act which constitutes unacceptable conduct under section 2.1. In making such formal report, the person shall state the basis for his or her belief.
- b) The duty to report child abuse or neglect overrides obligations under other legislation. A person with professional duties must report that a child is or may be in need of protection even when the information is considered to be confidential. A person who is a member of the College of Teachers must report on suspected sexual abuse of a student by another member of the College. There is no need to provide the other member of the College with a copy of this adverse report or any information about the report, as is usually required under the Regulation Made Under the Teaching Profession Act, subsection 18 (1).

5.4. Reporting to Senior Administration:

When a supervisor or principal receives a report under subsections 5.2 or 5.3, he/she will immediately inform the superintendent.

6. Response to a Matter Implicating an Employee

Where an employee is the subject of an investigation:

6.1. If an employee is the subject of an investigation, or has been charged in relation to an area listed in 2.1, the superintendent will consult with any outside investigative agency involved (where applicable), the principal of the school, and the supervisory officer.

The supervisory officer will then assess the risk and potential harm to the alleged victim(s), students, staff, and public confidence in the board's protection of its students by the continued presence of the employee on board premises.

6.2. The supervisory officer may decide to remove the employee from contact with (the) student(s), or relieve the employee of his/her duties at least until such time as the investigation has been completed. The supervisory officer may decide at any point in an investigation whether a suspension without pay shall apply.

6.3. Whether or not an investigation concerning an incident is conducted by an outside agency and whether or not measures are undertaken as a result by this agency, it is the duty of the supervisory officer and Board to take decisions as chief executive officer and employer.

6.4. An employee may be subject to disciplinary action despite the ongoing involvement of an outside agency or despite pending charges, where the supervisory officer or Board deems appropriate.

6.5. Decisions or recommendations of the supervisory officer about disciplinary action shall be based on the information that is available at the time of disclosure, or at any stage of an investigation or court proceedings, with due consideration of all relevant factors which may include the following:

- a) The safety, security and personal well-being of students is of highest priority.
- b) Conclusions arrived at by outside agencies based on disclosure or as a result of their investigation are in no way binding upon the board.
- c) A non-conviction or finding of "not guilty" is not the same as a finding of innocence. Sometimes information is known to the administration, Board, and to the police, which is not admissible as evidence in the criminal proceedings, but which creates serious concern about the responsibility of the individual in question.
- d) The standard of proof in criminal matters is different from that applied to disciplinary matters, including termination of employment. An employee's actions need not be "criminal" to be considered unacceptable conduct in an educational environment, and possible grounds for termination of employment.

- e) Any unacceptable conduct that undermines relationships, credibility and authority, threatens the personal well-being of students, or undermines public confidence in the board's protection of its students is subject to disciplinary action.
- f) Disciplinary action is commensurate with the seriousness of an employee's unacceptable conduct. For serious incidents, the process of progressive discipline need not apply, and the most serious forms of discipline may be applicable.
- g) Where there have been previous warnings or disciplinary actions, either related or not, any one incident could be treated as a "culminating incident" warranting serious disciplinary action.

7. Disciplinary Actions

7.1. Regardless of the findings of an outside agency, court or tribunal, the supervisory officer may, after reviewing the evidence (including that provided by the outside agency):

- a) Reassign the employee to his/her previous responsibilities, perhaps in another setting; and/or
- b) Direct, or where applicable, recommend to the Board that any pay that was withheld be reimbursed; and/or
- c) Enact or, where applicable, recommend to the Board appropriate disciplinary action.

7.2. Disciplinary action includes, but is not limited to: a letter of reprimand in the employee's file; reassignment; suspension without pay; exclusion from certain premises; demotion; termination of employment; a report to the Ontario College of Teachers which may result in a teacher's certificate being suspended or revoked.

7.3. If disciplinary action is involved, the employee is encouraged to contact his/her union or federation representatives and/or legal counsel.

8. Visitors and Volunteers

- a) Adequate supervision of all visitors and volunteers shall be provided by board staff.
- b) Principals or immediate supervisors shall check references.

8.1. Where a volunteer is the subject of an investigation:

Where a volunteer is being investigated, or has been accused or charged:

- a) If an outside agency has begun an investigation of a volunteer in relation to a criminal act listed in 2.1, the individual shall be excluded from all board premises where there are students until the investigation has been completed and/or the charges disposed of.

- b) Notwithstanding, if the individual is a parent or guardian, he/she may, by prior appointment and under supervision, attend activities involving his/her child. In either case, the individual shall be so advised in writing. The *Trespass to Property Act* shall apply.

8.2. Where the volunteer is acquitted or found not guilty:

Upon acquittal or a finding of not guilty, the superintendent, in consultation with the principal concerned (if applicable) shall assess whether the individual may be permitted on any particular board premises, and establish the conditions that may apply, if necessary.

8.3. Where the volunteer is found guilty and/or convicted:

- a) If the individual is found guilty and/or convicted of a criminal offense, he/she will not be permitted on any board premises where there are students.
- b) Notwithstanding, if the individual is a parent or guardian he/she may, by prior appointment and under supervision, attend activities involving his/her child.
- c) In either case, the individual shall be so advised in writing. The *Trespass to Property Act* shall apply.

Investigations

9. Pending or Ongoing Investigation by an External Agency

- a) The duty to report forthwith any suspicion of child protection concerns is described in the *Child and Family Services Act* and in the Administrative Procedure 325 Reporting Child Abuse.
- b) The Payukotayno: James and Hudson Bay Family Services shall determine if there are sufficient grounds to conduct an investigation. Any investigation in such matters is the responsibility of the CAS. In cases of physical or sexual abuse the police are also involved.
- c) In any matter where an outside agency has initiated an investigation of an employee or volunteer, board personnel shall refrain from conducting any further investigation until the superintendent, in consultation with the supervisory officer, has approved the resumption of such investigation.
- d) Administration may, at any time, internally review the circumstances surrounding the alleged incident, the facts at hand that are already available, and any information that external agencies can provide, and then make decisions based on this information.
- e) Even without conducting an investigation, it may happen that pertinent information may come to the attention of an employee. In such cases, the employee shall immediately apprise the superintendent of such information, who shall relay it to the supervisory officer.

10. Internal investigation

10.1.

The superintendent, in consultation with the Board, shall determine when and if someone should be appointed to lead an internal investigation.

10.2.

In the case of an internal investigation, the person appointed to lead the investigation:

- a) may seek the assistance of other persons of his/her choice;
- b) shall, at the request of the employee involved, provide appropriate information to the union or professional association concerned regarding the investigation;
- c) shall conduct the investigation in confidence, and disclose the information collected only to the superintendent or supervisory officer;
- d) may interview anyone who may possess relevant and useful information;
- e) may visit the location where the incident took place, if necessary and appropriate;
- f) shall state his/her final conclusions in a report to the supervisory officer, through the superintendent.

In the case of an internal investigation, all employees, students, and volunteers will be expected to provide their full cooperation.

Legal References:

Education Act, section 265, Duties of Principal: Care of Pupils

Child and Family Services Act

Ontario College of Teachers Act

Ontario Regulation 437/97 Professional Misconduct under the *Ontario College of Teachers Act*

Regulation Made Under the Teaching Profession Act, subsection 18 (1)

Municipal Freedom of Information and Protection of Privacy Act

Ontario Human Rights Code

Criminal Code of Canada

Narcotics Control Act

Trespass to Property Act

Policy/Program Memorandum No. 128 The Provincial Code of Conduct and School Board Codes of Conduct

Board References:

Board Policy GOV-01 Mission, Vision, and Values

Board Policy GOV-09 Safe Schools: Code of Conduct

Board Policy GOV-17-A Termination of Teacher Employment

Administrative Procedure 325 Reporting Child Abuse