

# AVON MAITLAND DISTRICT SCHOOL BOARD

## ADMINISTRATIVE PROCEDURE

### NO. 406

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#### **SUBJECT: Progressive Discipline (Staff)**

Legal References: *Section 264 Duties of Teachers - Religion and Morals; Section 265 Duties of Principal - Co-operation among the Members of the Staff ... Care of Pupils and Property; Part XIII - Behaviour, Discipline and Safety; Ontario Regulation 298 - Operation of Schools Section 20 Duties of Teachers - Consistent Disciplinary Practices; Section 23 Requirements for Pupils; Guideline - Ontario Schools Code of Conduct; Criminal Code of Canada; Canadian Charter of Rights and Freedoms; Ontario Human Rights Code; Equity and Inclusive Education in Ontario Schools: Guidelines for Policy Development and Implementation, Ontario's Equity and Inclusive Education Strategy and Policy/Program Memorandum No. 119 (2009) "Developing and Implementing Equity and Inclusive Education Policies in Ontario Schools*

Related References: *Administrative Procedure 138 Positive Workplace Environment; AP 351 Code of Conduct; AP 352 Promoting Positive Student Behaviour; AP 400 Recruitment, Hiring and Selection of Staff; AP 405 Allegations Against Employees and Volunteers; AP 421 Staff Development*

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The Director of Education is committed to creating positive workplace environments and high levels of staff morale. As part of this commitment, the Director has created this administrative procedure which outlines the steps associated with dealing with issues of staff conduct. This administrative procedure sets out clear expectations for all employees and their supervisors. This procedure does not deal with issues related to employee performance.

**The discipline imposed will depend on the severity of the conduct involved and as such the principal/supervisor will choose the appropriate starting point within the procedure.**

#### **1. Letter to Counsel an Employee and/or to Clarify Expectations**

An option that is **not** considered part of the discipline process but is available to principals/supervisors is to clarify expectations. The principal/supervisor is required to meet with the employee in order to outline expectations for appropriate behaviour, and to give the employee an opportunity to respond. The employee is to be advised that he/she is welcome to have union representation at this meeting, if he/she wishes. The discussion at the meeting is later confirmed in writing and the letter is then placed in the employee's personnel file in Human Resource Services. All letters must be approved by the Superintendent of Human Resource Services, or designate, prior to release to the employee. Note that the type of employee conduct that initiated a letter to counsel an employee and/or to clarify expectations may warrant administering discipline in the future.

#### **2. Application of the Procedure**

2.1 Progressive discipline is to be used as a means of dealing with inappropriate behaviour of an employee. Examples of such conduct may include, but are not limited to: neglect of duty, missing timelines, non-compliance with direction,

insubordination, safety violations, unprofessional behaviour/actions toward others, etc.

- 2.2 Principals/supervisors will consult with the Superintendent of Human Resource Services when using this procedure.
- 2.3 It is essential to treat employees with respect and dignity when applying this procedure. The following actions are expected when working with an employee who has exhibited inappropriate behaviour that requires discipline:
  - the employee is reminded of his/her right to have union representation;
  - the employee is informed of the nature of concerns in a confidential manner unless it is deemed to be detrimental to the situation;
  - clarification is provided regarding expectations;
  - guidelines, examples and/or corrective plans are provided;
  - the employee is reminded of his/her right to have union representation;
  - advance notice of a meeting is provided if the Board deems it possible and in the best interests of everyone involved; and,
  - relevant documentation is placed in the employee's personnel file.

### 3. Conducting an Investigation

- 3.1 Whenever allegations of inappropriate behaviour arise, principals/supervisors should contact the Superintendent of Human Resource Services to determine whether to complete an investigation before considering any disciplinary action.

**NOTE: If students involved are under the age of 16, or police are involved, it is essential that the Children's Aid Society/Police be notified and contact be made with the Superintendent of Human Resource Services or designate. Consultation and coordination of the investigation will then occur in collaboration with the Superintendent of Human Resource Services to ensure that appropriate protocols are followed. Refer to Administrative Procedure 405.**

Principals/supervisors should proceed as follows:

- 3.1.1 act on the allegation in a timely fashion; and,
  - 3.1.2 consult with the Superintendent of Human Resource Services, or designate, prior to conducting the investigation and prior to making any decision as to the outcome of the investigation.
- 3.2 There may be circumstances which require the re-assignment of the employee during the investigation process. Such re-assignment pending the investigation is not disciplinary in nature. This should only be done through the support of the Superintendent of Human Resource Services, or designate.

### 4. Factors to Consider

- 4.1 The factors identified below are examples of what may be considered:
  - 4.1.1 Was the occurrence an isolated incident?
  - 4.1.2 Is this a first time as opposed to a repeated occurrence?
  - 4.1.3 Was the employee's action provoked?
  - 4.1.4 Was the employee aware of the standard or rule that was broken?
  - 4.1.5 Were students and/or other staff affected?
  - 4.1.6 Was student and/or staff safety compromised?
  - 4.1.7 Is the employee's past record relevant?
  - 4.1.8 Did the employee apologize or otherwise express regret?
  - 4.1.9 Has management imposed progressive discipline in the past?

- 4.1.10 Did management obtain the employee's explanation?
  - 4.1.11 Did management follow discipline provisions contained in the collective agreement?
  - 4.1.12 What is the employee's length of service?
- 4.2 When the record of the employee is being used to justify the more severe steps of progressive discipline, there should be material contained in the employee's personnel file in Human Resource Services, such as written reprimands and/or notices of prior disciplinary action. The employee must be aware of the information on file and must have been informed of the disciplinary action. Offences for which no discipline was imposed cannot be used for this purpose.

## 5. Steps of Progressive Discipline

The principal/supervisor will determine the frequency, severity and/or nature of the issue/concern and the stage at which the discipline will be initiated. Where a beginning point or next step is in question, the principal/supervisor, in collaboration with the Superintendent of Human Resource Services, or designate, will determine future direction. Nothing in this document precludes a principal/supervisor from informal verbal reminders as part of daily supervision duties.

Principals/supervisors should proceed with the following steps.

- a) Provide the employee with the opportunity to have union representation and provide advance notice with agreement of Federation/Union, employee and Director or designate of any meeting that may involve possible disciplinary action.
- b) Provide the employee with a brief outline of the nature of the meeting (e.g., to discuss a parental complaint) unless the supervisor deems doing so to be detrimental to the situation. It is strongly recommended that the principal/supervisor not engage in a discussion regarding the content of the meeting itself.
- c) Provide some advance notice of the meeting when it is possible to do so.
- d) Arrange, where possible, to have another administrator or superintendent accompany him/her at the meeting.
- e) Ensure the meeting serves as a basis for discussion, clarification and validation of the concerns and/or expectations. Because new information may be presented at the meeting, it is important that a letter not be finalized until the conclusion of the meeting. At the conclusion of the meeting, if the principal/supervisor is considering disciplinary action, the employee must be informed of this outcome and that written confirmation will be forthcoming.
- f) Clearly articulate the nature of the concern at the meeting. The principal/supervisor should explain why the behaviour is a concern, and what the expectations are with regard to behaviour.
- g) Ensure all notes taken during the meeting are stored in a secure location and only accessible by the principal/supervisor.
- h) Consult with the Superintendent of Human Resource Services, or designate, in order that consistency can be maintained.

If a letter is to be given, the following information should be included:

- a) Confirmation of the meeting date/time and who attended;
- b) Identification of the event or behavior (i.e. date/time/place);
- c) Reference to all related prior recorded disciplinary action;
- d) Confirmation that this behavior warrants discipline;
- e) Specific information about the discipline being imposed;
- f) A statement of warning that "future incidents of this nature may lead to further discipline, up to and including dismissal"; and,

g) A signature line signifying receipt of the letter by the employee.

### 5.1 **Written Warning**

In the case of a relatively minor infraction, employees should be given a written warning. The discussion between the principal/supervisor and the employee should occur as soon as possible after the infraction and subsequent investigation have taken place.

Prepare a letter following the meeting if a written warning is to be given or further disciplinary action is to be taken. Drafts of all completed letters must be approved by the Superintendent of Human Resource Services, or designate, prior to release to the employee.

Create two copies of the letter. One copy goes to the employee. The other is sent to the Superintendent of Human Resource Services or designate for filing in the employee's personnel file.

Depending on the nature of the infraction, an employee may receive more than one written warning for the same type of behavior. This determination is made in consultation with the Superintendent of Human Resource Services, or designate.

### 5.2 **Suspension**

With the exception of significant inappropriate behaviour infractions, suspensions are normally given only after a written warning has failed to produce the necessary change in behaviour within a reasonable period of time. The suspension is to be without pay. If a principal/supervisor recommends suspension of an employee, he/she must notify the Superintendent of Human Resource Services, or designate, prior to proceeding.

Create two copies of the letter. One copy goes to the employee. The other is sent to the Superintendent of Human Resource Services or designate for filing in the employee's personnel file.

Drafts of all letters must be approved by the Superintendent of Human Resource Services, or designate, prior to release to the employee.

Depending on the nature of the infraction, an employee may receive more than one suspension for the same type of behavior. This determination is made in consultation with the appropriate superintendent and the Superintendent of Human Resource Services, or designate.

### 5.3 **Dismissal**

If the progressive discipline process has not been successful in correcting the behavior of an employee, or in the case of significant conduct infractions, the principal/supervisor together with the Superintendent of Human Resource Services or designate may recommend dismissal. This recommendation goes to the Director of Education or designate for the final decision.