

# NORTHEASTERN CATHOLIC DISTRICT SCHOOL BOARD

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## PROGRESSIVE DISCIPLINE OF EMPLOYEES

### POLICY STATEMENT

It is the policy of the Board that employees whose performance and/or behaviour do not meet accepted standards will be subject to fair, consistent and progressive discipline. Employees are expected to comply with Board policies, procedures and directives as well as Ministry regulations.

The Board believes that its first priority is to provide the best possible education for all students in its charge. The Board believes that it is the responsibility of all employees:

- ▶ to project a professional behaviour consistent with individuals serving as role models for students, and
- ▶ to perform their assigned responsibilities in a competent manner.

If allegations of inappropriate conduct or unsatisfactory work performance are made regarding an employee, the employee will be provided with an opportunity to know the specifics of the allegations and to respond to them.

The seriousness of the circumstances will dictate the entry level in the discipline procedure and the responsibilities for the Board and/or its Administration.

### POLICY REGULATIONS

#### 1. Introduction

Specific expectations, responsibilities, and procedures regarding competency and appropriate conduct of employees of a school board are enunciated in various legislative acts and regulations and in provisions of common law.

The Education Act and Regulation 298 provide the necessary legislative framework for Principals to deal with expectations for teacher performance and professional behaviour. The Ontario College of Teachers Act and Regulation 437 stipulate reporting responsibilities for School Boards regarding criminal offences and inappropriate conduct or actions of members of the College, and define acts which are considered professional misconduct. Management rights under the common law rights of the employer and/or as

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defined in collective agreements outline the employer's responsibility for maintaining an effective workforce and management's rights concerning that responsibility.

Maintaining an effective workforce in the Northeastern Catholic District School Board is the collective responsibility of the management team which includes the Director, Supervisory Officers, School Administrators, Managers and Supervisors. This management team operates within the various legislative and common law provisions outlined above.

2. Rationale

The Board is responsible for employing quality staff who conduct themselves in a professional manner. If an employee's behaviour is not appropriate, the Board's management team has a responsibility to ensure that such inappropriate behaviour is identified and corrected. When necessary, discipline may be required to accomplish these expectations. Such discipline may include verbal warning, written warning, suspension and, in situations of serious nature, termination. Each required act of discipline will be taken to assist employees to understand their professional responsibilities with the Board. No employee shall be disciplined without just cause.

3. Procedures Pertaining to Teaching Staff

3.1 Statutory Duties:

The Education Act and corresponding Regulations outline the statutory duties of Teachers and Principals. In the context of the management or administrative responsibilities of Principals, it is important to note that Regulation 298 stipulates certain obligations of Principals regarding the ongoing supervision of teaching staff. Included in this is the responsibility of recommending the demotion or dismissal of Teachers whose work or attitude is unsatisfactory, after these issues have been identified, assistance provided and a reasonable time to improve has been given.

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The Ontario College of Teachers Act stipulates that a school board shall promptly notify the College in writing when the board becomes aware that a member who is or has been employed by the Board has been convicted of certain specific criminal offences. The Act further obligates school boards to notify the College where in the opinion of the board the conduct or actions of a member who is or has been employed by the board should be reviewed by a committee of the College.

(It is noted that members of the College include anyone who holds a certificate of qualifications and is registered in accordance with requirements of the College. Broadly speaking, this includes all Teachers, Occasional Teachers, School Administrators, Academic Supervisory Officers and some support staff who have maintained these registration requirements.)

3.2 Management Rights Clauses - Collective Agreements:

The power of the employer to discipline employees in a Union/Federation environment is usually derived from the "management right provision" in the collective agreement and the common law rights of the employer. The traditional management rights usually include the right to hire, assign, transfer, promote, discipline and dismiss. Even if a collective agreement is silent on management rights, the law is clear that management has all rights that are not limited by a collective agreement or statute.

3.3 Evaluation vs. Discipline:

Administrators, managers and supervisors are responsible for evaluating the performance of their staff. Performance appraisals speak to the issues of competency and capability.

In the context of teaching staff, Principals are required to monitor and evaluate the competency of the teaching staff on such criteria as effectiveness of instruction and assessment, curriculum and lesson planning, and classroom management and control. The Boards Teacher Appraisal Policy generally applies when competency issues arise.

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There is an important distinction between cases of evaluation and discipline (usually referring to specific incidents where rules and commonly understood expectations of the Board are not followed). If there has been a breach of rules or a pattern of inappropriate behaviour or an inappropriate incident, then the proper course of action is "progressive discipline", or dismissal in serious cases of misconduct.

### 4. Procedures Regarding Allegations of a Teacher's Character Related to the Job, Propriety of Conduct or Ability to Perform Assigned Duties

#### 4.1 Teacher Competence Regarding Planning, Instruction, Assessment and Classroom Management Issues:

The Board's Teacher Appraisal Policy generally applies when competency issues arise. Teacher competencies are listed in the Education Act regulation 99/02 Schedule: Teacher Competencies.

#### 4.2 Inappropriate Behaviour of Teachers:

In cases of alleged inappropriate behaviour, the Teacher will have an opportunity to meet with the administration to be informed of the allegations and the relevant background material, and to respond to the allegations. The Teacher shall have the right to Union (Federation) representation when disciplinary action is taken.

#### 4.3 Management Investigation and Sharing of Findings:

Whenever allegations of inappropriate behaviour including issues of criminal conduct arise, management has an obligation to carry out a complete investigation before considering any discipline which might be imposed. Effort will be made to complete this investigation in a timely fashion. Consultation by the Principal with the appropriate Superintendent before proceeding is required. In matters which may also involve the Children's Aid Society and/or Police investigation, consultation and coordination of the investigation should occur through a Manager of Human Resources to ensure that appropriate protocols are followed. (It is noted that there may be circumstances which require removal of the employee from his/her assignment during the investigation process).

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All matters involving Teachers which may lead to any level of disciplinary action must be referred to a Manager of Human Resources or his/her designate who will advise on how the allegations will be shared with the employee and an opportunity for response be provided.

5. Procedures Pertaining to Support Staff

5.1 Support Staff:

Support staff include all staff who are not employed as Teachers (Supervisory Officers, Principals, Vice-Principals, Managers, and all Union and Non-Union employees, including Occasional Teachers).

5.2 Evaluation vs. Discipline:

Supervisory Officers, Managers, Principals and Supervisors who have responsibility for supervision of the many support staff employed by the Board are required to monitor and evaluate competency of these staff in completion of their position responsibilities. When competency issues arise, the employee will be made aware of the area(s) where performance is not meeting expectation and will be provided support and assistance to address these concerns.

Issues which may lead to disciplinary action usually refer to specific incidents where rules and commonly understood expectations of the Board are not followed.

5.3 Inappropriate Behaviour of Support Staff:

5.3.1 Management Investigation and Sharing of Findings:

Whenever allegations of inappropriate behaviour including issues of criminal conduct arise, management has an obligation to carry out a complete investigation before considering any discipline which might be imposed. Efforts will be made to complete this investigation in a timely fashion. Consultation by the Principal or Manager with the appropriate Superintendent or Manager before proceeding is required. In matters which may also involve

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Children's Aid Society and/or Police investigation, consultation and coordination of the investigation should occur through the Manager of Human Resources to ensure that appropriate protocols are followed. (It is noted that there may be circumstances which require removal of the employee from his/her assignment during the investigation process).

Any matters involving support staff below the level of supervisor which may lead to disciplinary action beyond a written reprimand will be referred to a Manager of Human Resources or his/her designate who will advise on how the allegations will be shared with the employee and an opportunity for response be provided.

All matters involving support staff at the level of supervisor or above which may lead to any level of disciplinary action will be referred to the Manager of Human Resources who will advise on how the allegations will be shared with the employee and an opportunity for response be provided.

In matters involving Principals and Vice-Principals, the Superintendent of Education in consultation with the Manager of Human Resources will determine how the allegations will be shared with the employee and an opportunity for response be provided.

All matters involving Supervisory Officers will be referred to the Director.

5.3.2 Sharing of Findings with Employee:

In cases of alleged inappropriate behaviour, the employee will have an opportunity to meet with the administration to be informed of the allegations and to respond to the allegations. The employee shall have the right to Union or Association representation in accordance with the relevant Agreement or Collective Agreement throughout the process and any subsequent disciplinary actions.

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6. Responsibilities for Discipline of Employees

6.1 Support Staff Below the Level of Manager:

All decisions regarding discipline of support staff below the level of Manager, including termination, are an administrative responsibility. The Board views all staff terminations or dismissals equally seriously. The Manager of Human Resources will review any recommendations for termination for support staff below the level of Manager before a decision is made.

6.2 Teachers (who are Members of the Ontario College of Teachers and Working in the Capacity of a "Teacher" Other Than an "Occasional Teacher"):

Decisions regarding discipline of teaching staff, exclusive of dismissal, are the responsibility of the Manager of Human Resources.

Recommendations for dismissal of Teachers or other exceptional circumstances, as determined by the Manager of Human Resources will be forwarded to the Director. The Director will determine which exceptional circumstance recommendations will proceed to the Board for input or decision. All recommendations for dismissal of Teachers will proceed to the Board for decision.

6.3 Supervisory Officers, Principals, Vice-Principals and Managers:

Decisions regarding the discipline of Principals and Vice-Principals, who work in schools, or in other assignments other than in schools, are the responsibility of the Superintendent of Education in consultation with the Manager of Human Resources and the Director of Education. Recommendations for dismissal of Principals and Vice-Principals who work in schools will be made jointly by the Superintendent of Education and Manager of Human Resources and forwarded to the Director of Education. All recommendations for dismissal of Principals and Vice-Principals will proceed to the Board for decision.

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Decisions regarding the discipline of Managers are the responsibility of the Manager of Human Resource Services in consultation with the Manager's supervising Supervisory Officer and the Director of Education. Recommendations for the dismissal of Managers will be made jointly by the Manager of Human Resources and the Manager's supervising Supervisory Officer and forwarded to the Director of Education. All decisions regarding the discipline of the Manager of Human Resources will be made by the Manager's supervising Supervisory Officer and the Director of Education. Recommendations for the dismissal of Managers will be forwarded to the Board for decision.

Decisions regarding the discipline of Supervisor Officers are the responsibility of the Director of Education. All recommendations for the dismissal of Supervisory Officers will be made by the Director of Education and forwarded to the Board for decision.

6.4 Timelines and Procedures for Recommendations Referred to the Board:

The following timelines and procedures will apply for any such recommendations to the Board flowing from 6.2 and 6.3 above:

- ▶ At least fifteen (15) working days prior to a Board meeting at which the matter will be heard, the employee will have the opportunity to meet with the administration to be informed of the allegations, the relevant background material and the recommendation being made to the Board. At that meeting, the employee will be informed in writing of the time and place of the Board meeting.
- ▶ The Board will give the employee an opportunity to be heard and to make oral or written submissions to the Board, with Federation or Association assistance if desired.

The employee or the employee's agent will inform the Manager of Human Resources at least five (5) working days prior to the Board meeting at which the case will be reviewed if the employee and/or the applicable Federation or Association representative or counsel wish to address the Board verbally or in writing.



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Any written submission by the employee must be received by the Chair of the Board at least four (4) working days prior to the Board meeting at which the case will be reviewed.

- ▶ The administrative recommendation and any written submission by the employee shall be placed in a sealed envelope and forwarded to the Trustees, the Director of Education and the Manager of Human Resources at least two (2) working days prior to the Board meeting at which the case will be reviewed. The Executive Secretary to the Board shall be responsible for such distribution.
- ▶ The Board considers all personnel matters "in camera" in the Committee of the Whole pursuant to s. 207 (2) (b) of The Education Act.
- ▶ The Manager of Human Resources or designate presents material and submissions supporting the recommendation, followed by the employee or his/her Federation or Association representative/counsel presenting the reasons why the recommendation should not be acted upon. The Manager of Human Resources reserves the right to respond to the information presented by the employees representative. (The employee and his/her Federation or Association representative/counsel do not have the right to cross-examine Board officials. Similarly, the individual is not subject to cross-examination in the traditional sense.)

The Board of Trustees deliberates in private without the employee, his/her representative/counsel or any of the administrative officials involved in the presentation being present. The motion is voted upon in private and then confirmed in public session. The employee and his/her Federation or Association representative subsequently receive written notice of the Board's decision.

The Board may retain its own legal counsel.