



PROCEDURE

Title: **PROGRESSIVE DISCIPLINE OF EMPLOYEES** Procedure No.: **3012a**
Effective Date: **2001 June 26**

Department: Organizational Support Services – Human Resources

Reference(s):

- Employment Standards Act
- Child and Family Services Act
- Student Protection Act 2002
- Occupational Health and Safety Act
- Human Rights Code
- Criminal Code
- Charter of Rights and Freedoms
- Labour Relations Act
- Policy and Procedure – Employee Code of Conduct
- Policy and Procedure – Harassment
- Procedure – Off Duty Conduct
- Policy – Progressive Discipline of Employees
- Policy – Supervision of Employees
- Collective Agreements for Employee Groups

1.0 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, in applicable Ministry and Board directives and guidelines.

Maintaining an effective workforce in the Thames Valley District School Board is the collective responsibility of the management team which includes the Director, Associate Directors, Supervisory Officers, School Administrators, Managers and Supervisors. This management team must operate in accordance with applicable laws as well as Ministry and Board directives.

2.0 Rationale

The Thames Valley District School Board is responsible for employing quality staff who conduct themselves in a professional manner consistent with the Thames Valley District School Board Code of Conduct and in applicable Ministry and Board directives and guidelines. If an employee's behaviour is not appropriate, the Thames Valley District School Board's management team has a responsibility to ensure that such inappropriate behaviour is identified, investigated and addressed.

Administered By: Organizational Support Services - Human Resources

Amendment Date(s): 2015 May 26, 2017 November 28, 2021 June 28

When necessary, discipline may be required to accomplish these expectations. Such discipline may include verbal warning, written warning, suspension, demotion, disciplinary transfer and in situations of a serious nature, termination. Disciplinary action other than termination will be taken to assist employees in carrying out their professional responsibilities and correct inappropriate behaviour.

This procedure does not pertain to non-disciplinary administrative transfers and related procedures and practices.

3.0 Management Rights Clauses: Collective Agreements

The power of the employer to discipline employees in a Union environment is usually derived from the “management rights provision” in the applicable collective agreement. For non-union employees, the employer has the right to manage, including issuing discipline as a result of applicable statutes 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.

3.1 Performance versus Discipline

Administrators, Managers and Supervisors are responsible for evaluating the performance of their staff. Performance appraisals and assessment reports are utilized, as applicable, to address the issues of competency and capability.

There is an important distinction between cases of performance (competency) and misconduct. If there has been a breach of rules or pattern of inappropriate behaviour, then the proper course of action in response to such misconduct is normally “progressive discipline”, recognizing that serious misconduct may result in immediate dismissal.

3.2 Correction versus Discipline

Before formal discipline, the Supervisor will consider whether coaching, training or informal discussions may help the employee correct the behaviour. When deemed appropriate and sufficient, the Supervisor will:

- Describe the behaviour;
- Explain why the behaviour is unacceptable;
- Confirm expectations for acceptable behaviour; and,
- Provide support and direction as required.

4.0 Discipline

4.1 Where the Supervisor substantiates that the employee understands the rules and expectations, has been suitably trained and supported, and yet still engages in misconduct, the Supervisor will consult with Human Resources to determine what the appropriate discipline response is that meets Thames Valley District School Board’s expectations and complies with any collective agreement obligations.

- 4.2** The purpose of progressive discipline is to correct behaviour and may involve increasing levels of discipline where necessary and impose more serious levels of discipline. Sometimes a verbal conversation or warning will correct minor forms of inappropriate conduct, but if inappropriate conduct persists, then more serious action such as formal written warning or alternative disciplinary measures will be considered. As well the Supervisor must be careful to comply with all obligations and procedures where applicable. Where there has already been written discipline or where conduct is egregious, the Supervisor should contact Human Resources.

It is also an important obligation that the Supervisor act as promptly as reasonably possible to investigate, consult as needed, and issue a decision. In accordance with Collective Agreement requirements, appropriate Union, Federation or Association representatives will be informed.

5.0 Inappropriate Behaviour by Employees and Responsibilities for Discipline of Employees

5.1 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 the investigation in a timely manner that is appropriate in the circumstances. Consultation by the Principal or Manager with the appropriate Superintendent, or designate, before proceeding is required.

In matters which may also involve professional regulatory bodies, Children's Aid Society and/or Police investigation, there will be consultation with Human Resources to ensure appropriate protocols are followed in the coordination of the investigation. Progressive discipline is a separate, distinct and parallel process and action may be taken by the Board independent of civil or criminal proceedings. It is noted that there may be circumstances that require the employee to be removed from their assignment during the investigation process.

Support Staff up to and including the level of Supervisor

In all matters involving Support Staff up to and including the level of Supervisor which may lead to any form of disciplinary action, Human Resources will advise on how to share the allegations and provide the employee with an opportunity to respond.

Teachers

In all matters involving Teachers which may lead to any form of disciplinary action, Human Resources will advise on how to share the allegations and provide the employee with an opportunity to respond. Decisions regarding discipline are the responsibility of the Associate Director, Organizational Support Services or designate. In cases of dismissal, the Superintendent of Human Resources, Organizational Support Services, or designate, will consult with the Director prior

to any recommendation for dismissal being referred to the Board of Trustees for decision.

Managers, Principals and Vice-Principals

All matters involving Managers are the responsibility of the appropriate Associate Director within either Learning Support Services (LSS) or Organizational Support Services (OSS) or designate. In consultation with the Associate Director, Organizational Support Services, or designate, it will be determined how to share the allegations and provide the employee with an opportunity to respond.

All matters involving Principals and/or Vice-Principals are the responsibility of the Associate Director, Learning Support Services or designate. In consultation with the Associate Director, Organizational Support Services, or designate, it will be determined how to share the allegations and provide the employee with an opportunity to respond.

Decisions regarding discipline of Principals and Vice-Principals are the responsibility of the Associate Director, Learning Support Services, in consultation with the Associate Director, Organizational Support Services, or designate, and the Director of Education. Recommendations for the dismissal of Principals and Vice-Principals will be made jointly by the Associate Director, Learning Support Services, and the Associate Director, Organizational Support Services, or designate, and forwarded to the Director of Education. All recommendations for dismissal of Principals and Vice-Principals will proceed to the Board of Trustees for decision.

Supervisory Officers

All matters involving Supervisory Officers will be referred to an Associate Director. All recommendations for dismissal of Supervisory Officers will proceed to the Board of Trustees for decision.

5.2 Sharing of Allegations with Employee

In cases of alleged inappropriate behaviour the supervisor, or designate, will share the allegations, present relevant background material and provide the employee with an opportunity to respond. The employee shall have the right to representation in accordance with the relevant agreement or collective agreement throughout the process and any subsequent disciplinary actions.

Appendix A: Definitions

Definitions:

Egregious Behaviour – conspicuously reprehensible behaviour.

Harassment – engaging in a course of vexatious comment or conduct that is known, or ought reasonably to be known, to be unwelcome whether based on prohibited ground enumerated in the Ontario Human Rights Code or not.

Progressive Discipline - a series of increasingly serious steps, ranging from a verbal warning up to and including the consequence of termination of employment that may be imposed as a consequence of, and in order to correct, inappropriate behaviour or conduct.

Workplace - all work activities that occur while on Thames Valley District School Board's premises, school buses, while engaging in Thames Valley District School Board's sanctioned activities or social events elsewhere, or in any other circumstance that could have an impact on the workplace climate.

Misconduct – behaviours that are grounds for discipline will include, but not limited to:

- Absence without leave
- Alcohol or drug use at work
- Assault
- Attitude/insolence/insubordination (including rudeness or disrespect)
- Bullying
- Conflict of interest
- Breach of trust
- Damage to employer's property
- Disclosure of confidential information
- Dishonesty
- Failure to follow Board Policy
- Falsification of records
- Fighting
- Fraud or theft of board property
- Harassment
- Lateness
- Leaving work without permission
- Off-duty misconduct that prevents the employee from carrying out their professional responsibilities or is considered to be a work-related matter
- Recklessness, carelessness
- Sleeping on the job
- Use of obscene language
- Threats