

Staff Progressive Discipline Procedure

RATIONALE:

The Hamilton-Wentworth District School Board (the “HWDSB”) is committed to providing a positive and supportive working environment for all employees and students and to protecting and maintaining the public trust. This requires that all HWDSB employees carry out their responsibilities in a co-operative and professional manner, in accordance with their relevant roles and responsibilities, and in compliance with HWDSB policies, procedures and standards, collective agreements, other terms and conditions of employment and any applicable legislation (such as the *Education Act*, the *Ontario Human Rights Code*, the *Occupational Health and Safety Act* or others). To facilitate the HWDSB’s commitment to employee excellence and improvement, this procedure outlines a general framework for progressive discipline or how misconduct by an employee should be addressed.

TERMINOLOGY:

Workplace: Any land, premises, location or thing at, upon, in or near which an employee works. Workplace includes virtual platforms (such as Zoom or MS Teams) where employees interact with co-workers and students in a professional capacity.

Supervisor: A member of HWDSB management and includes principals, vice-principals, supervisory officers, managers, and supervisors.

Progressive Discipline: A process of increasingly formal steps for dealing with job related misconduct that does not meet expected and communicated policies, procedures and standards. The primary purpose of progressive discipline is to improve performance through the provision of feedback to the employee to help correct the problem.

Professional Misconduct: An act or omission inconsistent with or contravening the regulations that govern a professional body to which the employee belongs.

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Misconduct: An action or inaction by an employee, for which the employee is responsible, that does not adhere to HWDSB workplace policies, procedures and standards or meet the expected performance standards. Some examples of misconduct include, but are not limited to, the following:

- inappropriate behaviour
- violation of the HWDSB Code of Conduct
- violation of the HWDSB Workplace Violence and Harassment Prevention Policy
- a breach of other HWDSB policies, procedures, guidelines or standards
- violation of Provincial or Federal legislation as applicable
- behaviour that puts the well-being and safety of students and staff at risk
- negligence
- criminal activity
- discrimination
- use of hate speech or other forms of derogatory language
- damage to HWDSB property
- intentional disclosure of confidential student, staff or HWDSB information
- inappropriate use of social media
- inappropriate use of HWDSB technology
- conduct outside of the workplace and working hours (off duty), that negatively affects the reputation and/or business interests of the Board or which negatively impacts the workplace, including the health and safety of co-workers and students
- professional misconduct

PROCEDURE:

1.0 INTRODUCTION

The purpose of the procedure is to:

- Encourage and ensure that employees carry out their duties responsibly, effectively, and diligently
- To correct, through the provision of feedback to the employee, any misconduct
- Implement discipline which is proportionate to misconduct
- Provide a procedural framework to promote a consistent application of progressive discipline across the HWDSB
- To create a professional atmosphere where employees, parents, students and community members know they will be treated with courtesy and respect

2.0 GENERAL

- 2.1 This procedure applies to all HWDSB employees.

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2.2 Any questions that may arise from the application of this procedure should be addressed to the appropriate Labour Relations Officer.

2.3 This procedure is aligned with information contained within collective agreements but does not reiterate specific clauses within agreements. In the event any steps in this procedure conflicts with a clause in the applicable collective agreement, the collective agreement will prevail.

3.0 REPRESENTATION

3.1 Unionized employees have the right to union representation at any meeting that falls within this procedure. The supervisor or Labour Relations Officer will advise members of their right to representation.

4.0 DISCIPLINE

4.1 Where a supervisor believes that an employee has engaged in misconduct, the supervisor will consult with Human Resources (Labour Relations Department) to determine if misconduct occurred and, if so, the appropriate response.

4.2 The HWDSB reserves the right to consider any relevant factors when determining the level of discipline, including the employee's employment status, length of service, prior discipline record, as well as the nature, severity, impact, frequency of and circumstances surrounding the misconduct.

4.3 Where an employee who is a member of a professional college has been the recipient of discipline, a report may be made by the HWDSB to the appropriate professional college where required, or at the direction of the governing body, or if required under applicable legislation.

5.0 STAGE 1 – PRE-DISCIPLINARY

In some circumstances, it may be appropriate and sufficient for the supervisor to provide support to an employee through a non-disciplinary format, (e.g. through coaching (or informal discussion or conversation), training or a letter of expectation). The decision to apply a non-disciplinary response to employee misconduct will be made by the applicable supervisor in consultation with a Labour Relations Officer.

Typically, but not always, these conversations and letters are appropriate for procedural or operational irregularities which, on an isolated basis, may not be deserving of discipline, but do require direction or clarification of expectations.

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Non-disciplinary formats may include the following:

- 5.1** A **coaching conversation** is a discussion between the supervisor and employee with union representative (where applicable) which, may include:
- A description of the issue which resulted in the coaching conversation;
 - A description of the expected conduct which would comply with HWDSB policies, procedures or standards;
 - A corrective action plan as required; and,
 - A list of available supports or further direction as required.
- 5.2** The supervisor may conduct/recommend informal **Training** or may refer the employee to a formal **Training** session.
- 5.3** A **letter of expectation** is a letter to the employee which outlines, in writing, the same information that is included in a coaching conversation. A copy of this letter is to be provided to the union, if applicable, and will not be included in the employee file. However, in the event that an employee fails to engage in the expected conduct in the future, such letters may be used by the HWDSB to demonstrate a pattern of behaviour.

While the above formats are not considered disciplinary, as noted, union representation will be made available to the employee in meetings between the employee and the supervisor. Should a unionized employee choose not to have union representation, they will be required to sign a consent form (Appendix A) which will be shared with the union.

All documentation of non-disciplinary matters is to be sent to Labour Relations to be maintained in a secure and confidential location for a minimum period of one year.

6.0 STAGE 2 - DISCIPLINARY

Progressive discipline is intended to correct misconduct. It is by design, a series of increasing levels of discipline appropriate to the misconduct at issue. It is important that each matter, which could lead to discipline, be assessed based on all the relevant information, and in considering the factors in play.

When scheduling a disciplinary meeting with a unionized employee, the employee must be advised of their right to union representation. The meeting should be scheduled between the parties, as soon as practicable. Should a unionized employee choose not to have union representation at a disciplinary meeting, they will be required to sign a consent form which will be shared with the union.

The employee who has alleged to have engaged in misconduct is expected to co-operate with the HWDSB in any investigation or review process as well as relating to the outcome (i.e., training, apology, etc.). Failure to do so may result in additional discipline being imposed.

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The process outlined below provides an overview of the steps that may be taken as part of progressive discipline. The HWDSB reserves the right to combine or skip steps depending on the misconduct and relevant factors.

All records of disciplinary action must be documented and placed in the employee's file.

6.1 Step 1 – Verbal Warning (Documented)

A verbal warning is a conversation with the employee, with the appropriate supervisor, identifying a need for change in behaviour related to their employment. A verbal warning is disciplinary and is documented in the employee file. The verbal warning documentation should be a summary of the conversation and may include a description of the employee's misconduct, expectations for improvement, and the consequences of further misconduct, including the possibility of written warning, suspension or termination.

6.2 Step 2 - Letter of Discipline (Written Warning)

A letter of discipline is the documentation of misconduct by way of a written letter. A letter of discipline is documented in the employee file. This letter should detail the employee's misconduct, expectations for improvement, and the consequences of further misconduct, including the possibility of suspension or termination.

6.3 Step 3 - Suspension (Without Pay)

If an employee engages in serious misconduct deemed worthy of an automatic suspension or the employee has engaged in repeated misconduct and has already received a Letter of Discipline, the employee may be suspended. A disciplinary suspension is a temporary removal of employee from the workplace without pay. The employee should be provided with a suspension letter detailing the misconduct, the duration and conditions of the suspension, expectations for improved conduct and the consequences of further misconduct, including the possibility of further suspensions or termination.

6.4 Step 4 - Additional Day(s) Suspension (Without Pay)

If an employee engages in further misconduct after an initial suspension(s), the imposition of further day(s) of suspension without pay may occur. The employee should be provided with a suspension letter addressing each subsequently issued suspension, expectations for improved conduct and the consequences of further misconduct. The HWDSB will determine when the suspension has been or will be served. All suspension letters provided are documented in the employee file.

6.5 Step 5 - Termination

Termination is considered if the progressive discipline process thus far is unsuccessful, or if there is significant misconduct, which is cause for the dismissal of an employee from their employment. Depending on the misconduct, termination may be the final stage of the

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progressive discipline process or, where a single incident is deemed to have irreparably damaged the employment relationship, termination may be the immediate consequence.

The appropriate response to employee misconduct may vary from the foregoing stages depending on individual circumstances. In some instances, additional or alternative corrective action may be deemed necessary to remediate the misconduct at issue, which deviates either partially or entirely from or adds to the stages above. Additional corrective action may include, but is not limited to, formal apologies, mandatory training, restorative workplace measures and transfers to another school, where permissible under the applicable collective agreement.

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APPENDIX A

WAIVER OF UNION REPRESENTATION

I hereby acknowledge that my Employer, Hamilton-Wentworth District School Board has advised me of my right to Union representation during a meeting which falls within the Staff Progressive Discipline Procedure. The date of this meeting is _____

(MM/DD/YYYY)

I, _____ wish to waive my right to Union representation for
Employee's Full Name (please print)

the purpose of the above-mentioned meeting.

I acknowledge that I fully understand the meaning, intent, and implications of this waiver.

I have spoken to my Union prior to signing this waiver.

Employee Signature

Date

Witness

Date

CC: Union
Employee File

APPENDIX B

EXTERNAL RESOURCES:

College of ECE

[Welcome to the College of Early Childhood Educators \(college-ece.ca\)](http://college-ece.ca)

College of Teachers

[Home - Ontario College of Teachers \(oct.ca\)](http://oct.ca)

College of Kinesiologists of Ontario

[College of Kinesiologists of Ontario \(coko.ca\)](http://coko.ca)

College of Occupational Therapists of Ontario

[Home – College of Occupational Therapists of Ontario \(coto.org\)](http://coto.org)

Behavior Analyst Certification Board

[BACB – Behaviour Analyst Certification Board \(bacb.com\)](http://bacb.com)

Ontario College of Social Workers and Social Service Workers

[The Ontario College of Social Workers and Social Service Workers \(ocswssw.org\)](http://ocswssw.org)

College of Audiologists and speech-language pathologists of Ontario

[Home – Caslpo – College of Audiologists and Speech-Language Pathologists of Ontario \(caslpo.com\)](http://caslpo.com)

College of Psychologists

[CPO Public – Regulating Psychologists and Psychological Associates in Ontario \(cpo.on.ca\)](http://cpo.on.ca)