

Staff Progressive Discipline Procedure

RATIONALE:

Hamilton-Wentworth District School Board (HWDSB) is committed to providing a positive and supportive working environment for all employees and students and to protect and maintain 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 HWDSB's commitment to employee excellence and improvement, this procedure outlines a general framework for addressing conduct that negatively affects the safe, and inclusive learning and working environments.

TERMINOLOGY:

Misconduct: An action or inaction by an employee, for which the employee is responsible, that is:

- A breach of, or does not adhere to HWDSB policies, procedures, guidelines, and standards.
- A breach of, or does not adhere to provincial or federal codes, laws, or legislation.
- Conduct that negatively affects the reputation of the Board.

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

Poor Performance: When an employee does not carry out their duties responsibly, effectively, diligently and to the standards expected by the Board. Invoking this procedure in the case of poor performance should occur only after other attempts to remediate the performance (e.g., training, mentoring, professional development) have been attempted.

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

Supervisor: A person who has charge of a workplace or authority over a worker. This includes a principal, vice-principal or teacher appointed by HWDSB to direct and supervise a school or organizational unit of a school.

Worker: Any of the following:

- A person who performs work or supplies services for monetary compensation.

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- A person who performs work or supplies services for no monetary compensation under a program approved by a college of applied arts and technology, university, private career college or other post-secondary institution.
- Such other persons as may be prescribed who perform work or supply services to an employer for no monetary compensation.

Workplace: Any land, premises, location, or thing at, upon, in or near which a worker works. This includes any virtual or digital environments. Examples include, but are not limited to:

- Schools, Board offices, properties, and facilities, as well as vehicles used while completing work and traveling between work sites.
- School-related activities such as extracurricular activities, co-instructional activities, and excursions.
- Conferences, training sessions, workshops and other work-related events or functions.

PROCEDURES:

1.0 Purpose

The purpose of the procedure is to:

- Encourage and ensure that employees carry out their duties responsibly, effectively, diligently and to the standards expected by the Board.
- Correct, through the provision of feedback to the employee, any misconduct or performance concerns.
- Implement discipline which is proportionate to misconduct.
- Provide a procedural framework to promote a consistent application of progressive discipline across HWDSB.
- Create a professional atmosphere where employees, parents, students, and community members know they will be treated with courtesy and respect.
- Lead with the presumption of innocence.

2.0 General

This procedure applies to all HWDSB employees.

2.1 Before implementing progressive discipline with an employee, the supervisor should take the following steps:

- a) Create an environment where employees feel secure and supported. This is achieved with building trust by ensuring clear communication, consistency, and transparency.

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- b) Seek to understand if there are any mitigating circumstances that are driving the behaviours. Rather than focusing solely on the progressive disciplinary aspect, the supervisor should embrace a supportive role by offering guidance, mentorship, and constructive feedback. This empowers the employee to grow professionally and make positive changes.
- c) Encourage collaboration and involving employees in the decision-making process; providing them with a sense of agency and empowering them to participate in finding solutions and setting goals.
- d) Recognizing and respecting diverse cultural backgrounds and individual differences when addressing performance/conduct issues. Being mindful of potential cultural factors that may contribute to certain behaviors and adapting strategies accordingly.
- e) Providing access to appropriate support services, such as counseling, employee assistance programs, or other resources that can assist employees in addressing underlying trauma-related issues.

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 cases where the implementation of this procedure contradicts the specific disciplinary measures outlined in local collective agreements, the provisions stated in the collective agreements will take precedence.

2.4 The appropriate response to employee misconduct may vary from the foregoing stages depending on individual and mitigating 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 the stages below. Additional corrective action may include, but is not limited to, formal apologies, mandatory training, restorative workplace measures, administrative transfers, where applicable.

2.5 If, in the opinion of the Board, the continued presence of the employee in the workplace causes physical or emotional safety concerns, the employee is required to be placed on assignment to home, with pay, pending investigation until the matter can be discussed with the Labour Relations Department or designate.

2.6 Since most instances of culpable behaviour are distinct in nature, responses to such behaviour need to be assessed on a case-by-case basis. There are no rigid or arbitrary rules for their application.

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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 Department will advise members of their right to representation, and union representation, where applicable.
- 3.2 Non-unionized employees have the right to a support person at any meeting that falls within this procedure. The supervisor or Labour Relations Department will advise members of their right to such representation.

4.0 Discipline

- 4.1 Where a supervisor believes that an employee has engaged in misconduct or concerns related to their job-related performance, the supervisor will consult with Human Resources Services (Labour Relations Department).
- 4.2 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, mitigating circumstances, as well as the nature, severity, impact, frequency, 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 HWDSB to the appropriate professional college where required and as per the reporting obligations of that governing body or at the direction of the governing body, or if required under applicable legislation.

5.0 Stage 1 Non-Disciplinary Actions

- 5.1 General - It may be appropriate and sufficient for the supervisor to provide support to an employee through a non-disciplinary format, for example, through coaching/counselling (informal discussion or conversation), training or a letter of expectation. The decision to apply a non-disciplinary response to employee misconduct may be made by the applicable supervisor in consultation with a Labour Relations Officer. Non-disciplinary actions may include a coaching conversation or a letter of expectation.
- 5.2 Coaching Conversation - 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, guidelines, or standards.

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- The opportunity for the employee to provide an explanation.
- A corrective action plan as required.
- A list of available supports or further direction as required.

A summary email will be sent by the supervisor following the meeting. The email will summarize the discussion and any follow-up actions. Union representatives who attended the meeting, if applicable, will be copied on the summary email.

- 5.3 Letter of Expectation - 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 will be provided to the union, if applicable, and will not be included in the employee's personnel file but will be electronically retained and relied on by the supervisor and the Labour Relations Department in the event that an employee fails to address the concerns in the letter of expectation.
- 5.4 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 waiver form (Appendix A).
- 5.5 The supervisor may conduct/recommend informal training or may refer the employee to a formal training session. This training would be determined on a case-by-case basis.
- 5.6 All documentation of non-disciplinary matters is to be sent to Labour Relations to be maintained in a secure and confidential location.

6.0 Stage 2 – Disciplinary Actions

- 6.1 Progressive discipline is intended to correct misconduct. It is, by design, a series of increasing levels of discipline appropriate to the misconduct being addressed. It is important that each matter that could lead to discipline be assessed based on all the relevant information and the factors pertinent to the specific concern be considered.
- 6.2 When scheduling a disciplinary meeting with a unionized employee, the employee will be advised of their right to union representation. A meeting will 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 waiver form (Appendix A).
- 6.3 The employee who is alleged to have engaged in misconduct is expected to co-operate with HWDSB in any investigation, review process, outcome meeting, and any corrective measures

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that have been determined. Failure to do so may result in additional discipline being imposed.

6.4 The process outlined below provides an overview of the steps that may be taken as part of progressive discipline. HWDSB reserves the right to combine, repeat, omit/skip steps depending on the misconduct and relevant factors at its discretion.

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

6.5.1 Step 1 – Verbal Warning (Documented)

A verbal warning is a conversation between the employee and the appropriate supervisor, identifying a need for a 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. A copy of this letter is to be provided to the union, where union representation was not waived.

6.5.2 Step 2 - Letter of Discipline (Written Warning)

A letter of discipline is delivered in a meeting with the supervisor, employee, and union representation, where representation was not waived. A representative from Human Resources (Labour Relations department) may be present at this meeting. This letter should detail the employee's misconduct, expectations for improvement and the consequences of further misconduct, including the possibility of suspension or termination. A copy of this letter is provided to the union, where union representation was not waived.

6.5.3 Step 3 - Suspension (Without Pay)

If an employee engages in serious misconduct deemed worthy of 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 the 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. A copy of this letter is to be provided to the union, where union representation was not waived.

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

If an employee engages in serious misconduct deemed worthy of suspension or the employee has engaged in repeated misconduct and has already received a suspension without pay, the employee may receive a further suspension without pay. The employee will be provided with a suspension letter addressing each subsequently issued suspension, expectations for improved conduct and the consequences of further misconduct. HWDSB will determine when the suspension has been or will be served. All suspension letters provided are documented in the employee file. A copy of this letter is to be provided to the union, where union representation was not waived.

6.5.5 Step 5 – Termination

Termination is considered if the progressive discipline process thus far is unsuccessful, or if there is significant misconduct which is the cause for the dismissal of an employee from their employment. Depending on the misconduct, termination may be the final stage of the progressive discipline process or, where a single incident is deemed to have irreparably damaged the employment relationship, termination may be the immediate consequence. A copy of this letter is to be provided to the union.

7.0 Confidentiality and Privacy

7.1 The Board values the privacy of our employees throughout the progressive discipline process. All information shared and discussed during the progressive discipline process will be treated with the utmost respect and handled in a confidential manner. We are committed to ensuring that sensitive progressive discipline-related information remains strictly confidential and is only accessible to individuals involved in the review process, such as supervisors, managers, and Human Resources personnel. We understand the importance of maintaining privacy and confidentiality to create a safe and trust-based environment for open and honest progressive discipline discussions.

It is important to note that while we strive to maintain confidentiality throughout this process, there may be instances where it becomes necessary to disclose certain information. We will make every effort to minimize such disclosures and protect the privacy of those involved. Nevertheless, it is crucial for employees to understand that complete confidentiality cannot be guaranteed in all circumstances. Any disclosure of progressive discipline related information will be done in accordance with applicable laws, regulations, and HWDSB policies and procedures.

7.2 Employees also have an obligation to treat all workplace matters with confidentiality and should refrain from discussing or disclosing confidential information to unauthorized

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individuals, both within and outside the workplace. This includes refraining from sharing such information on social media platforms or other public forums. Confidential information is on a need-to-know basis with those directly involved in the progressive discipline process or individuals designated by HWDSB to handle the matter. Unnecessary dissemination of confidential information should be avoided. When employees adhere to their responsibilities related to confidentiality, they contribute to a culture of trust, respect, and professionalism in the workplace.

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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)

****If this Waiver contradicts the specific measures outlined in the local collective agreements, the provisions stated in the collective agreements will take precedence.**

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.
- ☐ I choose to waive my right to speak to my union prior to signing this waiver.

Employee Signature

Date

Witness

Date

CC: Employee File