

POLICY: PROGRESSIVE DISCIPLINE # 831

SECTION: 800 : Personnel and Employee Matters Page 1 of 7

APPROVAL/REVISION EFFECTIVE REVIEW  
DATE: June 18, 2012 DATE: June 19, 2012 DATE: June 19, 2017

CROSS REFERENCE:

**A: POLICY**

1. The Thunder Bay Catholic District School Board strives to provide the best possible education for the students in its care. The Board is responsible for employing staff who conduct themselves appropriately and professionally. -It is the responsibility of all employees to carry out their responsibilities in a co-operative and professional manner, working in compliance with Board policies and procedures, collective agreements, the Education Act, and other related legislation such as the Employment Standards Act, the Occupational Health and Safety Act, and, where applicable the Human Rights Code.

The intention of the Progressive Discipline Procedure is to provide, when necessary, corrective measures in order to ensure that all staff maintain appropriate behavior and carry out their duties responsibly, effectively and diligently. It will, if necessary, provide for the orderly dismissal of an employee who fails to meet appropriate standards.

**B: DEFINITION**

2. Progressive Discipline is a series of increasingly serious steps, ranging from a recorded verbal warning to termination of employment, that a school administrator, supervisor, or member of senior management initiates in order to correct unacceptable behavior or conduct. In general, there are five potential steps within the progressive discipline process. However, it is recognized that each situation is unique and that responses will have to be considered in the light of all of the circumstances. Rules will not be applied in a rigid or arbitrary fashion. Serious situations may result in immediate and significant disciplinary consequences.”

In general, the five potential stages in the process are:

- Recorded Verbal Warning
- Letter of Reprimand
- Suspension
- Demotion and/or transfer
- Dismissal

It is recognized that there may be non-disciplinary steps taken before formal discipline occurs. This could include but is not exclusive to:

- Verbal, written or email reminder, caution or clarification
- “Letter of expectation”: which clearly states what is expected of the individual (rule, policy, procedure, practice) in non-disciplinary language

**C: GUIDELINES**

- 3.1 The Board strives to facilitate good working relationships between and among its staff as well as to foster work excellence and job satisfaction.
- 3.2 The Board believes that its employees are responsible, trustworthy, and capable of making decisions appropriate to their sphere of responsibility.
- 3.3 Respect and trust in a working environment can be maintained by fair, objective and consistently implemented disciplinary procedures, including fair investigation techniques.
- 3.4 Disciplinary action taken must be consistent with the concept of “just cause”.

POLICY: PROGRESSIVE DISCIPLINE # 831

SECTION: 800 : Personnel and Employee Matters Page 2 of 7

APPROVAL/REVISION DATE: June 18, 2012 EFFECTIVE DATE: June 19, 2012 REVIEW DATE: June 19, 2017

CROSS REFERENCE:

- 3.5 It is the general approach of the Board to correct inappropriate behavior, not punish it. The emphasis should be on identification and isolation of problem situations in a supportive and non-intrusive manner before formal corrective action is undertaken.
- 3.6 It is the belief of the Board that clear guidelines and procedures will ensure fair and consistent treatment of all employees.
- 3.7 Employees must be aware of the expectations of the employer, the reasons for the corrective action, and possible future consequences of a repetition of the proscribed behavior. Efforts should be made to ensure that the employee understands that discipline is the result of his/her actions.
- 3.8 Most incidents of culpable behavior are unique; therefore, responses to such behavior will have to be considered in light of all of the circumstances. Rules will not be applied in a rigid or arbitrary fashion.
- 3.9 Inappropriate or unacceptable behavior that is not addressed effectively by an administrator or supervisor lowers the standards in the workplace, acts as a disincentive for other employees, and is potentially a poor model for students.

**D: MANAGEMENT RIGHTS**

4. 4.1 The authority of the employer to discipline employees in a union/federation environment is usually derived from the "management rights" provision in collective agreements and from accepted common law rights of the employer.
- 4.2 Traditional management rights governing all employees may include, but are not limited to, the right to hire, assign, transfer, promote, discipline and dismiss.

**E: EMPLOYEE REPRESENTATION**

5. 5.1 Subject to their specific collective agreement unionized employees have the right to union consultation or representation at any meeting of a disciplinary nature.
- 5.2 Non-unionized employees may have a non-legal representative present at any meeting of a disciplinary nature.

**F: CULPABLE BEHAVIOUR DISTINGUISHED FROM SUBSTANDARD PERFORMANCE**

6. 6.1 Substandard Performance:
  - 6.1.1 Administrators and supervisors are responsible for evaluating the performance of their staff. Performance appraisals speak to the issues of competency and capability.
  - 6.1.2 When performance is appraised and standards are not being met, the employee is informed, resources to assist are provided, and the employee is given time to improve.
  - 6.1.3 The performance appraisal process is not considered to be disciplinary.
  - 6.1.4 Substandard performance is not addressed in this procedure.
- 6.2 Culpable Behavior:
  - 6.2.1 Refers to behavior that does not conform to expectation.

POLICY: PROGRESSIVE DISCIPLINE # 831

SECTION: 800 : Personnel and Employee Matters Page 3 of 7

APPROVAL/REVISION EFFECTIVE REVIEW  
DATE: June 18, 2012 DATE: June 19, 2012 DATE: June 19, 2017

CROSS REFERENCE:

6.2.2 Examples are:

- Lateness
- Unsubstantiated absenteeism
- Dishonesty
- Inappropriate communication/interaction with others
- Inappropriate use of computer technology
- Insubordination
- Breach of Board policy or procedure
- Criminal offences such as theft, forgery, assault

6.2.3 The administrator or supervisor must advise the employee that the conduct is unacceptable and that repetitions of such behavior will have consequences for the employee. Serious incidents may result in immediate disciplinary action that may not necessarily follow the progressive sequence outlined above.

6.2.4 It is expected that there will be prompt correction of the behavior.

6.2.5 Imposing consequences for culpable behavior is discipline.

**G: INVESTIGATION OF COMPLAINTS OR ALLEGATIONS AGAINST AN EMPLOYEE**

7. 7.1 In responding to matters which will potentially lead to significant disciplinary action, administrators, supervisors and managers must involve the appropriate Supervisory Officer and/or an Employee Services Representative and work with him/her throughout the process. Decisions made during the investigation must be made by, or in conjunction with, the Superintendent.

7.2 Serious matters which may be criminal in nature should be reported to police. Board policies and procedures also contain mandatory procedures for investigations that may differ from these guidelines.

7.2.1 In situations involving alleged physical or sexual abuse of a minor, consideration must be given to the "duty to report" under/section 72(1) of the Child and Family Services Act.

7.2.2 In situations involving a member of the College of Teachers, consideration must be given to the duty of the Board, in conjunction with the Director of Education, to report to the College of Teachers as per Section 43.2 and 43.3 of the Ontario College of Teachers Act, 1996.

- The teacher, as a courtesy, will normally be notified of such a report. The employer, however, has no obligation to notify the teacher.

7.3 In very serious circumstances an employee may be placed, at the Board's discretion, at an alternate work site or on home assignment during an investigation. The period of time during which the employee is placed at an alternate work site or on home assignment may be with pay and benefits depending on the circumstances.

7.4 Detailed documentation must be kept throughout the process including:

7.4.1 Details of the initial complaint or allegation

7.4.2 Dated copies of written correspondence

7.4.3 Detailed notes of interviews and meetings which include the date, names of those present, purpose of the meeting, expectations, and other pertinent details if applicable

POLICY: PROGRESSIVE DISCIPLINE # 831

SECTION: 800 : Personnel and Employee Matters Page 4 of 7

APPROVAL/REVISION EFFECTIVE REVIEW  
DATE: June 18, 2012 DATE: June 19, 2012 DATE: June 19, 2017

CROSS REFERENCE:

7.4.4 A record of any other relevant communication (e.g. police contact)

7.5 Conducting the investigation:

7.5.1 The requirement of the Board, through its' designates, to investigate allegations is separate from any other investigation which may be occurring. The employer has an obligation to investigate, form an opinion, and take appropriate action to ensure a safe, healthy and productive workplace.

7.5.2 Complaints and allegations will be investigated without bias and as promptly as possible given the circumstances.

7.5.3 The employee must be informed of the investigation and of his/her right to appropriate representation unless otherwise indicated in collective agreement.

7.6 Interviewing witnesses (if applicable) to clarify the facts:

- A management level staff must be present at the interview; a second person may act as recorder.
- Detailed notes must be taken;
- A similar format should be followed for each interview;
- Questions should be non-leading
- Witnesses should be interviewed separately;
- Confidentiality or anonymity should not be guaranteed but it should be indicated that every effort will be made to protect the privacy of individuals;
  - If a teacher is making an adverse report on another member, except in the area of sexual abuse as per the Teaching profession Act, S. 12(2), she/he should be reminded of his/her obligations under the Teaching Profession Act, S. 18.1(b).
- Each interviewee should be asked to identify other sources of information that would assist in clarifying the facts;
- If interviewing a student, consideration should be given as to whether a trusted adult, preferably not a staff member, should be with the student to provide support. If age appropriate, students should be asked to write a statement and sign it.

7.7 Interviewing the employee:

7.7.1 Notify the employee in advance of the purpose, date, time and location of the interview;

7.7.2 Inform the employee that he/she may wish to seek appropriate representation;

7.7.3 Give the employee factual information and allow him/her to give his/her account of the incident(s);

7.7.4 Maintain accurate and factual notes of information reported during the interview. Use concrete, sensory facts to record information (e.g. what was seen heard, tasted, smelled etc.). Do not include conjecture, opinion, and speculation and do not draw conclusions.

## **H FOLLOWING THE INVESTIGATION**

8.1 At the conclusion of the investigation, a decision must be made regarding whether culpable behavior occurred.

8.1.1 In making this decision, the test to be applied is that of "balance of probabilities". This is not the same as "proof beyond reasonable doubt". If the evidence indicates that an event likely happened,

POLICY: PROGRESSIVE DISCIPLINE # 831

SECTION: 800 : Personnel and Employee Matters Page 5 of 7

APPROVAL/REVISION EFFECTIVE REVIEW  
DATE: June 18, 2012 DATE: June 19, 2012 DATE: June 19, 2017

CROSS REFERENCE:

then it will be concluded to have happened. If it is likely that it did not happen, then it will be concluded to have not happened.

- 8.2 In responding to all matters which may potentially lead to significant disciplinary action, administrators, supervisors and managers must involve the appropriate Supervisory Officer and/or an Employee Services Representative and work with him/her throughout the process.
- 8.3 If there is evidence of culpable behavior, a decision must be made as to whether an employee should be informally counseled or formally disciplined. If formal discipline is warranted, the specific action to be taken must be decided upon. There are several questions that should be considered before these determinations:
- Has the employee been given the opportunity to explain or deny the conduct with appropriate union or other representation present?
  - Did the employee have knowledge of the rule or practice breached?
  - Considering all of the circumstances, did the employee neglect her/his duties or responsibilities?
  - Did the employee violate any rules or practices and were there harmful or potentially harmful consequences for the Board, its employees and/or its students?
  - Are there any mitigating circumstances?
  - What is the length of service of the employee?
  - Is there a past disciplinary record?
  - Is the discipline being considered consistent with Board responses in other similar situations?

## I. STAGES OF PROGRESSIVE DISCIPLINE

Each case must be considered separately to determine the seriousness of the issue and to identify the stage at which discipline will be initiated.

9. 9.1 **Recorded Verbal Warning:** If the seriousness of the issue warrants this step, a meeting will be held at which a verbal warning will be issued. A written record of the warning will be made and forwarded to the Employee Services Department for inclusion in the personnel file.
- 9.1.1 The employee must be invited to have a union or other appropriate representative at the meeting.
- 9.1.2 Discussion at the meeting must include:
- An explanation of the steps in progressive discipline
  - A recap of the initial cautions or reminders, if applicable
  - A clear outline of the issue with specific dates, times and examples of the problem
  - Specific expectation for correction/improvement
  - Consequences and next steps should correction/improvement not take place
- 9.1.3 Documentation of the meeting will include:
- Specific material facts such as date, time, place and actions of the individual involved
  - The reason for the verbal warning with reference to specific documents, if applicable (e.g. Education Act, collective agreement, Employment Standards Act)
  - Reference to any previous cautions or reminders
  - Statement that the letter constitutes a disciplinary record of the warning.
  - Action expected to be taken by the employee and time frame for review
  - Further consequences, up to and including dismissal, should such action not be taken or should the employee repeat the behavior(s) responsible for the warning
  - The recorded verbal warning must be signed by the administrator or supervisor and copied to the employee, the appropriate superintendent, the Manager of Employee Services and the union (if applicable).

POLICY: PROGRESSIVE DISCIPLINE # 831

SECTION: 800 : Personnel and Employee Matters Page 6 of 7

APPROVAL/REVISION EFFECTIVE REVIEW  
DATE: June 18, 2012 DATE: June 19, 2012 DATE: June 19, 2017

CROSS REFERENCE:

- A copy of the recorded verbal warning will be placed in the employee's personnel file.

9.2 **Letter of Reprimand:** If the behavior does not improve or if the seriousness of the issue warrants this action, a letter of reprimand will be issued by the principal, supervisor or superintendent.

9.2.1 Letters of reprimand may only be issued after the appropriate supervisory officer and/or the Manager of Employee Services have been consulted.

9.2.2 A meeting with the employee must be convened. The employee must be invited to have a union or other appropriate representative at the meeting.

9.2.3 At the meeting, the employee is told that he/she is being formally disciplined and that a letter of reprimand will be placed in his/her central personnel file.

9.2.4 The letter of reprimand will state:

- Specific material facts such as date, time, place, and actions of the individual involved
- The reason for the reprimand with reference to specific documents, if applicable (e.g. Education Act, collective agreement, Employment Standards Act)
- Reference to any previous disciplinary action e.g. recorded verbal warning) or non-disciplinary actions (reminder/caution/clarification of expectation)
- Statement that the letter constitutes a reprimand
- Action expected to be taken by the employee and time frame for review
- Further consequences, up to and including dismissal, should such action not be taken or should the employee repeat the behaviors) which resulted in the reprimand

9.2.5 The letter of reprimand must be signed by the administrator or supervisor and copied to the employee, the appropriate superintendent, the Manager of Employee Services and the union (if applicable)

9.2.6 A copy of the letter of reprimand will be placed in the employee's personnel file.

9.3 **Suspension Without Pay and/or Demotion:** If the employee's behavior does not improve, or if there is a significant issue that requires disciplinary action of a serious nature, the employee may be suspended or demoted. A disciplinary suspension without pay is a temporary removal from the workplace which is imposed as a disciplinary consequence. A demotion is a permanent reassignment to a job within the board at a lower level of responsibility and remuneration than the current job of the employee.

9.3.1 A meeting with the employee must be convened. The employee must be invited to have a union or other appropriate representative at the meeting.

9.3.2 The employee must be told that he/she is being suspended and/or demoted, the reason for the suspension and/or demotion and, in the case of suspension, the length and conditions of the suspension as well as expectations of the employee upon returning to the workplace.

9.3.3 A letter informing the employee of the suspension and/or demotion must be written and issued to the employee. The letter must include:

- Specific material facts such as date, time, place, and actions of the individual involved
- The reason for the suspension or demotion with reference to specific documents, if applicable e.g. Education Act, collective agreement, Employment Standards Act)
- Details relating to the suspension or demotion (e.g. length of suspension, description of new position)
- Reference to any previous disciplinary action (e.g. recorded verbal warning, letter of reprimand) or non-disciplinary actions (reminder/caution/clarification of expectation), if applicable

POLICY: PROGRESSIVE DISCIPLINE # 831

SECTION: 800 : Personnel and Employee Matters Page 7 of 7

APPROVAL/REVISION EFFECTIVE REVIEW  
DATE: June 18, 2012 DATE: June 19, 2012 DATE: June 19, 2017

CROSS REFERENCE:

- Action expected to be taken by the employee and time frame for review
- Further consequences, up to and including dismissal, should such action not be taken or should employee repeat the behavior(s) responsible for the suspension or demotion
- If appropriate, a separate written "corrective action plan" may be developed in consultation with the employee and the union (if applicable) which includes specific expectations, actions to be taken and a timeframe for review. This plan should be included and referenced as an attachment
- to the letter.

9.3.4 The letter must be copied to the employee, the appropriate superintendent, the Manager of Employee Services and the union, if applicable.

9.3.5 A copy of the letter will be placed in the employee's personnel file.

9.4 **Just Cause Dismissal:** Will be considered if the progressive discipline process thus far is unsuccessful, or if there is a significant issue or incident which is cause for dismissal.

9.4.1 Before the decision to terminate is made, all aspects of the situation will be reviewed in order to ensure that all necessary steps were taken. Except in cases where immediate dismissal is justified as a result of a significant issue or incident, there should be the ability to demonstrate that:

- The employee knew what was expected
- The employee was informed verbally and in writing of the deficiencies
- The employee did not sufficiently remedy the problem(s)
- The employee knew that employment was at risk
- The employee ignored or continued to fail to meet job expectations.

9.4.2 A formal disciplinary meeting must be convened, which includes appropriate representation for the employee. The employee must be informed, in advance of the meeting, that his/her employment status with the Board will be discussed at the meeting. At the meeting, the employee will be told of the decision to terminate and the reasons for the decision.

9.4.3 The Director of Education will make the final decision regarding termination of employment for "just cause". This decision will be brought forward to the Thunder Bay Catholic District School Board at its next regular meeting.

9.4.4 The employee must receive a letter informing him/her of the decision to terminate his/her employment and the reasons for this decision.

9.4.5 The employee shall receive a Record of Employment, relevant information regarding salary, benefits and vacation pay, and any outstanding monies owed to him/her by the Board