

## **PROGRESSIVE DISCIPLINE FOR TEACHING AND NON-TEACHING STAFF**

The Swan Valley School Division believes that standards for acceptable conduct of employees are necessary for the orderly operation of the Division and for the benefit and protection of the rights and safety of all students, employees, parents/guardians, volunteers, or members of the public.

Discipline is a supervisory action designed to correct or deter unacceptable conduct in the workplace. Its intent is to be used as a tool to change behavior and to assist employees in the improvement of their work performance. Progressive discipline, up to and including termination of employment, requires adequate records documenting an employee's misconduct and/or incompetency and/or insubordination, and, if applicable, previous warnings.

The principles underpinning progressive discipline and applied in this procedure are:

- Escalating consequences for repeated misconduct on the part of an employee.
- Proportionality, meaning that the discipline is proportionate to the severity of the misconduct.
- The administration of discipline shall be conducted fairly and consistently.

### **APPLICATION**

This procedure applies to personal misconduct, job incompetence, and/or insubordination. Where provisions regarding progressive discipline, discipline, and termination exist within a collective agreement or contract, they shall apply and supersede the present procedure.

### **DEFINITIONS**

In this procedure, the following definitions apply:

**EMPLOYEE:** Refers to anyone employed by the Division, including teachers and other positions covered by applicable collective agreements or out of scope employees.

**INSUBORDINATION:** Refers to willful and serious refusal by an employee to obey a lawful and reasonable instruction from their employer and includes actions that challenge the employer's authority or disrupt the workplace.

**JOB INCOMPETENCE:** Occurs when an employee lacks the skill needed to perform the functions of their position to the Division's expectations.

**MISCONDUCT:** Occurs when an employee violates the Division's policies, guidelines, and/or procedures.

**SUPERVISOR:** Refers to the direct supervisor of the employee.

**EXTERNAL AGENCIES:** May include, but are not limited to, Royal Canadian Mounted Police, child & family services, relevant regulatory bodies, and Manitoba Education.

## **DISCIPLINE PROCESS**

1. **INITIATION OF DISCIPLINARY ACTION:** The Supervisor shall begin progressive disciplinary action when an employee violates the Division's rules, policies, procedures, expectations, and/or acts in an insubordinate manner, committing an offence warranting disciplinary action. This includes, but is not limited to, when an employee:
  - a. Violates Divisional policies, procedures, rules and/or expectations.
  - b. Violates a provision of an applicable collective agreement as determined by the Division and/or School Administration.
  - c. Violates safety standards/procedures.
  - d. Violates an inherent expectation of employment (e.g., acts of dishonesty, theft, assault).
  - e. Acts in an insubordinate, inappropriate or unacceptable manner as determined by the Division.
  - f. Demonstrates Misconduct, Job Incompetence, or Insubordination on either a one-time or sustained basis.
2. **INVESTIGATION AND REVIEW:** When issues arise that warrant potential discipline, the Supervisor will undertake a thorough review/investigation. This review will include an interview and/or written response from the employee at issue.
  - a. The employee will have the right to union representation at any interview/meeting that could result in disciplinary action.
  - b. The Superintendent/CEO is to be consulted as part of the review/investigation to ensure that any action taken is commensurate with the facts of the situation, considers the employee's work history, and is consistent with the Division's practice.
  - c. Supervisors must ensure they are consulting and acting with the authority of the Superintendent/CEO (or designate) in the determination and communication of next steps and discipline. Where appropriate, External Agencies will be notified.

3. **DETERMINATION OF DISCIPLINARY STEP(S):** Disciplinary action shall proceed against any employee for just cause. As the circumstances giving rise to discipline may differ, action will be addressed on a case-by-case basis.

Progressive discipline is normally comprised of the following steps which are followed in sequential fashion unless the circumstances are such that proportionality requires a different level of discipline than that next in sequence:

**Step 1: Verbal Warning / Reprimand**

**Step 2: Written Warning / Disciplinary Letter**

**Step 3: Suspension With/Without Pay**

**Step 4: Termination**

**Discipline may not necessarily occur in the order presented above.** Depending on circumstances, some steps may be repeated, or some steps may be bypassed.

In determining the appropriate disciplinary step(s) to address an employee's misconduct, the Division may consider factors including:

- The employee's length of service.
- The employee's past discipline record.
- The seriousness of Misconduct, Job Incompetence, or Insubordination.
- The employee's explanation.
- Any other pertinent facts.

**Alternative forms of discipline** may be appropriate depending on the facts of the situation. Examples include counseling, demotions (temporary or otherwise), reduction in full-time equivalent (FTE), transfers to a different position and/or work site, or a last chance agreement.

**MEETING WITH EMPLOYEE TO IMPOSE DISCIPLINE:** Whenever the decision is made to impose discipline, a meeting will be held with the employee to discuss the nature of the offense, discipline imposed, correction expected, and consequences of noncompliance.

- If the employee is unionized, they shall be advised of the right and given the opportunity to have a union representative present at the meeting.
- Non-unionized employees may be provided the opportunity to have an individual available for support and the ability to consult that individual if required; however, this person shall not attend the meeting.

- The employee involved may, with the benefit of union advice where applicable, waive the meeting and accept a written response if agreed upon by both parties and subject to any requirements of the collective agreement.
- The Superintendent/CEO or designate will be at all disciplinary meetings.

**DOCUMENTATION OF DISCIPLINE:** In all cases where discipline is imposed, including verbal warnings, the employee shall be advised, in writing, of the nature of the offense, discipline imposed, correction expected, any applicable supports (such as required training and/or resources), and the consequences of noncompliance.

- If the employee is unionized, the Union Representative shall be copied on the letter.
- All written documentation pertaining to staff discipline that is shared with the employee shall be forwarded to their personnel file.
- Investigation notes do not form part of the personnel file and are to be kept separately.

**APPROVAL FOR TERMINATION:** Where a recommendation to suspend or terminate is contemplated, the Board of Trustees will be consulted by the Superintendent/CEO. The Superintendent/CEO must receive approval to be able to proceed in compliance with [Board Policy 11: General Executive Constraint Decision-Making Matrix](#).

## **EMPLOYEE RIGHTS AND GENERAL PROVISIONS**

- If the disciplinary action taken by the Superintendent/CEO (or designate) is unacceptable to the employee, the employee may follow the procedures outlined in the applicable Collective Agreement and/or Employment Contract.
- The Division shall act in good faith in implementing this policy; however, any error on the Division's part to comply with the guidelines and procedures of this policy shall not invalidate any discipline imposed.