

BOARD ADMINISTRATIVE PROCEDURE

ADMINISTRATIVE PROCEDURE

**Employee Charged
with a Criminal Offence
or Under Investigation
by a Third Party**

ADMINISTRATIVE PROCEDURE
NUMBER

AP - 501

Directional Policy

Employee Relations - 500

TITLE OF ADMINISTRATIVE PROCEDURE:

Employee Charged with a Criminal Offence or Under Investigation by a Third Party

DATE APPROVED:

May 30, 2023

PROJECTED REVIEW DATE:

2027

DIRECTIONAL POLICY ALIGNMENT:

This Administrative Procedure aligns with the Employee Relations Directional Policy – 500 by ensuring all employees have a shared understanding of the process should they be charged with a criminal offence or be subject to an investigation by a third party.

ALIGNMENT WITH MULTI-YEAR STRATEGIC PLAN:

This Administrative Procedure supports the Nurturing Mental Health and Well-Being pillar by ensuring employees are fit to be in the workplace and ensuring students and staff are safe. [PVNCCDSB Board Vision, Mission and Strategic Priorities](#)

PURPOSE OF THIS ADMINISTRATIVE PROCEDURE:

The Purpose of this Administrative Procedure is to ensure the safety of students and staff and to allow the Board to act promptly in the context of an employee who is charged with a criminal offence or is subject to an investigation by a third party.

ACTION REQUIRED:

1.0 In the event that an employee of the Board is charged with a criminal offence in Canada or another country or is the subject of an investigation by a third-party (i.e. Ontario College of Teachers, Children's Aid Society, College of Early Childhood Educators), the employee will report the matter to their supervisor and to the Superintendent of Human Resource Services or designate immediately and prior to accessing the workplace.

An employee must report the matter in writing as soon as reasonably practicable after the member receives a notice of the charges, a bail condition, or notice that an investigation has been started by a third party.

Should an employee fail to report a criminal offence or the investigation of a third-party, said failure will be cause for discipline and will also be considered when determining both the employee's placement during the investigation and any disciplinary consequence.

The overriding concern with respect to consideration of a criminal charge, or information received from a third-party is whether the employee represents a risk to the safety or well-being of any of the Board's students, staff, or property.

2.0 Employee Charged with Criminal Act

2.1 In accordance with the requirements in the *Education Act*, upon becoming aware that a teacher or temporary teacher who is employed by the Board has been charged with an offence under the *Criminal Code* involving sexual conduct and minors, or of any other offence under the *Criminal Code* that in the opinion of the Board indicates that students, staff or property may be at risk, the Board is required to take prompt steps to ensure that the teacher or temporary teacher performs no duties in the classroom, and no duties involving contact with students or staff pending the outcome of the charge.

2.2 For clarity, the above requirements pertain to all PVNCCDSB employees.

2.3 For further clarity, upon becoming aware that an employee of the Board has been charged with an offence under the *Criminal Code* involving sexual conduct and minors, or of any other offence under the *Criminal Code* that in the opinion of the Board indicates that students may be at risk the Board will take prompt steps to ensure that the employee has no access to students.

- 2.4 An employee charged criminally is required to report said charge immediately (and prior to accessing the workplace) to the Superintendent of Human Resource Services or designate.
- 2.5 Upon receipt of the information, the Superintendent or designate will determine whether the employee can remain in their regular workplace or can be assigned alternate duties.
- 2.6 If, in the opinion of the Superintendent of Human Resource Services or designate, it is not appropriate for the employee to remain in their regular workplace or be assigned alternate duties, they may be placed on a home work assignment or an unpaid leave of absence, pending investigation. Should the employee be placed on a home work assignment, the requirements of the employee during this assignment will be communicated by the employee's supervisor.
- 2.7 Should further information be received by the Board related to the criminal charge (i.e. bail conditions), a further determination will be made in respect of the matter.
- 2.8 No internal investigation will take place if the police have directed the Board not to proceed with an investigation.
- 2.9 Depending on the circumstances, the employee may be subject to disciplinary action by the Board.
- 2.10 If the charges pose a potential threat to the safety of students or staff, and/or has an impact on the school community, the Board will communicate in a timely manner with parents or guardians to share information. The Board will make every effort to protect the privacy and confidentiality of the charged individual, consistent with applicable laws and regulations.
- 2.11 If the charges pose a potential threat to the safety of students or staff, and/or has an impact on the school community, the Board will provide resources to support members of the school community which may include Board personnel to support the students, staff, parents and guardians.

3.0 Employee Subject to a Child Protection Investigation

- 3.1 When it is reported that an employee has allegedly had inappropriate physical contact with students causing physical and/or emotional harm, made inappropriate comments, or engaged in behaviour towards students that are

vexatious, demeaning, racist or sexual in nature, it may be reported to the relevant Children's Aid Society following consultation with the Superintendent of Human Resources Services or designate.

- 3.2 Should the Children's Aid Society determine a need to investigate, the Superintendent of Human Resources or designate will determine whether the employee can remain in their regular workplace or be assigned alternate duties.
- 3.3 If, in the opinion of the Superintendent of Human Resource Services or designate the employee cannot remain in their regular workplace with alternate duties assigned, they may be placed on a home work assignment or unpaid leave. The Board may also impose discipline where it deems appropriate. The requirements of the employee during this assignment will be communicated by the employee's supervisor.
- 3.4 An internal investigation may take place concurrent to the Children's Aid Society if determined necessary by the Superintendent of Human Resource Services or designate.
- 3.5 Depending on the circumstances, the employee may be subject to disciplinary action by the Board.

4.0 Investigations by other Third Parties

- 4.1 If an employee is subject to an investigation by a third party that would call into question their ability to perform their duties in a safe and ethical manner, they should report the investigation to the Superintendent of Human Resource Services or designate.
- 4.2 The Superintendent of Human Resource Services or designate will determine whether the employee can remain in their regular workplace or be assigned alternate duties.
- 4.3 If, in the opinion of the Superintendent of Human Resource Services or designate the employee cannot remain in their regular workplace and be assigned alternate duties, they may be placed on a home work assignment or unpaid leave. The requirements of the employee during this assignment will be communicated by the employee's supervisor.

4.4 Depending on the circumstances, the employee may be subject to disciplinary action by the Board.

5.0 Internal Investigations

5.1 If the Board determines that an internal investigation is required, a number of areas of inquiry will be pursued. The nature and extent of the investigation will depend on the circumstances of each case. The basic principle is that the Board must gather sufficient information to make an informed decision. An employee who is represented by a union will have representation during an investigation. Areas of inquiry may include but are not limited to:

- 5.1.1 The full circumstances of the charge(s) or allegation(s) in question, including the status of an external investigation, disposition in the court system, disposition of a third party investigation, and penalties imposed;
- 5.1.2 History of misconduct, criminal charges or convictions, and disciplinary record;
- 5.1.3 Steps taken by the employee to rehabilitate which may include medical treatment, counselling, community service;
- 5.1.4 A determination of whether the employee's actions involved children or adversely affected children;
- 5.1.5 The degree to which the employee's actions conflict with Catholic gospel values;
- 5.1.6 The individual's attitude regarding their action(s), including the degree of remorse shown, understanding of the impact of their actions;
- 5.1.7 The relevance of the individual's actions to the duties of the employee;
- 5.1.8 Any mitigating circumstances, including but not limited to, length of service, the employee's intentions and the credibility of the accusation;
- 5.1.9 Any other information that the Board feels may be relevant.

6.0 Following the Board's investigation, the Director of Education or designate shall determine what action, if any, the Board will take. Such action may include discipline. The Board will consider all relevant information collected in 5.0 when determining what action is suitable.

7.0 When determining what action may be taken, the Board will consider the status of a police or third-party investigation. The Board may elect to wait to determine what action to take until the police or third-party investigation is completed.

8.0 The Director of Education will be the official spokesperson for the Board in response to media inquiries. The Director may designate another individual to act as an official spokesperson.

RESPONSIBILITIES:

The Board of Trustees is responsible for:

- Reviewing the Administrative Procedure as often as necessary.
- Ensuring the Director is accountable to the Board of Trustees for implementation of this Administrative Procedure.
- Ensuring alignment with the Board's Directional Policy.

The Director of Education is responsible for:

- Designating resources for ensuring the implementation of and compliance with this Administrative Procedure.
- Acting as the official spokesperson for the Board in response to media inquiries.
- Communicating with Trustees regarding matters that may pose a significant risk to the students, staff, school communities or Board.

The Superintendent of Human Resource Services (or designate) is responsible for:

- Determining if the Board needs to conduct an internal investigation.
- Determining whether the employee shall remain in the workplace, be assigned alternate duties, be given a home work assignment or be placed on an unpaid leave of absence.
- Determining what action, if any, shall be taken during or following a Board investigation.
- Ensuring that employees are informed of this Administrative Procedure and how it can be accessed.

- Reviewing this Administrative Procedure at orientations for all employees.
- Conducting internal investigations as directed by the Director of Education.

Superintendents are responsible for:

- Ensuring principals are consistent in the application of this Administrative Procedure.
- Ensuring that all employees for whom they have supervisory responsibility are aware of the requirements under this Administrative Procedure and that employees follow the requirements outlined in this Administrative Procedure.

Principals, Managers and Supervisors are responsible for:

- Ensuring staff who they supervise are aware of the requirements under this Administrative Procedure.

PVNC Catholic Staff are responsible for:

- Reporting any matter captured by this Administrative Procedure to their supervisor and to the Director of Education.
- In accordance with the Child, Youth and Family Services Act, and the Joint Children's Aid Society and School Board Protocol, Board employees shall recognize their duty to promptly report a child in need of protection, in accordance with the Child, Youth and Family Services Act, the Joint Children's Aid Society and School Board Protocol, and [AP 513 Reporting Children In Need Of Protection](#). There is a higher standard of reporting for those who work with children
- Adhere to the procedures for ensuring Safe and Accepting Schools that fall under DP 900 Safe and Accepting Schools.
- Completing relevant Sexual Abuse and Prevention Programs relevant to maintaining professional certifications required for employment eligibility.

PROGRESS INDICATORS:

- PVNCCDSB will continue to provide an environment that ensures the safety of all students and staff.

DEFINITIONS:

Criminal Offence - Any offence listed in the Criminal Code of Canada, the Controlled Drugs and Substances Act, the Youth Criminal Justice Act, or any other statute in any country committed in Canada or abroad.

Third-Party - An outside agency or organization which regulates or governs your profession (E.g. Ontario College of Teachers, Early Childhood Educators, etc).

REFERENCES:

Employee Relations Directional Policy – 500

[PVNC Catholic District School Board Vision and Strategic Priorities 2014-2017](#)

[Education Act, RSO 1990, c. E.2](#)

[Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.M.56](#)

[Teaching Profession Act, R.S.O. 1990, c.T.2](#)

[Ontario College of Teachers Act, S.O. 1996, c.12](#)

[Child and Family Services Act, RSO 1990, c. C.11](#)

[Police/School Board Protocol \(2016\)](#)

[Ensuring Student Safety and Protection Together – A Joint Children's Aid Society and School Board Protocol](#)