



**PROGRESSIVE DISCIPLINE: MISCONDUCT OR  
INAPPROPRIATE BEHAVIOUR**

**#2-12**

Approved: April 26, 2000 by: Board of Governors  
Effective: April 26, 2000  
Date to be Reviewed: 2008

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**POLICY**

**North Island College has a responsibility to inform an employee of an allegation of perceived or actual misconduct or inappropriate behaviour. Further, North Island College has a duty to investigate, and either substantiate or exonerate an allegation of perceived or actual misconduct or inappropriate behaviour. In the event that an investigation substantiates that an employee is involved in an incident or incidents of misconduct or inappropriate behaviour, then a process of progressive discipline shall be implemented.**

**Progressive discipline is a process that aims to advise an employee of misconduct or inappropriate behaviour and to correct or alleviate misconduct or inappropriate behaviour within a reasonable period of time.**

**A process of progressive discipline includes action or actions that range from informal to formal and specific warnings that are either verbal to written. The process of progressive discipline may involve one or several actions, occurring over time, and initiated at any point of the process.**

**A process of progressive discipline shall only be implemented when misconduct or inappropriate behaviour has been identified, investigated and substantiated, and shall be implemented in accordance with the procedures of this policy. In any application of this policy, all employees shall be treated with dignity and respect and the onus of responsibility is on the College to prove just cause and to act with due process.**

**PURPOSE**

North Island College recognizes that it has a responsibility to create and maintain learning and working environments that supports students and employees. As part of this responsibility, North Island College is committed to ensuring that the conduct and behaviour of its employees fosters public trust and community confidence.

## **Accountability**

The accountability for a process of progressive discipline rests with the Administrator responsible for the supervision or direction of the employee. Where deemed appropriate, the President or designate may delegate the responsibility for a process of progressive discipline to another Administrator.

The Director, Human Resources is accountable for the consistent administration of this policy. The President is ultimately accountable for the administration of this policy in accordance with the Board of Governors' Executive Limitations and the *College and Institute Act*.

Disciplinary action that includes suspension, demotion, or termination of employment shall occur only after the President reviews the facts of the issue and approves such disciplinary action. The President shall act and report on matters pertaining to progressive discipline in accordance with the authority of the Board of Governors' Executive Limitations and the *College and Institute Act*.

## **Right to Appeal**

### **1. The Board of Governors**

In accordance with the *College and Institute Act*, in the case of suspension or termination, an employee has the right of appeal to the Board of Governors.

### **2. Union**

An employee who is a member of a union has the right to grieve disciplinary action in conjunction with his or her union.

### **3. Administrators**

In accordance with the Administrators' Policies, an Administrator has a right to appeal suspension or termination to the Board of Governors.

## **PROCEDURES FOR IMPLEMENTING A PROCESS OF PROGRESSIVE DISCIPLINE**

There are a number of steps in a process of progressive discipline. Each situation has different circumstances. An Administrator who commences a process of progressive discipline is responsible for ensuring that an investigation of all of the circumstances has been completed, substantiated and documented.

In the event that an Administrator leaves his or her position, and where the circumstances allow, an Administrator is responsible for concluding any process of progressive discipline that is in progress, or by assigning responsibility for completion of a process of progressive discipline to another Administrator. The employee and where appropriate the union shall be advised of the assignment of responsibility to another Administrator.

## **STEP ONE**

### **Informal - Verbal Reminder**

The Administrator responsible for the supervision of the employee reminds the employee of the conduct and behaviour expected of the position.

The Administrator is responsible for ensuring that the described conduct or behaviour is consistent with other similar positions in the organization. Normally, the employee is provided with a copy of an up-to-date position description ensuring that the employee understands the requirements of the job and the standards of conduct expected.

The Administrator shall advise an employee who is a member of a union that they have the right to be represented by his or her union. Where a union member waives their right to union representation, this must be in writing with a copy to the union.

## **STEP TWO**

### **Formal - Verbal Warning**

The Administrator responsible for the supervision of the employee verbally informs an employee of the duties and responsibilities and describes the expected conduct or behaviour and standards of the position. The Administrator shall advise an employee who is a member of a union that they have the right to be represented by his or her union. Where a union member waives their right to union representation, this must be in writing with a copy to the union.

The employee shall be advised that if the misconduct or inappropriate behaviour continues, then further action may be taken.

## **STEP THREE**

### **A. Formal - Written Warning**

The Administrator responsible for the supervision of the employee calls for a formal meeting with the employee. The Administrator shall advise an employee who is a member of a union that they have the right to be represented by his or her union. Where a union member waives their right to union representation, this must be in writing with a copy to the union. Where the person is not a member of a union, he or she has the right to be represented by another person.

The Administrator reviews the conduct or inappropriate behaviour with the employee and provides an opportunity for the employee to clarify or add information to the discussion. The misconduct or inappropriate behaviour is documented with any examples or incidents together with a description of the conduct or behaviour expected for the position. The document establishes a time frame and consequences of not

correcting conduct or behaviour. The employee receives the document and is required to sign acknowledgment of the document. A copy is placed on the employee's personnel file and a copy is provided to the union.

## **B. Formal – Demotion**

Demotion is a move to a position at a lower level of responsibility and the employee must be able to perform the duties of the position. Demotions are accommodated if a position is available and if the demotion is consistent with the appropriate collective agreement or policy.

## **STEP FOUR**

### **Formal - Suspension**

Suspension is disciplinary action that forms an imposed absence from work for a specified period of time, normally without pay. The notice of suspension includes the reasons for the action, the length of time suspended and the date and time for return to work. The document describes the consequences of repeated conduct or behaviour and outlines the behaviour expected upon return to work. The expected standards of conduct are reinforced.

Normally, the employee receives the document in person, acknowledges receipt of the document and discussion of the contents by signing a copy of the document, which is then placed on the employee's personnel file, and a copy is provided to the union. If the employee is not at work, a copy of the document(s) may be sent to the employee's home address by registered mail, with a copy provided to the union.

In all meetings with an employee who is a member of a union, a union representative is invited to attend. A second Administrator attends as a witness. Where a union member waives their right to union representation, this must be in writing with a copy to the union. Where the employee is not a member of a union or an association, he or she has a right to be represented by another person.

The employee receives the document and is required to sign acknowledgment of the document. A copy is placed on the employee's personnel file and a copy is provided to the union.

Suspension of employment must be consistent with provisions of the collective agreement, and in accordance with the Executive Limitations, as outlined by the Board of Governors.

In accordance with the *College and Institute Act*, in the case of suspension, an employee has the right of appeal to the Board of Governors.

## **STEP FIVE**

### **Termination of Employment**

Termination is an involuntary ending of employment, which may be imposed for misconduct or inappropriate behaviour after a process of progressive discipline has failed. In some cases, termination may be imposed for gross misconduct, and in such cases, the termination may occur in the absence of a process of progressive discipline.

**AN ADMINISTRATOR'S RESPONSIBILITY FOR DEVELOPING AND IMPLEMENTING A PROCESS OF PROGRESSIVE DISCIPLINE**

1. Where misconduct or inappropriate behaviour is identified, each situation is evaluated on an individual basis. Where appropriate, an Administrator will meet with the Director, Human Resources, to clarify the position description, standards, and to identify a corrective or improvement process.
2. The responsibility for the establishment and clarification of position duties and responsibilities, and performance standards rests with the College, and must be reasonable and attainable.
3. When an Administrator identifies misconduct or inappropriate behaviour, which cannot be corrected through normal day-to-day coaching or supervision, or when a significant behaviour has been identified, then the Administrator shall review the issue in conjunction with the Director, Human Resources.
4. The Administrator shall request a meeting with the employee to describe the incidence of misconduct or inappropriate behaviour. The purpose of the meeting is to communicate concerns to the employee, and to provide an opportunity for the employee to reflect and respond to the concerns. Where appropriate, a process for ensuring that the misconduct or inappropriate behaviour does not occur again, or a process for ensuring that the conduct or behaviour does not occur again, shall be identified.
5. All meetings between the Administrator and the employee shall be conducted in accordance with the applicable collective agreement or College policy and in the presence of the employee's union representative. In the case of an Administrator, a representative of the Administrator's choice may accompany an Administrator. Sufficient notice of meetings (normally twenty-four hours) shall be provided to all parties. The Director, Human Resources, or another senior Administrator shall attend a formal discipline meeting as a witness.
6. An employee has a right to respond, in writing, to any allegations or proposed actions.
7. The areas of deficiency, the expected standard of conduct or behaviour, the process for improvement (where appropriate), and the method of evaluating the expected conduct shall be provided, in writing, to the employee along with a reasonable time frame. Copies of all documentation pertaining to the progressive discipline shall be placed on the employee's personnel file with a copy to the union or association.

8. The employee receives a copy of all documentation and acknowledges receipt of all documentation that is placed on his or her personnel file.
9. When an employee is required to return to a satisfactory level of conduct within an established time frame, the employee shall receive documentation that advises the employee that failure to meet the specified performance standards may result in further action up to and including termination.
10. At all times the employee has the right to respond, in writing, to any administrative action.
11. In accordance with the *College and Institute Act*, in the case of termination, an employee has the right of appeal to the Board of Governors.

## **TERMINATION OF EMPLOYMENT**

1. The decision to terminate an employee must be reviewed with and approved by the President, in writing, and a decision to terminate must be conducted in accordance with the requirements of the Board of Governors' Executive Limitations, the *College and Institute Act*, and any other legislation that pertains.
2. Termination of a senior Administrator shall be recommended and approved by the President, and reviewed by the Board of Governors, and shall be conducted in accordance with the requirements of the Board of Governors' Executive Limitations, the *College and Institutes Act*, and any other legislation that pertains.
3. The responsibility for proving just cause in the termination of an employee rests with the College.
4. An employee shall be advised of the decision to terminate, in person, by an exempt Administrator and shall receive, in writing, the reason or reasons for the termination.
5. If the employee is a member of a union, the employee's representative shall be invited to attend the meeting at which the decision to terminate shall be communicated. The Director, Human Resources or another exempt Administrator shall attend as a witness.

### **Definitions:**

**Progressive Discipline:** Progressive discipline is a process that aims to correct misconduct or inappropriate behaviour within a reasonable period of time and involves a variety of interventions depending upon the severity of the problem, the length of service and the work record of the employee.

Interventions may require the employee to participate in a process for improvement that may include position retraining, training, counselling, one-on-one coaching, attendance at

required educational programs, or any other initiatives identified by the College and, where appropriate, the employee and his or her union.

**Progressive discipline includes actions that range from the informal to formal and from verbal to written warnings and may involve one, several or all of the following actions, occurring over time, and initiated at any point in the process:**

- Informal – Verbal communication that acts as a reminder and describes the expected conduct or behaviour;
- Formal - Verbal and written warnings describing the expected conduct or behaviour along with specific requirements for changes in conduct, or behaviour;
- Demotion;
- Transfer;
- Suspension; and
- Termination.

Just Cause: A culminating incident or incidents, or a first offence of misconduct or inappropriate behaviour that is of a serious nature may result in the suspension of an employee or in the dismissal of an employee for just cause.

When this occurs, the onus of responsibility is on the College to prove just cause.

Just cause has been used to uphold reasons for progressive discipline for misconduct or inappropriate behaviour that includes but is not limited to the list described below:

### **Misconduct and Inappropriate Behaviour**

Misconduct is action or inaction that constitutes inappropriate behaviour on the part of the employee such that the employment relationship itself is irrevocably damaged.

Misconduct may include, but is not limited to the following:

- Inappropriate behaviour that upon investigation constitutes misconduct, disobedience, or insubordination;
- Breach of trust;
- Willful neglect of duty or gross violation of the College's rules and regulations;
- Inappropriate behaviour that may be described as abusive towards a student, employee, or a member of the public;
- Intoxication or impairment by drugs or alcohol;
- Falsification and/or unauthorized disclosure of records;
- Unethical or criminal actions (including theft);
- Absence, without authorized leave;
- Harassment, including sexual and personal harassment;
- Negligence;
- Unauthorized possession or use of College property, facilities or services; and
- Non-disclosure of conflict of interest.

### **Standards of Conduct and Behaviour**

Standards describe the expected conduct and behaviour against which an incident is compared. Standards are based on expected conduct and behaviour for certain

positions within an organization and are established by an Administrator responsible for the direction or supervision of the employee. Communication of such standards occurs between the Administrator and the employee followed up by documentation that describes the expected standards ensuring that there is a shared understanding of the expected conduct or behaviour. The Director, Human Resources shall be consulted to ensure that the standards are consistent with standards expected for all employees.

**Conduct that Upon Investigation is Deemed Non-Culpable**

Non-culpable conduct or behaviour arises when an employee is unable to fulfill the requirements of the employment relationship because of the following:

- The conduct in question is beyond the capacity of the employee to control; or
- The employee is incapable of regularly attending work.

The College is obliged to warn an employee of loss of employment due to non-culpable conduct and is responsible for supporting any inference that the employee is unable to discharge their position in accordance with accepted standards.

**Duty to Accommodate**

Where there is a duty to accommodate, and/or when an employee's conduct or behaviour is non-culpable, the Administrator shall consult with the Director, Human Resources.

**Cross Reference:**

See also Human Rights – Harassment and Sexual Harassment Policy #2-08 may apply where the misconduct or inappropriate behaviour is alleged sexual or personal harassment.

See also Protection of Employees from Violence in the Workplace Policy #2-10

See also Emergency Response to Inappropriate, Disruptive or Threatening Behaviour Policy #2-11

See also Conflict of Interest - Breach of Trust Policy #2-13

See also Crisis Communications Policy #5-01

See also The College and Institute Act

See also The Board of Governors' Executive Limitations

See also North Island College and North Island College Faculty Association Collective Agreement and the Common Agreement.

See also North Island College and CUPE, Local 3479 Collective Agreement

See also North Island College Administrators' Policies