

NIPISSING-PARRY SOUND CATHOLIC DISTRICT SCHOOL BOARD

PREVENTION OF ABUSE AND PROTECTION OF STUDENTS FROM POTENTIAL ABUSE

S 10.0
July 2017

POLICY:

1. Rationale

- 1.1 The Nipissing-Parry Sound Catholic District School Board believes that every student has the right to work and play in a safe and orderly environment, without fear of his/her personal safety.
- 1.2 The prevention of abuse and protection of students involves a commitment of all supervisors and academic staff of the Board.

Recent government initiatives on family violence in general and child sexual abuse in particular have emphasized that everyone must become involved if the violence and abuse that are so prevalent in our most intimate and trusting relationships are to be eliminated.

Archbishop R. Ebacher: Breach of Trust, Breach of Faith (CCCB)

2. Application

- 2.1 This policy applies
 - a. to all employees, volunteers and students of the Board.
 - b. on all Board premises, and at all school and Board events, be they academic, athletic, cultural or social.
- 2.2 For the purposes of this policy, “employees” includes dependent and independent contractors and their employees, and “volunteers” includes anyone acting on behalf of the Board, whether or not the person receives an honorarium.
- 2.3 The Nipissing-Parry Sound Catholic District School Board considers the following to be unacceptable conduct:
 - a. Physical, sexual or emotional abuse of a student, which includes any act that threatens the personal well-being of students or undermines public confidence in the Board’s protection of its students.
 - b. Sexual misconduct, which is offensive conduct of a sexual nature which may affect the personal integrity of any student or the school environment.

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- c. Any criminal offense
 - i. involving children, or
 - ii. of a sexual or moral nature, or
 - iii. of a violent nature, or
 - iv. on a person

(The above include, but are not limited to: sexual interference, invitation to touching, sexual exploitation, parent or guardian procuring sexual activity, corrupting children, indecent acts, nudity, indecent exhibition, procuring, offenses in relation to prostitution, sexual assault, abduction of a child, kidnapping, assaults and related offenses, criminal harassment.)

- d. Child Abuse, as defined in the Child and Family Services Act
- e. Failure to Report Child Protection Concerns as defined in the Child and Family Services Act
- f. Sexual relations with students under 18, or with adult students where there is a trust relationship,
- g. Unlawful forms of harassment, as defined by the Human Rights Code.

2.4 Reference to other Board policies

In matters related to child abuse, unlawful harassment or abusive conduct by one student toward another, this policy shall be implemented in conjunction with the related Board policies dealing with Reporting Child Protection Concerns, Sexual Harassment, Safe Schools and Suspension of Pupils.

GUIDELINES

PREVENTIVE MEASURES IN HIRING PROCEDURES

3. Verification of Criminal and Non-Criminal Records

3.1

- a. Any candidate applying for new employment with the Board shall be required to provide, on the application form for employment, the details of any conviction(s)
 - i. for offense(s) under any federal statute, including the *Criminal Code of Canada* and the *Narcotics Control Act*, for which a pardon has not been granted,

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- ii. for sexual offences for which the applicant has or may have obtained a pardon.
- b. Any offer of employment shall be subject to confirmation of the above information through a current Criminal Record Check and a Non-Criminal Record Certificate (Verification of Pardon Declaration).
- c. As a general rule, no person shall commence employment with the Board until he/she has supplied current verifications, as described above. Only in an exceptional case will an employee be permitted to commence employment with the Board before the Board has received these verifications. Before any such exception is made, a binding agreement shall be entered between the employee, any applicable representative of the employee, and the Director (or his/her designate) on behalf of the Board, ensuring that verification shall be provided without delay and preserving the Board's power to revoke the offer of employment.
- d. An offer of employment may be revoked if the individual refuses to consent to the above verifications, or if the Board later discovers offenses on record which the individual did not disclose.
- e. The applicant shall provide an original of the Criminal Record Check and Non-Criminal Record Certification (Verification of Pardon Declaration).
- f. The above requirements apply to employees of the Board, including casual/ replacement employees.
- g. A Criminal Record Check is not mandatory when:
 - i. an employee transfers to another position within the Board within the same bargaining unit;
 - ii. a retired teacher applies to be placed on the occasional teachers' list within one year of retirement from the Nipissing-Parry Sound Catholic District School Board.
- h. The Board may request a Criminal Record Check and Non-Criminal Record Certificate or updates when an existing employee is offered a position in a different bargaining unit. If such request is made, the offer shall be under the terms and conditions described in this section of the policy.

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- 3.2 Criminal Record Checks and Non-Criminal Certificates shall consist solely of searches through the Canadian Police Information Computer (CPIC) system.
- 3.3 Only Criminal Record Checks and Non-Criminal Certificates that are less than one year old shall be accepted.
- 3.4 Any information obtained through a verification as described above is confidential, and shall be accessible only by an interviewer, a senior administrator, the Manager of Human Resources and/or the successful candidate's immediate supervisor.
- 3.5 The Criminal Record Check, Non-Criminal Certificate and the statements made pursuant to 3.1 a) shall be stored with a candidate's application or, in the case of a successful candidate, in the individual's personal file in the Personnel Office.

4. Reference Checks

- 4.1 In addition to the above verifications, each application for employment shall consist of at least one written personal reference and names of at least two other references.
- 4.2 Each interview team shall identify a chair for the interviews and the chair shall endeavour to check references, contact other employers and agencies. The interview process will also serve to screen candidates.
- 4.3 A written record will be kept of persons contacted (see Form in Appendix A).

IMPLEMENTATION

5. Duty to Report

- 5.1 Abuse involving children under 16 years of age

In accordance with the CFSA (s.72), Board employees have a legal duty to report forthwith to the CAS or Police when they have reasonable grounds to believe that a child (under 16) in need of protection.

- 5.2 Abuse of students 16 years of age or older

There is no statutory duty to report to the CAS or Police suspicions of abuse if the alleged student victim is 16 years of age or older when alleged offence occurs; however, the student is still protected under the Criminal Code of Canada. A student 16 years or older who discloses a current or past abuse event should be advised, encouraged and aided in contacting

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the appropriate service agency or Police. Additionally, if the older student's information indicates that he/she has siblings under the age of 16 who may be in need of protection, this must be reported. If the student declines to report a serious criminal offense, the Board may still report such disclosure to the Police.

5.3 Self-reporting of employees and volunteers who are the subjects of an allegation

When an employee or a volunteer of the Board is informed that an outside agency is conducting an investigation in relation to an alleged conduct listed in 2.3, or that he or she has been accused of or charged with such, the employee or volunteer shall immediately inform his or her supervisor or principal.

5.4 Reporting by other employees

All employees of the Board have a duty to formally report to their immediate supervisor or principal when they have reason to believe that another employee has committed, is the subject of an investigation, has been accused of, charged with, or found to have committed an act which constitutes unacceptable conduct under section 2.3. In making such formal report, the person shall state the basis for his or her belief.

5.5 Reporting to Senior Administration

When a supervisor or principal receives a report under 4.3 or 4.4, he/she will immediately inform the superintendent who shall in turn inform the director of education.

RESPONSE TO A MATTER IMPLICATING AN EMPLOYEE

6. Where an employee is the subject of an investigation

6.1 If an employee is the subject of an investigation, or has been charged in relation to an area listed in 2.3, the superintendent will consult with any outside investigative agency involved (where applicable), the principal of the school and the director.

The superintendent and director will then assess the risk and potential harm to the alleged victim(s), students, staff, and public confidence in the Board's protection of its students by the continued presence of the employee on Board premises.

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<p>6.2 The superintendent, in consultation with the director, may decide to remove the employee from contact with (the) student(s), or relieve the employee of his/her duties at least until such time as the investigation has been completed. The director may decide at any point in an investigation whether a suspension without pay shall apply.</p> <p>6.3 Whether or not an investigation concerning an incident is conducted by an outside agency and whether or not measures are undertaken as a result by this agency, it is the duty of the Board to take decisions falling under its jurisdiction as employer and educator.</p> <p>6.4 An employee may be subject to disciplinary action despite the ongoing involvement of an outside agency or despite pending charges, where the Board deems appropriate.</p> <p>6.5 Decisions or recommendations of the director and/or superintendent about disciplinary action shall be based on the information that is available to them at the time of disclosure, or at any stage of an investigation or court proceedings, with due consideration of all relevant factors which may include the following:</p> <ul style="list-style-type: none">a. The safety, security and personal well-being of students is of highest priority.b. Conclusions arrived at by outside agencies based on disclosure or as a result of their investigation are in no way binding upon the Board.c. A non-conviction or finding of “not guilty” is not the same as a finding of innocence. Sometimes information is known to the School Board and to the Police, which is not admissible as evidence in the criminal proceedings, but which creates serious concern about the responsibility of the individual in question.d. The standard of proof in criminal matters is different from that applied to disciplinary matters, including dismissal. An employee’s actions need not be “criminal” to be considered unacceptable conduct in an educational environment, and possible grounds for dismissal.e. In addition to the statutory requirements, teachers under the employ of the Board are expected to maintain certain standards to be effective teachers in a Catholic education setting.f. Any unacceptable conduct that undermines relationships, credibility and authority, threatens the personal well-being of students, or undermines public confidence in the Board’s protection of its students is subject to disciplinary action.	

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- g. Disciplinary action is commensurate with the seriousness of an employee's unacceptable conduct. For serious incidents, the process of progressive discipline need not apply, and the most serious forms of discipline may be applicable.

Where there have been previous warnings or disciplinary actions, either related or not, any one incident could be treated as a "culminating incident" warranting serious disciplinary action.

- 6.6 Regardless of the findings of an outside agency, court or tribunal, the director may, after reviewing the evidence (including that provided by the outside agency):
- a. reassign the employee to his/her previous responsibilities, perhaps in another setting; and/or
 - b. direct or, where applicable, recommend to the Board that any pay that was withheld be reimbursed; and/or
 - c. enact or, where applicable, recommend to the Board appropriate disciplinary action.
- 6.7 Disciplinary action includes, but is not limited to: a letter of reprimand in the employee's file; reassignment; suspension without pay; exclusion from certain premises; demotion; dismissal; recommendation by the director to the Minister that the teacher's certificate be suspended or revoked.
- 6.8 If disciplinary action is involved, the employee is encouraged to contact his/her union or federation representatives.

RESPONSE TO A MATTER IMPLICATING A STUDENT

7. Where a student is the subject of an investigation

7.1 Use of professional discretion

It is important to distinguish between conflicts among students (which are part of their everyday life) and "abuse". All cases involving students should be examined on an individual basis in accordance with the Board's Safe School policy and the Ontario Schools Code of Conduct. This does not apply to suspicions of abuse of a child by a person over 16, where the duty to report to the CAS is absolute.

7.2 Where a student is implicated in respect to unacceptable conduct under section 2.3

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If a student is the subject of an investigation, accused of, charged with, or found to have committed a serious offense as listed in 2.3, the principal shall determine the level of contact that the alleged perpetrator shall be allowed with other students in the school or school activities. The principal shall discuss placement alternatives with the superintendent concerned.

7.3 Review of implicated student's placement

The principal in consultation with the superintendent may, at any time, review the placement of an implicated student, where such review is deemed appropriate, or at the request of the parent.

7.4 Alternate placement

Alternate placement may include, but is not limited to: suspension from school; in-school suspension; transfer to another school; program for "Supervised Alternative Learning for Excused Pupils" (SALEP); home schooling; expulsion (approved by the Board).

7.5 Transfer to another school

If an alleged or convicted abuser is transferred to another school, the receiving school personnel should be made aware of the situation by the principal of the source school.

8. Visitors and Volunteers

8.1

- a. Adequate supervision of all visitors and volunteers shall be provided by Board staff.
- b. Principals or immediate supervisors shall check references (See Appendix A)

RESPONSE TO A MATTER IMPLICATING A VOLUNTEER

9. Where a volunteer is the subject of an investigation

9.1 Where a volunteer is being investigated, or has been accused or charged

If an outside agency has begun an investigation of a volunteer in relation to a criminal act listed in 2.3, the individual shall be excluded from all Board premises where there are students until the investigation has been completed and/or the charges disposed of.

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Notwithstanding, if the individual is a parent or guardian, he/she may, by prior appointment and under supervision, attend activities involving his/her child.

In either case, the individual shall be so advised in writing. The Trespass Act shall apply.

9.2 Where the volunteer is acquitted or found not guilty

Upon acquittal or a finding of not guilty, the superintendent, in consultation with the principal concerned (if applicable) shall assess whether the individual may be permitted on any particular Board premises, and establish the conditions that may apply, if necessary.

9.3 Where the volunteer is found guilty and/or convicted

If the individual is found guilty and/or convicted of a criminal offense, he/she will not be permitted on any Board premises where there are students.

Notwithstanding, if the individual is a parent or guardian he/she may, by prior appointment and under supervision, attend activities involving his/her child.

In either case, the individual shall be so advised in writing. The Trespass Act shall apply.

INVESTIGATIONS

10. Investigations

10.1 Pending or ongoing investigation by an external agency

- a. The duty to report forthwith any suspicion of child protection concerns is described in the Child and Family Services Act and in the Board policy re: Reporting Child Protection Concerns.

The CAS shall determine if there are sufficient grounds to conduct an investigation. Any investigation in such matters is the responsibility of the CAS. In cases of physical or sexual abuse the police are also involved.

- b. In any matter where an outside agency has initiated an investigation of an employee, student or volunteer, Board personnel shall refrain from conducting any further investigation until the superintendent, in consultation with the director, has approved the resumption of such investigation.

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- c. Administration may, at any time, internally review the circumstances surrounding the alleged incident, the facts at hand that are already available to them, and any information that external agencies can provide, then make decisions based on this information.
- d. Even without conducting an investigation, it may happen that pertinent information may come to the attention of an employee. In such cases, the employee shall immediately apprise the superintendent of such information, who shall relay it to the director.

10.2 Internal investigation

- a. The superintendent, in consultation with the director, shall determine when and if someone should be appointed to lead an internal investigation.
- b. In the case of an internal investigation, the person appointed to lead the investigation
 - i) may seek the assistance of other persons of his/her choice;
 - ii) shall, at the request of the employee involved, provide appropriate information to the union or professional association concerned regarding the investigation;
 - iii) shall conduct the investigation in confidence, and disclose the information collected only to the superintendent or director;
 - iv) may interview anyone who may possess relevant and useful information;
 - v) may visit the location where the incident took place, if necessary and appropriate;
 - vi) shall state his/her final conclusions in a report to the director, through the superintendent.
- c. In the case of an internal investigation, all employees, students and volunteers will be expected to provide their full cooperation.

REFERENCE CHECK FORM

The personal information you provide on this form is collected by the Nipissing-Parry Sound Catholic District School Board under the authority of the Education Act (R.S.O. 1990 c.E.2) ss.58.5, 265 use and 266 as amended. The information will be used for School and Board operations including but not limited to student registration, staff and resource allocation and to provide information to employees where necessary to support them in carrying out their job duties. In addition, the information may be used to deal with matters of health and safety or discipline and may be required to be disclosed in compelling circumstances, for law enforcement matters or in accordance with any other Act. The information will be used in accordance with the Education Act, the regulations, and guidelines issued by the Minister of Education governing the establishment, maintenance, use, retention, transfer and disposal of pupil records. For questions about this collection, please contact your school Principal.

Name of Employee/Volunteer: _____

Name of Reference	Address	Telephone	Time Contacted	Date Contacted
1.				
2.				
3.				
4.				

I hereby state the above references did not provide any information that raised concerns with respect to the **Prevention of Abuse and Protection of Students from Abuse** policy (S10.0).

Name of interview chair or person checking reference:

(Please print)

Signature

Date

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Applicant: _____ Position: _____
 Reference: _____ Tel. #: _____
 Organization: _____ Date: _____

Always identify yourself. Advise person that candidate is applying for a position with us as a _____ and has authorized us to contact references to obtain information relating to his/her employment history.

1. When was the applicant employed by you? _____
2. In what capacity? _____
3. How would you describe the applicant's work performance?

4. How was the applicant's attendance record?

5. Why did the applicant leave your organization?

6. Would you rehire this person?

7. As a _____, the applicant will be working with special needs children and adolescents. Should we have any concerns about hiring this person?

