

## Administrative Procedure 445

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# PERFORMANCE RELATED TERMINATION OF EMPLOYMENT (AUPE, UNIFOR and OOS)

### Background

The Division is committed to its employees. There are occasions, however, where it is necessary to sever the employment relationship of an employee or group of employees. Termination of employment may occur for a variety of reasons such as inability to satisfactorily perform expected job duties, progressive discipline, or actions which may jeopardize students and/or other employees. In certain circumstances, termination of employment may also be without cause or as a result of layoff.

This Administrative Procedure addresses performance related termination of employment, through a progressive discipline process, or as a disciplinary response to incidents of a severe nature, which warrant immediate termination and does not address the process to be followed in other circumstances such as layoff, release during the probationary period, or termination of employment without cause.

The purpose of this Administrative Procedure is to ensure that termination of employment within the Division is conducted fairly and consistently, in accordance with applicable legislation, collective agreements, and Division procedures. Where a supervisor is considering termination of employment, there must be consultation with the Employee Relations Manager or designate in Human Resource Services (HRS) prior to taking any action.

Supervisors must work through the following process to address performance related concerns prior to any review for termination of an employee.

### Procedures

#### 1. Identification of Performance Concerns/Performance Management

- 1.1 Where a supervisor identifies that an employee is not meeting expectations in fulfilling their job duties, the supervisor will identify the specific performance concerns and, in a meeting with the employee, will outline these concerns. During this meeting, the supervisor reviews the job description with the employee and, working together with the employee, creates a plan for improvement of their performance.
- 1.2 If, after reasonable efforts have been taken, the employee continues to be unable to complete his/her job duties, the immediate supervisor, in consultation with the Employee Relations Manager or designate, HRS will commence the performance evaluation process, which may include a disciplinary process. During consultation, documentation will be drafted to identify the concerns that the employer has with the employee's performance. This may include a performance improvement plan (PIP) as well as progressive disciplinary documentation. These documents will be provided to the

employee by the supervisor in accordance with the respective collective agreement of the employee or practice of the Division should there be no collective agreement. Any documentation that is considered disciplinary will be placed on the employee's file.

- 1.3 If, after a reasonable period of time, depending on the nature of the performance an ongoing review of the employee's performance relative to the outlined and documented performance concerns and expectations, the employee continues to be unable to satisfactorily perform, the identified job responsibilities, the immediate the supervisor, in consultation with the Employee Relations Manager or designate, HRS will commence the termination of employment process.
- 1.4 It is understood that, where the immediate supervisor is not a Principal or Superintendent, that it is the immediate supervisor's responsibility to keep the Principal or Superintendent informed of the status of the performance management process.

## 2. Termination of Employment Guidelines

When the Employee Relations Manager or designate and the employee's supervisor determine that termination of employment is the appropriate course of action, the Employee Relations Manager or designate will recommend such action to the Chief Superintendent. With the Chief Superintendent's approval, the termination of employment process will occur as follows:

- 2.1 All written records of the supervision process, including performance appraisals, disciplinary documentation, and performance developmental plans must be forwarded to and maintained by the Employee Relations Manager or designate, Human Resource Services.
- 2.2 The supervisor will provide the Employee Relations Manager or designate with a list of Division equipment and property that has been provided to the employee (e.g. cell phone, key to Division property, laptop, etc.).
- 2.3 The supervisor will provide the Employee Relations Manager or designate with a list of absences (e.g. sick days, vacation days, unpaid leave days, etc.) in the past 3 weeks and any overtime or banked time owing.
- 2.4 All written communication to the employee regarding the actual termination of employment will be produced by the Employee Relations Manager or designate.
- 2.5 The employee will be notified of the time and place of a meeting and the right to have union representation where applicable.
- 2.6 The Employee Relations Manager or designate will ensure that the necessary Division personnel are notified of the employee's termination of employment (Information and Infrastructure Technology Services, Pay and Benefits, Staffing) once the termination has been completed.
- 2.7 The termination of employment of an employee will occur in the presence of the Employee Relations Manager or designate and the employee's supervisor. At the meeting, the Employee Relations Manager or designate will provide the employee and the union representative (where applicable) with the notice of termination of employment. This notice may include a summary of the initiatives taken to improve the

performance, the results of that effort (as identified above), and the consequence: termination of employment. Copies of the letter will also be provided to the immediate supervisor and the Chief Superintendent.

- 2.8 The Employee Relations Manager or designate, in cooperation with the immediate supervisor, will collect all Division equipment and property provided to the employee (see clause 2.2 above). The Employee Relations Manager or designate will ensure that the employee is able to proceed safely from the premises. Where this is not the case, arrangements for transportation to the employee's home will be made (e.g. provide for taxi or alternate transportation). Prior to the employee's departure, the Employee Relations Manager or designate will arrange for an alternate time (e.g. after normal work hours) for the employee to return to collect his/her personal belongings should it not be possible to do so at the time of termination.
- 2.9 As appropriate, the Employee Relations Manager or designate will provide access to the Employee Family Assistance Program (EFAP) to provide assistance to the terminated employee for a determined period of time.
- 2.10 Upon termination of employment, all further communication between the employee and/or the employee's agent will be through the Employee Relations Manager or designate. When a terminated employee retains legal counsel, all Division communication will be through Division legal counsel.
- 2.11 As soon as possible after the employment termination meeting and once the employee has left the building, the supervisor will advise all staff in the work unit that the employee will not be returning to work. The supervisor will also advise who will be assigned the work of the terminated employee in the short term until other arrangements are made. No other detail or discussion about the termination of employment shall occur with other employees.
- 2.12 No verbal or written references for the terminated employee shall be provided by any Division employee without prior consultation with the Employee Relations Manager or designate.

### 3. Immediate Termination of Employment

- 3.1 The Employee Relations Manager or designate must be consulted immediately in situations thought to warrant immediate termination of employment.

4. Failure to strictly adhere to these procedures in their entirety does not render this process null and void.

Adopted: May 2, 2005  
Reviewed/Revised: June 28, 2013, June 30, 2017, February 5, 2021

Reference: Education Act, Sections 51, 52, 53, 54, 196, 197, 222, 225  
Employment Standards Code  
Labour Relations Code