



INTERNAL CORRESPONDENCE

To: Chair and Members
From: Deb Reid
Dept: Niagara Police Services Board
Dept: Executive Director
Niagara Police Services Board

Date: May 11, 2022

Re: Draft Board By-law 396-2022 – Right to Disconnect from Work Policy

Purpose:

The purpose of this report is to request the Board approve the attached Board By-law to *"Establish Policy for the Right to Disconnect From Work."*

Background Information and Discussion:

On October 25, 2021, the Ontario Government introduced Bill 27, the *Working for Workers Act, 2021*, in the Ontario Legislature. It received Royal Assent and came into force on December 2, 2021. The Act made significant amendments to the *Employment Standards Act, 2000 (ESA)*, including the introduction of a new requirement for employers in Ontario with 25 or more employees to have a written policy on disconnecting from work for all employees covered by the ESA.

The ESA provides for a transition period of six months from the date the Act received Royal Assent for employers to comply with the relevant requirements regarding the written policy on disconnecting from work, meaning that employers are required to have a compliant policy in place by June 2, 2022.

Through a memorandum sent on April 27, 2022, to all Ontario Police Services Boards and Chiefs of Police, from the Ontario Ministry of the Solicitor General, Public Safety Division and Public Safety Training Division, formal notification was provided of the new requirement for a "right to disconnect" policy under the *Employment Standards Act, 2000 (ESA)*.

As the Board is the statutory employer of all Members of the Niagara Regional Police Service and Niagara Police Services Board Staff, including those to whom the ESA generally applies, the proposed Disconnecting from Work By-law, seeks to ensure that the Board complies with its statutory obligations under the ESA. The proposed By-law also demonstrates the Board's commitment to the health and well-being of its Members through its support of disconnecting from work where appropriate.

In response to the foregoing, a Board By-law has been developed and a draft is attached for the Board's review and consideration. The draft By-law has been reviewed by the Board Solicitor and the Chief of Police and it is now recommended for Board approval. In addition, the Service will prepare a General Order that will align with the Board's By-law and comply with the relevant requirements regarding the written policy on disconnecting from work.

It is therefore recommended that the Board approve the proposed By-law to ensure that the Board has a policy in place regarding disconnecting from work before June 2, 2022, to be in compliance with the amended ESA.

Recommendation:

That the Board adopt By-law No. 396-2022 as appended to this report;

And further, that Board Chair and Executive Director be authorized to execute the required documentation.

A handwritten signature in black ink, appearing to read "Deb Reid". The signature is fluid and cursive, with the first letter "D" being large and prominent.

Deb Reid
Executive Director

Encl.

MEMORANDUM TO: All Chiefs of Police and
Commissioner Thomas Carrique
Chairs, Police Services Boards

FROM: Richard Stubbings
Assistant Deputy Minister
Public Safety Division

SUBJECT: Right to Disconnect Policy / Written Policy on
Disconnecting from Work

DATE OF ISSUE:	April 27, 2022
CLASSIFICATION:	General Information
RETENTION:	Indefinite
INDEX NO.:	22-0045
PRIORITY:	High

As you may be aware, on December 2, 2021, the *Employment Standards Act, 2000* (the *Act*), was amended to create a new requirement for a “right to disconnect” policy.

The *Act* was amended to create a new Part VII.0.1, which establishes a requirement for employers with 25 or more employees as of January 1 of the given year to have a written policy about employees disconnecting from work. “*Disconnecting from work*” is defined under [section 21.1.1](#) of the *Act* to mean not engaging in work-related communications, including emails, telephone calls, video calls or the sending or reviewing of other messages, so as to be free from the performance of work.

This requirement applies to all employers covered by the *Act* in relation to their employees who are subject to the *Act*, except the Crown, a Crown agency or an authority, board, commission or corporation whose members are all appointed by the Crown and their employees. It should be noted that the *Act* does not apply to a police officer or a person for whom a police officer performs work, except as provided in Part XVI (Lie Detectors).

As a result, this requirement applies to all municipal police services boards with at least 25 employees who are not police officers (e.g., civilian members of the police service, special constables, board support staff). For First Nation police services, the application of this requirement (and the *Act* generally) depends on whether the employment relationship falls within provincial jurisdiction – the *Act* does not apply to employment

relationships that fall under federal jurisdiction. This requirement does not apply to the Ontario Provincial Police, as part of the Crown.

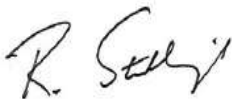
The written policy will need to be in place before March 1 of each year and must contain the date it was made, as well as the date any changes were made to it. However, employers have a grace period for 2022 and will not need to have a written policy in place until June 2, 2022.

Employers will be required to provide a copy of the written policy to each employee within 30 days of preparing the policy or, if an existing written policy is changed, within 30 days of the changes being made.

You may wish to refer to [Your guide to the *Employment Standards Act*](#) for further information regarding the written policy on disconnecting from work.

Further information on other recent amendments introduced by the *Working for Workers Act, 2021* can be found [here](#).

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Stubbings'.

Richard Stubbings
Assistant Deputy Minister
Public Safety Division

c: Mario Di Tommaso, O.O.M.
Deputy Solicitor General, Community Safety



BY-LAW NO. 396-2022

**A BY-LAW TO ESTABLISH POLICY
FOR THE RIGHT TO DISCONNECT FROM WORK**

1. PREAMBLE

- 1.1 WHEREAS subsection 31(1) of the *Police Services Act* provides that a Board is responsible for the provision of police services and for law enforcement and crime prevention in the municipality and shall:
- b. generally determine after consultation with the Chief of Police, objectives and priorities with respect to police service in the municipality;
 - c. establish priorities for the effective management of the police service, and
 - e. direct the Chief of Police and monitor his or her performance;
- 1.2 AND whereas subsection 31(6) of the *Police Services Act* provides that the Board may, by by-law, make rules for the effective management of the police service;
- 1.3 AND whereas an amendment was made to the *Employment Standards Act, 2000* (the ESA), specifically Bill 27, the *Working for Workers Act, 2021* which introduced a new requirement for employers in Ontario to have a written policy on disconnecting from work for all employees covered by the ESA;
- 1.4 AND whereas it is the responsibility of the Chief of Police of the Niagara Regional Police Service to administer the policing services of the Regional Municipality of Niagara in accordance with the policies, priorities and objectives established by the Niagara Police Services Board;
- 1.5 AND whereas it is the responsibility of the Chief of Police to develop the necessary procedures to ensure compliance with Board policies and effective operations of the police service.

NOW THEREFORE THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICES BOARD ENACTS AS FOLLOWS:

2 DEFINITIONS

- 2.1 “Act” means the *Police Services Act*, R.S.O. 1990, c.P.15, and amendments thereto.
- 2.2 “Board” means the Regional Municipality of Niagara Police Services Board.
- 2.3 “Chief of Police” or “Chief” means the Chief of the Niagara Regional Police Service.
- 2.4 “Service” means the Niagara Regional Police Service.

For the purpose of this By-law, the following definitions apply:

- 2.5 “*Scheduled Hours of Work*” means the schedule or start and end time for a unit/division as set out by senior management, based on operational requirements and in accordance with a member’s terms and conditions of employment, applicable collective agreements and/or their minimum statutory entitlements under the ESA.
- 2.6 “*Disconnecting from Work*” means not engaging in work-related communications, including emails, telephone calls, video calls or the sending or reviewing of other messages, so as to be free from the performance of work.

3 BOARD POLICY

- 3.1 The Board values the health and well-being of its employees. Disconnecting from work as appropriate is vital to a person’s well-being and helps employees achieve health and sustainable work-life integration. Disconnecting from work as appropriate also enables employees to work more productively during their assigned working hours and reduces the likelihood of employee exhaustion.
- 3.2 This By-law is required to be compliant with an amendment to the *Employment Standards Act, 2000* (the ESA), specifically Bill 27, the *Working for Workers Act, 2021*, which introduced a new requirement for employers in Ontario to have a written policy on disconnecting from work for all employees covered by the ESA.
- 3.3 In recognition of the distinct statutory and common law duties of Police Officers employed by the Board, this By-law applies only to Civilian Members to whom Part VII.0.1 of the *Employment Standards Act, 2000* (the ESA) applies.
- 3.4 It is the policy of the Board to support the Civilian Members of the Niagara Regional Police Service and Board Staff (collectively, “Member” or “Members”) in disconnecting from work outside of their normal working hours where appropriate.
- 3.5 The purpose of this policy is to set out the parameters of disconnecting from work for Civilian Members and Board Staff in accordance with the ESA, the collective agreements in force between the Board and the Niagara Region Police Association and the Niagara Regional Police Senior Officers’ Association, and any other terms and conditions of employment with the Board.

4 GUIDING PRINCIPLES

- 4.1 The Board commits to promote and support efforts to maintain the health and well-being of Members through the provision of relevant programs, information and/or training with respect to Disconnecting from Work when appropriate.
- 4.2 A Member’s ability to disconnect from work depends on the Board’s or Service’s operational needs, and the Board’s legal responsibility for the provision of adequate and effective policing, as well as the duties and obligations of a Member’s position, subject to the terms and conditions of the Member’s employment with the Board, applicable collective agreements, and/or their minimum statutory entitlements under the ESA.
- 4.3 This By-law does not preclude any Member from contacting another Member outside of what may be considered normal working hours or standard business hours, subject to any rights or entitlement the receiving Member may have under the terms and conditions of their employment, applicable collective agreements, and/or their minimum statutory entitlements under the ESA.

4.4 The Board recognizes that there are situations when it is necessary for Members to perform work or communicate with another Member outside their Scheduled Hours of Work, including but not limited to, the following circumstances:

- a) Where emergency or exigent circumstances arise, with or without notice;
- b) To assist or fill in at short notice for a Member;
- c) Where the nature of a Member's duties require work and/or work-related communications outside of their Scheduled Hours of Work;
- d) Unforeseeable business or operational reasons;
- e) A Member's request or agreement to work certain hours or have flexible working hours; and
- f) Other unusual circumstances which are inherent to a Member's position.

4.5 This By-law does not afford Members a "right to disconnect" or a "greater right or benefit" beyond what is contained within the terms and conditions of their employment, applicable collective agreements, and/or their minimum statutory entitlements under the ESA.

4.6 The Board, Service and Service Members will work together to assist Members in disconnecting from work outside of their Scheduled Hours of Work as appropriate and in accordance with this By-law.

4.7 *HANDHELD AND WORK DEVICES*

The Service may provide some Members with handheld devices, such as mobile phone, laptop, tablet, or other device as determined by Service procedures. Possession of these devices does not mean that a Member is expected to make themselves consistently available for work or work-related communications outside normal working hours, subject to the Service's operational needs and the duties of a Member's position and subject to any rights or entitlements the Member may have under their terms and conditions of employment, applicable collective agreements, and/or their minimum statutory entitlements under the ESA.

4.8 *EMAIL AND AUTOMATIC REPLIES*

Members' Scheduled Hours of Work differ within the Service. As a result, some Members may attend to work-related communications outside of other Members' Scheduled Hours of Work. Where this is the case, the sender will consider the timing of their communications and understand that the recipient is generally not expected to respond until their return to work at the earliest, subject to the circumstances detailed above. Members should activate an automatic e-mail response whenever taking vacation or leave from work. The automatic response will be sent to all incoming email communications and should advise the sender that the recipient is absent from work, the start date and end date of the recipient's absence, and provide alternate contact information.

5 DIRECTION TO THE CHIEF

5.1 *PROCEDURES*

5.1.1 The Chief shall develop and maintain processes and written procedures to ensure that Management and Service Members are able to disconnect from the workplace at appropriate times and in accordance with this By-law, and any further direction/recommendations by the Ministry of the Solicitor General through its All Chiefs Memorandums on this new requirement in the ESA for a 'right to disconnect' policy.

- 5.1.2 The said procedures shall ensure that Management takes all reasonable steps to assist Service Members under their management to disconnect from the workplace outside of their normal working hours as appropriate and in accordance with this By-law.

5.2 *COMMUNICATION OF POLICY AND RELATED INFORMATION*

- 5.2.1 The Chief shall ensure that:

- a) All new Members are provided with a copy of this By-law and Service procedures within 30 days of a Member's hire date;
- b) All existing Members are provided with a copy of this By-law and Service procedures, and any amended versions, within 30 days of approval or amendment; and
- c) All Members are provided with information regarding their Standard Hours of Work given the nature of their work, and any other information required to assist Members with complying with this By-law and Service procedures.

- 5.2.2 Promote efforts to maintain the health and well-being of Members through the provision of relevant programs, information and/or training with respect to Disconnecting from Work when appropriate, in line with the Guiding Principles of this By-law.

- 5.2.3 The Chief shall ensure that any programs, information and/or training related to Disconnecting from Work include:

- a) Clearly articulated Scheduled Hours of Work for all Members, including parameters and expectations for contact outside of their Scheduled Hours of Work;
- b) Clear and specific obligations for the Service, its Management, its Members to ensure that everyone will work together in order to Disconnect with Work where possible and appropriate, in accordance with the Guiding Principles of this By-law; and
- c) Tools, supports and resources to assist Management and Members in Disconnecting from Work at appropriate times, including through the use of available technology (i.e. out of office messaging on Service-issued phones and computers).

5.3 *EMPLOYER RECORD KEEPING REQUIREMENTS*

- 5.3.1 The Chief shall ensure that a copy of every written policy or procedure on disconnecting from work that was required by the ESA is retained for three years after the policy is no longer in effect.

6 **REPORT TO THE BOARD**

- 6.1 The Chief of Police shall provide the Board with a written report on an annual basis in respect of disconnecting from work. The report shall include:

- a) a summary of the written procedures concerning the right to disconnect from work; and
- b) confirmation of Service compliance with the said procedures.

7 **IMPLEMENTATION**

- 7.1 This By-law shall come into force upon the date of its passage.

- 7.2 The Chief shall implement this By-law, where applicable, through general order.

ENACTED AND PASSED this 19th day of May, 2022.

THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICES BOARD

William C. Steele, Chair

Deb Reid, Executive Director