



# Staff disciplinary policy

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### 1. Aims

This policy aims to:

- Help and encourage all employees to achieve and maintain satisfactory standards of conduct
- Set out the procedures for when an employee's conduct falls below the expected standard
- Ensure that all employees are treated fairly and consistently when a disciplinary issue is being dealt with

This disciplinary procedure is non-contractual and does not form part of an employee's contract of employment and may be amended at any time. The Company may also vary this disciplinary procedure as appropriate in any case.

### 2. Legislation and guidance

These disciplinary procedures are based on the Disciplinary and grievance code of practice from Acas.

### 3. Definitions

- **A disciplinary issue** will arise when a staff member has not behaved to the standard expected of them
- Appendix 1 sets out a non-exhaustive list of examples of what we define as **misconduct and gross misconduct**. For the purpose of this policy, misconduct does not cover staff capability or poor performance issues. These are addressed in our capability of staff policy

### 4. Disciplinary procedures

Minor disciplinary issues will be dealt with informally at first, and will be escalated only where:

- There has been no resolution
- The issue is more serious
- There are repeated or multiple instances of misconduct
- There is suspected gross misconduct

When dealing with an issue informally, the employee's line manager will organise a brief meeting with the employee and set out the concerns. They will remind the employee of the expected standard of behaviour and consider what support is needed to help them improve. Notes will be taken and retained.

If the issue cannot be dealt with informally, formal procedures will begin. The employee will be notified of this in a face-to-face meeting with the Headteacher, to be held in person or over video conferencing if necessary. This will be followed up in writing.

## 4.1 Suspension

In some circumstances it will be appropriate to suspend a member of staff temporarily, for example, where there is suspected gross misconduct. This in itself does not amount to guilt or constitute disciplinary action.

Where this is necessary:

- The Headteacher must authorise the suspension. If it is the Headteacher who is the subject of the disciplinary procedure, Chair of the Proprietary Board must authorise the suspension
- The staff member will be informed of the suspension, followed by a notification in writing
- The staff member will be suspended on full pay

## 4.2 Investigation

An independent investigating officer will be appointed.

Before a disciplinary hearing takes place, the investigating officer will gather the facts of the case and evidence. The investigating officer will, if necessary, hold investigatory meetings (in person or over video conferencing).

The employee will be informed of the outcome of the investigation in writing.

If the investigating officer determines that the matter should move forward to a formal disciplinary hearing a disciplinary officer will be appointed. This will be a person independent from the investigating officer.

## 4.3 Notification

If it is decided that there is a disciplinary case to answer, the employee will receive a written notification with a minimum of 48 hours notice before the hearing. This time scale may be waived with the agreement of both parties.

The notification will include:

- Details of the alleged misconduct and its possible consequences
- Copies of any written evidence, including witness statements
- The time, date and location of the disciplinary meeting (including the details if the meeting is to be held over video conferencing, if relevant)
- A statement that the employee has the right to be accompanied by a colleague or a trade union representative

A member of the Senior Leadership Team will conduct the hearing.

## 4.4 Disciplinary hearing

Before the hearing, the employee will receive a copy of all evidence that will be relied upon during the procedure.

At the hearing, the person conducting the hearing will explain the case against the employee and go through the evidence that has been gathered.

The employee will be allowed to set out their case and answer any allegations that have been made. The employee will also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. The employee will also be given an opportunity to raise points about any information provided by witnesses. Where an employer or employee intends to call relevant witnesses they should give advance notice that they intend to do this.

Employees have a statutory right to be accompanied at a meeting that may result in a formal warning being issued, disciplinary action being taken, or the confirmation of either of these.

The employee has the right to be accompanied by a colleague or a trade union representative. Employees must make the request in advance of the meeting, to allow the school to prepare and to ensure the employer knows who the companion will be.

If an employee's chosen companion will not be available to meet at the proposed time, the hearing will be postponed and the employee can suggest an alternative time, as long as the alternative time is reasonable and not more than 5 working days after the original date.

Please note that it is prohibited for employees to record (whether covertly or otherwise) the proceedings at the disciplinary hearing, and at any appeal hearing, without the express permission of the Company. If the Company discovers that the employee has done this covertly, they could be subject to further disciplinary action. Depending on the circumstances, it may amount to gross misconduct and could result in the employee's summary dismissal.

The companion can address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the hearing and confer with the employee during the hearing. The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

#### 4.5 Taking appropriate action

The hearing will be adjourned and a decision about whether further disciplinary action is necessary will be taken. The employee will be informed of the decision accordingly in writing.

Actions taken may be:

- **A first written warning** for a first instance of misconduct. A further instance may result in a final written warning. A first written warning will remain on the employee's personnel file for 6 months. The written warning will explain that a further instance of misconduct or no change in behaviour within a given timeframe will result in a final warning
- **A final written warning** where the employee has already received a first warning, or where the employee's misconduct was sufficiently serious. A final written warning will remain on the employee's personnel file for 12 months. However, the Company reserves the right to extend the validity of the final written warning to a maximum of three years in cases of very serious misconduct verging on gross misconduct or where the employee has a history of misconduct issues. A further instance may result in demotion or dismissal
- **Dismissal** where there has been gross misconduct or a final written warning has already been given

We will refer a case of teacher gross misconduct to the National College for Teaching and Leadership (National College) if we believe the case is so severe that the National College should consider whether the teacher should be prevented from teaching. We will also refer cases to other relevant authorities where appropriate.

#### 4.6 Dismissal

The power to dismiss staff in this school rests with the Senior Leadership Team or HR.

#### 4.7 Appeals process

The employee has the right to appeal any sanction. Appeals must be made in writing within 5 working days of the decision, setting out at the same time the grounds for appeal.

A disciplinary appeals officer will be appointed.

Appeals will be heard without unreasonable delay and at an agreed time and place (in person, or over video conferencing if relevant). Employees' statutory right to be accompanied by a companion will apply as with formal disciplinary hearings. Notes will be taken and a copy sent to the employee.

The appeal will be dealt with impartially and by HR Proprietary Board member who have not previously been involved in the case. The appeals officer will endeavour to respond to an employee's appeal as soon as possible and, in any case, within 5 working days of the appeal hearing. If it is not possible to respond within

this time period, the employee will be given an explanation for the delay and be told when a response can be expected.

The decision of the appeals officer will be final.

#### **4.8 Special cases**

If the employee involved in a disciplinary procedure is also the trade union representative, we will notify the union and discuss the matter with an official employed by the union before action is taken, after obtaining the employee's agreement. The procedure will continue as normal.

If the employee who is subject to disciplinary procedures raises a grievance about the disciplinary allegations or the procedure itself, the grievance procedure will run concurrently.

If the employee who is subject to disciplinary procedures raises a grievance about something unrelated to the disciplinary, consideration will be given to pausing the disciplinary while the grievance is addressed.

### **5. Record keeping**

Minutes will be kept of all interviews and meetings. Where possible, these will be confirmed as an accurate reflection of what was discussed during the meeting.

Records of all materials relating to the disciplinary process will be kept securely, only for as long as necessary and in line with data protection law.

If disciplinary action is taken, a record of this will be added to the employee's personnel file.

We will disclose any proven disciplinary offences by a staff member if a reference is requested by a future employer.

### **6. Monitoring arrangements**

This policy will be reviewed every annually, but can be revised as needed.

These procedures have been agreed by the Propriety Board, who will approve them whenever reviewed.

### **7. Links with other policies**

This policy links with our policies on:

- Staff code of conduct
- Capability of staff policy
- Staff grievance procedures

## Appendix 1: instances and behaviours classed as misconduct

The following lists are not exhaustive.

Instances of misconduct include:

- › Unauthorised absence or persistent lateness from work
- › Unacceptable levels of absence
- › Using bad language in front of pupils
- › Failure to follow the policies, practices and requirements of the school
- › Unsatisfactory standards of work (not related to capability)
- › Inappropriate use of school facilities
- › Failure to comply with reasonable instructions from senior staff

Instances of gross misconduct include:

- › Physical violence or assault
- › Discrimination, harassment, victimisation and/or bullying of pupils, colleagues or visitors
- › Theft, Fraud and deliberate falsification of records
- › Sexual offences or misconduct
- › Inappropriate relationships with pupils or any other actions that would be classed as a serious safeguarding issue
- › Being under the influence of alcohol or illegal drugs during working hours or on Company property
- › Smoking on site
- › Serious breach of rules, policies or procedures, especially those designed to ensure safe operation
- › Serious negligence which causes or might cause unacceptable loss, damage or injury
- › Wilful refusal to obey a reasonable management instruction or serious insubordination
- › Divulging or misusing confidential information
- › Bringing the Company into disrepute, even if done in the employee's own time
- › Deliberately damaging Company property
- › Unauthorised entry to computer records
- › Unauthorised use of the Company's assets and equipment
- › Covertly recording the proceedings at any work-related hearing or meeting or otherwise conducting covert recording in the workplace
- › Witnessing or having direct knowledge of another employee's gross misconduct but failing to report it to the Company
- › Acts of gross misconduct outside the place of work and working hours, which may affect the relationship between employee and employer in terms of mutual trust and confidence

[Teacher misconduct guidance](#) from the National College explains that, among other things, the following offences will be serious enough to warrant prohibition of teaching:

- Serious departure from the personal and professional conduct elements of the Teachers' Standards
- Misconduct seriously affecting the education and/or wellbeing of pupils, and particularly where there is a continuing risk
- Actions or behaviours that undermine fundamental British values
- Abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils
- Sustained or serious bullying, or other deliberate behaviour that undermines pupils, the profession, the school or colleagues