

Disciplinary Policy

September 2021

Date Approved:	Sept 21	Review Date:	Sept 22	Approved by:	The Trust Board
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1 ABOUT THIS POLICY

- 1.1 The aims of this Disciplinary Policy are to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary. This procedure will cover **conduct**, not issues related to genuine sickness absence, poor performance or proposed redundancies. In those cases, reference should be made to the Academy's appropriate policy.
- 1.2 This policy does not form part of any employee's contract of employment and it may be amended at any time. The procedure may also be varied, including any time limits, as appropriate in any case.

2 TYPES OF MISCONDUCT

- 2.1 Misconduct might be a series of minor offences or a single incident. Misconduct falls into two categories: general misconduct and gross misconduct. The nature and severity of the alleged offence will determine the form of disciplinary action invoked. Gross misconduct will result in either a final written warning or summary dismissal, which may be without notice or with pay in lieu of notice when the nature of the case is such that the Academy cannot allow the individual to continue at work.
- 2.2 Minor conduct issues can often be resolved informally between an employee and their line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

3 CONFIDENTIALITY

- 3.1 Our aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.
- 3.2 Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.

4 AUTHORITY

- 4.1 The Trust Board have delegated responsibility to the Headteacher to take disciplinary action in all cases relating to teaching or support staff.
- 4.2 In the event of the Headteacher being the subject of disciplinary action, the Trust Board will be responsible for the disciplinary procedure.

5 INVESTIGATIONS

- 5.1 The purpose of an investigation is for us to establish a fair and balanced view of the facts relating to any disciplinary allegations, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from individuals involved, and/or reviewing relevant documents. Please refer to appendix 1 – flow chart for clarification.
- 5.2 An investigating officer will be appointed to carry out the investigation. Investigation meetings are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.
- 5.3 At the time of being asked to attend an investigation meeting, an employee must be

informed in writing of the allegations being made. They should be provided with confirmation of the source of the complaint (unless there are extenuating circumstances which would preclude the Academy from so doing) and be given copies of all correspondence/documentation that initiated the complaint. In addition, the employee must be issued with a copy of the Academy's disciplinary policy. Employees do not normally have the right to be accompanied at investigation meetings but as good practice this will be offered.

- 5.4 After the investigation meeting with the member of staff, the investigating officer may consider that it is necessary to obtain additional information or statements from other witnesses and, in these cases, the additional information and witness statements will be obtained before a decision is made to hold a disciplinary meeting.
- 5.5 If the complaint or allegation is against the Headteacher, the Chair of Trustees will be responsible for initiating the investigation.
- 5.6 Where, as part of an investigation, it is necessary to interview student/students, their parents/carers will be advised and their consent obtained. The Academy will provide the list of questions to be asked of the student/student to the employee or their representative in advance of the interview.
- 5.7 The investigating officer's report on the outcome of the investigation will enable the person considering the allegations to decide whether or not to proceed with a formal disciplinary hearing.

6 **SUSPENSION**

- 6.1 The Headteacher or the Trust Board of the Academy may suspend an employee.
- 6.2 Suspension will be considered:
 - 6.2.1 Where this would allow a more objective examination of the circumstances;
 - 6.2.2 When alleged misconduct is sufficiently serious that the outcome may be dismissal;
 - 6.2.3 Where a member of staff is the subject of a police investigation and the alleged offence is considered relevant to his/her duties;
 - 6.2.4 Where there are reasonable grounds to believe that it would seriously affect the interests of the Academy and/or the individual if s/he were to remain at work.
- 6.3 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. The suspension will be for no longer than is necessary to investigate the allegations and the Academy will confirm arrangements for suspension in writing. Please note, that the employee will receive full pay during a suspension pending investigation.

7 **REPRESENTATION**

- 7.1 Employees have a statutory right to be accompanied at formal disciplinary and appeal hearings by a representative. The representative may be a colleague or trade union representative. There is no statutory right to be accompanied at informal discussions or investigation meetings and the Academy will not generally allow staff to be represented at the investigatory stages.
- 7.2 The representative will be able to address the hearing, put the employee's case and sum it up and respond on the employee's behalf to any views expressed at the hearing. The

representative and employee are also able to confer during the hearing. However, the representative is not permitted to answer questions on behalf of the employee or prevent the employer from explaining their case.

8 THE DISCIPLINARY HEARING

- 8.1 Following any investigation, if the Academy considers there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. The Academy will confirm in writing the basis for the allegations and what the likely range of consequences will be if it decides after the hearing that the allegations are true. Employees will be given all relevant documentation gathered during the investigation.
- 8.2 In most cases, the Headteacher will deal with disciplinary hearings for teachers or support staff. However, the Headteacher may request that a senior manager or the Trust Board a disciplinary hearing in cases where the Headteacher may be required to be a key witness to the disciplinary hearing, is conflicted in some way, or is otherwise unavailable to attend to the disciplinary process in a timely manner. In addition, the Governing Body will deal with any disciplinary meeting convened in respect of the Headteacher.
- 8.3 The employee will be advised in writing of the date, time, place of hearing, who will be involved, the nature of the complaint being made and given copies of any supporting information, including statements taken as part of an investigation. If the employee or their companion cannot attend the disciplinary hearing, they should inform the Academy immediately so that it can arrange an alternative time. Failure to attend without good reason may be treated as misconduct in itself. If an employee fails to attend without good reason, or is persistently unable to do so (for example for health reasons), the Academy may have to take a decision based on the available evidence.
- 8.4 At the disciplinary hearing, the chair will go through the allegations and the evidence that has been gathered. The employee will be able to respond and present any evidence of their own.
- 8.5 Having considered the matter the chair may announce the decision orally to the employee or may reserve the determination of the matter and choose to inform the employee in writing within a reasonable period of time.
- 8.6 Any verbal decision will be confirmed in writing within a reasonable period of time. If that decision is to issue some form of warning, the member of staff will be advised of the grounds of the action taken and, where appropriate, how long the warning will remain on file and the consequences of any recurrence together with details of any remedial action required. The letter will also contain details of their right of appeal.

9 DISCIPLINARY PENALTIES

- 9.1 The usual penalties for misconduct are set out below. Employees will not normally be dismissed for a first act of misconduct, unless the Academy decides it amounts to gross misconduct or the employee is still in their probationary period.
- 9.2 **First written warning** where there has been a first act of misconduct and employee is not subject to any other active written warnings. The employee should be advised that a failure to improve or a repetition of the misconduct may result in further disciplinary action; there is a right to appeal a formal written warning.
- 9.3 **Final written warning** where there has been misconduct and an active warning is already in place or in the case of a first but serious breach of discipline. This warning must state that failure to improve or any repetition may result in dismissal; there is a right to appeal against a final written warning.

9.4 **Dismissal** with or without notice where any misconduct takes place in the probationary period, or further misconduct takes place where a final written warning is already on an employee's record, or for gross misconduct regardless of whether an employee has received previous disciplinary warnings.

10 **GROSS MISCONDUCT**

10.1 Gross misconduct will usually result in dismissal without warning, with no notice or payment in lieu of notice (summary dismissal)

10.2 Gross misconduct is a serious breach of contract and includes misconduct which, in our opinion, is likely to prejudice our business or reputation or irreparably damage the working relationship and trust between us. This may include misconduct committed outside of work. The following are examples of matters that are normally regarded as gross misconduct:

- theft or fraud;
- physical violence or bullying;
- deliberate and serious damage to property;
- serious misuse of an organisation's property or name;
- deliberately accessing internet sites containing pornographic, offensive or obscene material;
- serious insubordination;
- unlawful discrimination or harassment;
- bringing the organisation into serious disrepute;
- Being under the influence of alcohol, illegal drugs or other substances during working hours;
- causing loss, damage or injury through serious negligence;
- serious breach of health and safety rules;
- a serious breach of confidence;
- Giving false information as to qualifications or entitlement to work (including immigration status) in order to gain employment or other benefits; and
- Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures.

This list is intended as a guide and is not exhaustive.

11 **ALTERNATIVES TO DISMISSAL**

11.1 In some cases alternatives to dismissal may be considered. These will usually be accompanied by a final written warning. Examples include:

11.1.1 Demotion.

11.1.2 Transfer to another department or job.

11.1.3 A period of suspension without pay.

11.1.4 Loss of seniority.

11.1.5 Reduction in pay.

12 **THE EFFECT OF A WARNING**

12.1 Written warnings will set out the nature of the misconduct, the change in behaviour

required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.

- 12.2 A first written warning will usually remain active for 6 months and a final written warning will usually remain active for 12 months. In exceptional cases verging on gross misconduct, a final written warning may state that it will remain active indefinitely. The employee's conduct may be reviewed at the end of a warning's active period and if it has not improved sufficiently we may decide to extend the active period.
- 12.3 After the active period, the warning will remain permanently on an employee's personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

13 **APPEALS**

- 13.1 The employee has the right to appeal against a disciplinary penalty if they feel that disciplinary action is wrong or unjust.
- 13.2 An employee wishing to exercise his/her right of appeal must notify the Clerk to Trustees, in writing, within 7 days of receipt of the written confirmation of disciplinary action. The grounds on which the appeal will be made with any supporting information should be sent at the same time.
- 13.3 An Appeals Committee of Trustees will be convened to hear the appeal and their decision will be final. There is no further right of appeal. An appeal will either be a review of the disciplinary decision/outcome or for the purpose of considering new evidence that has come to light after the date of the disciplinary hearing.
- 13.4 The employee will be given reasonable notice of the hearing and will be provided with copies of any additional documents to be considered by the Appeals Committee.
- 13.5 Following the appeal hearing the Appeals Committee may confirm the original decision, revoke the original decision or substitute a different penalty.
- 13.6 The Appeals Committee will confirm its final decision in writing as soon as possible, usually within one week of the appeal hearing. There will be no further right of appeal.

Appendix 1 Disciplinary Flowchart

