



# Staff Disciplinary Policy

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<b>Approved By</b>	Finance and Operations Committee

<b>Policy Category</b> (Please Indicate)	<b>1</b>	<b>Academy to implement without amendment</b>
	<b>2</b>	<b>Academy specific appendices</b>
	<b>3</b>	<b>Academy personalisation required (in highlighted fields)</b>



## Summary of Changes from Previous Version

Version	Date	Author	Summary of Updates
V5	November 2023	HR and Legal	<p>Updated policy on new template and reviewed by Legal</p> <ul style="list-style-type: none"><li>• Letter templates available from HR</li><li>• Warning levels have now been changed, verbal warning has been removed and the following implemented:<ul style="list-style-type: none"><li>• <b>No further action. Informal support may be implemented where it is decided that the action was not serious enough to warrant a formal warning. Arrangements will be put in place to improve the staff members' behaviour, such as a training, mentoring, occupational health support or a <u>management guidance letter</u>.</b></li><li>• <b>A first written warning for a first instance of misconduct. A further instance may result in a final written warning. A file record of the warning will be kept but disregarded for disciplinary purposes after 12 months. The written warning will explain that a further instance of misconduct or no change in behaviour within a given timeframe may result in a final written warning.</b></li></ul></li></ul>



## 1. Aims

This Policy aims to:

- Help encourage all employees to achieve and maintain satisfactory standards of conduct
- Set out the procedure 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

## 2. Legislation and guidance

We are required to set out our disciplinary procedures under general employment law. The disciplinary procedure is based on the ACAS code of practice on disciplinary and grievance.

## 3. Definitions

- A disciplinary issue will arise when a staff member had 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 by our capability policy

## 4. Disciplinary procedures

Minor disciplinary issues will be dealt with informally at first, this could take the place of an informal meeting where advice, training, or mentoring is provided. Written notes should be retained on file for any informal support provided.

This could be escalated where:

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

If the issue cannot be dealt with informally, formal procedures will begin. The employee will be notified of this face-to-face by a member of the Leadership Team. 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 account guilt or constitute disciplinary action.

Where this is necessary:

- HR must be informed; they will then gain suitable authority for the suspension
  - The Principal, in cases involving staff in Academies
  - The Deputy CEO/ CEO, in cases involving staff within the central trust team or a Principal
  - The Chair of Directors, in cases involving the Deputy CEO/CEO



- The staff member will be informed of the suspension in a face-to-face meeting where possible. This will be followed by a notification in writing within 5 working days.
- The employee will be permitted to be accompanied to the meeting either by a colleague or trade union representative. If a representative is not available suspension should not be delayed)
- The staff member will be suspended on full pay.

## 4.2 Investigation

An investigation officer will be appointed who has no prior involvement in the case.

The Investigation officer will gather the facts and evidence of the case. The investigating officer will, if necessary hold investigatory meetings. This is to enable the investigating officer to decide whether or not there is a disciplinary case to answer and, if so, to establish the precise allegation. It is not a disciplinary hearing. Employees will be given at least 5 days' notice of an investigation meeting and are entitled to be accompanied to the meeting by either a work colleague or a trade union representative.

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

If the investigation officer determines that the matter should move to a formal disciplinary hearing a disciplinary officer or panel will be appointed. This will be a person(s) independent from the investigation officer.

## 4.3 Notification of disciplinary

If it is decided that there is a disciplinary case to answer, the employee will receive a written notification at least 10 working days before the hearing. The meeting could be sooner if agreed by both parties. The notification will include

- Details of the alleged misconduct and possible consequences
- Copies of any written evidence, including witness statements
- The time, date and location of the disciplinary meeting and who will be present at the meeting
- A statement that the employee has the right to be accompanied at the meeting by a colleague of trade union representative
- Notification that the employer intends to call witnesses (if relevant) and inform the employee that if they wish to call witnesses they should notify the employer.

## 4.4 Disciplinary hearing

At the hearing, the person conducting the meeting will explain the case against the employee and go through the evidence that has been gathered. The disciplinary officer may choose to have the investigation officer there to present the case to the disciplinary officer/panel explaining 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 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 has the right to be accompanied by a companion, being either a colleague or a trade union



representative. If the chosen companion is not able to meet at the proposed time, the hearing will be postponed to a time proposed by the employee, as long as the alternative date and time is reasonable and not more than 5 days after the original date.

The companion can address the hearing and to input and sum up the employee's case, however they do not have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the findings of the investigation being explained.

## 4.5 Taking appropriate action

The hearing will be adjourned and a decision about whether disciplinary action is necessary will be taken. The employee will be informed of the decision and it will be confirmed in writing with 5 working days.

Actions taken may be

- No further action. Informal support may be implemented where it is decided that the action was not serious enough to warrant a formal warning. Arrangements will be put in place to improve the staff members' behaviour, such as a training, mentoring, occupational health support or a management guidance letter.
- A first written warning for a first instance of misconduct. A further instance may result in a final written warning. A file record of the warning will be kept but disregarded for disciplinary purposes after 12 months. The written warning will explain that a further instance of misconduct or no change in behaviour within a given timeframe may result in a final written warning.
- A final written warning where the employee has already received a first written warning, or where the employees' misconduct was sufficiently serious. A further instance may result in demotion or dismissal. A file record of the warning will be kept but disregarded for disciplinary purposes after 18 months.
- Dismissal where there has been gross misconduct or a final written warning has already been given. Dismissals must be sanctioned by the CEO/ DCEO

## 4.6 Appeals process

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

An appeal hearing provides the employee or former employee with the opportunity to have the facts of the case and the outcome of the original hearing reconsidered. The appeal will be a rehearing of the case. The appeal will be heard by a panel in accordance with the scheme of delegation

A disciplinary appeals officer/panel will be appointed.

Appeals will be heard without unreasonable delay and at an agreed time and place. The employees statutory right to be accompanied will apply as with the formal disciplinary hearings

The appeal will be dealt with impartially and by parties who have not been involved in the case.

The employee will be informed in writing of the results of the appeals hearing within 5 working days.



## 4.7 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 raises a grievance during the disciplinary process, consideration will be given on whether to run the grievance process concurrently or to pause the disciplinary procedure while the grievance is addressed.
- If the employee is off sick during the investigation or disciplinary process, advice will be sought regarding their fitness to attend meetings from occupational health. If the employee is declared fit to attend the Trust may consider a number of measures including a change of venue, allowing the employee to make written representation or allowing extra time to allow the employee to participate effectively.
- If a complaint against an employee relates to a child protection issue then the Local Authority's Designated Officer (LADO) must be contacted at the outset to discuss how to proceed.
- The Academy will refer on to the Teacher Regulation Agency (TRA) serious misconduct cases relating to teachers who are dismissed through this process, or where it is felt the process would have led to dismissal had the employee not resigned.
- Where grounds for dismissal are in relation to the safety and welfare of children and young people they will be referred by the Academy to the Disclosure and Barring Service (DBS)

## 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 in 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, our privacy notices and our retention schedule.

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. Links with other policies

This policy has links with our policies on

- Staff Code of Conduct
- Staff Capability Policy
- Staff Grievance Policy



- Equality and Diversity Policy
- Safeguarding and Child Protection Policy
- Online Safety and Security Policy
- Privacy Notice

Policy updated November 2023

Signed CEO:

*B.A. Nixon*

Signed Chair of Directors:

*J. B. Bland*

Policy to be reviewed in September 2025.



## 7. Appendix 1: instances and behaviours classed as misconduct

The following lists are not exhaustive

### 8.1 Misconduct

Instances of misconduct include:

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

### 8.2 Gross misconduct

Instances of gross misconduct include

- Physical violence or assault
- Discrimination, harassment, victimisation and/or bullying of pupils, colleagues or visitors
- Theft
- Sexual offences or misconduct
- Inappropriate relationships with pupils or any other actions that would be classed as a serious safeguarding issue
- Serious breaches of confidentiality
- Deliberately acting in a way that will cause damage to the Academy's reputation
- Deliberately damaging Academy property

### 8.3 Teacher misconduct guidance

[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 Academy or colleagues