



Disciplinary Procedure

For Employees in Voluntary
Aided Schools

Version Autumn 2020

Disciplinary Rules

1. Policy statement

- 1.1 These Disciplinary Rules should be read in conjunction with the London Diocesan Board for Schools Disciplinary Procedure. The aim of the Disciplinary Rules and Disciplinary Procedure is to set out the standards of conduct expected of all staff and to provide a framework within which managers can work with staff to maintain those standards and encourage improvement where necessary.
- 1.2 It is our policy to ensure that any disciplinary matter is dealt with fairly and in accordance with the Disciplinary Procedure.
- 1.3 All staff should be clear as to their responsibilities and the standards of conduct expected via easily accessible policies and guidance from management. If a member of staff is in any doubt, it is their responsibility to speak to their Executive Headteacher, Headteacher, Head of School or line manager to gain clarification.

2. Rules of Conduct

- 2.1 While working for (*insert name of school*), staff should at all times maintain professional and responsible standards of conduct. In particular, they should:
- Observe the terms and conditions of their contract, particularly with regard to:
 - Hours of work;
 - Confidentiality; and
 - Compliance with professional standards.
 - Observe all school policies, procedures and regulations, which are available in the school office and on the LDBS website (www.london.anglican.org/schools)
 - Take reasonable care in regard to the health and safety of colleagues and third parties and comply with the school's Safeguarding and Health, Safety and Security policies.
 - Comply with all reasonable instructions given by managers; and
 - Act at all times in good faith and in the best interests of the school, its pupils, and staff.

- Failure to maintain satisfactory standards of conduct may result in action being taken under the school's Disciplinary Procedure.

3. Misconduct

3.1 The following are examples of matters that will normally be regarded as misconduct and will be dealt with under the school's Disciplinary Procedure:

- Failure to discharge, without sufficient cause, the obligations which statute, the terms and conditions of employment and the contract of employment place on the employee;
- Failure to remain at the place of work during normal working hours without permission;
- Frequent failure to attend work punctually;
- Failure to notify the school as soon as is practicable when absence is due to sickness;
- Making unauthorised private phone calls or sending personal mail at the school's expense, or any unauthorised use of the internet;
- Failure to follow reasonable management instructions;
- Failure to properly supervise or exercise proper control over pupils;
- Abusive language or behaviour that is directed at staff, parents, pupils, or members of the public;
- Victimization and intimidation of other employees in the course of duty;
- Unlawful discrimination against other employees, pupils, or members of the public in the course of duty;
- Dishonesty;
- A wilful attempt to mislead.

This list is intended as a guide and is not exhaustive, and in severe cases these items could be considered to be gross misconduct.

4. Gross misconduct

4.1 Gross misconduct is a serious breach of contract and includes misconduct which is likely to prejudice the reputation of the school or irreparably damage the working relationship and trust between the employee and the school. Gross misconduct will

normally lead to dismissal or a final written warning. Dismissal may be with or without notice or pay in lieu of notice (summary dismissal).

The following list provides examples of gross misconduct; it is for guidance only and is not exhaustive:

- Theft, fraud, deliberate falsification of records;
- Fighting, assault on another person;
- Deliberate damage to school property;
- Violent and/or intimidating conduct;
- Serious incapability through alcohol or being under the influence of drugs;
- Serious breach of confidence;
- Bringing shame on the employer or actions likely to bring the school into disrepute;
- Serious breach of health and safety rules;
- Child abuse;
- Serious misuse of the internet;
- Serious negligence that causes unacceptable loss, damage or injury;
- Serious act of insubordination;
- Serious acts of unlawful discrimination against other employees, pupils or members of the public in the course of duty;
- Unauthorised entry to computer records;
- Continued and repeated offences;
- Breaches of Safeguarding and Child Protection and policies ;
- Abusive language or behaviour that is directed at staff, parents, pupils, or members of the public;
- Victimization and intimidation of other employees in the course of duty;
- Unlawful discrimination against other employees, pupils or members of the public in the course of duty;
- Dishonesty;
- A wilful attempt to mislead.

Disciplinary Procedure

1. Policy Statement

- 1.1 This procedure is intended to ensure that employees are treated fairly and consistently. It should be easily accessible so that employees are aware of the process that will be followed in the event that they fail to achieve and maintain the standards of conduct and performance expected by the governors of the school. In some cases, the school management reserves the right to omit or to modify any part of the policy depending on the issue in hand. This would be in consultation with the employee and their representative.
- 1.2 Nothing in this procedure will inhibit the Executive Headteacher, Headteacher, Head of School or line manager from discussing or with employees as to their conduct or performance and providing advice informally and without recourse to formal disciplinary procedures.

The procedure does not apply to:

- Any employee serving a period of probationary service
- Any employee employed at the school through an agency or any company providing services to the school.

The school management reserves the right to dispense with this procedure in whole or in part for all employees with less than one year's service.

- 1.3 This policy does not form part of any employee's contract of employment. The policy will be reviewed every two years and may be amended from time to time.

2. Criminal allegations

- 2.1 Where an employee's conduct is the subject of a criminal investigation, charge or conviction, the facts will be investigated before deciding whether to take formal disciplinary action.

- 2.2 The school management will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where an employee is unable or has been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, a decision may have to be taken based on the available evidence.
- 2.3 A criminal investigation, charge or conviction relating to conduct outside work will be treated as a disciplinary matter if it is considered relevant to the school.

3. Suspension

- 3.1 Where an allegation could potentially constitute gross misconduct it may be necessary to suspend the employee from work. The suspension will be no longer than is necessary to investigate the allegations and the arrangements will be confirmed in writing (within 2 working days of the act of suspension). The Executive Headteacher, Headteacher, or Head of School would normally inform an employee that the decision has been taken to suspend them from work. While suspended, the employee should not visit school premises, or contact any pupils, parents, contractors or staff unless authorised to do so by the Executive Headteacher or Headteacher. Employees should be encouraged to contact their trade union, professional association or the Employee Assistance Programme for support.
- 3.2 Suspension of this kind is a neutral act and does not imply that any decision has already been made about the allegations. Employees continue to receive their full salary and benefits during the period of suspension.
- 3.3 Cases involving allegations of a child protection nature will normally lead to the suspension of an employee.

4. Investigation

- 4.1 The Executive Headteacher/Headteacher or line manager will undertake, or arrange for, a full investigation of matters relating to an instance of misconduct or a complaint relating to an employee by appointing an investigating officer.. This should be carried out as soon as possible after allegations have been made. If it is not appropriate for the Executive Headteacher or Headteacher to undertake or arrange the investigation, the Chair of Governors must appoint someone else to fulfil this

function. This may be another member of the governing body or an independent person, or the Chair may undertake it him/herself.

4.2 The employee will normally be informed of the nature of the allegation and that an investigation is taking place. If the employee is interviewed during the course of the investigation, s/he must be informed that s/he may be accompanied by a companion who is either a trade union representative or work colleague. When workers are choosing a companion, it should be borne in mind that it would not be reasonable to insist on being accompanied by a colleague whose presence would prejudice the hearing or who might have a conflict of interest. The request to be accompanied does not have to be in writing.

4.3 The aim of the investigation is to establish the facts of the case and the people affected by the problem. Any witnesses to alleged offences should be asked to make written statements and to sign and date their statements. The Executive Headteacher/Headteacher or line manager should sign and date the statements as evidence of receipt.

The employee should be invited to identify any persons who may have information relevant to the investigation.

4.4 The Executive Headteacher/ Headteacher or line manager should include in her/his report of the investigation:

- a list of names of people spoken with during the investigation, giving dates and times;
- a list of written, signed and dated statements attached;
- a chronological summary of incident(s) giving rise to the investigation and the stages of the investigation;
- the conclusions drawn from the investigation;
- a decision on what step to take next, for example:
 - to take no further action;
 - to refer the matter to a Disciplinary Panel of governors .

- 4.5 Documents relating to an investigation must be retained on file, together with a written record of the outcome of the investigation for the same length of time as any subsequent warning on the file.
- 4.6 If, during the formal investigation, pupils are involved, and especially young pupils, are involved, they can be asked to make a verbal statement, which will then be written up and witnessed on their behalf. The Executive Headteacher/Headteacher or line manager should always seek permission from the parent(s) to take a formal statement from their child and invite them to be present, or ask whether they are content that a 'responsible adult' is present. Parents may be contacted by phone as in most cases an early statement is desirable. It will very rarely be necessary or desirable for young pupils to attend a hearing, but in certain cases it may be appropriate for secondary age pupils to do so.
- 4.7 If an allegation relates to physical or sexual abuse of a child, it is essential that the person investigating contacts the LA's Child Protection Officer before taking any further action to discuss how to proceed. The outcome of the discussion may be that an investigation by the Child Protection Team is appropriate, in which case any investigation by the school must be held in abeyance. In cases of this nature, it may be appropriate to suspend the member of staff until the outcome of the LA investigation is known.

5. Disciplinary Principles

- 5.1 No disciplinary sanction will be imposed against an employee until the matter has been investigated, and until the employee has been advised of the nature and details of the allegation against them and given the opportunity to state their case in person at a disciplinary meeting or hearing, before a decision is reached. The employee has the right to be accompanied by a work colleague or a trade union representative in any meeting that may lead to a sanction.
- 5.2 At least 10 working days' notice of a hearing will be given, which will include the nature and details of the allegations in writing. This notice will inform the employee:
- Of the stage of the procedure under which the hearing is being convened;
and

- Of the employees' right to be accompanied by a trade union representative or work colleague;
- Of the names of those who will be present at the hearing and their roles;
- Of the matters to be considered together with all relevant supporting documentation available at that time and the names of any witnesses to be called;
- Of their right to produce witnesses and relevant documentation at the hearing, and that the names of any witnesses and copies of any documentary evidence should be provided not less than three working days before the hearing to enable due consideration to be given to them;
- That a failure to attend without prior notice of a valid and acceptable reason, may itself constitute a disciplinary offence which may lead to the hearing taking place in their absence, and that one postponement will be permitted if there is a valid and acceptable reason before a hearing takes place, with or without the presence of the employee and their representative.
- A copy of the disciplinary procedure will be enclosed along with notification of the maximum sanction that could be imposed as a result of the hearing.

5.3 A hearing may be conducted by either a panel of three members of the governing body or the Executive Headteacher/Headteacher. All appeals will be heard by a panel of three members of the governing body.

At the meeting, the employee's representative may make representations to the Panel or Executive Headteacher/ Headteacher and ask questions, but should not answer questions on behalf of the employee.

5.4 If the employee chooses a representative who is seen as unsuitable school management may ask that the employee chooses someone else, for example:

- If the representative has a conflict of interest or may prejudice the meeting;
or
- If the chosen representative is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards.

5.5 Confidential minutes will be taken during the hearing by a clerk, and subsequently will be written up and copied to the employee. The discussion amongst the panel regarding the outcome will not be minuted.

The employee, and anyone accompanying them (including witnesses), must not make unauthorised electronic recordings of any meetings conducted under this procedure.

5.6 The employee will be informed in writing of the decision of the panel and the reasons for that decision within five working days of the outcome of the hearing. The employee may also be offered the option to wait for a decision on the day and have it conveyed to them directly. A letter will then still be sent to them within five working days.

5.7 An employee will not normally be dismissed for a first breach of discipline except in cases of gross misconduct (when the sanction may be dismissal without notice) or where the relationship with the school has irreconcilably broken down.

An employee will have the right to appeal against any disciplinary warning or dismissal to an appeal panel established by the Chair of Governors.

Any such appeal must be requested within ten working days of the notification of the disciplinary sanction.

Where an employee is also an accredited trade union representative, the disciplinary hearing shall not be convened until the complaint has been discussed between Human Resources and the Branch Secretary or a Full-Time Official of that trade union.

5.8 Warnings given to employees and placed on their files shall be disregarded after the following periods have elapsed without further misconduct taking place:

- Informal warning – discussion notes kept on file for 6 months
- First written warning – 12 months
- Final written warning – 24 months
- Dismissal.

6. Disciplinary stages

6.1 Stage 1- Informal Stage

Cases of alleged minor misconduct may result in a discussion to establish the actions required to improve. A note of this discussion will be placed on the employee's file for six months and it should be made clear that this is the first stage of the disciplinary procedure. An informal warning may be issued by the Executive Headteacher, Headteacher, Head of School.

6.2 Stage 2 First written warning

This will be issued when the employee has failed to improve or where there is a case of more serious alleged misconduct. The warning will remain on file for 12 months. A first written warning may be issued by the Executive Headteacher, Headteacher or a panel of governors

6.3 Stage 3 Final written warning or dismissal

If there are further complaints about the employee's conduct or serious or gross misconduct then a final written warning may be issued by the Executive Headteacher, Headteacher or a panel of governors. The warning will remain on file for 24 months and in some exceptional cases may remain on file longer (for example if there has been a breach of safeguarding policies and school management need additional reassurance about mitigating against the risk of further breaches)

Further complaints about the employee's conduct or alleged gross misconduct may also result in dismissal. The panel will decide whether or not notice will be paid. Dismissal will usually be decided by a panel of governors but may also be delegated to the Executive Headteacher or Headteacher.

7. Alternatives to dismissal

7.1 In some cases a panel (or Executive Headteacher or Headteacher) may, at their discretion, consider alternatives to dismissal which will usually be accompanied by a final written warning. Examples include:

- Demotion;

- Transfer to a different position;
- Loss of seniority;
- Reduction in pay;
- Loss of future pay increment;
- Loss of overtime.

8. Appeal Hearing

- 8.1 An employee may appeal any disciplinary sanction issued in accordance with this policy. To do so the employee must set out in full in writing their grounds for the appeal within ten working days of the date on the outcome letter.
- 8.1.1 If the employee is appealing against dismissal, the date on which their dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful they will be reinstated with no loss or interruption to pay.
- 8.1.2 If the employee raises any new matters in their appeal, the Appeal Panel may need to carry out further investigation. If any new information comes to light, the Appeal Panel will provide a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing.
- 8.1.3 The appeal hearing will review the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light.
- 8.2 The Appeal Panel will be constituted of three members of the governing body, or, if appropriate, the (Executive) Headteacher alone. If the appeal is against dismissal, then this will consist of three members of the governing body, or where there is a problem with the availability of governors, governors from another LDBS school may be invited to be part of the panel.
- 8.3 The employee will be given at least ten working days' notice of the appeal hearing and will have the right to be accompanied by a work colleague or trade union representative.

The hearing will be minuted by a clerk who will distribute all the relevant documents.

- 8.4 The appeal panel may:

- Accept the appeal and remove the penalty imposed
- Accept the appeal and impose a lesser penalty
- Reject the appeal and confirm the penalty imposed
- Recommend a re-hearing.

8.5 The employee will be notified of the outcome of the appeal in writing, with reasons, without delay, and within five working days.

8.6 Where an employee submits a grievance while any part of the disciplinary process is underway, both procedures will operate concurrently. If the grievance is connected with the conduct of the disciplinary matter itself, this should be heard as part of the appeals process.