



# **Dixons City Academy**

## **Policy Documentation**

### **Policy: Disciplinary Policy & Procedure**

**Responsibility for Review: Principal**  
**Date of Last Review: August 2013**

# Disciplinary Policy & Procedure

## Introduction

The Academy's disciplinary policy and procedure, deals with breaches of conduct and unsatisfactory behaviour. The prime objective of the disciplinary procedure is not to inflict punishment but to encourage an employee whose standard of work or conduct is unsatisfactory to improve. The procedure serves to ensure that this is done in a fair and consistent manner. In minor cases of alleged misconduct management may initially seek to resolve the matter informally by discussion with the employee.

A distinction should be drawn between unsatisfactory conduct and not meeting the required standard of performance, in the case of unsatisfactory work performance the Academy's Monitoring, Self-Evaluation and Securing Improvement Policy and Appraisal & Capability policy and procedure should be used.

## Principles

The overall principles of the policy are as follows:-

- matters relating to misconduct will be handled consistently, fairly, without discrimination and with careful consideration being given to the individual circumstances in each case. Examples of misconduct and gross misconduct may be found in Appendix A
- the disciplinary procedure is a strictly confidential process; all parties will respect the confidentiality of the issues and people involved
- no disciplinary action will be taken against an employee before allegations have been fully investigated and a disciplinary hearing has taken place in line with the disciplinary procedure
- employees have the right to be represented or accompanied at any stage of the formal disciplinary procedure, including investigation meetings by a recognised trade union representative or work colleague. Employees will be advised of this right in writing and it is their responsibility to make any necessary arrangements
- at a disciplinary or an appeal hearing the employee has the right to be represented by a recognised trade union representative or a work colleague
- an employee should not be dismissed for a first disciplinary offence, unless it is a case of gross misconduct
- an employee will have the right to appeal against any formal action taken against them
- advice may be sought at any stage by management from the Academy's Human Resources provider

## DISCIPLINARY PROCEDURE

### Informal Stage

In most cases where it is considered that a minor breach of conduct has occurred, the manager should take an informal approach before any formal action is considered e.g. informal advice, coaching, training or counselling.

The employee should be clearly informed of the standards expected and if necessary over what period it will be reviewed. Further support should be discussed. In these cases the line manager should keep a diary note of the conversation so that if the employee fails to improve or maintain this improvement, he or she can refer to this conversation when beginning any formal procedure.

The employee should be advised that informal warnings are not part of the formal disciplinary procedure although further occurrences may result in moving to the formal stage.

Individuals are not necessarily accompanied at any informal meetings, as issues at the informal stage should be resolved, where possible, directly by the individual and line manager concerned. For clarification purposes, a manager may record their concerns about failure to meet expected standards by issuing a management instruction. If it becomes clear during the informal stage that formal disciplinary action should be taken, an investigation should be conducted and a formal hearing arranged at which the individual would have the right to be accompanied.

## Investigation

Where the facts of the case appear to call for formal action, the line manager (if appropriate) will need to investigate the alleged misconduct. The line manager should carry out a preliminary enquiry with discretion and sensitivity to confirm that the allegation is justified. The employee must then be informed that a full investigation will take place. The line manager should ensure that all witnesses who are interviewed are aware of why they are being interviewed and that any information obtained may be used in the course of any succeeding disciplinary hearing. The investigation should normally:

- establish the facts promptly and carefully
- allow the employee involved time to give an explanation
- decide whether it is necessary to recommend suspension for a brief period whilst the investigation is carried out

Notes should be taken of any interviews and any witnesses should sign and date witness statements. All parties should be reminded of the requirement for confidentiality and informed that any breach in confidentiality may in itself lead to disciplinary action.

Where complaints are from parents/members of the public or where they have witnessed incidents, the line manager conducting the investigation should take all reasonable steps to establish the facts and take statements wherever possible. However, parents/members of the public would not normally be expected to attend a formal hearing and would only be considered in exceptional circumstances. Particular care must be taken to maintain confidentiality.

Where the alleged misconduct would, if proved, be a criminal offence and should be reported to the Police, or the Police are already involved advice should be sought from the Academy's Human Resources provider, before starting an investigation.

In deciding whether to invoke the disciplinary procedure against an employee for suspected or known criminal conduct outside the scope of their employment the following questions should be considered:

- does the alleged offence indicate a risk to students members of the public or other employees?
- is the offence incompatible with the employee's job role?
- does the length of any custodial sentence prevent the employment contract from continuing?
- does the crime damage the Academy's image or reputation?
- does the crime damage the relationship of trust that is fundamental to the employment contract?

The issues involved in a criminal prosecution and internal disciplinary proceedings in respect of an employee's criminal behaviour, will not be the same. A criminal conviction normally means the

employee's guilt is proven, which may then be sufficient grounds for dismissal, depending on the nature of the crime. Alternatively an acquittal in court does not necessarily mean that a decision to dismiss the employee will be unfair. Disciplinary proceedings and decisions do not have to be delayed pending the court's decision, although there may be exceptional cases where the result of the court (as long as it is imminent) may be helpful to the school in making a decision.

Because of possible Police detainment or other restrictions on the employee, it may be necessary for disciplinary hearings to take place and decisions to be made without his/her presence. Where this is the case, the employee has the right to have a trade union/staff representative or work colleague, attend to represent them.

## **Suspension**

Both the Principal and the Governing Body can suspend staff, but only the Governing Body can make the decision to lift a suspension. Suspension may be considered at any stage of an investigation. Suspension is a neutral act, not a disciplinary sanction and the employee will receive normal pay. In some cases it may be appropriate to consider alternative work.

Employees should normally only be suspended in serious cases where there is:

- (i) a child or children is/are at risk
- (ii) where the allegations are so serious that dismissal for gross misconduct is possible
- (iii) where a suspension is necessary to allow the conduct of the investigation to proceed unimpeded
- (iv) Where the health and safety, particularly of service users, may be a relevant factor

Where an employee is to be suspended he or she should be informed in writing giving, a model letter can be found in Appendix C.

If suspension lasts longer than 4 weeks it should be reviewed thereafter at 4 weekly intervals. The employee should be informed of the decision in writing after each review.

The employee should be offered the name of a nominated manager with no involvement in the case that they may contact if they require further information. The employee must make him or herself available for interviews during the procedure and must not take alternative employment while the contract of employment still applies.

Where it is established after a full investigation that there are no grounds to the allegation or the allegation is not deemed as potential gross misconduct, the suspension must be lifted under the instruction of the Governing Body and the employee must return to work as soon as possible. Arrangements should be made by the Principal or his representative for the return with a view to minimising disruption to the Academy and taking account of the sensitivities of the situation.

## **Sickness absence during suspension**

If an employee commences a period of sick leave after disciplinary allegations or during a disciplinary investigation this will not prevent the operation of the disciplinary procedure. It is in the interests of the Academy and the employee that any disciplinary allegations are resolved within a reasonable timescale. At least one attempt will be made to convene a hearing that the employee can attend. If the employee is still unable to attend, the hearing may proceed in their absence with a representative of his/her choice. If the employee does not wish any other person to attend as his/her representative and he/she confirms this in writing, the hearing can proceed without the presence of the employee or representative. Medical advice may be sought where necessary.

## **Managing allegations of abuse**

Working in a school environment, employees may be subject to allegations of abuse of children. Allegations against staff relating to concerns of a child protection nature should be referred to LADO. This referral should take place at the very earliest opportunity. Police involvement may be required. The school shall also seek advice from their Human Resources provider. This process is in line with “Working Together to Safeguard Children Guide”, (produced by HM Government) which outlines the procedures for managing allegations against people who work with children.

In cases where the Academy has ceased to use the services of a teacher or other worker with children and young people under the age of 19, or might have ceased to use those services had the teacher not ceased to provide them, for reasons of misconduct, should be referred to the Children’s Safeguarding Operations Unit at the DfE. Further information can be found in Appendix F.

## **Formal Disciplinary Hearings and Appeals**

A hearing should always follow an investigation and an interview with the individual concerned.

### **Who conducts the hearing/appeal hearing?**

Where dismissal is a possible outcome of the hearing, the Governing Body must determine whether they wish to delegate the dismissal decision to the Principal. In this case the Principal may wish to involve Governors in hearing the case, but the final decision should be the Principal’s. However the Principal cannot hear the case if he/she has taken the decision to impose a formal disciplinary sanction at an earlier stage. Where the Principal has made the decision to dismiss and the employee exercises the right of appeal the appeal must be heard by a panel of three governors who have had no involvement in any previous action or decision connected with the dismissal.

Where a formal hearing is held which may lead to a disciplinary sanction short of dismissal, i.e. the first three formal stages, the hearings should be chaired by either the Principal or a manager nominated by him. The Principal should only chair hearings at these stages if there are insufficient senior managers at the school to make this viable. All references to nominated manager in this document follow this principle.

No disciplinary action should be taken until a case has been fully investigated. The line manager will normally conduct the investigation and present the case to a nominated manager. Where the Principal is the line manager it will usually be appropriate for another senior manager to conduct the investigation so that the Principal can chair the hearing. Nominated managers will hear all the evidence before deciding the outcome at levels 1 to 3. For details regarding the procedure at a disciplinary hearing please see Appendix B.

Where a member of staff is subject to further hearings as a result of a failure to improve, for example in the case of timekeeping, the line manager can make the case for further action to the nominated manager who has previously decided on formal action at a lesser level.

Appeals against disciplinary sanctions short of dismissal should be heard by a member of the Senior Leadership Team. Where the appeal is against dismissal it must be heard by either the Principal or Governors.

<b>Level of warning</b>	<b>Hearing</b>	<b>Appeal</b>
<b>First warning</b>	Member of SMT	Vice Principal
<b>Written warning</b>	Member of SMT	Principal
<b>Final written warning</b>	Member of Senior Management Team	Principal / Governors
<b>Dismissal</b>	Member of Senior Management Team/Governors	Principal / Governors

## Levels of Disciplinary Action

There are four stages, each of which is designed to cover the varying seriousness of the case. The stages give a sequence for persistent cases. Where the case is of sufficient importance or seriousness, disciplinary action may be taken at a higher level which is appropriate to the circumstances of the case.

No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty may be dismissal without notice and without pay in lieu of notice.

The following decisions may be made:-

### The decision to issue no warning

**Level 1 - A first warning** may be given where the case is of sufficient importance or seriousness to bring to the attention of the employee formally. A record of the first warning should be retained on the individual's personnel file. The warning should be disregarded for disciplinary purposes after 12 months.

**Level 2 - A written warning** may be given where the case has already involved a first warning and insufficient improvement has been made, where further misconduct has occurred, or where the case is of sufficient importance or seriousness. A record of the written warning should be retained on the individual's personnel file. The warning should be disregarded for disciplinary purposes after 18 months.

**Level 3 - A final warning** may be given where the case has already involved a written warning and insufficient improvement has been made, where further misconduct has occurred or where the case is of sufficient importance or seriousness. Where gross misconduct may not warrant dismissal, for example, due to mitigating circumstances. A record of the final warning should be retained on the individual's personnel file. The warning should be disregarded for disciplinary purposes after 24 months however; in cases of a very serious nature this may be extended. The employee must be informed of the timescale involved.

**Level 4 - Dismissal.** An employee is likely to be dismissed where the case has already involved the final warning and insufficient improvement has been made, where further misconduct has occurred, where the case is so serious as to constitute gross misconduct or where there is some other substantial reason.

## The Decision Letter

A letter detailing the decision from the disciplinary hearing will be given to the employee and a copy placed on their personnel file, if a warning is issued.

Following the outcome of the hearing the decision letter will state:-

- the decision i.e. that there is no case to answer or the appropriate level of disciplinary sanction
- the reason for the decision
- the course of action to be followed by the employee
- time scale in which improvement is required, if applicable
- where assistance is required, the assistance which will be made available to the employee e.g. training and guidance
- the date on which the warning will elapse
- that further disciplinary action will be considered if there is further misconduct or insufficient improvement within the timescale of the warning
- the right of appeal against the decision and how to exercise that right

**If the warning is a final warning** it will also state that if the employee's conduct continues to be unsatisfactory or if there is further misconduct it may lead to dismissal.

## Right of Appeal

All employees have the right of appeal against any disciplinary action taken following a formal hearing. The right of appeal against the decision may be exercised within 5 working days of the date of the letter confirming the outcome. Appeals must be in writing to the Chair of the meeting within timescales outlined giving full details of the grounds for appeal. The appeal for dismissal must be heard by the Principal or a panel of three Governors who have not been involved in any previous action or decision connected with the dismissal. Should the panel of governors reverse the decision to dismiss the notice of termination will be rescinded. Details of the procedure at an appeals hearing can be found in appendix B.

## Appendices

- Appendix A - Examples of misconduct
- Appendix B - Procedure to follow at a disciplinary hearing
- Appendix C - Draft suspension letter
- Appendix D - Draft disciplinary hearing letter
- Appendix E - Draft disciplinary appeal letter
- Appendix F - DBS Notification Procedure

## Examples of Misconduct

The following are examples of misconduct and gross misconduct. The list is not exhaustive:

### Misconduct:

- unauthorised absence
- negligence
- inadequate standards of work caused by carelessness
- careless damage to or wastage of Academy property and/or equipment
- failure to carry out reasonable instructions
- insubordination
- improper behaviour or conduct towards a member of the public
- disregard of safety instructions
- aggressive behaviour towards colleagues/members of the public
- timekeeping offences
- breach of the Code of Conduct for Employees (see Professional Conduct Policy)
- improper disclosure of confidential information
- knowingly aiding an offence against discipline
- smoking in prohibited areas
- harassment and/or bullying
- breach of the Academy's guidelines for the e-mail/internet
- breach of the Academy's approach to equality
- failure to meet the teacher's standards (eg planning, preparation and marking of work)

### Gross Misconduct

- disregard of the Safeguarding Policy
- theft of school, staff or public property
- fraud and deliberate falsification of records
- deliberate damage to or neglect of school property and/or equipment
- serious insubordination
- serious harassment and/or bullying
- deliberate disregard of the Community Cohesion and Equality Policy
- deliberate disregard of other school policies/legislation which may bring the Academy into disrepute or undermine safety
- physical violence
- serious harm to student/employee or member of the public
- bringing the school into serious disrepute
- serious incapability whilst on duty brought on by alcohol or non-prescribed drugs
- conduct at work likely to offend decency, including improper relationship with students
- serious negligence which causes or might cause unacceptable loss, damage or injury
- serious infringement of health and safety rules
- serious breach of confidence
- criminal activities outside work where such conduct is incompatible with the individual's employment
- improper relationship with a student (see Safeguarding & Child Protection Policy and Professional Conduct Policy)

## Procedure to follow at a Disciplinary Hearing/Disciplinary Appeal Hearing

The nominated manager / chair will invite the manager presenting the case and the employee (including the representative) into the room together.

The nominated manager / chair will open the proceedings by introducing those present and their roles in the process.

The nominated manager / chair will inform the employee (and representative) of the nature of the misconduct.

If the employee is not accompanied, the nominated manager / chair must confirm that this is the employee's decision not to be accompanied at the hearing.

*At Appeal Hearings only - the nominated manager / chair will confirm the grounds for the appeal hearing and the process that will be followed. If the grounds for the hearing are unclear the Chair should obtain clarification before proceeding.*

The nominated manager / chair will explain how the hearing will proceed. The process is as follows:

- The presenting manager will state the case to the employee including the calling of witnesses. Witnesses should appear one at a time and may only be present whilst giving evidence or being questioned.
- The employee and/or his/her representative may ask questions of the presenting manager and any witnesses. The presenting manager, nominated manager and advisors may also ask questions of all the parties. The presenting manager and the nominated manager may re-examine the witnesses. The witnesses will then withdraw.
- The nominated manager/chair will invite the employee and/or his/her representative to present their case including the calling and examination of witnesses. Witnesses must appear one at a time and may only be present whilst giving their evidence or being questioned.
- The presenting manager and nominated manager may ask questions of the employee and any witnesses the employee and/or his/her representative and the nominated manager may ask questions of all the parties and re-examine the witnesses. The witnesses will then withdraw.
- Witness may be asked to remain available as they may be required for further questioning.
- The presenting manager will sum up his/her case.
- The employee (or his/her representative) will sum up his/her case.
- The parties will withdraw from the room to allow the nominated manager to consider the evidence and come to a decision about whether the allegations have been proven on the balance of probability. Where in attendance the advisor may remain but must not decide the outcome.

An adjournment may be required to obtain further information or advice before the nominated manager / chair can reach a decision.

### **Deliberations**

Where possible a decision will be given to the employee on the day of the hearing. However, if the nominated manager believes it will take some time to make a decision, the employee (and the representative) and witnesses should be informed and asked not to wait. The decision, with reasons, should be confirmed in writing within 5 working days.

Once a decision has been reached based on the facts of the case, and an appropriate sanction, the nominated manager should consider any mitigating circumstances and any current “warnings” on file. If there are any the nominated manager will need to take these into account before making the final decision as to the appropriate sanction. The employee (and the representative) should be recalled and told the nominated manager’s decision, and the right of appeal.

## **In the case of an Appeal Hearing**

The decision and the employee’s right of appeal must be confirmed in writing. A copy of the decision letter should be placed on the employee’s personal file.

Once the decision has been reached the employee (and representative) and the manager presenting the case are recalled and informed of the outcome.

The Chair may take one of the following types of action at the end of the hearing:

- To uphold the appeal and dismiss any disciplinary penalty
- To replace with another disciplinary penalty which must not be more severe
- To dismiss the appeal and uphold the original disciplinary penalty

The Chair may not impose a more severe disciplinary penalty than that set at the original disciplinary hearing.

There is no further right of appeal against the decision of the Appeals Panel.

The outcome of the appeal hearing should be confirmed in writing to the employee as soon as possible, a copy of the letter should be placed on the employee’s personal file.

## Draft Suspension Letter

Strictly Private & Confidential

(Name)

(Address)

Dear (Name)

I am writing to confirm the decision conveyed to you today, that with immediate effect and until further notice, you are suspended from duty.

### Reason for suspension

An allegation regarding your conduct, in that you (Allegation)-----

In view of the gravity of the allegation and the need for a thorough and objective investigation to be conducted, I have resolved that you be suspended for the duration of the investigation.

You should note that suspension is not a punishment or disciplinary sanction, nor does it pre-empt any conclusions of the investigation.

At a suitable time during the investigation, you will be interviewed and have the right to be accompanied by your trade union representative or a work colleague not involved in the allegations. On completion of the investigation, you will be advised of the outcome and, in the event of disciplinary action being recommended, the disciplinary procedures as adopted by the Academy will be followed.

### Terms of suspension

1. It is a condition that you must not visit the Academy or have any contact with governors, staff (see 2 below), parents or students. This is intended to protect you from any potential allegations of harassment/intimidation of witnesses or collusion and is therefore in your own best interests. Failure to follow this condition could, in itself, lead to formal disciplinary action being taken.
2. Any contact with staff must only be through normal social arrangements. There must be no discussion about the case or matters relating to it.
3. If for any reason you should need to visit the Academy, you must seek prior permission, in writing, from me.
4. During the period of suspension you will receive normal pay.

During your period of suspension, (Name), will act as an intermediary between you and the Academy and can be contacted by telephone or in writing at the Academy. (Name) will also keep you informed of any developments in school.

I would also like to take this opportunity to remind you of your right to be accompanied at meetings with the investigating manager by a work colleague or Union/staff representative.

A copy of the Academy's Disciplinary Procedure is enclosed for your information.

Yours sincerely

Principal

## Draft invite to a Disciplinary Hearing

*To be issued not later than 5 working days before the hearing*

Strictly Private & Confidential

(Name)

(Address)

(Date)

Dear (Name)

I write to inform you that the investigation into your conduct in your role at the Academy has been completed. Having considered the evidence gathered during the investigation it has been decided that the following allegations should be put before the (Manager/ Governors/Principal)

At the hearing consideration will be given to the following allegations against you.

1. -----
2. -----
3. -----

The disciplinary hearing will be held on (Date), (Time) at (Venue). At the hearing you are entitled to be represented by a trade union representative or work colleague not involved in the case. Could you please advise me whom, if anyone, will be representing you at the hearing and also the names of any witnesses, you will be bringing.

No later than 24 hours prior to the hearing please also forward any documentation you will be presenting and inform me of any witnesses you may be calling.

The documentation to be presented by management is enclosed. Management will be bringing ----- as witnesses.

The (Governors/principal/Manager) has the power to issue any level of warning (first, written or final) or to dismiss you.

(The allegations – individually or collectively – if proven may be deemed to be gross misconduct for which you may be dismissed).

I enclose a copy of the procedures for the hearing. Please confirm your attendance not later than 2 working days before the hearing. If you fail to attend, the hearing may still proceed in your absence.

Yours sincerely

Line manager

Encs

## Draft invite to a Disciplinary Appeal Hearing

*To be issued not later than 5 working days before the hearing*

Strictly Private & Confidential

(Name)

(Address)

(Date)

Dear (Name)

Further to your appeal against the decision/process/other (delete as appropriate) of the disciplinary hearing which took place on the ... regarding (the) allegation(s) concerning your conduct as described in the written decision of the Chair of the hearing (Dated).

I write to confirm that the date for the hearing of your appeal is the (Date), (Time) at (venue). The hearing will be chaired by (Name)

(Name) will be representing the Academy and will be calling the following witnesses: (Names)

This hearing forms part of the disciplinary procedure.

The documents listed below and attached may be referred to at the appeal (list documents already used at the disciplinary hearing).

Would you please advise me by the (Date) whether you will be calling witnesses to support your appeal and their names and relevant details of any documents to which you wish to refer.

You have the right to be accompanied at the Appeal Hearing by a recognised Union representative or a work colleague.

Please confirm your attendance no later than 2 working days before the hearing.

Yours sincerely

Clerk to the Governing Body

Encs

## Information to be supplied by the employer to the Children's Safeguarding Operations Unit (MISCONDUCT CASES)

### Misconduct

Cases where an employer has ceased to use the services of a teacher or other worker with children and young people under the age of 19 or might have ceased to use those services had the teacher not ceased to provide them, for reasons of misconduct, should be referred to The National College for Teaching and Leadership: Teaching Regulation Division.

The National College for Teaching and Leadership: Teaching Regulation Division  
53-55 Butts Road  
Earlsdon Road  
Earlsdon Park  
Coventry  
CV1 3BH  
Tel: 0370 4968324  
Email: [regulation.division@education.gsi.gov.uk](mailto:regulation.division@education.gsi.gov.uk)

Referrals and Barring Queries  
Tel: 01325 953795  
Email: [dbsdispatch@dbs.gsi.gov.uk](mailto:dbsdispatch@dbs.gsi.gov.uk)  
Write to: DBS, PO Box 181, Darlington, DL1 9FA

The DfE refers on to the National College misconduct cases relating to registered teachers, which do not raise issues relating to the safety and welfare of children and young people.

1. A statement of reasons for ceasing to use the person's services.
2. Employer's records relating to the cessation of the use of the person's services or any contemplated cessation, including notes and minutes of meetings, interview notes and evidence supplied to or obtained by the employer.
3. Employer's records relating to the conduct/incompetence which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use his services, including notes and minutes of meetings, interviews notes and evidence supplied or obtained by the employer.
4. Employer's letters, warnings or notices issued to a person in relation to the cessation of the use of his services or contemplated cessation, or conduct/incompetence which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use those services and the person's replies or representations in relation thereto.
5. Any other statements, representations and evidence submitted by a person to the employer in relation to the cessation of his services or contemplated cessation, or the conduct/incompetence which eventually led to the cessation of the use of the person's services or might, but for the person having ceased to provide those services, have led the employer to cease to use his services.
6. Letter advising a person's intention to cease to provide services.
7. Any other document or information which the employer considers is relevant