

DATED 28<sup>th</sup> July 2018

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## **DISCIPLINARY AND CAPABILITY PROCEDURE**

For Nicolas Copernicus Polish Saturday School Parents' Association in Peterborough

Reviewed/Adopted:	July 2018
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Review Frequency:	Every three years
Reviewed By:	School Management Team and Trustees

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## **1. ABOUT THIS PROCEDURE**

- 1.1 The Nicolas Copernicus Polish Saturday School Parents' Association in Peterborough ('PSS') is a charity registered in England and Wales with registration no. 1162636.
- 1.2 The aims of this Disciplinary and Capability Procedure are to assist the Head Teacher and Deputy Head Teacher ('School Management Team'), and the trustees of PSS ('the Trustees') with their responsibility to ensure consistent and fair treatment and provide a framework within which they can work to maintain satisfactory standards of conduct and performance and to encourage improvement where necessary.
- 1.3 It is our policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and the opportunity to respond is given before any formal action is taken.
- 1.4 The procedure applies to all employees, agency workers, volunteers and self-employed contractors
- 1.5 This procedure does not form part of any employee's contract of employment and it may be amended at any time. We may also vary this procedure, including any time limits, as appropriate in any case.

## **2. MINOR CONDUCT ISSUES**

- 2.1 Minor conduct or poor performance issues can often be resolved informally between you and your line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on your personnel file but will be ignored for the purposes of any future disciplinary hearings. In some cases an informal verbal warning may be given, which will not form part of your disciplinary records. 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).
- 2.2 If you have difficulty at any stage of the procedure because of a disability, you should discuss the situation with your line manager as soon as possible.

## **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 You, and anyone accompanying you (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.
- 3.3 You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, unless we believe that a witness's identity should remain confidential.

## **4. INVESTIGATIONS**

- 4.1 The purpose of an investigation is for us to establish a fair and balanced view of the facts relating to any disciplinary allegations against you, 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 you and any witnesses, and/or reviewing relevant documents.
- 4.2 Investigative interviews 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. They will be chaired by a member of the School Management Team who will be accompanied by a note taker.
- 4.3 You do not normally have the right to bring a companion to an investigative interview.
- 4.4 You must co-operate fully and promptly in any investigation. This will include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending investigative interviews if required.

## **5. CRIMINAL ALLEGATIONS**

- 5.1 Where your conduct is the subject of a criminal investigation, charge or conviction we will investigate the facts before deciding whether to take formal disciplinary action.
- 5.2 We will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, we may have to take a decision based on the available evidence.
- 5.3 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to your employment.

## **6. CHILD PROTECTION ISSUES**

In cases where there are child protection issues, the Safeguarding Policy must be followed. In these circumstances, the School Management Team and the Trustees shall initially seek advice about child protection procedures from the appropriate authorities.

## **7. SUSPENSION**

- 7.1 In some circumstances we may need to suspend you from work. The suspension will be for no longer than is necessary to investigate any allegations of misconduct or poor performance against you or so long as is otherwise reasonable while any disciplinary procedure against you is outstanding. We will confirm the arrangements to you in writing. While suspended you should not visit our premises or contact staff, pupils or their parents or guardians, unless you have been authorised to do so by a member of the School Management Team
- 7.2 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. You will continue to receive your full basic salary and benefits during the period of suspension.

## **8. NOTIFICATION OF A HEARING**

- 8.1 Following any investigation, if we consider there are grounds for disciplinary action, you will be required to attend a disciplinary hearing. We will inform you in writing of the allegations against you, the basis for those allegations, and what the likely range of consequences will be if we decide after the hearing that the allegations are true. We will also include the following where appropriate:
- (a) a summary of relevant information gathered during the investigation;
  - (b) a copy of any relevant documents which will be used at the disciplinary hearing; and
  - (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case we will give you as much information as possible while maintaining confidentiality.
- 8.2 We will give you written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but you will be given a reasonable amount of time, usually two to seven days, to prepare your case based on the information we have given you.

## **9. THE RIGHT TO BE ACCOMPANIED**

- 9.1 You may bring a companion to any disciplinary hearing or appeal hearing under this procedure. The companion may be either a trade union representative or a colleague. You must tell a member of the School Management Team who your chosen companion is, in good time before the hearing.
- 9.2 A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.
- 9.3 If your companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards, we may ask you to choose someone else.

## **10. PROCEDURE AT DISCIPLINARY HEARINGS**

- 10.1 If you or your companion cannot attend the hearing you should inform us immediately and we will arrange an alternative time. You must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If you fail to attend without good reason, or are persistently unable to do so (for example for health reasons), we may have to take a decision based on the available evidence.
- 10.2 The hearing will be chaired by a member of the School Management Team who, so far as reasonably practicable, was not involved in any previous investigations or investigative interviews. They will be accompanied by a note-taker. You may bring a companion with you to the disciplinary hearing (see paragraph 9).
- 10.3 At the disciplinary hearing we will go through the allegations against you and the evidence that has been gathered. You will be able to respond and present any evidence of your own. Your companion may make representations to us and ask questions, but should not answer questions on your behalf. You may confer privately with your companion at any time during the hearing.
- 10.4 You may ask relevant witnesses to appear at the hearing, provided you give us sufficient advance notice to arrange their attendance. You will be given the opportunity to respond to any information given by a witness.
- 10.5 We may adjourn the disciplinary hearing if we need to carry out any further investigations such as re-interviewing witnesses in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 10.6 We will inform you in writing of our decision and our reasons for it within a reasonable time.

## **11. DISCIPLINARY PENALTIES**

- 11.1 The usual penalties for misconduct and poor performance are set out below. No penalty shall be imposed without a hearing. We aim to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct or poor performance will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.
- 11.2 You will not normally be dismissed for a first act of misconduct or poor performance, unless we decide it amounts to gross misconduct or you have not yet completed your probationary period.
- 11.3 **Stage 1 - First written warning or improvement note.** It will usually be appropriate for a first act of misconduct or poor performance where there are no other active written warnings or improvement notes on your disciplinary record.
- 11.4 **Stage 2 - Final written warning.** It will usually be appropriate for:
- (a) misconduct where there is already an active written warning on your record; or
  - (b) misconduct that we consider sufficiently serious to warrant a final written warning even though there are no other active warnings on your record.
  - (c) failure to improve where there is already an active improvement note on your record
  - (d) poor performance that we consider to be sufficiently serious to warrant a final written warning even though there are no other active improvement notices on your record
- 11.5 **Stage 3 - Dismissal.** It will usually only be appropriate for:
- (a) any misconduct or poor performance during your probationary period;
  - (b) further misconduct where there is an active final written warning on your record; or
  - (c) failure to improve where there is an active final written warning on your record; or
  - (d) any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct will usually result in immediate dismissal without notice or payment

in lieu of notice (summary dismissal). Examples of gross misconduct are set out below in paragraph 14,

- 11.6 **Alternatives to dismissal.** In some cases we may at our discretion consider alternatives to dismissal and will usually be accompanied by a final written warning. Examples include:
- (a) Demotion.
  - (b) Transfer to another department or job.
  - (c) A period of suspension without pay.
  - (d) Loss of seniority.
  - (e) Reduction in pay.

## 12. THE EFFECT OF A WARNING

- 12.1 Written warnings will set out the nature of the misconduct or poor performance, 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 six months and a final written warning will usually remain active for 12 months.
- 12.3 After the active period, the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

## 13. APPEALS

- 13.1 If you feel that disciplinary action taken against you is wrong or unjust you should appeal in writing, stating your full grounds of appeal, to the Chair of Trustees within one week of the date on which you were informed of the decision.
- 13.2 If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful you will be reinstated with no loss of continuity or pay.
- 13.3 If you raise any new matters in your appeal, we may need to carry out further investigation. If any new information comes to light we will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the hearing, and you or your companion may comment on any new evidence arising during the appeal before any decision is taken.
- 13.4 We will give you written notice of the date, time and place of the appeal hearing. This will normally be two to seven days after you receive the written notice.
- 13.5 The appeal hearing may be a complete re-hearing of the matter or it may be a review of 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. This will be at our discretion depending on the circumstances of your case. In any event the appeal will be dealt with as impartially as possible.
- 13.6 Where possible, the appeal hearing will be conducted impartially by a Trustee who has not been previously involved in the case. You may bring a companion with you to the appeal hearing (see paragraph 9).
- 13.7 We may adjourn the appeal hearing if we need to carry out any further investigations in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 13.8 Following the appeal hearing we may:
- (a) confirm the original decision;
  - (b) revoke the original decision; or
  - (c) substitute a different penalty.

13.9 We will inform you in writing of our final decision as soon as possible, usually within one week of the appeal hearing. Where possible we will also explain this to you in person. There will be no further right of appeal.

#### **14. Gross Misconduct**

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 the 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;
- serious incapability at work brought on by alcohol or illegal drugs;
- causing loss, damage or injury through serious negligence;
- a serious breach of health and safety rules;
- a serious breach of confidence.

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