

CITY ACADEMY NORWICH

Disciplinary Policy and Procedure

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DISCIPLINARY POLICY AND PROCEDURE

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1. Policy Statement

City Academy Norwich recognises that there may be times when an employee's conduct or behaviour falls below that which is expected. The majority of disciplinary issues can be resolved informally and promptly by the employee's immediate manager without recourse to the formal procedure. It is the policy of City Academy Norwich that when there is a need to progress a matter more formally, the procedures are applied in a consistent and fair manner.

2. Policy Aims & Objectives

The aim of the procedure is to help and encourage employees to achieve and monitor acceptable standards of conduct at work and to ensure consistent and fair treatment for all in relation to disciplinary action taken in response to allegations of unacceptable conduct.

3. Definitions

LADO – Local Authority Designated Officer for Safeguarding, who should be notified of disciplinary allegations relating to safeguarding and advise of action to be taken.

4. Scope

This Policy applies to all employees of City Academy Norwich.

5. Legal Requirements

ACAS Code of Practice on Disciplinary and Grievance Procedures.

6. Procedure

6.1 General Principles

Every effort will be made to avoid the use of formal disciplinary action where alternatives are appropriate. A separate procedure should be used to address issues of capability and competences (Managing Performance Procedure).

An employee has the right to be present and accompanied by a representative of a trade union or workplace colleague at any stage of the formal disciplinary procedure. The chosen companion may address the disciplinary hearing and may confer with the employee during the hearing but is not permitted to answer questions on the employee's behalf. Employees chosen to accompany a fellow employee to a disciplinary hearing will be permitted to take paid time off during working hours to attend the hearing.

In the interests of ensuring that disciplinary matters are resolved as speedily as possible, time limits are given for appropriate stages in this procedure. These are for guidance and there may be occasions where it is not practicable to adhere to these time limits and these can be amended by mutual agreement. Due regard will be given to the personal circumstances of all parties involved in the procedure.

Although normal disciplinary standards will apply to the conduct of trade union officers as employees, no disciplinary action should be taken against a trade union officer until the circumstances of the case have been discussed with a full-time official.

6.2 Investigations

No disciplinary action will be taken against an employee until a full and thorough independent investigation has been undertaken into the circumstances of the matter concerned. If appropriate, the organisation may suspend the employee whilst the investigation is carried out in accordance with section 6.14 below. The member of staff will be made aware of the nature of the allegations made against them prior to the formal investigation meeting taking place. Investigations will be undertaken by a manager of at least department head level and someone who is not directly involved or having knowledge of the incident under investigation, supported by an HR professional acting as HR Adviser. Having established the relevant facts, the investigating manager will decide whether there is no case to answer or to convene a formal disciplinary hearing.

In normal circumstances, the investigation and meetings held under this procedure will be conducted by the senior leadership team (or their delegee). However, City Academy Norwich reserves the right to request senior leaders (or their delegees) from Bohunt Education Trust undertake investigations or take part in disciplinary hearings or appeals.

6.3 Penalty

Other than in cases of gross misconduct or gross negligence, when the penalty will normally be dismissal without notice, no employee will be dismissed for a first offence. Before imposing any disciplinary penalty all relevant factors will be considered, including the extent to which standards have been breached, the employee's general record, position and length of service and any special circumstances which might make it appropriate to adjust the severity of the penalty. An employee will have the right to appeal any disciplinary penalty imposed.

6.4 Safeguarding – Allegations of Abuse of Children, Young People and Vulnerable Adults

If the disciplinary allegation relates to a safeguarding issue, in addition to following the procedural steps set out in this document, there are additional actions that need to be undertaken and these will be detailed in each organisation's Safeguarding Procedure.

6.5 Stages of the Procedure

Normally, the procedure will be followed in the order of the stages set out from section 6.6 below. However, offences of a serious nature may be brought into the procedure at any stage if any earlier stage would not be severe enough or appropriate to deal with it. For example, there may be occasions when misconduct is considered not to be so serious as to justify dismissal but serious enough to warrant only one written

warning which will be both the first and final written warning. At every stage of the procedure, the employee will be advised in writing of the nature of the allegations against them and will be given the opportunity to state their case before any decision is made.

6.6 Informal Stage

Before taking formal disciplinary action, every effort will be made by the line manager to resolve the matter by informal discussions with the employee if appropriate.

Minor lapses from acceptable standards of conduct will usually be dealt with by the employee's direct line manager, giving informal warnings, reprimands or action plans for improvement.

If, despite informal discussions (or where informal discussions are not appropriate), the employee's conduct does not meet acceptable standards, the following formal procedure should be used.

6.7 Standards Setting Letters

Where informal action as detailed in section 6.6 has not resulted in the required improvement, the line manager should meet with the member of staff and outline why their conduct does not meet the standards required. The manager should try to ascertain whether there are any underlying problems or contributory factors which may have led to the employee's failure to maintain the required standard of conduct and offer assistance if appropriate.

If, following the meeting above, it is confirmed that standards need to be set formally, the manager should provide the employee with a letter detailing:

- the exact way in which their conduct has fallen below expected standards and a reinforcement of the standards required
- the steps agreed to assist the employee to achieve the required standard (if appropriate)
- the likely outcomes if there is a repetition of the conduct, i.e. progress to a formal disciplinary investigation.

Standards Setting Letters should only be used where informal discussions as per section 6.6 have already taken place and the issue is considered serious enough to be recorded in writing in this way. Examples of relevant issues would be:

- Persistent lateness or poor timekeeping
- Repeated failure to follow routine procedures or complete documentation
- Failure to follow stated policy or procedure (unless the failure is serious and requires a disciplinary investigation)

A Standards Setting Letter should only be issued once for the same lapse in conduct and further lapses should be dealt with under the formal procedure. Such Letters will be disregarded for disciplinary purposes after one year.

6.8 Formal Procedure

When the independent investigation has been concluded, an investigation report will be prepared by the investigation team. Any such report should state whether or not the case should progress to a disciplinary hearing but should not make a recommendation as to the disciplinary penalty that should be imposed. The manager who requested the investigation take place will arrange for the member of staff to be

advised if there is no case to answer or that the matter is proceeding to a disciplinary hearing.

6.9 Disciplinary Hearings

If the manager decides to hold a disciplinary hearing relating to the allegations investigated, the employee will be given at least 10 working days' notice of the hearing and will be advised of the exact allegations against them to be considered at the disciplinary hearing. Documentation to be used at the hearing should be provided no later than 5 working days prior to the hearing. See Appendix 2 for the order the disciplinary hearing should follow.

The disciplinary hearing will be conducted by a member of the organisation's senior leadership team, who will be supported by a member of HR Services acting as HR Adviser. In some cases, for example issues relating to specific curriculum issues, another manager will also attend acting as Expert Adviser, although they will not have any input into the final decision. If the allegations relate to Safeguarding, the Safeguarding Officer or senior manager with responsibility for Safeguarding will always conduct the hearing/attend as Expert Adviser.

At any disciplinary hearing, the employee will be given an opportunity to state his or her case and will have the right to be accompanied (as per section 6.1). In addition, it may be appropriate for the employee to call witnesses but only if the witnesses have directly witnessed the incident(s) that the disciplinary allegations relate to.

However, if the chosen representative of the employee is unavailable on the date of the initial hearing, the employee may delay the date of that hearing once up to 5 working days to enable the chosen representative to attend. The location and timing of any alternative hearing should be convenient to both the organisation and the employee.

If the employee fails, without good reason, to attend a disciplinary hearing which the organisation has instructed him or her to attend, the hearing will take place and a decision will be made in his or her absence.

If the employee resigns whilst under disciplinary investigation or during the disciplinary process, the disciplinary procedure will normally be progressed to its conclusion during the employee's notice period. If the outcome is summary dismissal, this will supersede the employee's resignation and the employee will be deemed to have been dismissed for reasons of conduct.

6.10 Disciplinary Sanctions

Any sanction imposed as a result of a disciplinary hearing can only be in respect of the allegations the panel has been asked to consider. Should other issues of misconduct arise from information provided at the hearing, these would need to be subject to a further investigation before they could be considered.

A **Formal Oral Warning** will normally be the appropriate sanction if the panel concludes that there has been a significant breach of the organisation's rules but that the conduct is not sufficient to result in a written warning or a dismissal.

The issuing of a Formal Oral Warning will be made in a letter advising the employee of any actions required from them and that the warning will be placed on the employee's personal file. After 6 months, the warning will be spent and the note removed from the employee's personal file, subject to the employee's conduct and

work performance having been satisfactory throughout that period. The employee will be advised of their right of appeal.

A **First Written Warning** will normally be the appropriate sanction if:

- (i) the employee commits an offence of misconduct which is sufficiently serious to warrant a written warning but not serious enough to justify a final written warning; or
- (ii) the employee fails to comply with a formal oral warning issued; or
- (iii) despite having been given a formal oral warning as the result of misconduct, the employee commits a further offence or offences of misconduct.

This written warning will give details of the complaint against the employee and in appropriate cases the improvement required and the time limit within which such improvement must be achieved. The warning will also state that if the employee commits a further offence of misconduct during the period specified in the warning or if there is not satisfactory improvement, further disciplinary action will be likely. The written warning will also advise the employee of the right of appeal in accordance with section 6.12 below. A copy of the written warning will be placed on the employee's personal file. After 12 months, the warning will be spent and disregarded for disciplinary purposes, subject to the employee's conduct having been satisfactory throughout that period.

A **Final Written Warning** will normally be the most appropriate sanction if:

- (i) the employee fails to comply with a first written warning issued; or
- (ii) despite having been given a first written warning the employee commits a further offence of misconduct, or
- (iii) the employee's misconduct, although not considered serious enough to justify summary dismissal, is sufficiently serious to warrant only one written warning (in effect both the first and a final written warning).

The Final Written Warning will give details of the complaint against the employee and, in appropriate cases, the improvement required and the time limit within which such improvement must be achieved. The warning will also state that, if the employee commits a further offence of misconduct during the time limit specified in the warning or if there is no satisfactory improvement, his or her employment will be terminated. The Final Written Warning will also advise the employee of the right of appeal in accordance with section 6.12 below. A copy of the Final Written Warning will be placed on the employee's personal file. After 18 months, the warning will be spent and will normally be disregarded for disciplinary purposes (although in exceptional cases, the period may be longer), subject to the employee's conduct and work performance having been satisfactory throughout the period.

Dismissal. A member of the senior leadership team or their appropriate delegee (having had regard for mitigating factors presented by the employee, trade union representative or workplace colleague) may give notice of dismissal to the employee if: (i) the employee fails to comply with a Final Written Warning issued; or

- (ii) despite having been given a Final Written Warning as a result of misconduct, the employee commits a further offence of misconduct or fails to meet the improvement standards required.

The notice of dismissal will be in writing and will specify the reason(s) for dismissal, the date of which the employment will end, and the right of appeal against dismissal or the notice of dismissal in accordance with section 6.13 below. If the employee appeals against the notice of dismissal, the dismissal shall not take effect until the appeal has been determined.

Reduction in Grade or Transfer to Suitable Alternative Employment. In certain circumstances and as an alternative to dismissal, it may be appropriate to reduce an employee's grade or transfer them to alternative employment either on a permanent basis or for a specified period during which retraining would be given and then the position reviewed. In such cases, the employee would receive only the salary and be subject to the terms and conditions of the new post, and will be subject to the Probationary Procedure.

6.11 Gross Misconduct

An employee who is accused of gross misconduct or gross negligence may be suspended from work in accordance with the provisions of section 6.14 below whilst the organisation investigates the alleged offence. The Headteacher or their nominee may summarily dismiss the employee if, on completion of the investigation and a disciplinary hearing in accordance with section 6.9 above, it is established that the employee has been guilty of gross misconduct or gross negligence. Such a dismissal will be without notice or payment in lieu of notice and will be confirmed to the employee in writing, specifying the reasons for the dismissal and the right of appeal against it in accordance with section 6.13 below.

Examples of gross misconduct appear in Appendix A and indicate the types of conduct which are regarded as warranting summary dismissal. This list of examples is neither exclusive nor exhaustive and there may be other offences of a similar gravity which constitute gross misconduct.

6.12 Appeals against Disciplinary Penalties other than Dismissal

An employee who wishes to appeal against a Formal Oral Warning, a First Written Warning, a Final Written Warning or a disciplinary suspension should inform the Director of HR Services within 5 working days of the date of the decision which forms the subject of the appeal. The appeal must be in writing and must state the grounds for the appeal, together with full details to support the grounds for appeal. Grounds for an appeal will be:

- The decision was wrong
- The procedure was not followed correctly
- The punishment was too harsh
- New evidence has come to light.

The appeal will be heard by a member of the senior leadership team who was not directly involved in the procedure when the disciplinary penalty complained of was imposed.

The hearing will take place no later than 10 working days after the notice to appeal has been received. At the hearing of the appeal, the employee will be given an opportunity to state his or her case and will be entitled to be accompanied and represented by a trade union representative or workplace colleague.

If new evidence is presented at the appeal stage by either side, which constitutes a potential further disciplinary issue, it is not possible to consider this at the appeal hearing and a new investigation would need to be undertaken in respect of this allegation.

If the employee's representative is unavailable on the date set for the appeal hearing, the employee may delay the date of the appeal hearing once up to 5 working days to enable the chosen representative to attend.

At the appeal, the disciplinary penalty imposed will be reviewed but it cannot be increased. The decision of the Chair of the Appeal Panel will be notified to the employee in writing within 10 working days of the appeal hearing and will be final and binding.

6.13 Appeals against Dismissal or Notice of Dismissal

An employee who wishes to appeal against dismissal or notice of dismissal should inform the Director of HR within 5 working days of the date of the decision which forms the subject of the appeal. The appeal must be in writing and must state the grounds for appeal (as stated in section 6.12).

The appeal will normally be heard by the Headteacher or a member of the senior leadership team. The Headteacher or member of the senior leadership team should not hear the appeal if he or she has been involved in the detail of the investigation or the decision to dismiss. In such circumstances, it may be appropriate for the appeal to be heard by a member of the senior leadership team in another Bohunt Education Trust school. The appeal hearing will normally take place not later than 10 working days after the notice to appeal has been received by the Director of HR. The employee will be given at least 5 working days' notice of the date, time and place fixed for the appeal hearing. At the appeal hearing, the employee will be given an opportunity to state his or her case and will be entitled to be accompanied and represented by the trade union representative or workplace colleague of their choice. The decision of the panel chair will be notified or confirmed to the employee in writing within 10 working days of the appeal hearing and will be final and binding. See Appendix 3 for the order the appeal hearing should follow.

In the case of an appeal against a notice of dismissal, the dismissal shall not take effect before the appeal has been determined unless the dismissal was for Gross Misconduct and was a summary dismissal.

6.14 Precautionary Suspension

When the Headteacher or their delegee is of the view that an employee may have been guilty of gross misconduct or that because of some other good and urgent cause eg, for the protection of students, other staff or property or where the continued presence of the person against whom allegations are made could be an obstacle to the investigation, the continuing attendance of the employee at their place of work cannot be permitted, the Headteacher may suspend the employee from duty pending an investigation and the holding of a formal disciplinary hearing. During the period of suspension, the employee will be refused access to the organisation's premises or contact with the organisation's employees or students without the prior consent of the organisation and subject to such conditions the organisation may impose. The employee should be advised to contact their Trade Union if they are a member.

Suspension should only be imposed after careful consideration and it should be made clear to the employee that it is not considered a disciplinary act.

If the Headteacher decides to suspend an employee from duty, they shall confirm the suspension in writing to the employee immediately, confirming the reasons for the suspension.

An employee who is suspended from duty shall, throughout the period of suspension, continue to be entitled to their full pay unless there is a provision in the contract to the contrary.

The length of periods of suspension should be kept to a minimum and the employee should be kept updated on a 3 weekly basis as to whether the suspension is going to continue

6.15 Appeal against Suspension

An employee who has been under suspension for three weeks or more may appeal in writing to the Clerk to the Corporation/Company Secretary and the appeal shall be heard as soon as is practicable by a committee consisting of three Governing Body members, excluding the Headteacher, parents, staff and student members.

A suspension against which an appeal by an employee is made shall continue to operate pending the determination of the appeal.

Where an appeal against suspension is made by an employee the employee shall be given at least 5 working days' notice of the date, time and place fixed for the hearing, unless an earlier date has been mutually agreed.

At the hearing of an appeal against suspension, the employee may be accompanied and represented by the recognised trade union representative or supported by a workplace colleague of their choice.

Following the hearing of an appeal against suspension, the committee appointed to hear the appeal may either confirm the suspension or lift the suspension. The decision of the committee and the reasons for the same shall be confirmed by the Clerk to the Corporation/Company Secretary in writing to the employee within 5 working days of the hearing of the appeal.

7. Organisational Responsibilities

Senior Leaders are responsible for ensuring standards are maintained, undertaking any disciplinary investigations or hearings in a thorough, robust, fair and consistent manner.

Managers are responsible for addressing minor issues of concern with employees on a day to day basis. The manager should offer support, advice, and assistance to encourage employees to maintain the standards of conduct and behaviour expected. Managers are responsible for keeping adequate records of discussions. Managers are responsible for identifying when an issue needs to be progressed through the disciplinary procedure.

Employees are responsible for maintaining the standards of conduct and behaviour expected and for co-operating with disciplinary investigations if required.

Trade Unions Representatives are responsible for advising and supporting their members during disciplinary processes.

HR Services are responsible for ensuring that any disciplinary investigations or hearings are conducted using the City Academy Norwich Disciplinary Policy and Procedures.

8. References to related policies

All policies.

9 Contact

HR Services staff are available to provide advice to managers or staff on any aspect of this policy and procedure.

10 Equal Opportunities Statement

This policy and procedure has been assessed against the nine protected characteristics outlined in the Equality Act 2010. The Disciplinary Policy and Procedure does not potentially have a greater impact on staff with any particular protected characteristic. The policy and any documents associated with a disciplinary investigation or hearing can be made available in different formats and languages and assistance can be provided to ensure staff can effectively take part in any investigation meetings or disciplinary hearings. Timescales relating to document submission and hearings can be adjusted if necessary to take into account maternity appointments or religious festivals.

If you have any comments or suggestions in relation to equal opportunities of this policy or procedure please contact the policy holder.

Appendix 1 - Examples of Gross Misconduct

- (a) Unauthorised removal, possession or theft of property belonging to City Academy Norwich, a member of staff, student, client or visitor.
- (b) Fraud, dishonesty, acceptance of bribes or other corrupt practices including deliberate falsification of documents which will be of financial advantage to any person. This includes (but is not limited to) claiming sick pay by falsely claiming absence through sickness and/or false expense claims.
- (c) Acts of violence, threats of physical assault and/or threatening or abusive behaviour towards staff, students or third parties including bullying.
- (d) Malicious damage to property belonging to City Academy Norwich, a member of staff, student, client or visitor.
- (e) Doing other paid work without authorisation whilst on sick leave.
- (f) Deliberate falsification of official records such as marking sheets, reports, accounts and attendance registers.
- (g) Possession and/or supply of illegal drugs.
- (h) Serious incapacity as a result of being under the influence of alcohol or illegal drugs.
- (i) Serious negligence which causes unacceptable loss, damage or injury, including serious breaches of safety rules/regulations endangering other people.
- (j) Unauthorised disclosure of confidential matters concerning City Academy Norwich's affairs (subject to the Public Interest Disclosure Act 1988 and the College's Whistleblowing Policy).
- (k) Undertaking unauthorised work during paid work hours.
- (l) Deliberate misuse of computer systems, including the misuse or unauthorised access to information contained on the systems and/or a serious breach of the organisation's IT Policy (including downloading and/or circulating pornographic or offensive material).
- (m) Acts of inappropriate behaviour towards children and vulnerable adults that are required to be reported to the Local Authority Safeguarding Officer and contravene the organisation's procedure on Safeguarding.
- (n) Serious Harassment or Bullying contrary to the organisation's policy.
- (o) Unlawful discrimination on the grounds of sex, race, disability, sexual orientation, religion or belief or on other similar grounds or any breach of the organisation's Equal

Opportunities policy which is specified in such a policy as being potential gross misconduct.

- (p) Conviction of a criminal offence (whether committed during the course of employment or not) or being investigated for such an offence) which has a direct impact on the member of staff's duties or which is regarded as unacceptable within the Academy/College environment because it has resulted in or is likely to result in a loss of trust and confidence in the employee by students or the general public.
- (q) The falsification of documents (including the failure to include relevant information) leading to new or subsequent employment at City Academy Norwich.
- (r) A breach of trust.
- (s) Bringing the organisation into disrepute.
- (t) Serious insubordination or refusal to carry out a reasonable instruction.
- (u) Absence without leave or just cause.

Appendix 2 – Procedure for Disciplinary Hearing

1. If a member of staff or representative attends a hearing then, at the commencement of the hearing, both parties should be invited to enter the room where the hearing is conducted at the same time. During the hearing, adjournments may be requested by either party or by the Manager conducting the hearing and will not be refused unreasonably. Where such a request is denied, an explanation will be given. Both parties should leave the room during any adjournment.
2. At the start of the hearing, the Manager conducting will ask whether any new evidence has been made available that could not be circulated prior to the hearing and will make a judgement as to whether an adjournment is necessary to allow consideration of such evidence.
3. The Manager conducting the hearing will introduce all those present.

ORDER OF HEARING

- (a) The Investigating Officer (IO) will present the details of the allegation and a report on the investigation undertaken.
- (b) The member of staff and their representative may question the IO.
- (c) The Manager conducting the hearing or panel members may question the IO.
- (d) The IO may call witnesses and ask questions of them.
- (e) The employee or representative may question the witnesses.
- (f) The Manager or panel member may question the witnesses.
- (g) The employee and/or representative will present the case against the allegations and explain any special circumstances which may exist.
- (h) The IO may question the employee.
- (i) The Manager may question the employee.
- (j) The employee and/or representative will call any witnesses.
- (k) The IO may question the witnesses.

- (l) The Manager may question the witnesses.
- (m) Should the Manager conducting the hearing wish to clarify any issue with either the employee or IO, or of the witnesses, they will do so at this point.
- (n) The IO will summarise the case against the employee without introducing any new factors.
- (o) The employee and/or representative will summarise the case against the allegation.
- (p) The employee, representative, IO and any other management representative will withdraw and the Manager conducting the hearing will decide whether or not an offence has been committed. The Manager may seek guidance from a member from HR Services on procedural matters.
- (q) If, in the opinion of the Manager conducting the hearing the allegations are proven, that Manager will take into account the following before deciding upon an appropriate disciplinary sanction:
 - any mitigating factors, eg health, domestic, bereavement
 - current disciplinary record of the employee
 - length of service with the organisation
 - nature of the offence
 - evidence produced by either party at the hearing
 - statements and answers provided by witnesses
 - any sanctions imposed in the past for similar offences.
- (r) Once that decision is made, the two parties will be recalled and advised of the decision.
- (s) The employee will be advised of their right to appeal against the decision and informed who that appeal should be lodged with and in what timescale.
- (t) Written confirmation of the decision will be sent to both parties within 5 working days of the hearing.

Appendix 3 – Procedure for Appeals

Generally, the Appeal will be heard by a member of the Senior Leadership Team, or a panel of Governing Body Members in exceptional cases of dismissal.

Order of Business

- (a) The Chair should introduce those present.
- (b) The Chair to clarify that notes will be taken at the meeting and to whom they shall be made available.
- (c) The management representative to give a short resume of the Appellant's post within the organisation and place in the organisational structure.
- (d) The Appellant/representative to introduce any witnesses.
- (e) The management representative to ask questions of the witnesses and Appellant as appropriate.
- (f) The Chair to question the witnesses.
- (g) Appellant's witnesses to withdraw.
- (h) The Management representative to introduce any witnesses to give evidence.
- (i) The Appellant/representative to ask questions of the witnesses and management representative as appropriate.
- (j) The Chair to question the witnesses.
- (k) Management representative's witnesses to withdraw.
- (l) Management representative to summarise the organisation's case; no new factors to be introduced.
- (m) The Appellant/representative to summarise the appeal; no new factors to be introduced.
- (n) The Chair to review case and make decision.
- (o) Management representative, Appellant and advisers to be recalled and informed of the decision by the Chair.

Appendix 4 – Disciplinary Flowchart

