



EQUA
Multi Academy Trust

DISCIPLINARY PROCEDURE FOR STAFF

The aims of this Disciplinary Procedure are to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.

Policy Lead	CEO
Committee	Resources
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I N D E X

1	About this procedure	1
2	Minor conduct issues	1
3	Confidentiality	1
4	Investigations	2
5	Criminal allegations	2
6	Suspension	2
7	Notification of a hearing	2
8	The right to be accompanied	3
9	Procedure at disciplinary hearings	3
10	Disciplinary penalties	4
11	The effect of a warning	5
12	Appeals	5
	Appendix A: Disciplinary Rules for Staff	7

1 About this procedure

- 1.1 The aims of this Disciplinary Procedure are to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary. The standards of conduct expected of all employees are set out in the Disciplinary Rules (Appendix A) . It is our policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.
- 1.2 The procedure applies to all employees regardless of length of service. It does not apply to agency workers or self-employed contractors.
- 1.3 This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases, reference should be made to the appropriate policy or procedure in the Staff Handbook.
- 1.4 This procedure has been implemented following consultation with the Trust's Union Representatives.
- 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 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, a formal verbal warning may be given, which will form part of your disciplinary records. Further 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, including covert 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. The Trust will usually appoint an Investigating Officer to carry out the investigation, or in the case of the Headteacher being subject to the disciplinary procedure, the Chair of Governors or the CEO.
- 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.
- 4.3 You do not normally have the right to bring a companion to an investigative interview. However, we may allow you to bring a companion if it helps you to overcome any disability, or any difficulty in understanding English.
- 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 the Headteacher and the Chair of Governors will investigate the facts before deciding whether to take formal disciplinary action.
- 5.2 The Headteacher and the Chair of Governors 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 Suspension

- 6.1 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 against you or so long as is otherwise reasonable while any disciplinary procedure against you is outstanding. The Headteacher or Chair of Governors will confirm the arrangements to you in writing. While suspended you should not visit our premises or contact any of our clients, customers, suppliers, contractors or staff, unless you have been authorised to do so by the Headteacher.
- 6.2 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.

7 Notification of a hearing

- 7.1 Following any investigation, if the Headteacher or the Chair of Governors consider there are grounds for disciplinary action, you will be required to attend a disciplinary hearing. The Trust 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 it is decided after the hearing that the allegations are true. We will also include the following where appropriate:

- 7.1.1 a summary of relevant information gathered during the investigation;
- 7.1.2 a copy of any relevant documents which will be used at the disciplinary hearing; and
- 7.1.3 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.

- 72 The Trust 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.

8 The right to be accompanied

- 8.1 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 the Headteacher who your chosen companion is, in good time before the hearing.
- 8.2 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.
- 8.3 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.
- 8.4 The Trust may, at our discretion, allow you to bring a companion who is not a colleague or union representative (for example, a member of your family) if this will help overcome a disability, or if you have difficulty understanding English.

9 Procedure at disciplinary hearings

- 9.1 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.
- 9.2 The hearing will normally be chaired by the Headteacher, unless the Trust Board considers there is a conflict. In this case an alternative chair will be appointed from the Local Governing body or Trust Board. The Investigating Officer or a member of the Trust Human Resources Department will also be present. You may bring a companion with you to the disciplinary hearing (see *paragraph 8*).
- 9.3 If the hearing concerns misconduct by the headteacher or a member of the central team such as the CEO or CFO, a nominated trustee will be asked to chair the hearing.
- 9.4 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.
- 9.5 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.

96 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.

97 We will inform you in writing of our decision and our reasons for it, usually within one week of the disciplinary hearing. Where possible we will also explain this information to you in person. If the disciplinary allegations are not upheld, statutory data rules for destruction of information will be followed.

10 Disciplinary penalties

10.1 The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. We aim to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

10.2 You will not normally be dismissed for a first act of misconduct, unless the Trust decides it amounts to gross misconduct or you have not yet completed your probationary period.

10.3 **Stage 1 - First written warning.** A first written warning may be authorised by the Headteacher. It will usually be appropriate for a first act of misconduct where there are no other active written warnings on your disciplinary record.

10.4 **Stage 2 - Final written warning.** A final written warning may be authorised by the Headteacher. It will usually be appropriate for:

10.4.1 misconduct where there is already an active written warning on your record; or

10.4.2 misconduct that we consider sufficiently serious to warrant a final written warning even though there are no other active warnings on your record.

10.5 **Stage 3 - Dismissal.** Dismissal may be authorised by the Headteacher. It will usually only be appropriate for:

10.5.1 any misconduct during your probationary period;

10.5.2 further misconduct where there is an active final written warning on your record; or

10.5.3 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 in our Disciplinary Rules, which are contained in the Staff Handbook or available from the Human Resources Department.

10.6 **Alternatives to dismissal.** In some cases, we may at our discretion consider alternatives to dismissal. These may be authorised by the Headteacher and will usually be accompanied by a final written warning. Examples include:

10.6.1 Demotion.

10.6.2 Transfer to another department or job.

10.6.3 A period of suspension without pay.

10.6.4 Loss of seniority.

10.6.5 Reduction in pay.

10.6.6 Loss of future pay increment or bonus.

10.6.7 Loss of overtime.

11 The effect of a warning

11.1 Written warnings will set out the nature of the misconduct, 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.

11.2 A first written warning will usually remain active for six months and a final written warning will usually remain active for 12 months. In exceptional cases verging on gross misconduct, a final written warning may state that it will remain active indefinitely. Your conduct may be reviewed at the end of a warning's active period and if it has not improved sufficiently, we may decide to extend the active period.

11.3 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.

12 Appeals

12.1 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 Governors within one week of the date on which you were informed of the decision.

12.2 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.

12.3 If you raise any new matters in your appeal, the Trust may need to carry out further investigation. An Appeal's Officer will be appointed by the Trust. 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.

12.4 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.

12.5 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 the Trust's discretion depending on the circumstances of your case. In any event the appeal will be dealt with as impartially as possible.

12.6 Where possible, the appeal hearing will be conducted impartially by a member of the Trust Senior Leadership Team who has not been previously involved in the case. The Investigating

Officer or a member of the Human Resources Department or the manager who conducted the disciplinary hearing will also usually be present. You may bring a companion with you to the appeal hearing (see paragraph 8).

- 127 The Appeal's Officer 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.
- 128 Following the appeal hearing the Appeals Officer may:
- 12.8.1 confirm the original decision;
 - 12.8.2 revoke the original decision; or
 - 12.8.3 substitute a different penalty.
- 129 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. If you require further assistance beyond this point, please seek advice from your union representative.



DISCIPLINARY RULES FOR STAFF

CONTENTS

- 1. Introduction**
- 2. Rules of conduct**
- 3. Misconduct**
- 4. Gross misconduct**

1. Introduction

- 1.1 These Disciplinary Rules should be read in conjunction with our 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 If you are in any doubt as to your responsibilities or the standards of conduct expected you should speak to your line manager or the Headteacher. These rules have been implemented following consultation with the Trust's Union Representative.
- 1.4 We may amend our Disciplinary Rules at any time following consultation with the Trust's Union Representative.

2. Rules of conduct

- 2.1 While working for us you should at all times maintain professional and responsible standards of conduct. In particular you should:
 - 2.1.1 observe the terms and conditions of your contract, particularly with regard to:
 - (i) hours of work; (daily and annualised hours of work)
 - (ii) confidentiality;
 - 2.1.2 ensure that you understand and follow our Code of Conduct which is set out in the Staff Handbook.
 - 2.1.3 observe all our policies, procedures and regulations which are included in the Staff Handbook or notified to you from time to time by means of staff briefings, e-mail, the policy section of the staff shared area or otherwise;
 - 2.1.4 take reasonable care in respect of the health and safety of colleagues and third parties [and comply with our Health and Safety Policy];
 - 2.1.5 comply with all reasonable instructions given by managers; and
 - 2.1.6 act at all times in good faith and in the best interests of our Trust, parents, students and staff.
- 2.2 Failure to maintain satisfactory standards of conduct may result in action being taken under our Disciplinary Procedure.

3. Misconduct

3.1 Minor breaches of your contract. The following are examples of matters that will normally be regarded as misconduct and will be dealt with under our Disciplinary Procedure:

- 3.1.1 Minor breaches of our policies including the Sickness Absence Policy, E Safety Guidance, Data Protection Policy and Health and Safety Policy;
- 3.1.2 Minor breaches of your contract
- 3.1.3 Damage, due to negligence to, or unauthorised use of, our property;
- 3.1.4 Poor timekeeping;
- 3.1.5 Time wasting;
- 3.1.6 Unauthorised absence from work;
- 3.1.7 Refusal to follow instructions;
- 3.1.8 Excessive use of our telephones for personal calls;
- 3.1.9 Excessive personal e-mail or internet usage;
- 3.1.10 Obscene language or other offensive behaviour;
- 3.1.11 Negligence in the performance of your duties; or
- 3.1.12 Smoking in no-smoking areas.

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

4. Gross misconduct

4.1 Gross misconduct is a serious breach of contract and includes misconduct which, in our opinion, is likely to prejudice our business or reputation or irreparably damage the working relationship and trust between us. Gross misconduct will be dealt with under our Disciplinary Procedure Policy and will normally lead to dismissal without notice or pay in lieu of notice (summary dismissal).

4.2 The following are examples of matters that are normally regarded as gross misconduct:

- 4.2.1 Theft or fraud; Theft, or unauthorised removal of our property or the property of a colleague, contractor, customer or member of the public
- 4.2.2 Fraud, forgery or other dishonesty, including fabrication of expense claims and time sheets;
- 4.2.3 Actual or threatened violence, or behaviour which provokes violence;
- 4.2.4 Deliberate and serious damage to property;
- 4.2.5 Serious misuse of our property or name;
- 4.2.6 Deliberately accessing internet sites containing pornographic, offensive or obscene material;
- 4.2.7 Repeated or serious failure to obey instructions, or any other serious act of insubordination;
- 4.2.8 Unlawful discrimination or harassment;
- 4.2.9 Bringing the organisation into serious disrepute;
- 4.2.10 Being under the influence of alcohol, illegal drugs or other substances, excluding prescribed medicines during working hours;
- 4.2.11 Causing loss, damage or injury through serious negligence;
- 4.2.12 Serious breach of health and safety rules;
- 4.2.13 Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure;
- 4.2.14 Accepting or offering a bribe or other secret payment;
- 4.2.15 Accepting a gift above the value of £20 from a customer, supplier, contractor or other third party in connection with your employment without prior consent from your line manager;

- 4.2.16 Conviction for a criminal offence that in our opinion may affect our reputation or our relationships with our staff, customers or the public, or otherwise affects your suitability to continue to work for us;
- 4.2.17 Possession, use, supply or attempted supply of illegal drugs;
- 4.2.18 Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures;
- 4.2.19 Knowing breach of statutory rules affecting your work;
- 4.2.20 Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy;
- 4.2.21 Harassment of, or discrimination against, employees, contractors, clients or members of the public, related to gender, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, disability, religion or belief or age;
- 4.2.22 Refusal to disclose any of the information required by your employment or any other information that may have a bearing on the performance of your duties;
- 4.2.23 Giving false information as to qualifications or entitlement to work (including immigration status) in order to gain employment or other benefits;
- 4.2.24 Knowingly taking parental, paternity or adoption leave when not eligible to do so or for a purpose other than supporting a child;
- 4.2.25 Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith;
- 4.2.26 Making untrue allegations in bad faith against a colleague;
- 4.2.27 Victimising a colleague who has raised concerns, made a complaint or given evidence or information under our Whistleblowing Policy, Grievance Procedure, Disciplinary Procedure or otherwise;
- 4.2.28 Serious misuse of our information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of e-mail and the internet);
- 4.2.29 Undertaking unauthorised paid or unpaid employment during your directed time working hours;
- 4.2.30 Unauthorised entry into an area of the premises to which access is prohibited.

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