



Parkside Community College

Staff Disciplinary Policy and Appeals Procedure

1) General

- 1.1 This document is drawn up in accordance with the current Advisory Conciliation and Arbitration Services Code of Practice and with the relevant legislation.
- 1.2 These procedures:-
 - (a) Apply to all staff employed at the School and are intended to provide a fair method of dealing with alleged failures to observe standards of conduct.
 - (b) Have been adopted by the Governing Body of the School.
 - (c) Do not apply to allegations of substandard work (for which the Competency Procedure should be used) unless it is clear that the member of staff is capable of reaching the required standard and is alleged not to have done so or the appropriate stage in the Competency Procedure has been reached.
 - (d) Do not apply in the event of redundancy or in the case of ill health (please refer to separate guidance on absence and redundancies).
 - (e) Shall not be used in respect of a trade union representative until the matter has been discussed with an appropriate official of the union concerned.

2) Responsibility for discipline and delegation of authority

- 2.1 The Governing Body has the overall responsibility for the discipline of all staff employed at the School and, in accordance with the School Staffing (England) Regulations 2003, has power to delegate the responsibility to the Headteacher, individual governor, or a group of governors (with or without the Headteacher).
- 2.2 For minor cases of unsatisfactory conduct, the Headteacher reserves the right to delegate the responsibility for discipline to a senior member of staff.
- 2.3 The school's Personnel Service provider may be consulted at any stage on matters relating to this policy.

3) Conduct of staff other than the Headteacher



- 3.1 Where misconduct occurs every reasonable action, depending on the nature of the case, will be offered by management of the School, to objectively investigate the facts of the matter, with an opportunity for the member of staff to improve or redress the situation.

3.2 Minor misconduct

In minor cases of unsatisfactory conduct (where a formal procedure is inappropriate or unnecessary), the individual's manager should discuss the disciplinary problem with the member of staff concerned, with a view to securing an improvement in conduct through the offer of guidance or support and/or the giving of a reprimand. Such a step should not form part of the disciplinary record of the member of staff and should not be recorded in writing. Where there is no improvement in conduct or where there is a succession of minor cases, the formal procedures outlined below may be invoked.

3.3 Misconduct

- (a) Where a member of staff's conduct appears to be such as to warrant formal disciplinary action, the manager should consider whether to:-
- (i) undertake investigation under paragraph 6; or
 - (ii) ask the member of staff for an explanation before deciding whether to implement formal disciplinary action; or
 - (iii) ask the member of staff to attend a disciplinary hearing.
- (b) Asking a member of staff for an explanation under (ii) or to attend a disciplinary hearing under (iii) without a formal investigation is appropriate for a first time offence which is unlikely to be repeated, continued, or have serious consequences, and where, following a disciplinary hearing, the sanction, if appropriate, will be a formal verbal warning or a written warning.
- (c) Where the member of staff is asked to attend an interview for the purpose of giving an explanation under (ii) they will be notified of his/her right to ask a trade union representative or friend to be present at the interview.
- (d) The member of staff will be given at least **five working days notice** in writing of the disciplinary hearing under (iii) and will be notified in writing of full details of the complaint and of their right to ask a trade union representative or friend to be notified or to be present at the hearing and
- (e) A second senior member of staff should accompany the manager at such interviews or disciplinary hearings. A request from either side for the date of an interview or



disciplinary hearing to be re-arranged shall not be unreasonably refused but it may only be appropriate to do so for a substantial reason which is acceptable to the other party.

- (f) If the manager is satisfied with the explanation at either the interview under (ii) or at the disciplinary hearing under (iii) then no further action will be taken and the matter should be disregarded in any subsequent disciplinary proceedings.
- (g) If the manager finds against the member of staff at a disciplinary hearing under (iii) then the member of staff may be given a formal verbal warning or a written warning that their conduct is unsatisfactory and that if unsatisfactory conduct continues further disciplinary action in accordance with these procedures will be taken. They will be advised;
 - i. that a formal verbal warning or written warning has been given;
 - ii. that the member of staff has a right to appeal to a Panel of Governors against the warning, notice of which should be given **within 10 working days** of receiving written confirmation.
- (h) The member of staff should be notified in writing of the decision of the individual's line manager within 10 working days of the disciplinary hearing.
- (i) The manager should make a note of the existence of any formal verbal warning. The note and any written warning should be placed on the personal file together with any written representations received from the member of staff.
- (j) Members of the Governing Body would not normally be involved in cases of minor misconduct.

3.4 Gross Misconduct

- (a) Where the initial circumstances are sufficiently serious to warrant it, or following previous warnings where they have been disregarded and where there appears to be further unsatisfactory conduct, the Deputy Headteacher or other senior member of staff, after consultation with their Personnel Service Provider will arrange for an investigation in accordance with Paragraph 6.
- (b) If the investigator is satisfied that the conduct warrants a hearing, he/she will inform the member of staff, and arrange for the member of staff to appear before a disciplinary panel. The School's Personnel Provider should attend for the purpose of giving advice.



- (c) If it is felt that the likely outcome of the disciplinary hearing will be a determination to cease working at the school, the LEA **must** be notified of this hearing and given the opportunity to be represented at the hearing
- (d) The panel will be chaired by the Headteacher, and governors may be panel members.
- (e) If the Head has been directly involved with the procedure leading to disciplinary action, has instigated a proposal to dismiss or is a witness to the particular conduct giving grounds for the disciplinary action, the initial decision will be delegated to a panel of 3 governors.
- (f) The member of staff should be given **at least 10 working days notice** in writing of the following:
- the date, time and place of the hearing
 - the names of the panel members
 - the specific nature of the allegations
 - the right to produce written statements and call witnesses
 - the right to representation
 - details of any management witnesses
 - any supporting documents to be used as evidence by management
 - likely outcome if charges are proven i.e. warnings, determination to terminate the contract of employment

A copy of the school's disciplinary procedure should also be provided.

- (g) A written report prepared by management must be submitted to the panel in advance and a copy sent **not less than 7 working days** in advance to the member of staff concerned.

The report shall include reference to any matters of fact which touch on or concern the member of staff's previous performance in employment including any relevant recorded warnings, details of the nature of the complaint and any other factual comments relevant to the issues.

- (h) The member of staff must be informed in the written notification of his right to submit **not less than 3 working days** in advance to the Panel any document which they wish to be considered provided that a copy is also submitted not less than 3 working days in advance to the management representative.
- (i) The procedure which must be followed is that set out in appendix I. The panel shall not discuss the issue before hearing the case.



- (j) The panel may decide
- i. To dismiss the allegations.
 - ii. To issue a formal verbal warning or a written warning which may be a final warning. A final warning should not be given normally without the previous issue of a written warning, but there may be circumstances where a first offence justifies a final warning. Any written warning must specify the complaint, the improvements in conduct which are required, the period within which any review of required improvements will be undertaken and the likely consequences of any further offences. When a warning is a final one, the member of staff's attention must be drawn to this fact together with the possible consequences that the Governing Body may determine that a member of staff should cease to be employed at the School upon any further offence.

If the Panel decides to issue a warning, then the member of staff shall be informed of their right to appeal to the Governing Body and to have their representations placed on the personal file.
 - iii. To decide that the member of staff shall cease work at the School. Before making any such decisions, the Panel should invite the Local Education Authority representative or personnel adviser (who is there specifically to advise them) to offer advice in respect of any such decision or any matter arising in connection with it. A decision should not be made in the absence of previous warnings except in the case of gross misconduct.
- (k) The member of staff should be notified in writing of the decision by the Headteacher **within 10 working days** after the hearing. The letter should be delivered by hand or Recorded Delivery. The letter should set out where appropriate the reasons for the warning or the determination.
- (l) The member of staff shall be informed of the right of appeal, notice of which should be given **within 10 days** of the receipt of the letter to the Clerk to the Governors against a warning or a determination. If a member of staff does not give notice of appeal against determination, the Headteacher shall notify the Local Education Authority in writing of the determination and the reasons for it.

3.5 All notification of hearings, reports and documents and written warnings should be delivered by hand or sent by recorded delivery.

4 Conduct of the Head Teacher

Where the Chair of Governors, or in their absence the Vice Chair, considers that it may be appropriate to investigate the conduct of the Headteacher, they should consult their



Personnel Service provider. If appropriate, the procedure at paragraph 3 above should be followed as if reference to a member of staff were reference to the Headteacher and reference to the Headteacher were to the Chair or Vice Chair of Governors, to a senior member of staff, the schools Personnel Service provider and to an appropriate Senior Manager at the Local Education Authority.

5 Suspension

- (a) The Chair of Governors or, in their absence, the Vice Chair may suspend the Headteacher for alleged misconduct or other good and urgent cause. Where such action is taken the fact should be reported immediately to the other Governors and the School's Personnel Service provider.
- (b) The Headteacher may suspend any member of staff for alleged misconduct or other good and urgent cause. Where such action is taken the fact should be reported immediately to the Chair of Governors, the School's Personnel provider and to the Governing Body at their next meeting.
- (c) The LEA must be immediately informed about the imposing or lifting of a suspension.
- (d) Suspension shall only be considered in extreme circumstances where the employees' presence on site:
 - make a fair investigation impossible
 - represents a serious risk to the safety of others or themselves
 - seriously undermines the reputation of the school
- (e) A member of staff shall receive full pay whilst on suspension
- (f) Suspension should not be regarded in any sense as a disciplinary measure but as an exceptional measure to enable a proper investigation to take place.

Suspension should be used sparingly and only after most careful consideration of all circumstances. Any suspension should be lifted as soon as reasonable practicable if a hearing is not being pursued.

- (g) Whenever reasonable practicable a member of staff called to a meeting to be informed of suspension should have the right to be accompanied by a trade union representative or friend. The reason for the suspension shall be confirmed in writing **within 5 working days**.
- (h) **Suspension can only be lifted by the governing body.**



6 Investigations

(a) Criminal Offences

- (i) If the alleged misconduct appears to involve the possibility of a criminal offence having been committed, the Head Teacher should immediately consult with their Personnel Provider and take no action to investigate further before their personnel provider has sought further advice which will involve speaking to the Local Education Authority and a solicitor. If it is considered that a criminal offence has been committed they will advise the Headteacher to refer the matter to the police.
- (ii) Where the alleged misconduct appears to involve irregularities of money, stores, property or false claims the Headteacher should immediately contact their Personnel provider who will ensure that the necessary authorities are informed for a full investigation to take place. If it is felt that a criminal offence may have been committed a decision will be taken as to whether this matter should be referred by the Headteacher to the police for further investigation. The Chair of Governors will be kept informed of all developments.
- (iii) Disciplinary proceedings may, but not necessarily, await the outcome of the investigations or a prosecution.
- (iv) Where a member of staff confesses to or is convicted of a serious criminal offence whether or not in connection with employment disciplinary action is probable.

(b) Investigations into serious misconduct other than possible criminal liability.

The Deputy Headteacher in consultation with their Personnel Service provider will carry out the investigation with, if necessary, other professional representatives. Following the investigation if the facts so require the Headteacher shall convene a disciplinary hearing in accordance with paragraphs 3.4 (b) and (c). If at any stage it appears that a criminal offence may have been committed the matter should be dealt with in accordance with Paragraph 6(a).

(c) Other Investigations

Where any investigations involving discipline or misconduct other than the two outlined in (a) or (b) is carried out this should be conducted by the individual's line manager. Action following such investigation shall be in accordance with paragraph 3.3.



- (d) A member of staff who is suspended in pursuance of paragraph 5 may with prior agreement in writing of the Headteacher and in company with their trade union representative or friend return to their place of work for the purpose of carrying out their own investigation. In the event of a dispute as to whether a return of a member of staff shall be permitted or as to the conditions appertaining the decision of the Headteacher should be final except that the trade union representative or friend will not be denied reasonable access.
- (e) A member of staff who is interviewed as part of an investigation has a right to be accompanied by a trade union representative or friend.

7 Appeals to the Panel of Governors and Governing Body

- 7.1 A member of staff has the right of appeal by the way of rehearing to the panel of Governors or the Governing Body in the following cases.
 - (a) A formal verbal or written warning issued by the management representative. Appeal should be given to the panel of Governors whose decision shall be final.
 - (b) A formal verbal or written warning issued by the Disciplinary Panel. Appeal should be given to a second Panel of Governors whose decision shall be final.
 - (c) A determination that a member of staff should cease to work at the school made by the Disciplinary Panel. Appeal should be made to the Governing Body whose decision shall be final.
 - (d) A refusal by the Headteacher to disregard a warning under paragraph 8. Appeal shall be to the Panel of Governors whose decision shall be final.
- 7.2 No Governor should hear an appeal if they have had a previous material involvement in the case.
- 7.3 Notice of appeal must be submitted in writing stating the grounds of the appeal **within 10 working days** of the issue of the verbal written warning or receipt by the member of staff of a written warning or a proposed termination.
- 7.4 An alternative to appeal, against formal, verbal and written warnings should be by the inclusion on the files of a statement of dissent and/or an explanation by the member of staff.
- 7.5 The appellant should be given at **least 10 working days** notice in writing of the time and date of the hearing. A written report prepared by the Headteacher or the management representative shall be submitted to the Governors in advance and a copy should be sent **not less than 7 days** in advance to the appellant.



- 7.6 The appellant should have the right to be accompanied during the hearing by a trade union representative of their choice. They shall also have the right to submit **not less than 3 working days** in advance to the Governors any document they wish to be considered provided that a copy is similarly submitted **not less than 3 working days** in advance to the Headteacher or management representative.
- 7.7 Appendix I shows the procedure to be followed at any hearing.
- 7.8 The schools Personnel Service provider may attend any hearing for the purpose of giving advice.

8. Review of Warnings

Where a formal or written warning has been given whether by a Disciplinary Panel or management representative or by the Governing Body, the matter shall be reviewed by the Headteacher at **not less than 12 monthly intervals** and save in exceptional circumstances shall be disregarded i.e. not taken into account in any future disciplinary proceedings. The member of staff shall be informed in writing whether or not that warning is to be disregarded and a copy of that letter placed on the personal file.



Appendix I

Hearings before the Disciplinary Panel and the Governing Body.

1. A member of staff has the right to conduct their case personally, be represented, or be accompanied by a trade union official, colleague or friend.
2. In hearings before the Disciplinary Panel or Governing Body, reference to the Headteacher below shall include references to their representative.
3. In any hearings to which paragraph 4 of the procedures (Conduct of the Headteacher) apply, the chair or Vice Chair of Governors may be represented and any reference to the Headteacher below shall include reference to the Chair or Vice Chair or their representative.
4. Witnesses for either party may be present during the hearing unless the Headteacher either on their own initiative or at the request of either party decide that the witnesses shall be excluded until called.
5. The investigator shall put the case which may be read or otherwise in the presence of the member of staff and their representative (colleague or friend) and may call witnesses who may read their evidence.
6. The member of staff or their representative may ask questions of the investigator or witnesses.
7. The panel may ask questions of the investigator or their witnesses.
8. The investigator should have the opportunity to re-examine their witnesses on any matter referred to in their examination by the panel, the member of staff or their representative.
9. The member of staff or their representative shall put their case which may be read or otherwise in the presence of the investigator and may call witnesses who may read their evidence.
10. The Investigator shall have the opportunity to ask questions of the member of staff, their representative or witnesses.
11. The panel may ask questions of the member of staff, their representative or witnesses.
12. The member of staff or their representative shall have the right to re-examine the witnesses or any matter referred to in their examination by the panel or Investigator.



13. Firstly the investigator and then the member of staff or their representative shall have the opportunity to sum up their cases if they so wish. The summing up shall not introduce any new matter.
14. The investigator, the member of staff, their representative and all witnesses shall withdraw.
15. The Disciplinary Panel shall deliberate in private. Any persons present as a clerk or as an adviser may remain but solely for the purpose for which they are present at the hearing. Should it be necessary to clear any point of uncertainty about the evidence given, both parties shall return notwithstanding one only is concerned with the point giving rise to doubt.
16. The Disciplinary Panel shall announce their decision to the member of staff, their representative and to the investigator. The clerk of the hearing will confirm this decision in writing **within 10 days**.

Approved at meeting of Full Governing Body - Wednesday 8 December 2004.
To be reviewed - December 2007.