



The Collegiate Trust
Exceptional Education for All

STAFF DISCIPLINARY POLICY

Lead	CEO
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STAFF DISCIPLINARY POLICY

1. Introduction

1.1 *The Collegiate Trust* is a partnership of academies in Crawley and Croydon whose purpose is to build *collaboration to deliver exceptional education*, and whose vision is *exceptional education for all*. This is reflected in our Trust's values: **ambition & collaboration**, as well as in our desired outcomes: **achievement & enjoyment**.

1.2 The School Staffing (England) Regulations 2009 require each Academy Trust to establish procedures for the regulation of the conduct and discipline of staff. This document outlines those procedures for all staff employed by *The Collegiate Trust*. The *Appraisal and Capability Policy* deals with matters particular to the performance of staff.

2. Purpose

2.1 Appropriate discipline at work is necessary for the efficient operation of academies in *The Collegiate Trust* (hereafter referred to as the **Trust**) and for the health, safety and welfare of all employees, pupils and students. This document sets out the expectations on employees in relation to their conduct and the actions the Trust will take in circumstances where there is a failure to meet those expectations.

2.2 It must always be our aim to maintain the highest levels of conduct amongst all members of staff. If at times that conduct is less than satisfactory, this should be brought to the attention of the individual concerned and their line manager at the earliest opportunity.

3. Principles of Application

3.1 The Trust's approach to the disciplinary process is based on a number of guiding principles that run through this document. These are:-

- a. the Trust has established this *Staff Disciplinary Policy* to be in accordance with the Trust's equalities policies and with ACAS Code of Practice. The policy will be kept under review in order to monitor its impact against equalities criteria in order to fulfil the obligation to report the impact of our policies on different groups of staff. Proposed changes to this policy or procedure will be made only following consultation with staff through their trade unions / professional associations.
- b. the Trust will ensure that staff receive adequate induction, training, support, supervision and advice in connection with their work and are made aware of the relevant standards set out in this document, so as to encourage them to achieve and maintain the required standards of conduct.
- c. all staff covered by the document will be treated in a fair, consistent and non-discriminatory manner.
- d. unless it is totally impractical, the case against an employee will be heard by a different designated person / panel at each stage of the procedure.
- e. proper and adequate procedures will be followed before any disciplinary decisions are taken.
- f. any steps under the procedure will be taken promptly unless there is good reason for the delay.
- g. if a member of staff has difficulty at any stage of the procedure because of disability, this colleague should discuss the situation with the Chief Operating Officer as soon as possible.
- h. disciplinary proceedings are confidential. Information made available in the course of disciplinary proceedings must not be shared with anyone except those directly involved. This does not preclude a confidential consultation with a friend, colleague or trade union representative for support or professional advice. Any unwarranted breach of confidentiality could result in disciplinary action being taken against those involved.

- i. staff must not canvas managers, Governors or Directors for support during disciplinary proceedings.
- j. where it is deemed necessary to suspend a member of staff, they will be paid their normal rate of pay (including any other contractual payments) as received immediately prior to the suspension. The reason for suspension will be explained to the colleague at the point of suspension. **Please see also Section 6.2.1 ff.**
- k. a member of staff has a right to be accompanied by an accredited worker's companion (i.e. Trade Union representative) or a work colleague, at all **formal** stages of this procedure. They should be informed of this right, be given advanced notice of such meetings and given reasonable time to contact a representative. If the employee's chosen companion is not available at the time fixed for the meeting, it should be rescheduled to accommodate the availability of the companion, as long as a reasonable alternative date is offered which is within 5 working days of the originally proposed date.
- l. advice from the Trust's HR Manager will be available at all stages of the process.

4. General Responsibilities

4.1 The Trust

The Trust Board establishes and keeps under review this policy and procedure.

4.2 CEO

The CEO ensures that this policy is understood and implemented by the LGBs and Principals in each academy. Should an allegation of misconduct be made against a member of the central Trust team, or a Principal, the CEO shall implement the procedures otherwise ascribed to the Principal. These procedures refer to actions taken by the CEO and it should be understood that in the event of the CEO being the point of any allegation, the Chair of TCT will take the lead; should there be a requirement to suspend (under the terms of Section 6.2.1 ff), the Chair shall immediately inform the ESFA and RSC; a *First Discipline Committee* and *Second Discipline Committee* (if required) will be formed by the Board of Directors / Trustees. The outcome of any disciplinary procedure will be reported to the ESFA and RSC, and the full Board of Directors / Trustees.

4.3 Principal

The Headteacher or Principal (hereafter referred to as *Principal*) has overall responsibility for maintaining discipline amongst all staff in an academy within the Trust, but other leaders may be required to deal with individual cases depending on the situation and complexity. The Principal should seek advice from the COO, who will if necessary, arrange a discussion with the Trust's HR Manager, at the earliest opportunity whenever an employee's conduct is giving cause for concern and might result in disciplinary action. Where the alleged misconduct involves the Principal, responsibility for initiating disciplinary action and deciding the appropriate level of action rests with the CEO. For all other staff responsibility rests with the Principal. These procedures refer to actions taken by the Principal and it should be understood that in the event of the Principal being the point of any allegation, the CEO will take the lead; should there be a requirement to suspend (under the terms of Section 6.2.1 ff), the CEO shall immediately inform the ESFA, RSC, Chair of the Trust and Chair of the relevant LGB; a *First Discipline Committee* and *Second Discipline Committee* (if required) will be formed by the Board of Directors / Trustees. The outcome of any disciplinary procedure will be reported to the ESFA, RSC, the full Board of Directors / Trustees and the relevant LGB.

4.4 Local Governing Body (LGB)

Only the LGB can dismiss a member of staff as part of this *Disciplinary Policy*. Any *Disciplinary Meeting* which is considering an allegation of potential gross misconduct – and therefore dismissal – must be heard by a *First Discipline Committee*, which is delegated by the LGB to hear such matters. The decision of the *First Discipline Committee* must be reported to the next full LGB meeting.

- 4.4.1 The *First Discipline Committee* will consist of one of the Chair or Vice Chair of the host LGB (or other senior Governor if not available) and two other Governors or Directors, all of whom must have had no previous involvement in the particular case

4.4.2 Appeals against the decision of the *First Discipline Committee* can be made to a *Second Discipline Committee*. This Committee is made up in the same way as the *First Discipline Committee* but will have no common members.

4.4.3 To be clear, should it not be possible to convene a *First or Second Discipline Committee* of Governors from the specific academy, then a governor / governors from another academy in the Trust, or Directors, may form the relevant Discipline Committee.

4.5 *Staff Governor*

No Staff Governor can sit as part of the *First or Second Discipline Committees*.

4.6 *Employees*

All employees are responsible for familiarising themselves with standards of work and conduct as laid out in the *Staff Handbook* of the academy in which they work and available there, their terms and conditions of employment, the equality and diversity policies, and any relevant standards or rules relating to: timekeeping; absence reporting; confidentiality; using e-mail, internet and telephones; data protection etc. whilst on academy or Trust business. Staff must ensure that their own conduct accords with established standards of work and conduct, including those mentioned above, in a way that promotes a positive working environment. In accordance with their contract of employment staff must co-operate with the disciplinary process.

5. **Promoting Professional Conduct and Dealing with Minor Misconduct**

5.1 All colleagues should conduct themselves in a professional manner at all times, adhering to Trust and academy policies and contributing to an outstanding learning environment. Such professional conduct is established and maintained through the setting of the highest example by others, clear expectations, regular communication of systems and procedures, and effective training. The Principal is responsible for establishing a culture which delivers such an approach. Therefore, recognised standards of conduct, adherence to the *Staff Handbook* (available within each academy) and the *Conditions of Employment* in staff contracts are important.

5.2 Where minor misconduct first occurs, it will be the aim of the line manager to address the issue by counselling / reprimand, or issuing a *letter of expectation* about the need for improved conduct. Such reprimands will not be formally recorded, but managers should keep a record of all such informal action in their personal *Staff Disciplinary Log Book*; this should be handed on to any successor. A *letter of expectation* will remain on a colleague's personnel file for six months. If the minor misconduct continues or is repeated, this will be viewed as *more serious misconduct*.

5.3 If in the day-to-day business of the academy the Principal or other senior member of staff deals with minor misconduct, rather than the line manager, the line manager should be informed and should keep a record of the informal action taken.

6. **More Serious Misconduct**

More serious misconduct is defined as:

- repeated minor misconduct ; **or**
- the misconduct, if proven, could not reasonably be considered minor

6.1 **Dealing with More Serious Misconduct**

6.1.1 Following an allegation of more serious misconduct, the Principal will review all available information, may discuss the allegation with the specific colleague and others, and decide on one of the following courses of action:

- a. that the misconduct is minor, and the matter should be dealt with by a line manager under the terms of Paragraph 5.2
- b. that the facts are sufficiently established to hold a *Disciplinary Meeting* heard by the Deputy Principal
- c. to appoint an Investigating Officer (IO) to carry out an investigation into the alleged misconduct. The purpose of an investigation is for the IO to establish a fair and balanced view of the facts relating to any allegations against the employee before making a recommendation to the Principal about next steps. This

may involve reviewing any relevant documents and interviewing the employee and any witnesses in a formally arranged investigatory meeting; this will provide the colleague with a full opportunity to respond to the allegations that have been made. In more serious or complex cases, and particularly where serious or gross misconduct is alleged, the investigation will normally be carried out by a member of the Senior Leadership Team (SLT). Following a report by the IO the Principal will decide either:

- i. that there is no case to answer
- ii. that the misconduct is minor, and the matter should be dealt with by a line manager under the terms of Paragraph 5.2
- iii. to refer the matter to a *Disciplinary Meeting* heard by the Deputy Principal
- iv. to refer the matter to a *Disciplinary Meeting* heard by the *LGB First Discipline Committee*

The likely outcomes of *Disciplinary Meetings* at each level are summarised in **Appendix 1**. No *Disciplinary Meeting* can impose a more severe sanction than shown here. In referring a case of alleged misconduct to the *LGB First Discipline Committee*, the Principal will make clear in writing to the colleague whether s/he will be presenting a case of gross misconduct.

6.2 Use of Suspension

6.2.1 At the point that the Principal decides that s/he is to present a case to the *LGB First Discipline Committee* alleging **gross misconduct**, the Principal must either suspend the colleague from duty or redeploy to other duties either within the academy or the Trust.

6.2.2 Whilst we might aim to see suspension as a neutral act, legal precedent is now suggesting that this is not the case, and suspension should therefore be used carefully and only when absolutely necessary. Before a suspension is imposed, alternatives to suspension will be considered, including temporary deployment to different duties within the academy or another academy within the Trust. If a suspension is deemed necessary, the colleague will be informed in the suspension letter why an alternative to a suspension was not deemed appropriate in the particular circumstances.

6.2.3 During suspension, the employee shall be paid the normal rate of pay applicable to the grade held immediately before suspension. Any period of suspension should be as brief as possible. If the investigation is prolonged, the employee may, after one month of suspension, appeal to the LGB to have it lifted. The suspension letter will provide the employee with a named person as a suitable contact point at the academy.

6.2.4 During a period of suspension, the colleague nominated as the suitable contact point will ensure the suspended employee can communicate and be kept informed about academy matters and the progress of the investigation. If the suspended employee should wish to communicate with other staff (e.g. to use them as defence witnesses), this should be done via the nominated contact. All staff are required to co-operate with the academy and cannot, for example, refuse to appear as a witness without good cause.

6.3 Representation

6.3.1 Employees have the right to be accompanied by a certified professional association / trade union official or a work colleague at a formal meeting with the IO and at any *Disciplinary Meeting*. Employees are responsible for arranging their own representation. Employees may not be represented by a person who may prejudice the fairness of the disciplinary process or who may have a conflict of interests, e.g. an individual who may be a witness to the alleged misconduct, or a direct report to the colleague against whom the allegation is made.

6.3.2 Employee representatives can address formal meetings and assist employees in presenting their case. Normally, questions directed at employees should be answered by the employee concerned rather than the employee's representative.

6.3.3 Accommodation shall be made available for the employee and their representative to discuss the case prior to and during the hearing.

6.4 Action against a Professional Association or Trade Union Representative

6.4.1 This procedure applies equally to employees who are representatives of professional associations or trade unions. However, before beginning procedures for dealing with more serious misconduct against an accredited representative of a recognised professional association or trade union, the Principal will discuss the case with the Branch Secretary or official employed by the professional association or trade union.

6.4.2 In cases of alleged gross misconduct by a representative of a recognised professional association or trade union and where the Branch Secretary or full-time official cannot be contacted quickly, the representative will be suspended on full pay until such consultations have taken place, if suspension is deemed necessary under the terms of Section 6.2.1 ff.

7. Link with Other Procedures

7.1 The submission of a complaint by an employee during disciplinary proceedings will not normally prevent the continuation of the disciplinary proceedings. Where appropriate, a complaint related to the disciplinary proceedings should be dealt with as part of the disciplinary process and not pursued through the employee complaints procedure.

7.2 Where an employee subject to this procedure is absent due to sickness, the normal expectation is that the disciplinary process will continue and the managing sickness procedure will apply as normal.

7.3 Where the employee asserts that the disciplinary proceeding being undertaken is unlawfully discriminatory or is motivated by reasons other than conduct, the employee can raise a complaint. If the employee raises this complaint in writing at any stage before the appeal stage of a dismissal, this can be dealt with as part of the disciplinary procedure. If the employee raises the complaint only after the disciplinary procedure has finished and it is on substantial new grounds, then it will be necessary for the employee complaints procedure to be completed in full.

8. Timescales and Definition of a Working day

8.1 For the purposes of the operation of this *Disciplinary Policy and Procedure*, timescales are expressed in working days. A working day should be reckoned as a day that the academy is open for students. Where a disciplinary case arises just before a school holiday, arrangements to resolve the matter speedily should be discussed between the parties. An intervening school holiday should not of itself be a cause for an undue delay in resolving the case. The following timescales (in working days) should be adhered to:-

- Written notice of Investigatory Meeting 5 days
- Written notice of Disciplinary Meeting 10* days
(*NB this may require longer if the case is complex and involves a substantial volume of paperwork see 9.2)
- Written notice of outcome of Disciplinary Meeting 10 days
- Written notice of employee's intention to appeal 10 days following receipt of the decision
- Written notice of appeal hearing 10 days
- Written notice of outcome of appeal hearing 10 days

8.2 Submission of Evidence: implicit in the above timescales is the principle that evidence should be submitted in sufficient time for those involved in the procedure to have time to read it and to prepare a response. In the case of hearings, the 10 day period indicated above is the minimum notice the employee should be given, which includes receipt of the paperwork upon which the case against them relies. In turn, s/he must submit any documentation in support of their defence no later than three days before the date of the hearing.

8.3 In the case of appeals, the grounds for appeal must be submitted with the notice of intention to appeal. Any documentation in support of the appeal must be submitted in accordance with the timescale in 10.2 above.

9. Appeals

9.1 Employees may appeal against warnings, dismissal and supplementary sanctions. Appeals may only proceed on the following grounds:

- the proper procedure was not followed and this materially affected the decision.
- the decision reached was incorrect in that the conclusion reached was not supported by the evidence presented.

- the sanction awarded was too severe, taking into account the nature of the misconduct and the mitigating circumstances.
- new evidence which is pertinent, goes to the heart of the case and was not reasonably available at the time, has become accessible.

9.2 **Outcomes:** An appeal hearing will result in one of the following outcomes:-

- The appeal is upheld and any sanction imposed by the *Disciplinary Meeting* is withdrawn
- The appeal is not upheld but a lesser sanction is considered appropriate
- The appeal is not upheld and the original sanction stands

The appeal panel cannot increase the original sanction.

10. Criminal Offences Outside of Employment

10.1 The ACAS publication on *Discipline at Work* provides good advice to employers when confronted with special situations such as this. The first question to be asked is whether the alleged offence (or conviction) merits action because of its employment implications. Does the offence make the employee unsuitable for their type of work, or unsuitable to remain in their present employment? The academy will investigate the facts as far as possible, come to a view about them and consider whether the conduct warrants disciplinary action. Where it determines that such action is required, the academy is unlikely to wait for the outcome of the prosecution before taking fair and reasonable action. In these circumstances the procedure set out in cases of misconduct or serious/gross misconduct shall be applied as appropriate.

10.2 In some cases the nature of the alleged offence may not justify disciplinary action – for example, off-duty conduct which has no bearing on employment – but the employee may not be available for work because they are in custody or on remand. In these cases the Principal will decide whether, in the light of the needs of the organisation, the employee’s job can be held open.

10.3 Where an employee, charged with or convicted of a criminal offence, refuses or is unable to cooperate with the Trust’s disciplinary investigations and proceedings, this should not deter the academy from taking action. The employee should be advised in writing that unless further information is provided, a disciplinary decision will be taken on the basis of the information available and could result in dismissal.

10.4 Where police or other investigations are being carried out in relation to this paragraph, a suspension may be continued until the investigations are complete or, where appropriate, court action taken.

APPENDIX 1

Level of Misconduct	Heard by	Potential outcomes	Appeal to
Minor	Line Manager	a. Misconduct not established b. Counselling / Reprimand c. Letter of expectation	N/A
More Serious	Deputy Principal (<i>Discipline Meeting</i>)	a. Misconduct not established b. Misconduct established & written warning issued. Warning to remain on file for one year.	Principal

	<p>LGB First Discipline Committee (<i>Discipline Meeting</i>)</p>	<ul style="list-style-type: none"> a. Misconduct not established b. Misconduct established & written warning issued. Warning to remain on file for two years. c. Serious misconduct established & final written warning issued. Warning to remain on file for two years. d. Gross misconduct established and colleague dismissed. 	<p>LGB Second Discipline Committee</p>
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