



Leicestershire Traded Services

Bradgate Education Partnership
**Disciplinary policy for
Swallowdale Academy** May
2017

The governing body of

adopted this policy on

It will be reviewed on

This procedure applies to support staff, Teachers and the Head Teacher/Principal based at Swallowdale Academy and should be read in conjunction with the associated Disciplinary Guidance.

Purpose

The purpose of this policy is to ensure that all employees achieve and maintain satisfactory standards of conduct and behaviour. It also provides a fair and consistent method of dealing with alleged failures to observe these standards.

Safeguarding

Any allegations of misconduct that involve potential safeguarding issues will be dealt with in accordance with 'Keeping Children Safe in Education – statutory guidance for Schools and Colleges'. If an allegation is in any way connected to the safeguarding of children then a referral will be made to the Disclosure & Barring Service (DBS) at the appropriate point in the process and in addition, to the National College for Teaching & Leadership (NCTL) (for Teaching staff). Information provided by the Police or other agencies (e.g. investigation outcome, statements) will be shared with the employee, unless specifically advised otherwise, particularly if this information will form part of the management case at a subsequent disciplinary hearing.

Investigating Officer

When allegations of misconduct are made, an appropriate person, the "Investigating Officer", will be appointed to investigate the allegations and decide whether there is sufficient evidence to take disciplinary action. The Head Teacher/Principal/ Governor will only be the Investigating Officer in circumstances where they will not be given delegated responsibility for making any decisions about a potential dismissal or other sanction.

Initial Discussion

In cases of misconduct (see Appendix A), the appropriate manager will make initial enquiries about the incident/concern. The purpose of this discussion is to ascertain the employee's immediate response to the concern(s) and to establish the facts in order to determine whether any further action (e.g. further investigation or suspension) is required. It is important to note that this meeting is not a Formal Investigatory Meeting but a detailed conversation regarding the concern(s).

The potential outcomes of the meeting are:

- No further action is necessary;
- Deal with the matter informally, i.e. good practice discussion / expectation letter, mediation, training;
- Refer the matter to a Formal Investigatory Meeting (possibly including suspension of the employee).

In cases where gross misconduct (see Appendix B) is alleged, the manager may bypass the initial discussion meeting and progress directly to a Formal Investigatory Meeting.

Suspension

Suspension is not a disciplinary penalty and is regarded as a neutral act. It will not pre-determine in any way the outcome of any investigation. Employees may be suspended at any stage during the investigation process; the duration of suspension will be kept to a minimum.

Suspension will only be considered if there are concerns about the employee remaining in the work place and will be kept under regular review. The reason for the suspension (i.e. due to the seriousness of the concerns) will be made clear to the employee and confirmed in writing.

Formal Investigatory Meeting

No formal disciplinary action will be taken until the matter has been fully investigated which includes the employee attending a Formal Investigatory Meeting. Before meeting with the employee the Investigating Officer should be clear on the terms of reference, make enquiries regarding the concerns, which may include interviewing witnesses, and present evidence to the employee at the Formal Investigatory Meeting.

At least five working days will be given for this meeting and employee has the right to be accompanied by a work colleague or Trade Union representative. The letter will outline the nature of the concerns (e.g. serious concerns regarding your conduct). Notes will be taken at this meeting and a copy sent to the employee for agreement.

At the meeting the Investigating Officer will:

- Make clear to the employee what concerns have been raised;
- Ask the employee to respond to the concern(s) against them;
- Warn the employee that the matter may result in a formal disciplinary hearing at which they will have the right to be accompanied by a work colleague or Trade Union representative;
- Interview/obtain signed statements from witnesses following the employee's evidence (if applicable).

The employee will:

- Respond to the allegations/questions;
- Produce evidence that supports their position;
- Provide the names of witnesses (if applicable).

The Investigating Officer will collect all of the evidence and consider whether there is a case to answer.

The potential outcomes of the investigation are:

- No further action is necessary;
- Deal with the matter informally, i.e. good practice discussion / expectation letter, mediation, training;
- Refer the matter to a formal disciplinary hearing (possibly including suspension of the employee).

Disciplinary Hearing

At least five working days will be given to attend a formal hearing in which the employee will be informed of the reasons for the hearing and their right to be accompanied by a work colleague or Trade Union representative. If applicable, the letter will state that a potential outcome of the hearing is dismissal. Employees will also receive copies of any relevant documentation that will be used as evidence. Employees will be given an opportunity to provide evidence. Notes will be taken at the hearing and a copy sent to the employee. For the format of the hearing refer to the Hearing Guidance for Academies.

The following outcomes are available to the panel or delegated person dependent on the seriousness of the offence:

- No further formal action is necessary;
- First written warning (which will remain on file for 6 months);
- Final written warning (which will remain on file for 12 months);
- Dismissal (with or without notice).

Employees will be dismissed with notice except in the case of gross misconduct. In the case of gross misconduct, the employee will be summarily dismissed with no notice.

The employee will be notified in writing of the outcome of the hearing. If the outcome is dismissal, the letter will include the reason for the dismissal and the date this is effective from. The letter will also include details of the employee's right to appeal.

Dismissal

Once the panel or delegated person has decided that the employee will be dismissed, this will be

confirmed in writing to the employee including the date employment will be terminated. The panel will also confirm whether the dismissal is with notice or, in the case of gross misconduct, without notice.

Right of Appeal

Individuals will have the right to appeal the decision, and appeals are to be made in accordance with the Academies Appeals Procedure.

Case Referral

Where a Teacher/Head Teacher is dismissed for misconduct or resigns prior to the completion of the disciplinary process, the Investigating Officer or panel/delegated person may consider making the appropriate referral to the National College for Teaching and Leadership in accordance with the NCTL's "Teachers Misconduct: Disciplinary procedures for the teaching profession" document (April 2016) which sets out the procedures for the regulatory systems relating to teacher misconduct.

The Disclosure & Barring Service (DBS)

If the allegation against any member of staff (both Teaching and Support staff) is in any way connected to the safeguarding of children, a referral will be made to the Disclosure & Barring Service (DBS).

If misconduct and safeguarding are both involved, a referral will be made to both the DBS and the NCTL.



Examples of Misconduct – Appendix A

The following list is not exhaustive but gives examples of offences which may amount to misconduct:

- Persistent bad timekeeping;
- Unauthorised absence from work;
- Failure to follow reporting procedures;
- Damage to Academy property;
- Failure to follow policies and procedures;
- Abusive or disruptive behaviour;
- Minor breaches of Health and Safety regulations;
- Misuse of Academy facilities;
- Insubordination;
- Failure to exercise proper control or supervision of students;
- Undertaking unauthorised employment;
- Failure to comply with the procedure for the notification of sickness absence;
- Improper behaviour or conduct towards colleagues, parents or members of the public;
- Unreasonable refusal to follow a management instruction;
- Showing inappropriate information/footage to students which is outside of the curriculum;
- Complaints from parents that have been upheld on balance of probabilities.
- Inappropriate use of social media which may affect your role in the school which has breached the Academy's social media policy'.

Serious examples of any of the above may amount to gross misconduct.



Examples of Gross Misconduct – Appendix B

The following list is not intended to be exhaustive and gives only an indication of the types of offences which could be considered as gross misconduct:

- Serious incapability as a result of being intoxicated by reason of alcohol, non-prescribed drugs, illegal drugs or prescribed drugs which may have an adverse effect on performance and safety;
- Deliberate falsification of documentation and/or records
- Theft, removal or unauthorised possession or deliberately aiding another person to remove or failure to properly account for any property or facilities belonging to the Academy or to another employee or student;
- Repeated and/or refusal to carry out duties or reasonable instructions
- Failure to comply with the Academy’s policies and procedures;
- Serious damage deliberately sustained to Academy property or to the property of another employee or pupil;
- Repeatedly leaving Academy premises during normal working hours without obtaining the permission of the line manager;
- Any indecent act (which is defined as any act of a lewd, suggestive or indecent nature which could cause any person to be offended or feel threatened);
- Serious acts of insubordination;
- Serious breach of the Academy’s policies and procedures concerning health and safety at work;
- Acts of bullying, harassment or discrimination;
- Any tampering with the school/College’s computer systems which results in loss or damage to hardware or software or unauthorized exposure of confidential information including the accidental installation of virus programs. This also includes any contravention of the Data Protection Act and the disclosure of any password or key to unauthorized persons or to install, run, load or download any pornography, unauthorised software or to copy, run, transfer or load software such as public domain programs or games of any description or to disregard any operating protocol;
- Serious negligence/incompetence which causes unacceptable loss, damage or injury;
- Personal behaviour which is likely to bring the Academy into serious disrepute and/or have an adverse effect on pupils;
- A criminal offence, which may (whether it is committed during or outside of the employee’s hours of work) adversely affect the Academy’s reputation, the employee’s suitability for the type of work they are employed to perform, or their acceptability to other employees or pupils;
- Violent or threatening behaviour.
- Breach of the Safe Guarding Vulnerable Groups Act 2006
- Inappropriate use of social media which may affect your role in the school which has breached the Academy’s social media policy.
- Smoking on Academy premises (including company vehicles)
- Maladministration

1 - In certain cases drugs prescribed by a doctor or purchased from a chemist can induce drowsiness and will include the advice not to operate machinery. Employees must inform their line manager if they have taken such medicine and would normally be required to operate machinery or drive a vehicle during the course of their work.



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