CARWARDEN HOUSE COMMUNITY SCHOOL

Disciplinary Policy and Procedure

Author:	Headteacher (based on Judicium model policy)
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Introduction

This Policy and procedure applies to all employees of the Carwarden House School (Iris Academy Trust) only. It does not form part of the terms and conditions of any employee's employment with the school and is not intended to have contractual effect. However, it reflects the school's current practices and employees are strongly encouraged to familiarise themselves with its content.

The school reserves the right to vary or amend its disciplinary policy and procedure depending on the particular circumstances of the case. The school also reserves the right not to follow the Disciplinary Policy and Procedure in respect of employees with less than two year's continuous service.

Purpose of this Policy

In any organisation it is necessary to have a minimum number of rules in the interests of both the employer and the employee.

Rules set standards of performance and behaviour whilst the procedures are designed to help promote fairness and consistency in the treatment of individuals. It is the aim of the rules and procedures to emphasise and encourage improvement in the conduct of individuals where they are failing to meet the required standard. However, it is recognised that where improvement is not possible dismissal may result.

This procedure does not apply to cases where an employee fails to perform to the required standard as a result of lack of skill, capability or training. In those cases, reference should be made to our Capability Policy & Procedure.

Every reasonable effort will be made to ensure that any action taken under this procedure will be fair and all employees will be given the opportunity to state his or her case and appeal against any decision they consider to be unjust.

The following principles will be adhered to when following the disciplinary process:

- Employees will be made fully aware of the standards of performance, action and behaviour required of them;
- Disciplinary action, where necessary, will be taken without unreasonable delay and in a fair, uniform and consistent manner;
- An employee will only be subject to disciplinary action once there has been a reasonable investigation of the facts;
- The employee will have an opportunity to present his or her side of the case at a formal disciplinary hearing convened under this policy and procedure;
- All employees will have the right to be accompanied by a fellow employee or an accredited trade union official at any formal disciplinary or appeal hearing. (Please note that an investigatory interview prior to a disciplinary hearing is not a formal stage in the disciplinary process);

- During any hearing, the employee will also be allowed to ask questions, present evidence, and be given an opportunity to raise points about any information provided by witnesses or relevant documentation;
- Requests to call witnesses will be considered and accommodated where reasonable, practicable and proportionate in the circumstances of the case and where this does not conflict with any overriding duty the school may owe to another employee;
- If an employee is subject to the disciplinary process, they will receive both an explanation of the penalty imposed and will be entitled to appeal against the penalty in accordance with the appeals process set out in this policy and procedure.
- Normally, no employee will be dismissed for a first breach of discipline except for the case of gross misconduct;

Behaviour outside Working Hours

The school demands employees of the highest integrity and we expect employees to maintain high standards outside working hours. Any outside activities, which could reasonably be regarded as detrimental to the reputation of the school, may lead to dismissal.

Where the offence is work-related, an employee will be subject to disciplinary action. In the absence of any mitigating circumstances the offence may be treated as gross misconduct.

Criminal Allegations

Where conduct is subject to a criminal investigation, charge or conviction, the school will investigate the facts before deciding whether to take disciplinary action.

The school may not wait for the outcome of any prosecution before deciding what action, if any, to take. If an employee is unable or is advised not to attend a disciplinary hearing or say anything about a pending criminal matter, the School may have to take a decision based on the available evidence.

A criminal investigation, charge or conviction relating to conduct outside of work may be treated as a disciplinary matter if we consider that it is relevant to the employee's employment at the school.

Minor Conduct Issues

Minor conduct issues may be resolved informally between the employee and their line manager or member of the SLT and on occasions it may be appropriate to raise concerns about an employee's conduct as part of the normal management procedure.

Where informal discussions do not bring about any required change or improvement, or the matter is more serious such as to warrant formal action, the matter will be referred to this disciplinary policy and procedure. There is no automatic right to be accompanied to informal discussions.

Misconduct

The nature of the misconduct may be obvious in some occasions, but as the disciplinary policy will only include the type of conduct that could fall into each category, it will be necessary for the School to make a reasonable judgement in many cases of alleged misconduct.

Typical examples of misconduct may include, but are not limited to:

- Minor breaches of the school's policies and procedures;
- Minor breaches of the contract of employment;
- Damage to, misuse of or unauthorised use of the school's property;
- Poor time-keeping;
- Time wasting;
- Personal use of the school's property e.g. telephones, e-mail, internet, photocopiers etc.;
- First unauthorised absence from work;
- Obscene language or other offensive behaviour;
- Refusal to follow instructions.

Serious Misconduct

Serious misconduct is conduct sufficiently serious enough to warrant dismissal with notice or a payment in lieu of notice and may include but is not limited to repeated offences of minor misconduct.

Gross Misconduct

Gross misconduct is a serious breach of contract and includes misconduct, which in the School's opinion, is likely to prejudice our reputation or irreparably damage the working relationship and trust between the employee and the School. Gross misconduct will usually result in summary dismissal (i.e. dismissal with notice or payment in lieu of notice) if proven.

Examples of gross misconduct include but are not limited to:

- a fundamental and/or willful breach of the school rules, regulations and policies;
- gross negligence or dangerous behaviour, which causes or might cause unacceptable loss, damage or injury;
- grossly indecent or immoral behaviour;
- threatening or violent behaviour, fighting or physical assault;

- deliberate falsification of any records or documents (e.g. Sickness Self-Certification Form, time-sheets, recruitment documents);
- undertaking private work on the premises and/or during working hours and wilful disregard of duties or of instructions;
- deliberate and serious breach of confidence relating to the school's or its students' affairs;
- theft, dishonesty or fraud or misappropriation of money or property whether belonging to the school, another employee, pupil or a third party;
- possession of or unauthorised consumption of alcohol on the premises or during working hours or attending for work under the influence of alcohol;
- possession or use of non-prescribed drugs or illegal / controlled drugs on school premises or during working hours (excluding 'over the counter' drugs / treatments);
- any taking or possession of illegal drugs or controlled drugs which have not been prescribed by a registered medical practitioner;
- destruction/sabotage of school property or any other property on the premises;
- bringing the school into disrepute;
- serious Health and Safety breaches;
- gross insubordination and/or refusal to obey reasonable legitimate instructions given by any members of the Senior Leadership Team;
- any breach of a legal statute, which has a direct effect on the employee's ability to undertake stated duties and/or on the desired characteristics of his or her position;
- allowing or assisting any unauthorised person to gain entry to the premises;
- repeated absences from duty without authorisation;
- any fundamental and/or substantial breach of trust or unauthorised disclosure of information relating to the school's affairs to third parties.
- a substantial failure to meet expected standards of work and/or behaviour amounting to serious neglect of duty;
- deliberately driving on school business without an appropriate licence and/or the appropriate insurance;
- discrimination, victimisation, bullying or harassment or another breach of our Equal Opportunities and Diversity Policy;
- failure to inform the Senior Leadership Group of any criminal charges/convictions or police cautions that are relevant to the employee's employment;
- serious breach of our Safeguarding and Child Protection Policy and Procedure;
- serious breach of our Staff Conduct Policy;
- serious breach of the school's policies or procedures;
- in respect of teaching staff, serious breach of the standards of professional conduct as set out in the Teacher's Standards.

Investigation

In all but a few straightforward cases, we will first investigate the concerns of potential disciplinary offences to establish the facts before deciding whether to invoke the formal Disciplinary Procedure.

In some cases, a preliminary investigation may be carried out to decide if a more detailed or formal investigation is required.

An investigation will usually be carried out by your line manager / member of the SLT or an external investigating officer on our behalf. We will, at our absolute discretion, determine who is an appropriate person to carry out the role of the Investigating Officer. You must cooperate fully and promptly in any investigation.

On completion of the investigation, the Investigating Officer will recommend whether a disciplinary hearing should be convened, or some other steps taken in relation to the situation.

Suspension

It may be necessary for us to suspend you whilst an investigation is taking place. We may suspend you where:

- we have grounds to believe that you may be guilty of misconduct which we consider (at our absolute discretion) to be serious misconduct;
- relationships have broken down;
- we have grounds to consider that its property or responsibilities to other parties are at risk;
- the conduct in question involves a serious safeguarding concern;
- we consider, at our absolute discretion, that your continued presence on premises would hinder or prejudice an investigation.

These are illustrative only and do not constitute an exhaustive list. You will receive full pay during any period of suspension.

Alternatives to suspension will be explored before a decision to suspend is reached.

Any such suspension will normally last only as long as required to enable an investigation into the circumstances giving rise to such belief of serious misconduct to be carried out and any disciplinary hearing to be convened.

Any such period of suspension is not a punishment, nor considered as disciplinary action against you, nor does it imply that any decision has been taken about your case.

Suspension does not in itself constitute disciplinary action or imply any decision or judgment as to guilt.

Attendance at Disciplinary and Appeal Hearings

You should make every effort to attend any disciplinary hearing (including any appeal hearing). If either you or the person accompanying you cannot attend on the proposed date for the hearing, you may suggest a reasonable alternative date, which must be within five working days of the date first proposed. This five-day time limit may be extended by mutual agreement between both parties. If you fail to attend any re-arranged hearing without good cause, we will be entitled to make a decision on the evidence available at the re-arranged hearing in your absence.

Right to be accompanied at disciplinary and appeal hearings

You are entitled to be accompanied at any disciplinary hearing (including any appeal hearing) by a:

- work colleague; or
- trade union official; or
- workplace trade union representative who's certified or trained in acting as a companion.

The person accompanying you is entitled to address the hearing to:

- put and sum up your case;
- respond on your behalf to any views expressed at the hearing; and
- confer with you during the hearing.

The person accompanying you does not have the right to:

- answer questions on your behalf;
- address the hearing if you do not wish it; or
- prevent the school from explaining its case.

If you, or your chosen companion, have any difficulty at any stage of the procedure because of a disability or a medical condition, you should contact the chair of the hearing / appeal panel. At each stage of the procedure where appropriate we will consider whether there are any reasonable adjustments that could be made to assist you or your chosen companion.

Invitation to Disciplinary Hearing

If we decide to invoke the formal disciplinary procedure we will write to you to invite you to a formal disciplinary hearing. The invitation letter will:

- set out the issues or allegations that are to be considered, the basis for them, indicate how seriously these are being viewed, the potential consequences and detail any intention to call witnesses;
- set out the date, time and place of the hearing;
- provide a copy of any relevant documentation such as relevant witness statements or summaries, any investigation report, supporting evidence and the disciplinary procedure;
- advise you of your right to be accompanied;
- give you reasonable notice of the requirement to attend the disciplinary hearing in order to allow you a reasonable period of time to prepare your case.

Disciplinary Hearing

A disciplinary hearing will be convened as soon as reasonably practicable after the conclusion of the investigation and once you have had a reasonable opportunity to consider the information provided with the notice of the hearing.

No decision will be made as to whether any disciplinary action is to be taken or the nature of any disciplinary action to be taken before the hearing takes place.

Disciplinary hearings where dismissal is not contemplated as a potential disciplinary sanction should the allegation(s) be proved will usually be conducted and determined by the Headteacher or a member of the Senior Leadership Team or, in the case of disciplinary proceedings involving the Headteacher, the Chair Trustees or another appointed person. Disciplinary hearings where dismissal may be contemplated as a potential disciplinary sanction should the allegation(s) be proved will usually be conducted and determined by the Headteacher or a panel of three governors.

Any disciplinary hearing will be conducted in a manner to ensure that you will be given a full and fair opportunity to answer any allegations against you and to present your case and any relevant evidence you wish to be considered and on which you would like to rely.

At the hearing:

- the Chair will explain the complaint against you and go through the evidence that has been gathered;
- you will have an opportunity to state your case in relation to the allegations and challenge any evidence produced in support of the allegations;
- you will be permitted to ask questions and present evidence;
- you will also be given an opportunity to raise points about any information provided by witnesses.
- The hearing will be minuted by a note taker and you will be supplied with a copy of the minutes as soon as is reasonably practicable after the hearing.
- No decision will be reached during the hearing itself. We will need to consider all the evidence together with the representations you have made, and in some cases may need to carry out further investigations before a decision can be reached.
- The proceedings, any statements and all documents and records relating to disciplinary hearings will be kept confidential.

Adjournment

The Chair will have discretion to adjourn any disciplinary hearing (including any appeal hearing) as appropriate at the reasonable request of the school or you or otherwise as the Chair, at their discretion, deems necessary.

Electronic Recording of Meetings

During formal meetings it can be useful to record the meetings electronically, provided all parties consent to the recording. Where it is agreed by all parties that the meeting may be electronically recorded, the School will take responsibility for making the recording. The employee and anyone accompanying them (including witnesses) must not make their own electronic recording of any meeting or hearing conducted under this procedure without permission of the person chairing the meeting.

Decision

Once a decision has been reached, we will write to you to confirm the outcome of the hearing, usually within 10 working days.

Where a decision has been made to take formal disciplinary against you, you will be informed of the nature of the disciplinary sanction, the reasons behind the decision and any other conditions that you may be required to satisfy as a result of the disciplinary process.

Where a warning is issued, the letter will also contain the following information:

- the level of warning given;
- the duration of that warning;
- an explanation of the reasons for the warning;
- an explanation of the improvements in conduct required;
- the timescale for making these improvements; and
- an explanation of the consequences of any repetition of misconduct or failure to improve conduct to an acceptable standard.

Where a disciplinary sanction has been imposed, you will also be informed of your right to appeal and when and how to submit an appeal.

Severity of Disciplinary Action

The severity of disciplinary action (if any) will be determined by the severity of the offence and any prior “live” disciplinary sanctions in your employment history. Due consideration will be given to any bona fide mitigating circumstances raised during the disciplinary process. The following is provided as guidance only.

Very minor cases of misconduct will be dealt with informally, with the objective of improving your conduct. Where the matter is more serious, or where you have failed to improve your conduct, formal action will be taken as described below.

There are three levels of disciplinary sanction. Other than in cases of gross misconduct, you will not normally be dismissed for a first offence. We reserve the right to impose sanctions at any level, or to skip levels, depending on the circumstances of the case.

1. First Written Warning

This will generally be applied as the first step of formal corrective action following unsatisfactory conduct offences.

A first written warning imposed as an outcome to the disciplinary process will normally remain in force for a period of between six to twelve months and a copy kept on your personnel file. It will normally be disregarded for disciplinary purposes after a period of six to twelve months, or any longer period specified in the warning subject to satisfactory conduct and performance during that time but will form a permanent part of your personnel record.

2. Final Written Warning

For more serious first offences, such as serious misconduct, we may impose a final written warning.

Alternatively, where you have a current and active first written warning and you either fail to achieve the required improvements or carry out another act of misconduct of a similar or different nature within the review period specified in a previous disciplinary outcome, we may impose a final written warning having followed the disciplinary procedure in respect of any persisting or additional offences.

A final written warning imposed as an outcome to the disciplinary process will normally remain in force for a period of between twelve to twenty-four months and will be placed on your personnel file. In exceptional cases, depending upon the seriousness and nature of the behaviour, misconduct or infringement, the period for which the final written warning remains in force may be longer. The final written warning will normally be disregarded for disciplinary purposes after a period of twelve to twenty-four months or any longer period specified in the warning, subject to satisfactory conduct and performance during that time, but will form a permanent part of your personnel record.

Continued or repeat offences during an active period of a current final written warning may result in dismissal with notice or payment in lieu of notice.

3. Dismissal

In the event of a failure to improve or change behaviour or improve conduct during the currency of a prior warning, or where the misconduct, infringement or offence is sufficiently serious to warrant dismissal, or if you are guilty of an act of gross misconduct, dismissal will normally result.

A decision to dismiss will only be taken by a person who has the authority to do so.

In the case of dismissal (including summary dismissal), you will, as soon as is reasonably practicable, be provided with written confirmation of the dismissal which will set out the following:

- details of the reason for the dismissal;
- the date on which your employment terminated or will terminate;
- the appropriate period of notice or pay in lieu of notice (if any); and
- advice as to your right to appeal against the dismissal.

Alternative Disciplinary Sanctions

We may also consider and impose, having followed the Disciplinary Procedure in each case, additional or alternative sanctions including, but not limited to, demotion, disciplinary transfer, loss of seniority/pay or suspension without pay, as an alternative to dismissal.

In such instances, you will be provided with written confirmation of the action to be taken, how it is to be implemented, the reason for the action, the date on which it will come into force (if appropriate) and information on your right to appeal. These sanctions may be used in conjunction with a written warning.

Right to Appeal

If a formal sanction is issued, you have the right to appeal against the disciplinary decision or sanction taken against you.

If you wish to exercise this right to appeal, you should write in the first instance to the Clerk to the Governing Body within ten working days of the decision you are complaining against, setting out the grounds and basis for the appeal.

The Clerk to the Governing Body will liaise with the Board of Governors to convene an appeal hearing. Disciplinary appeals will usually be conducted and determined by a panel of three members of the Governing Body who have not been involved in the investigation or disciplinary hearing.

All appeals will be dealt with as promptly as possible, and a date will be set for the appeal hearing as soon as is reasonably practicable after receipt of your appeal letter.

You will be informed in writing of the arrangements for the appeal hearing including:

- confirmation of the Appeal Panel;
- details of any other representative of the school and/or advisor to the school who will be present;
- your right to be accompanied at the appeal hearing; and
- if any witnesses are to attend the appeal hearing on our behalf.

The original decision maker, or chair of the original disciplinary panel will usually attend the appeal on our behalf.

A copy of the documents from the original hearing, the outcome letter and notes from the original hearing should be sent to all parties attending the appeal hearing in advance, together with any additional relevant documents.

At the appeal hearing, you will be given a full opportunity to state your case and put forward your version of events.

The appeal hearing will usually be minuted by a note taker.

No decisions will be reached during the appeal hearing itself. We will need to consider all the evidence together with the representations you have made, and in some cases may need to carry out further investigations before a decision can be reached.

You will be notified of the result of the appeal in writing without unreasonable delay. The appeal decision is the final stage of our Disciplinary Procedures.