



**CHESTERTON
COMMUNITY COLLEGE**

**Chesterton Community College
Disciplinary Rules and Procedures for
all Employees
May 2017**

Disciplinary Rules and Procedures for all Employees (Guidance relating to Gross misconduct and Misconduct)

Section 1 –Disciplinary Rules

1. Gross Misconduct

Gross misconduct is the committing of an act which renders it inadvisable for the employee to be allowed to remain at work. Any employee suspected of committing an act of gross misconduct, as indicated in the list below, will be suspended with full pay pending investigation. If after proper investigation it is decided that the employee has committed an act of gross misconduct or if the act is admitted by the employee, s/he will be dismissed without further warning, unless there are mitigating circumstances*. The disciplinary procedure must be followed in all cases. The list of examples below is not intended to be exclusive or exhaustive and offences of a similar gravity will receive the same treatment.

* Mitigating circumstances are circumstances that do not exonerate a person but which reduces the penalty associated with the conduct.

- 1.1 Dishonesty associated with place of work or job being undertaken.
 - (a) Theft of property belonging to the College, Local Authority, contractor, an employee or student, or member of the public.
 - (b) Deliberate falsification of timesheets or expenses claims for pecuniary advantage.
 - (c) Demanding or accepting monies or other considerations as a bribe for the use of College or LA property, provision of College or LA service or the showing of favour on behalf of the College or LA.
 - (d) Falsification of any information given on an application form for a post to gain advantage whether pecuniary or otherwise.
 - (e) Failure to disclose criminal convictions not exempt under the terms of the Rehabilitation of Offenders Act, 1975.
 - (f) Falsification of registration of students or students for pecuniary gain.
- 1.2 Deliberate refusal to carry out a reasonable, lawful and safe instruction or the normal agreed defined duties of the post.
- 1.3 Gross negligence in failing to attend to or carry out the agreed duties of the post.
- 1.4 Wilfully ignoring responsibilities/instructions, thus placing other employees/students in danger, e.g. ignoring handling instructions/safety regulations in respect of radioactive materials.

- 1.5 Being unfit to perform duties associated with the post as a result of taking drugs, other than in accordance with medical advice, or taking alcohol.
- 1.6 Wilful unauthorised disclosure of information (classified as confidential), by employees who, in the course of their duties, have access to such information which, by its release, could be harmful to the College, other employees or students.
- 1.7 Acts of violence or vandalism in the course of employment.
 - (a) Malicious damage to College/Contractor/other employees/students' property.
 - (b) Actual physical violence towards members of the college staff/Governors/parents/students/other members of the public.
- 1.8 Sexual misconduct at work.
 - (a) Sexual misconduct whether criminal or not.
 - (b) Sexual relations with students.
- 1.9 Off-duty misconduct.
 - (a) An act of criminal sexual misconduct by an employee who, in the course of duty, has contact with children and young people.
 - (b) Drug offences committed by employees whose job brings them into contact with young people.
 - (c) Sexual relations with any young people
- 1.10 Misuse of the internet or email facilities of the college.
 - (a) Using the internet to access unseemly or sexually explicit material.
 - (b) Using email/telephones for communicating unseemly or sexually explicit material
 - (c) Using email/telephones for communicating Racist, Homophobic or other unsuitable material

2. Misconduct

Misconduct is of a degree less serious than that which would warrant immediate suspension from duty for a first offence but which could nevertheless lead to dismissal if persistent. The disciplinary procedures must be followed when dealing with misconduct. Some more serious acts of misconduct might justify omitting the first stage of disciplinary procedures by issuing a final warning in the first instance, if there is no satisfactory explanation. Only when it can be shown that the warnings have not been heeded will misconduct lead to action being taken which will lead to an employee's dismissal. The list of examples below is not intended to be exclusive or exhaustive and other offences of a similar gravity to those used as examples will be dealt with in the same or similar way..

2.1 Absenteeism and lateness, for example:

- (a) failure to remain at the place of work during normal working hours without permission or sufficient cause for absence;
- (b) frequent failure to attend work punctually;
- (c) failure to notify the college immediately or as soon as reasonably practicable when absence is due to sickness;
- (d) failure to provide medical certificates in accordance with the Conditions of Service.

2.2 Dishonesty - petty wrongs, for example:

- (a) making unauthorised private telephone calls and/or sending personal mail at the establishment's expense;
- (b) failure to report any loss and/or damage to any property issued to or by the employee in connection with his/her employment.
- (c) using the college's telephone, fax, email or internet for unauthorised personal purposes.

2.3 Neglect of duty, for example:

- (a) failure to adopt safe working practices/use protective equipment where required by law or management;
- (b) negligent use of College or LA property in such a way as is likely to cause serious damage or loss;
- (c) failure to discharge without sufficient cause the obligations which statute or the contract of employment places on the employee, e.g. failure to act in accordance with the requirements placed on the college by the Special Education Needs Discrimination Act.
- (d) insubordination;
- (e) failure to exercise proper control or supervision of students

2.4 Abusive behaviour/offensive language, including racist sexist or homophobic comments, which arises directly out of or in connection with work and which is directed at colleagues, Governors, students or members of the public.

2.5 Victimization of other employees in the course of duty.(reference to Bullying and Harassment policy)

2.6 Unlawful discrimination against other employees, volunteers, contractors, Governors, students or members of the public in the course of duty.

2.7 Discrimination, whether unlawful or not, in the course of duty against other employees, volunteers, contractors, Governors, students or members of the public on the grounds of age, gender reassignment, sex, marriage and civil partnership, pregnancy and maternity, race, religion or belief,, disability or sexual orientation.

2.8 Undertaking additional employment outside normal working hours which would be detrimental to the work to be performed as an employee of the College.

Section 2 – Disciplinary Procedures for All Employees’

Where the Principal is the member of staff whose conduct is under review, the Chair of Governors will carry out the role that the Principal would fulfil with all other employees.

1. Oral Warning

- 1.1 There is no appeal against an oral warning, which will be confirmed in writing. The employee may respond in writing if s/he has any objection to the issuing of an oral warning.

2. First Written Warning

- 2.1 If the Senior Leader, having carried out appropriate investigation, considers on the facts that formal disciplinary action for misconduct is necessary, s/he will write to the employee to inform him/her, at least five working days in advance, setting out:

- a) the date, time and place of the disciplinary hearing.
- b) the nature of the complaint.
- c) the employee’s right to be accompanied by a representative of his/her trade union or a workplace colleague.
- d) the titles of enclosed copies of any documents to be used as evidence.
- e) the names of any witnesses to be called by the Senior Leader.
- f) his/her right to call witnesses on his/her behalf.
- g) The name and office of any adviser who will accompany the Senior Leader at the hearing.

(At the employee’s request, an extra copy of this notice, together with any enclosures, should be provided for his/her representative).

- 2.2 At the disciplinary hearing before the Senior Leader and his/her adviser, the employee (and his/her representative) will be given a reasonable opportunity to state his/her case and to question the Senior Leader and any witnesses. At the conclusion, following an adjournment for consideration of the facts, the Senior Leader will state his/her decision and his/her reasons and will soon afterwards confirm them in writing to the employee and his/her representative.

- 2.3 If the Senior Leader decides the complaint was justified, s/he may give the employee a first written warning which will include a statement that any further complaint of misconduct occurring within the next twelve months and found justified after a disciplinary hearing, will lead to a final warning, unless there are mitigating circumstances that warrant a different outcome.

- 2.4 If the employee is given no further written warning of misconduct within twelve months of the date of the first written warning, then this warning is disregarded and the warning letter will make this clear.

3. Final Written Warning

- 3.1 If a further complaint is made about the employee’s conduct within twelve months of the date of the first written warning, or if the complaint is deemed to be serious enough

to merit a final written warning immediately, the same procedure (as in **2** above) will be followed

- 3.2 If the Senior Leader decides at the conclusion of the disciplinary hearing that this further complaint is justified, s/he may give the employee a final written warning, which will include a statement that any further complaint of misconduct occurring within the next twelve months and found justified after a disciplinary hearing, will lead to dismissal, unless there are mitigating circumstances that warrant a different outcome.
- 3.3 Again this final warning, together with any previous warning, will be disregarded if there is no further complaint about misconduct within twelve months of the date of the final warning, and the warning letter will make this clear.

4. Dismissal

- 4.1 If a further complaint is received within twelve months from the date of the final warning, the complaint will be referred to the Principal, following a similar procedure to that in paragraphs **3** above. The Principal shall be accompanied by an adviser who will normally be a representative of EPM, the College's Personnel advisor.
- 4.2 If the Principal decides the complaint is justified, they may decide to dismiss the employee. The Principal will state their decision and their reasons and inform the employee of his/her right to appeal to an Appeals Panel of the Governing Body. The Principal will soon afterwards confirm the decision and right of appeal in writing to the employee (and his/her representative). The Principal will record the outcome of its considerations and the names of persons present at the hearing.
- 4.3 The Principal will give notice of dismissal to the employee in writing, indicating whether the decision was with notice, or with pay in lieu of notice. The employee will be advised of his/her right of appeal.

5. Gross Misconduct

- 5.1 If the complaint or incident is considered so serious that it may amount to gross misconduct, justifying dismissal without previous warning and without notice (see the Disciplinary Rules), the employee will be informed by the Line Manager that s/he is suspended on full pay pending further investigation of the complaint before the Principal.
- 5.2 If the Principal considers that the case constitutes gross misconduct, he/she may decide to dismiss the employee. He/she will state his/her decision and his/her reasons and inform the employee of his/her right to appeal to an Appeals Panel of the Governing Body.
- 5.3 The Principal will soon afterwards confirm the decision and the right of appeal in writing to the employee (and his/her representative). The Principal will record the outcome of his/her considerations and the names of persons present at the hearing.

6. Right of Appeal

- 6.1 The employee has a right of appeal against a written warning issued by a Senior Leader (see paragraphs **2** and **3**). The appeal will be heard by an Appeals Panel of Governors. The number of governors on the Appeals Panel will not be less than two. The panel shall be advised by a person engaged for the purpose by the Governing Body. The

- panel can either confirm the warning, reduce a final warning to a warning, increase the warning or cancel the warning.
- 6.2 Appeals against formal warnings by the Senior Leader should be made in writing to the Clerk to the Governors within 5 working days of the receipt of the written decision.
 - 6.3 The employee has a right of appeal against a decision to issue a warning or to dismiss by the Principal (see paragraphs **4** and **5**). An appeal against a warning by the Principal will be to the Appeals Panel of Governors referred to in paragraph **6.1** above.
 - 6.4 An appeal against dismissal will be to an Appeals Panel of Governors, which shall normally have a membership of not less than 3 governors, none of whom shall have had any previous involvement in the case. The Appeals Panel shall have an adviser appointed for that purpose by the Governing Body.
 - 6.5 Appeals against decisions by the Principal should be made in writing to the Clerk to the Governors within 5 working days of the receipt of the written decision.
 - 6.6 All appeal hearings will be held as soon as possible after receipt of the appeal.

7. Variation in Penalties

- 7.1 The Senior Leader or the Principal may decide to give an oral warning instead of a written warning, or a written warning instead of a final written warning.
- 7.2 The Senior Leader may decide that the misconduct is so serious that it justifies a first and final written warning.
- 7.3 The Senior Leader may decide to issue a further final warning rather than refer the complaint to the Principal.
- 7.4 The Principal may decide to issue a warning or final warning rather than dismiss.
- 7.5 The Appeals Panel may decide to issue a warning or a final warning rather than dismiss, and that any warning may last for a specified period longer than the original twelve months of any previous final warning, if appropriate. *There is no right of appeal against such a decision of the Appeals Panel of the Governors.*
- 7.6 In the event that the Appeals Panel of the Governors decides not to uphold the Principal's decision to dismiss, the employee shall be informed immediately and the notice of dismissal shall be immediately withdrawn in writing.

8. Trade Union Officials

- 8.1 Although normal disciplinary standards must apply to the conduct of a trade union official as an employee, no disciplinary action beyond an oral warning should be taken until the circumstances of the case have been discussed with the relevant full time trade union officer.

9. Confidentiality

- 9.1 The proceedings of this disciplinary procedure shall remain confidential to the parties concerned. Only the decision of a disciplinary hearing may be reported.