

May 2021



**DISCIPLINARY PROCEDURE:
MISCONDUCT OF ALL EMPLOYEES
EXCEPT HEADTEACHER**

**HORIZONS EDUCATION TRUST, AMERICAN LANE,
HUNTINGDON, CAMBRIDGESHIRE PE29 1TQ**

DEFINITIONS

- 1.1 The term "Head teacher" also refers to Head of School where appropriate.
- 1.2 The term "employee" refers to any member of the staff, whether teaching or not (with the exception of the Head of School), employed to work solely at the school.
- 1.3 The term "senior manager" refers to any member of the Leadership Group, as defined by the School Teachers' Pay and Conditions Document, or a senior support member of staff in cases involving support staff, delegated by the Head of School to deal with a disciplinary matter under these procedures. A senior manager may only make a decision to issue up to and including a final written warning.
- 1.4 If the Head of School , following consultation with the Executive Head Teacher, considers that there is no senior manager to whom s/he can reasonably delegate a specific disciplinary matter either from the school team or for an appropriate person within another school in the Trust then the Head of School will take the role of the senior manager for that specific case and the role of the "Head of School" under this procedure will be performed by a "Staff Dismissal Committee" of the Board of Trustees consisting of not less than 3 Trustees, (except in circumstances provided for in the Secretary of State's guidance on the Staffing Regulations), none of whom will have had previous involvement in the case.
- 1.5 "Misconduct" is defined in the Disciplinary Rules which accompany the Misconduct Procedure.

2. ORAL WARNING

- 2.1 The following procedure does not relate to informal oral warnings, which might be given to the employee by a member of the senior manager team. However, repeated misconduct after an oral warning would normally lead to more serious disciplinary action in accordance with the procedure.
- 2.2 There is no appeal against an oral warning, which will not be recorded on the employee's personal record but should be confirmed in a written memorandum. The employee may make written comment on the memorandum if s/he has any objection to the issuing of an oral warning.

3. FIRST WRITTEN WARNING

- 3.1 If the senior manager, 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 ten 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 his/her representative of an independent trade union or a workplace place 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 manager.
- f) his/her right to call witnesses on his/her behalf.
- g) The name and office of any adviser who will accompany the senior manager 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).

If, following the investigations and professional advice, the senior manager considers that the facts of the case amount to a prima facie case of gross misconduct the matter will be referred to the Head of School.

- 3.2 At the disciplinary hearing before the senior manager 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 manager and any witnesses. At the conclusion, following an adjournment for consideration of the facts, the senior manager will state his/her decision and his/her reasons and will soon afterwards confirm them in writing to the employee and his/her representative.
- 3.3 If the senior manager 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.
- 3.4 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.

4. FINAL WRITTEN WARNING

- 4.1 If a further complaint is made about the employee's conduct within twelve months of the date of the first written warning, the same procedure (as in **3** above) will be followed.
- 4.2 If the senior manager 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.
- 4.3 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.

5. DISMISSAL

- 5.1 If a further complaint is received within twelve months from the date of the final warning, the complaint will be referred to a hearing before the Head of School, following a similar procedure to that in paragraphs **3** above. The Head of School, who shall be accompanied by an adviser, who will normally be HR representative has a duty to consider any advice given by the HR.
- 5.2 If the Head of School decides the complaint is justified, s/he may decide to dismiss the employee. The Head of School will state his/her decision and his/her reasons and inform the employee of his/her right to appeal to the Appeals Committee of the Board of Trustees. S/he will soon afterwards confirm the decision and right of appeal in writing to the employee (and his/her representative). The Head of School will record the outcome of his/her considerations and the names of persons present at the hearing.
- 5.3 The Head of School will notify the Executive Head Teacher in writing that the employee is to be dismissed, whether the decision was with or without notice, or with pay in lieu of notice. The HR representative will support the school to provide written notice of dismissal to the employee, together with the right of appeal, within 14 days of notification by the Head of School.

6. GROSS MISCONDUCT

- 6.1 If the complaint 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 Head of School that s/he is suspended on full pay pending further investigation of the complaint before the Head of School, who, if s/he considers the complaint constitutes gross misconduct, may decide to dismiss the employee. The procedure to be followed will be as in paragraph 5 above.
- 6.2 Where a suspension has taken place that suspension may only be lifted by the Chair of Trustees acting on behalf of the Board of Trustees, or by the Appeals Committee referred to in **7 3**, or the Dismissal Committee in the circumstances identified in **1.4** of these procedures.

7. RIGHT OF APPEAL

- 7.1 The employee has a right of appeal against a written warning issued by a senior manager (see paragraphs 3 and 4). The appeal will be heard by the Disciplinary Panel of Trustees. The number of Trustees on the Disciplinary Panel of Trustees will not be less than two. The panel shall be advised by a person engaged for the purpose by the Board of Trustees. The panel can either confirm the warning, reduce a final warning to a warning or cancel the warning.
- 7.2 Appeals against formal warnings by the senior manager should be made in writing to the Clerk to the Trustees within 10 working days of the receipt of the written decision.
- 7.3 The employee has a right of appeal against a decision to issue a warning or to dismiss by Head of School (see paragraph 5). An appeal against a warning by the Head of School will be to the Disciplinary Panel of Trustees referred to in paragraph 7.1 above.
- 7.4 An appeal against dismissal will be to the Appeal Committee of the Trustees, which shall have a membership of not less than 3 Trustees, none of whom shall have any previous involvement in the case. The Appeal Committee shall be advised in its deliberations, normally by a representative of the Director of Education. The Appeals Committee has a duty to consider any advice given by the LA.
- 7.5 Appeals against decisions by the Head of School should be made in writing to the Clerk to the Trustees within 10 working days of the receipt of the written decision.
- 7.6 All appeal hearings will be held as soon as possible after receipt of the appeal.

8. VARIATION IN PENALTIES

- 8.1 The senior manager or the Disciplinary Panel of Trustees may decide to give an oral warning instead of a written warning, or a written warning instead of a final written warning.
- 8.2 The senior manager may decide that the misconduct is so serious that it justifies a first and final written warning.
- 8.3 The senior manager may decide to issue a further final warning rather than refer the complaint to the Head of School.
- 8.4 The Head of School may decide to issue a warning or final warning rather than dismiss.
- 8.5 The Appeal Committee 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 Appeal Committee of the Trustees.
- 8.6 In the event that the Appeal Committee decides not to uphold the Head of School's decision to dismiss, the Executive Head Teacher shall be informed immediately and the notice of dismissal shall be immediately withdrawn.

9. TRADE UNION OFFICIALS

- 9.1 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 professional trade union officer.

10. CONFIDENTIALITY

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

Policy agreed on: May 2021

Adopted by Horizons Education Trust

Committee: FPP

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