





ACE Schools Multi Academy Trust

# Staff Disciplinary and Grievance Policy

Issue	Date adopted by Trustees	Policy Author/Reviewer	Comments	Signed by Chair of Trustees
1	23 <sup>rd</sup> May 2018	Chris Humphries <i>(Director of School Performance)</i>	Creation of MAT Policy	 23 <sup>rd</sup> May 2018
2	10 <sup>th</sup> October 2018	Chris Humphries <i>(Director of School Performance)</i>	Amendment to amend LGB to Cluster	 10 <sup>th</sup> October 2018

Contents

## 1. Introduction

- 1.1. We are committed to a coherent approach to the safety, protection and wellbeing of members of the school community, and to fairness and consistency in the way that disciplinary matters and staff grievances are handled. Our policy on discipline, conduct and grievances will contribute to achieving this. It will be used alongside our policies on child protection and safeguarding, allegations of abuse against staff, whistleblowing, and teacher appraisal and capability. The policy applies to all staff, including the Head teacher.
- 1.2. The Trust and Governing Body has delegated to the Head teacher the authority to conduct disciplinary proceedings in all cases save for those in which dismissal is contemplated.

## 2. Disciplinary Procedure

- 2.1 It is our policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give you the opportunity to respond before taking any formal action. You may bring a companion to all meetings where a warning or dismissal may be a potential outcome. The companion may be either a trade union representative or a work colleague. You will not normally be dismissed for a first act of misconduct, unless we decide that the conduct amounts to gross misconduct or you have not completed a probationary period.
- 2.2 Suspensions
  - 2.2.1 We will not suspend a member of staff without serious consideration, and will not do it automatically when an allegation of abuse or gross misconduct is made. Depending on the nature of the case, it may be possible that alternative arrangements are made such as work location or reorganisation of duties, and these will be considered before a decision to suspend is made.
  - 2.2.2 Suspension is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. If you are suspended, you will receive confirmation in writing as soon as possible and will be informed of the reason for the suspension. The suspension will be for no longer than is necessary and will be kept under review. You will continue to receive full pay and benefits during any period of suspension.

## 2.3 Step 1 – Disciplinary Investigation

2.3.1 When a manager thinks that misconduct has taken place, and where it is determined that an investigation is needed, the Head teacher will usually appoint an investigating officer to carry out the investigation. The purpose of an investigation is to establish a fair and balanced view of the facts. The extent of the investigation will depend on the nature of the allegations and will vary from case to case. It may involve interviewing you and any witnesses, and reviewing relevant documents or other information. The investigating officer will inform you that they are going to initiate an investigation.

2.3.2 Where any allegation is made, the Head teacher should be informed and a meeting will be arranged with you. The Chair of Trustees and or The Chair of Governors may be informed, and if the Head teacher is the person in question, The Chair of Trustees and or The Chair of Governors will arrange the meeting.

2.3.3 The investigating officer will produce an investigation report containing details of the allegation, the steps undertaken as part of the investigation (e.g. interviewing witnesses and reviewing documents) and a conclusion which will include a recommendation. The investigating officer will either recommend that:

- a) Where misconduct is not serious enough to warrant an immediate formal meeting, the manager will meet with you informally to discuss the circumstances surrounding your misconduct. Written records of this discussion will be kept, as will documentation of any information from witnesses. You can bring a colleague to this meeting if you wish.
- b) No further action is taken (see paragraph **(A)** below).
- c) That a disciplinary hearing should take place (see paragraph **(B)** below); or
- d) That remedial action should take place (see paragraph **(C)** below).

**(A)** No Further Action Will Be Taken

2.3.4 If the investigating officer has investigated your misconduct and has made the recommendation that no further action be taken, or that informal action should be taken, you will be informed in writing within 10 working days of the initial disciplinary meeting. If the investigating officer believes that the misconduct was a one-off, a misunderstanding, or an act of poor judgement, they may wish to

arrange a follow-up meeting to discuss this with you and the implications of your conduct.

- 2.3.5 Managers may use this follow-up meeting to draw up a personal plan to improve conduct, timekeeping or organisational skills. An improvement plan will be created with measurable improvements as targets and reasonable timescales in which to improve. These will be reviewed at the end of the agreed improvement period and if insufficient improvement has been made the manager may make the decision to take more formal action.

(B) A Disciplinary Hearing Will Take Place

- 2.3.6 In cases where an act of gross misconduct, misconduct or a series of incidents of misconduct have taken place, the investigating officer may recommend that a disciplinary hearing should take place to review your conduct and decide on a formal course of action. If you are considered to have committed gross misconduct you may be suspended before consideration for dismissal.

- 2.3.7 You will be informed as soon as a disciplinary hearing has been decided. If there has been an allegation made against you by a pupil, you will be informed only after the Head teacher has spoken to the Chair of Trustees and or Chair of Governors. You will then be advised what the next course of action will be. However, if the police or children's social care are to be involved, for example in a case of alleged sexual misconduct, they will be contacted before you and will advise on what information may be disclosed to you.

- 2.3.8 Where you have been accused of abuse, the Chair of Trustees and or Chair of Governors will keep you informed of the progress of the case and any other work-related issues. If you have been suspended, we will keep you informed of any developments from school. If you are a member of a union or any other professional association, you should be advised to contact that body at the outset of the investigation.

(C) Remedial Action Will Take Place

- 2.3.9 The investigating officer may decide that further training, mediation or a referral to occupational health is appropriate.

2.4 Step 2 – Notification of Disciplinary Hearing

- 2.4.1 When the investigating officer has recommended disciplinary action you will be notified in writing as soon as is practicable of:

- a) the date, time and location of the hearing;
- b) the identification of the person/persons chairing the hearing;

- c) the procedure and copies of relevant documentation;
- d) the allegations against you;
- e) the basis for those allegations; and
- f) the likely range of consequences if it is decided at the hearing that the allegations are true.

2.4.2 A disciplinary hearing will be convened before either, see table below:

<b>Member of Staff</b>	<b>Gross Misconduct where Final Warning or Dismissal is Considered</b>	<b>Gross Misconduct / Misconduct where Disciplinary Meeting is Recommended</b>
CEO	Panel of 3 Trustees	Panel of 3 Trustees
Directors	CEO & Panel of 2 Trustees	CEO & Panel of 2 Trustees
Head teacher	Panel of 3 from CEO, Director, Trustees/ Cluster	Panel of 3 from CEO, Director, Trustees/Cluster
All other Staff	Panel of 3 from CEO, Head teacher, Trustee/ Cluster	Panel of 2 from Head teacher/ Cluster

2.4.3 You may bring a companion to all meetings where a warning or dismissal may be an outcome, and this may be either a trade union representative or a work colleague. You will be informed of your right to be accompanied in the written notification of the hearing. Should you wish to bring a companion to the hearing, you will be responsible for making the necessary arrangements and providing us with copies of paperwork that we may require. You should be reminded that if you fail to attend the hearing without good reason, it may be held in your absence and a decision will be made based on the information available.

2.4.4 You may need additional support and we will consider what would be appropriate. If there is a criminal investigation and the police are involved, we may provide this additional support. For more information on support, confidentiality, suspensions, resignations and investigation processes that relate to allegations of abuse, please refer to our allegations of abuse against staff policy.

## 2.5 Step 3 The Disciplinary Hearing

2.5.1 You must make every effort to attend the hearing and should inform us immediately if you or your companion cannot attend. If you fail to attend without good reason, your non-attendance may be treated as misconduct itself. If you fail to attend without good reason, or are persistently unable to attend (for example because of health reasons), we may have to take a decision based upon the information available.

- 2.5.2 The hearing will be chaired by the senior member of the panel. The investigating officer will also be present and will present the findings of their investigation. The person chairing the hearing will go through the allegations and you will be entitled to respond and present any evidence of your own. Your companion may make representations to the Head teacher or Panel, and ask questions, but should not answer questions on your behalf.
- 2.5.3 You may ask relevant witnesses to appear at the hearing, but witnesses cannot be required to attend. You will be given the opportunity to respond to any information provided by a witness but will not normally be permitted to cross-examine witnesses.
- 2.5.4 The hearing may be adjourned if it is deemed necessary to carry out any further investigations and you will be given a reasonable opportunity to consider any new information before the hearing is reconvened.
- 2.5.5 The person chairing the hearing may be in a position to verbally communicate the decision on the day. In all cases, the decision will be communicated in writing.

## 2.6 Step 4 Disciplinary Outcome

- 2.6.1 You will be informed in writing of the decision and the reasons for it, usually within 10 working days of the hearing. The panel/Head teacher may find that there is no case to answer and refer the case back to an informal process. Alternatively, the panel/Head teacher may give you a disciplinary first warning or final warning or dismiss you.
- 2.6.2 Written warnings will set out the nature of the misconduct, the period for which the warning will remain active and the likely consequences of further misconduct in that active period. After the active period, the warning will remain permanently on your personal file but will be disregarded in deciding the outcome of future disciplinary proceedings.
- 2.6.3 If you are dismissed, a referral to the Disclosure and Barring Service and Secretary of State will be made where the thresholds for referral are met.

## 2.7 Step 5 Appeal

- 2.7.1 You can appeal to the panel in relation to disciplinary action taken against you within 10 working days of the date on which you were informed of the decision.

- 2.7.2 The appeal will be dealt with as impartially as possible and where possible, will be conducted by a different panel not previously involved in the case. You will be given written notice of the date, time and place of the appeal hearing no less than 5 working days before the hearing. You may bring a companion to the appeal hearing (see the opening to section 2).
- 2.7.3 Following the appeal hearing, the panel may confirm or revoke the original penalty or substitute a different penalty. Ordinarily a penalty will not be increased on appeal unless there is new information or evidence that requires further investigation. You will be informed in writing of the decision and the reasons for it, usually within 10 working days of the hearing.
- 2.7.4 The decision of the appeals panel is final and there is no further right to appeal.

### 3. Confidentiality

- 3.1 We will make every effort to protect the privacy of all parties during and after an investigation into misconduct. It is in everyone's best interest to maintain this confidentiality to ensure a fair investigation with minimum impact for all parties. You must treat information communicated to you in connection with an investigation or disciplinary matter as confidential.
- 3.2 A breach of confidentiality will be taken seriously and may warrant its own investigation.

### 4. Resignations

- 4.1 If you hand in your resignation when a disciplinary hearing has been ordered or during an investigation, the investigation will still continue until an outcome has been reached, with or without your cooperation. You will be given full opportunity to respond to the hearing. A referral to the Disclosure and Barring Service and Secretary of State will also be made where the thresholds for referral are met.

### 5. Record Keeping

- 4.2 Detailed records of all investigations and outcomes should be kept securely, and in line with the Data Protection Act, in your personal file. You should also be given a copy of the same information. This will enable us to provide all the necessary information for future schools if you require a reference.

- 4.3 Where DBS checks highlight allegations that did not result in any criminal charges, records will need to show exactly what happened, what points of action were taken during and after the investigation, and how the result of the investigation was reached.
- 4.4 Allegations or investigations that are proven to be malicious will not be kept on your records or used in your references.

## 6. Types of Misconduct

6.1 Listed below are some actions normally considered to be misconduct or gross misconduct that would be dealt with under this policy. The lists are a guide and are not exhaustive. We have the right to discipline you for misconduct or gross misconduct even if the action you have taken is not listed below. If you are considered to have committed gross misconduct you may be suspended before consideration for dismissal.

### 6.2 Misconduct

- a) Minor breaches of your contract of employment;
- b) Minor breaches of our policies, including the sickness absence policy, IT user policy and health and safety policy;
- c) Unauthorised absence from work;
- d) Unauthorised use of our facilities – for example using the internet for excessive personal emailing;
- e) Persistent lateness, poor timekeeping or timewasting;
- f) Intentionally disobeying the reasonable instructions of a senior member of staff;
- g) A breach of confidentiality or school regulations;
- h) Negligence in the performance of duties.

### 6.3 Gross Misconduct

6.3.1 Gross misconduct is a serious breach of contract and includes misconduct, which in our opinion is likely to prejudice our reputation or irreparably damage the working relationship and trust between us and you. Gross misconduct will be dealt with under this procedure and will normally lead to dismissal without notice or pay in lieu of notice. The following list is non-exhaustive, but examples of gross misconduct can include:

- a) Harassment or discrimination related to any of the protected characteristics – see other relevant policies including equal opportunities, and anti-harassment and bullying;
- b) Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries;
- c) Serious failure to follow our child protection procedures;
- d) Serious or repeated breaches of health and safety requirements;



- e) Physical assaults or threats to a colleague, pupil or member of the public;
- f) Soliciting or accepting bribes;
- g) Unauthorised removal of school property, or malicious damage to school property or equipment;
- h) Criminal offences that in our opinion may undermine your ability to do your job or adversely affect internal relations, staff or pupils;
- i) Dishonesty involving anything that relates to life in school;
- j) Fraud or forgery, including falsification of documents such as expense claims, pupils' work;
- k) Theft;
- l) Being under the influence of alcohol, illegal drugs or other substances during working hours or not being capable of fulfilling duties because of their effects;
- m) Any action that harms our reputation;
- n) Publishing material and/or content which has the potential to damage the reputation of the school;
- o) Serious negligence or a serious or deliberate breach of your contract of employment;
- p) Serious or repeated failure to obey instructions, or any other serious act of insubordination.

## 7. Grievance Procedure

7.1. Grievances are complaints, concerns, or problems raised by you relating to your employment. The procedures outlined below can be used when:

- a) You have a grievance with a colleague;
- b) You have a grievance with your manager or another member of the leadership team, including the Head teacher or Governors/Trustees;
- c) You have a grievance with the Academy.

7.2. Grievances may include:

- a) terms and conditions of employment;
- b) health and safety;
- c) work relations;
- d) bullying and harassment;
- e) new working practices;
- f) working environment;
- g) organisational change;
- h) discrimination.

7.3 Informal Procedure

7.3.1 Your wellbeing is very important and we strive for an environment in which you are confident that any grievances can be resolved quickly and informally through open communication with your line

manager or Head teacher. You are encouraged to seek an informal resolution. If you are unable to speak to your manager (e.g. because the complaint concerns your manager), you should speak informally to a more senior manager, which could be the Head teacher.

7.3.2 If this does not resolve the issue or is not appropriate, staff should follow the formal procedure below.

#### 7.4 Formal Procedure

7.4.1 If you think that informal procedures cannot or have not resolved your grievance you can initiate formal procedures. If you raise a grievance after disciplinary proceedings have started against you, we will consider suspending the disciplinary period for a short time to consider the implications of the grievance on the disciplinary proceedings. If the grievance and disciplinary issues are unrelated then they can be heard separately.

7.4.2 The formal procedure will progress as outlined below:

##### 1) Step 1 Written Grievance

- i. You should submit your concerns in writing in a document clearly labelled formal grievance. The grievance should set out the nature of the complaint to include any relevant facts, dates, and names of individuals involved so that it can be investigated.
- ii. The written grievance should be handed or emailed to your manager or, if the manager is the subject of the grievance, to a member of the senior leadership team or the Head teacher. Where the Head teacher is the subject of the grievance, the form should go to the Chair of Governors. Where the trustee or Governing Body is the subject of the grievance, you should consult with the Head teacher before approaching the Chair of Trustee or Governors.

##### 2) Step 2 Grievance Meeting

- i. We will arrange a grievance meeting, normally within 10 working days of receiving the written grievance.
- ii. You have the right to bring a companion (a trade union representative or a colleague) to the formal grievance meeting or appeal meeting under this procedure. You should tell the person holding the grievance meeting who your chosen companion is in good time before the meeting.
- iii. The person holding the meeting will hear evidence from the parties involved and review any relevant documentation. The person may adjourn the meeting or defer a decision until they are satisfied that they have thoroughly reviewed all the evidence and taken into account all relevant factors.

- iv. In some cases, it may be necessary for investigations to be carried out into the grievance. The meeting may be adjourned to carry out necessary investigations, or an investigation may be conducted before the grievance meeting if appropriate. The nature of the investigation will depend on the complaint; it may involve interviewing you, a witness or witnesses, or reviewing relevant documents.

### 3) Step 3 Grievance Outcome

- i. You will usually be notified in writing of the decision and the reasons for the outcome within five working days. The outcome will include notification of any further action we intend to take to resolve the grievance. You will be informed of your right to appeal against the outcome.

### 4) Step 4 Appeal

- i. If you are not satisfied with the outcome you can appeal by writing to the Chair of Trustee or Governors within five working days of the decision, stating in detail the grounds. An appeal meeting will be held as soon as practicable and will be dealt with impartially by a more senior manager not previously involved. Where the Head teacher made the decision, a panel of Governors will hold the appeal meeting.

7.5 The decision of this panel is final.