

Synergy Multi-Academy Trust Disciplinary Policy and Procedure

POLICY

1. Purpose

The Disciplinary Rules should be read in conjunction with our Disciplinary Procedure. The Disciplinary Rules are intended to give examples of the type of conduct that is considered to be misconduct or gross misconduct, and which could lead to action under our Disciplinary Procedure.

This policy has been written in accordance with the ACAS Code of Practice and following advice from the Trust's HR adviser.

This policy provides a mechanism for disciplinary matters to be dealt with promptly, fairly and consistently to all employees. It provides a framework to address any lapses in conduct, and will be applied without any distinction or discrimination to gender, age, sexual orientation, marital or parental status, race, ethnic or national origin, creed, disability, political belief, membership of, or activities as part of a trade union.

2. Gross Misconduct

Gross Misconduct is a serious breach of contract, or repetitive misconduct and includes misconduct which, in our opinion, is likely to prejudice our organisation or reputation or irreparably damage the working relationship and trust between us. If you are suspected of committing an act of gross misconduct, you may be suspended with full pay pending investigation. Gross misconduct will be dealt with under our Disciplinary Procedure and may lead to dismissal without notice or pay in lieu of notice (summary dismissal). The following are **examples** of matters that are normally regarded as gross misconduct. This list is intended as a guide and is not exhaustive:

- Behaviour that has or may have harmed a child* or, behaviour towards a child or children that indicates you would pose a risk of harm to children, for example:
 - Sexual behaviour towards or relations with a pupil.
 - Physically harming a pupil.
 - Criminal offences related to or against a child.
- Criminal or sexual misconduct or offences, whether committed at work or not, that may affect our reputation or otherwise affects your suitability and/or ability to continue in employment.
- Acts of physical or threatened violence, vandalism, bullying or, behaviour unbecoming of the professional standards expected.
- Possession, use, supply or attempted supply of illegal drugs or any other inappropriate substances, whether illegal or not.
- Being under the influence of alcohol or other substances that make you unfit to perform your duties during working time, or illegal use of drugs at any time.
- Deliberately accessing internet sites containing pornographic, offensive or obscene material on our equipment or during working time.

- Communicating offensive, obscene or unauthorised sexually explicit material whether verbally, written, in electronic communication, or by social media which may be viewed by a member of the Trust/School community and which may damage the reputation of the Trust.
- Serious negligence, serious neglect of duties or, a serious or deliberate breach of your conditions of employment, operating procedures, public examination rules, DfE statutory requirements, statutory rules affecting your work or, Health and Safety rules, for example:
 - Failure to comply with the Prevent Duty.
 - Failure to report safeguarding concerns.
 - Failure to exercise proper control or supervision of pupils as required by the job role, professional duty of care.
 - Disclosure of restricted public examination material or content.
 - Falsifying sickness absence.
 - Taking leave when permission denied.
 - Ignoring handling instructions/responsibilities/safety regulations to include those in relation to chemicals, machinery, equipment or food.
 - A serious breach of our Code of Conduct.
 - A serious act of insubordination.
 - Dishonesty associated with place of work or job being undertaken, for example:
 - Theft or unauthorised removal or misuse of property.
 - Fraud, forgery or other dishonesty, including fabrication of expense claims, time sheets, qualifications, application forms, public examination forms and any other forms or records in use, falsification of any information given on your application form for a post, entitlement to work (including immigration status) in order to gain employment or other benefits or falsification of registration of pupils.
 - Demanding or accepting monies or other considerations as a bribe for the use of our property or provision of our service.
 - Failure to disclose criminal convictions, cautions, bindover orders reprimands or warnings (except those which are 'protected' under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended from time to time) or, failure to disclose during the course of your employment an arrest or summons for an offence, a conviction, a bindover order, a reprimand or a warning given by a police force.
 - Undertaking unauthorised paid or unpaid employment during working hours, including during periods of sickness absence.
 - Unauthorised use or disclosure of confidential information (or information which is of a confidential nature) or failure to ensure that such information in your possession is kept secure.
 - Making statements that are or could be damaging, slanderous or libellous whether verbally, written, in electronic communication or by social media, which could be harmful to a pupil, an employee or other worker, a governor, a member of the public, or our reputation.
 - Unlawful harassment or victimisation of, or unlawful discrimination against, a pupil, an employee or other worker, a governor, or a member of the public.
 - Victimising a person who has raised concerns, made a complaint, given evidence or information under our policies, e.g. Grievance Procedure, Disciplinary Procedure or otherwise.
 - Knowingly making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith against a person or, making untrue allegations in bad faith against a person.
 - Bringing the organisation into serious disrepute.

* Child/children relates to anyone under the age of 18.

3. Misconduct

The following are examples of matters that will normally be regarded as misconduct and will be dealt with under our Disciplinary Procedure. This list is intended as a guide and is not exhaustive:

- Absenteeism and lateness, for example:
 - Unauthorised absence or leaving your job during working hours without permission or sufficient cause for absence.
 - Frequent failure to attend work punctually.
 - Failure to comply with our sickness absence reporting procedure.
- Neglect of duty, for example:
- Failure to adopt safe working practices/use protective equipment where required by law or management.
 - Damage to, or unauthorised use of our property or contractor's property.
 - Insubordination.
 - Obscene language or other offensive behaviour.
 - Undertaking additional employment outside normal working hours without authorisation.
 - Breaches of our policies.
 - Breaches of your contract.

Disciplinary procedure is below.

Disciplinary Procedure for all staff

1. Terms of Reference

1.1 For all employees employed by the Governing Body of all schools within Synergy Multi Academy Trust

1.2 Definitions

- i. "Headteacher" also refers to any other title used to identify the Headteacher where appropriate.
- ii. "Employee" refers to any member of the staff, teaching and support, employed to work at the School.
- iii. "Senior Manager" refers to members of the Senior Leadership Team delegated by the Headteacher to deal with a disciplinary matter under this procedure. The Senior Manager may only make a decision to issue up to and including a final written warning.
- iv. "Investigating Officer" refers to a senior manager or an external person appointed by the Headteacher.
- v. "Companion" refers to a person chosen by the employee to accompany him/her, who shall be a trade union representative or a workplace colleague.
- vi. "Governors Disciplinary Committee" may be convened to deal with a case where the Headteacher considers that s/he must act in the role of Senior Manager. In this event substitute 'Headteacher' with 'Governors Disciplinary Committee' throughout the procedure, in these cases replace 'Senior Manager' in section 4.1 with 'Clerk to Governors'.
- vii. "Governors Appeal Committee" may be convened to hear an appeal against a written warning or dismissal. Where possible the number of governors on the committee will comprise of three panel members to enable a casting vote.

2. Introduction

This Disciplinary Procedure is designed to help and encourage all employees to achieve and maintain standards of conduct. The aim is to ensure consistent and fair treatment for all in the organisation.

Examples of the type of conduct that is considered to be misconduct or gross misconduct, which could lead to action under this Disciplinary Procedure, are set out in the Disciplinary Policy above, which apply to all employees and should be read in conjunction with this procedure. This procedure is non-contractual and for guidance only. This procedure applies to all employees. It does not apply to agency workers or contractors.

This procedure may be implemented at any stage, as set out below, taking into account the alleged misconduct of an employee. Information on possible sanctions can be found below.

Please note that employees will not normally be dismissed for a first act of misconduct, unless it is decided that it amounts to gross misconduct or the probationary period is not complete (where applicable).

In cases against the Headteacher, the Chair of Governors or a Committee of Governors has power to discipline or dismiss the Headteacher in accordance with the procedure set out below.

3. Equality and Diversity

The procedure will be operated in accordance with the school's Equality and Diversity Policy. The school is committed to developing, maintaining and supporting a culture of equality and diversity in employment. The impact of the procedure will be monitored in accordance with the Equality Act 2010.

4. Informal Procedure

4.1 Informal Action

Managers should seek to resolve minor misconduct informally and as soon as it occurs. Management advice may be given to the employee by a senior manager or a line manager. Action will be taken under the formal procedure set out in Part B below if the matter is not resolved or, there is repeated minor misconduct or, where informal action is not appropriate (for example, because of the seriousness of the allegation).

There is no appeal against management advice given, which will not be placed on the employee's disciplinary record but should be confirmed in a written memorandum.

The written memorandum will set out the misconduct, the improvement that is required and, if appropriate, how this will be reviewed and during what timeframe. The Employee may make written comment on the memorandum if s/he has any objection to the informal action taken. A copy of the memorandum or a note of any informal discussions will be placed on the employee's personnel file, and will remain for a period of no more than 12 months.

5. Formal Procedure

5.1 Investigation

If it becomes necessary to formally address the issues regarding an employee's conduct, the matter will firstly be investigated by an appropriate person or a panel of appropriate people who will act as the Investigating Officer(s).

The investigation will be conducted without unreasonable delay and carried out thoroughly. Confidentiality will be maintained, as far as reasonably practicable during the investigation and throughout any further stages of the disciplinary procedure. Advice shall be taken from the Trust's HR provider throughout the investigation.

Statements from and, or interviews with employees and any witnesses shall be minuted and included in the investigation report (see Appendix A). Interviews with students will be conducted with a parent/guardian present.

5.2 Suspension

Under certain circumstances, including but not limited to serious breaches of standards or safeguarding, the decision may be taken to suspend employees on full pay while the matter is being investigated. **This is not a disciplinary sanction**, but a value-free administrative process aimed to limit the potential risk of any interference to the investigation and the decision to suspend will be founded on a balance of probable risk. Where two employees are under investigation, both shall be placed under suspension to ensure fairness. Where possible, and following an assessment of risk, alternatives to suspension will be considered.

5.3 Disciplinary Hearing

If, following appropriate investigation by the Investigating Officer, the Senior Manager considers on the facts that formal disciplinary action for misconduct is necessary, s/he will write to the employee to inform him/her as soon as practicably possible, at least 5 working days in advance, setting out:

- The date, time and place of the disciplinary hearing.
- The allegation(s) and their possible consequences.
- The Employee's right to be accompanied by his/her companion.
- The titles of enclosed copies of any documents to be used as evidence, including the investigation report
- An agenda for the hearing
- The names of any witnesses to be called by the Senior Manager.
- His/her right to call witnesses on his/her behalf.
- The name and position of any HR adviser who will accompany the Senior Manager at the hearing.
- The name and position of any note taker.
- (At the employee's request, an extra copy of this notice, together with any enclosures, should be provided for his/her companion).

The employee must advise the Senior Manager of the following at least 3 working days in advance of the hearing:

- The name and designation of his/her companion.
- Provide any written documentation to be considered.
- The names of any witnesses at that he/she wishes to call.
- Any special requirements (e.g. disability, language requirements).

At the disciplinary hearing before the Senior Manager and his/her HR adviser, the Employee (and his/her companion) will be given a reasonable opportunity to state his/her case, to question the Investigating Officer where possible and any witnesses and, to call any witnesses and raise points about any information provided by witnesses.

Following the hearing, the Senior Manager will consider the matter and confirm the decision in writing to the employee and his/her companion as soon as possible and usually within 5 working days of the hearing, to include:

- The sanction (if any) and the period this will remain current.
- His/her reasons for the decision.
- The change in behaviour required (if relevant) and the likely consequences of further misconduct.
- Right of appeal.

5.3 Formal Disciplinary Action

5.3.1 First Written Warning

The Senior Manager 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 that is found justified after a disciplinary hearing, may lead to a final warning, unless there are mitigating circumstances.

5.3.2 Final Written Warning

If a further complaint is made about the employee's conduct before the first written warning has expired, the same procedure (as in **5** above) will be followed.

The Senior Manager 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 that is found justified after a disciplinary hearing, will lead to dismissal, unless there are mitigating circumstances.

5.3.3 Dismissal

If a further complaint is received before the final written warning has expired, the complaint will be referred to a hearing before the Headteacher following the same procedure as in paragraph **5** above. The Headteacher may be accompanied by an HR adviser

If the Headteacher decides the complaint is justified, s/he may decide to dismiss the employee. The Headteacher will state the decision, the reasons and inform the employee of his/her right to appeal to a Governors Appeal Committee. S/he will confirm the decision and right of appeal in writing to the employee (and his/her companion) as soon as possible and normally within 5 working days of the hearing. The Headteacher will record the outcome of his/her considerations and the names of persons present at the hearing.

Gross Misconduct

- I. If the complaint is considered so serious that it may amount to gross misconduct, which may justify dismissal without previous warning and without notice (see Disciplinary Rules), the employee may be informed by the Headteacher or the Chair of Governors that s/he is suspended on full pay pending further investigation of the complaint.
- II. If, following an investigation, the Investigating Officer considers that the facts of the case amount to a prima facie case of gross misconduct, the matter will be referred to the Headteacher.

Following the same procedure as in paragraph 5 above, if on conclusion of the disciplinary hearing the Headteacher considers the complaint constitutes gross misconduct, s/he may decide to dismiss the employee without notice or pay in lieu of notice.

Where a suspension has taken place that suspension may only be lifted by the Governing Body, normally the Chair of Governors acting on behalf of the Governing Body.

6. Right of Appeal

The employee has a right of appeal against a decision to issue a warning or to dismiss. Appeals against formal written warnings or dismissal should be made in writing to the Clerk to the Governors, stating the grounds for appeal in full, within 10 working days of the date of the written decision.

An appeal against a written warning (see paragraph 5.3.1 and 5.3.2) will be heard by the Governors Appeal Committee. The panel may have an HR adviser present. The Committee may confirm the written warning, reduce a final written warning to a first written warning, or cancel the written warning.

An appeal against dismissal (see paragraph 5.3.3) will be to the Governors Appeal Committee, none of whom shall have any previous involvement in the case. The Governors Appeal Committee may have an HR adviser present

All appeal hearings will be held as soon as possible and, in normal circumstances, within 10 working days after receipt of the appeal. The Clerk to Governors will usually undertake administrative arrangements for any required hearing or meeting. The outcome will be confirmed in writing as soon as possible and usually within 5 working days of the hearing. There will be no further right of appeal.

6.1 Variation in Disciplinary Action

If appropriate, the Senior Manager may decide to take informal action instead of giving a first written warning.

The Senior Manager may decide the misconduct is so serious that it justifies a final written warning, without any previous written warning having been given.

Rather than dismiss, the Headteacher may decide to issue no sanction or a lesser sanction. In determining an appropriate sanction, consideration may be given to a change to role/duties which may impact on remuneration.

Where the Governors Appeal Committee overturns a decision to dismiss or to issue a written warning, they may substitute a lesser sanction. There is no right of appeal against such a decision of the Governors Appeal Committee.

In the event that the Governors Appeal Committee decides not to uphold the decision to dismiss, the Employee will be reinstated without loss of pay.

7. Trade Union Representatives

Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure should be followed. Depending on the circumstances, however, it is advisable to discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement.

8. Confidentiality

All employees subject to disciplinary investigations or proceedings must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

Strictly Confidential - Access Restricted
An Investigation into the allegations against

[Name of Employee(s) under investigation]

Final Report

by

[Name of Investigation Officer]

STRICTLY CONFIDENTIAL The contents of this report are of a sensitive and confidential nature and intended solely for the review and consideration of the matter described in the report. No other use is permitted and those with authorised access to the report undertake not to disclose all or part of this report to any third party (including but not limited, where applicable, pursuant to the Freedom of Information Act 2000) without the prior written consent of the Headteacher.).

A Disciplinary Investigation into the allegations made against [Name, job title] of [School/Academy Name]

1. Introduction

1.1 This investigation has been carried out following a request from [Name, job title], due to an allegation that [provide brief outline of allegation(s)]

1.2 The investigation has been carried out by [Name, Job Title]

1.3 I sought and followed professional HR advice from EPM throughout the investigation

2. Background

2.1 The allegation came to light when [insert detail how allegation was raised and incident leading up to allegation]. Due to the nature of the allegation it was decided, after consultation with EPM that an investigation was warranted [and Name was suspended from their duties whilst the investigation was conducted.]

3. Key Dates/Events

[Provide a chronology of events leading up to and during the investigation.]

Date	Detail of incident/events

4. Conduct of the Investigation

4.1 I conducted the investigation following all available guidance from EPM and with direct consultation from one of their Senior HR Advisors. I interviewed the employee whom the allegation was made against, the witness to the alleged incident [and the pupil involved in the incident (who was accompanied by Name, relationship)]. There were no other witnesses to the incident.

4.2 All interviews and witness statements are included in schedule 3.

4.3 [identify any delays that may have occurred i.e. employee absence, school holidays etc. if applicable]

5. The Allegation

5.1 *The Allegation:* [detail of allegation]

Add further detail of key findings from investigation.

6. Conclusions and Recommendations

6.1 It is my responsibility to decide whether or not there is a case to answer and whether a Disciplinary Hearing should be convened to consider the allegation. In accordance with the evidence set out above I have determined that [there is a case to answer **OR** there is no case to answer] in respect of the following allegation. [I therefore conclude that the matter should be referred to a Disciplinary Hearing **OR** that the process is concluded and no further action is taken, **OR** that the process is concluded and informal action is taken in line with the following recommendations.]

6.2 Recommendations include: **delete as appropriate

6.2.1 detail any recommendations i.e. further training, mediation

Signed: Name:

Dated:

Position:

[Attach all statements and, or minutes from investigation meeting along with any other relevant evidence.]