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# PARKWOOD HALL CO-OPERATIVE ACADEMY

## Parkwood Hall Co-operative Academy

"Growth through Personal and Social Learning"

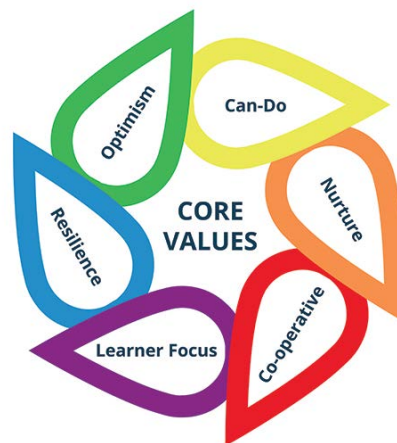
### Statutory Policy File

### DISCIPLINARY POLICY

Index No: 18

*Parkwood Hall Co-operative Academy is committed to safeguarding and promoting the welfare of children and young people and expects all staff and volunteers to share this commitment'*

#### Our Core Values



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## DISCIPLINARY POLICY

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### 1 GENERAL PRINCIPLES

- a. This policy is in addition to the Statement of Terms and Conditions of Employment (“The Contract”) for all employees. It does not form part of the Contract and the content of this Policy may be revised without consultation or negotiation with members of staff.
- b. The disciplinary procedure provides for all employees to have the right to
  - be informed of specific allegations against them;
  - question the allegations against them;
  - be offered the opportunity to state their case at a disciplinary hearing;
- a. The disciplinary procedure requires that no disciplinary action is taken until the case has been carefully investigated.
- b. This policy will also apply to any employee who may hold the position of a Trade Union Official. However no disciplinary action will be taken until a senior trade union representative or Area Official has been notified and the Human Resources Advisor (HRA) consulted.
- c. Employees have the right to be accompanied by a representative of their Trade Union or a work colleague at formal meetings.

### 2 INTRODUCTION

- a. Parkwood Hall Co-operative Academy is a public service body and expects an employee to do his/her job honestly and to the best of his/her ability, and to do nothing that may bring the school into disrepute.
- b. The Governing Body wishes to promote good employee relations and to ensure that at all times staff are treated in a fair and reasonable manner. This procedure has been designed to assist and encourage improvements in individual conduct, attendance and performance whilst providing an equitable method of dealing with cases of alleged unacceptable behaviour. There are separate procedures for capability and ill health.
- c. The Governing Body has a special responsibility to maintain the highest standards of staff conduct. All staff are required to comply with the conditions of service, the Academy’s Code of Conduct, the Articles of Government and appropriate legislation.
- d. The Principal and Deputies have the prime responsibility for the day-to-day management and discipline within the school and may take advice from the HRA in applying the policy at any stage in this procedure. The School Business Manager is the point of liaison between the school and the HRA in most cases.

- e. This policy allows for disciplinary action to be taken at an *informal level* (see Section 3) or *formal action* (see Section 4 onwards). Informal action may be taken by any manager. Formal action may be taken by the Principal or by the Governing Body. Formal action resulting in dismissal can only be taken by the Governing Body.
- f. In the event of taking formal disciplinary action for alleged gross misconduct and for staff with a final warning already on record (which may therefore result in dismissal), the Governing Body is required to establish a Disciplinary Committee and an Appeals Committee. No Governor who has had prior involvement in the case should sit on either Committee.
- g. The procedure refers to action being taken by a Principal. This can also refer to other senior managers within the school when directed by the Principal (e.g. Deputy Principal.)

### **3 INFORMAL ACTION: A MANAGER'S RIGHT TO MANAGE**

- a. The line manager has the right to talk to an employee about any work related issue, including conduct and work performance. This is part of a manager's job. The manager can tell or remind an employee about standards and can reprimand them by word of mouth (sometimes called a verbal or oral warning) for anything that an employee has not done, or has done wrongly. No record of informal action is made on an employee's personnel file, although a note may be made of what was said. If this is the case, then the employee will be given a copy of it and has the right to respond. A copy of the response will also be kept.
- b. Informal action does not count as disciplinary action and so there is no right to be accompanied by anyone else at an informal meeting with the manager and there is no right of appeal against informal action. A verbal or oral warning may be referred to in a disciplinary hearing up to 6 months later.
- c. If the line manager decides during the course of an informal meeting that formal action is needed then he or she will stop the meeting and refer the matter to the Principal.

### **4 FORMAL ACTION: DISCIPLINARY ACTION**

- a. If the Principal decides that something is too serious to be dealt with informally just by talking it through with an employee, formal disciplinary action will be taken. Disciplinary action can be taken only following a disciplinary hearing. Disciplinary action is always formal. This means that
  - A written record is made
  - There is a right to be accompanied at meetings
  - A written warning may be issued as a result of the meeting and this will be kept on file for a specified duration of time
  - There is a right to appeal

## 5 DISCIPLINARY OFFENCES

- a. Disciplinary offences are usually classified into acts of misconduct or gross misconduct
- b. "**Gross misconduct**" is misconduct which is so serious that an employee can be dismissed for a first offence.
- c. The other type of misbehaviour is called **misconduct**. This is not as serious as gross misconduct. A warning may be given, and if a previous warning has been given, this may be a final warning. Sometimes the misconduct is so serious that one warning may be given which is both a first and final warning. Once a final warning has been given, further misconduct may result in dismissal.
- d. Penalties for misconduct include warnings, removing benefits, moving you to another job, withholding increments or demoting you which may be to a lower paid job.
- e. Examples of gross misconduct and misconduct are set out at the end of the procedure.

## 6 DISCIPLINARY ACTION

There are three types of formal disciplinary action:

**Written warning** - given in writing and valid for maximum of 12 months.

**Final written warning** - given in writing. Final warnings are usually given for further instances of misconduct or a first instance of serious misconduct, and are valid for a maximum of 24 months (2 years). As an alternative to dismissal, a final written warning may also be given in conjunction with transfer, demotion, and/or loss of increment.

**Dismissal** - confirmed in writing. An employee's contract of employment can be terminated following:

- a further instance of misconduct after a final warning has been given;
- a first incident of gross misconduct.

Dismissal for misconduct will generally be with the required period of notice.

Dismissal without notice should only occur where gross misconduct constituting a breach of contract has been established, and the presence of the employee can no longer be tolerated.

## 7 RIGHT TO BE ACCOMPANIED

- a. The law gives an employee the right to be accompanied by a work colleague or by a Trade Union official at any disciplinary hearing or any disciplinary appeal hearing. An employee may not be accompanied by anyone else, unless they have a disability or require an interpreter, in which case reasonable adjustments will be made to ensure that they are not disadvantaged. If an employee cannot find any suitable person to accompany them, a disciplinary hearing may be delayed for up to five working days. A longer postponement

may be agreed in an exceptional case. After that time, it may go ahead whether the employee has someone to accompany them or not.

- b. The person who accompanies an employee can put forward the case on their behalf and can help by giving the employee advice and support during a hearing. But that person does not have a right to answer questions for the employee, who should answer any questions directed at them.

## 8 DISCIPLINARY PROCEDURE

- a. When a disciplinary matter arises the School Business Manager or nominee (acting as Investigating Officer) should establish details of the allegations and accounts given by witnesses promptly, before recollections fade and will take statements in writing where possible. It is important that a full and detailed investigation is made before any charges are brought.
- b. If the Principal considers that the matter requires disciplinary action the employee will be informed in writing, ideally within **5 working days** of completion of the investigation whereupon they will be invited to attend a formal disciplinary hearing. The invitation letter will include:
  - i. date, time and place of the hearing;
  - ii. the reasons for the disciplinary hearing;
  - iii. any allegations or statements made by witnesses (any written statements will be enclosed);
  - iv. the employee's right to be accompanied by a trade union representative or by a work colleague
  - v. that the proceedings constitute a part of the formal disciplinary procedure.
  - vi. Copies of evidence to be used at the hearing
  - vii. A request to the employee to give copies of any documents they wish to use in evidence at the hearing which they must comply with
- c. The Principal will present the case at a disciplinary hearing (unless the case is being heard by the Principal, in which case the management case will be presented by a member of the School Leadership Team – who will have had no prior involvement in the case), and the Investigating Officer must be able to show that he/she has carried out all the investigations that he/she could be reasonably expected to carry out, which includes considering any possible mitigating circumstances.
- d. Wherever possible, the disciplinary hearing will be convened within **15 working days** of the submission of the investigation report. Employees should be given a minimum of **5 working days'** notice of any disciplinary hearing.
- e. The Principal must be informed in advance of the names of any witnesses that the employee intends to call and the name of the person they have chosen to accompany them.

- f. The hearing will be conducted by the Principal (or a member of the SLT – see point 26 above) who should not have had any involvement in the matter, or be aware of the details of the case, except to be aware of the allegation and to have asked an Investigating Officer to carry out an investigation.
- g. In cases where the Principal has instigated the disciplinary action or is a witness, the hearing should be conducted by a panel of Governors. The panel will be made up of three Governors unless there are not enough governors who have not been involved in previous action or decisions connected with the case. In this case the panel can be 2 Governors. A HRA Advisor may also be present.

## **9 PROCEDURE TO BE FOLLOWED AT A DISCIPLINARY HEARING**

- a. The Principal or the Chair of the panel will explain the procedure to be followed. He/she will read the allegation(s) made against the employee. The Principal will normally ensure that a note taker is present at the hearing
- b. A member of the School Leadership Team (if heard by the Principal) or the Principal (if heard by a panel of governors) will present the case against the employee and call any witnesses. Witnesses will appear one at a time and will only be present whilst they are giving their evidence.
- c. All witnesses called to a disciplinary hearing may be accompanied by a Trade Union Official or by a work colleague, if they so wish.
- d. The employee and/or his/her representative may ask questions of the officer presenting the Management's case and any witnesses.
- e. The Principal or members of the panel may ask questions of the officer presenting Management's case and any witnesses.
- f. The witnesses will then withdraw.
- g. The employee and/or his/her representative will present their case and call any witnesses. Witnesses will appear one at a time and will only be present whilst they are giving their evidence.
- h. The officer presenting Management's case may ask questions of the employee and/or his/her representative.
- i. The Principal or members of the panel may ask questions of the employee and/or his/her representative and any witnesses.
- j. The witnesses will then withdraw.
- k. The officer presenting Management's case will sum up. No new evidence may be introduced during the summing up.

- l. The employee and/or his/her representative will sum up. No new evidence may be introduced during the summing up.
- m. The employee and his/her representative and the officer presenting management's case will withdraw.
- n. The Principal or the members of the panel will consider the evidence presented and any mitigating circumstances and the employee's previous disciplinary record when deciding the disciplinary action. In the majority of cases, a decision will be made on the day, but in more complex cases it may be necessary for the panel to adjourn the hearing in order that the evidence can be fully considered before deciding upon the outcome.
- o. Subject to paragraph 9p., the employee will be told what level of disciplinary action is being taken and the length of time for which the disciplinary action is valid. This notification may be in person, via a phone call or via email, depending on the circumstances.
- p. The decision will be confirmed in writing within **5 working days** of the disciplinary action being taken. The written notification will include the following:
  - the precise nature of the misconduct;
  - the reasons for the decision;
  - if appropriate, the period of time given for improvement and the improvement which is expected, making clear the minimum standard which is acceptable, which should be realistic and reasonable in relation to the duties expected of the employee;
  - the level of disciplinary action taken and for how long the disciplinary action will last
  - the likely consequences of further disciplinary action. For a final written warning state that further misconduct is likely to lead to dismissal.
- q. The employee will be told of his/her right of appeal.
- r. The employee will also receive a copy of the notes of the disciplinary hearing to which they can append their own notes
- s. Any written warning will say when the situation is to be disregarded. Disciplinary action for misconduct will be disregarded after twelve months' satisfactory service. A warning which relates to serious misconduct will be reviewed after 2 years.

## 10 APPEALS PROCEDURE

- a. An employee may appeal to the governing body against any disciplinary action which they feel failed to follow this disciplinary policy and so is unfair, unjust or wrong.
- b. Notice of appeal must be made in writing to the Clerk to the Governors, c/o the Principal's PA, within **10 working days** of the date of the letter confirming that disciplinary action has been taken.
- c. The employee must state in writing the grounds on which he/she is appealing.



- d. An employee who has been dismissed should send the notice of appeal to the Clerk of the Governors. A Governor's Appeal Panel will hear the appeal within **15 working days** of the notification of the appeal if possible and in any event within **one calendar month**.
- e. The Appeal Panel will be made up of at least three Governors who have not been involved in any previous action or decision connected with the dismissal. If there are not enough such governors available the appeal can be heard by 2 Governors but there should not be fewer governors than the number of people who made the initial decision.
- f. The Chair of the Panel will ensure a note taker is present at the appeal.
- g. Where possible, the employee should be given a minimum of **5 working days' notice** of the date of the appeal hearing.
- h. An employee has the right to be accompanied to an Appeal Hearing by a Trade Union representative or a work colleague. An employee may not be accompanied by anyone else, unless they have a disability or require an interpreter, in which case reasonable adjustments will be made to ensure that they are not disadvantaged. If an employee cannot find any suitable person to accompany them, an appeal hearing may be delayed for up to five working days, and a longer postponement may be agreed in an exceptional case. After that time, it may go ahead whether the employee has someone to accompany them or not.
- i. The employee and/or his/her representative shall state his/her case in the presence of the Appeal Panel, and shall call such witness(es) as he/she wishes. Witnesses will appear one at a time and will only be present whilst they are giving their evidence.
- j. The Chair of the disciplinary panel which made the initial decision will attend the appeal hearing as a witness and will have the opportunity to ask questions of the employee and/or his/her witnesses.
- k. The panel members may ask questions of the employee and/or his/her representative and witness(es).
- l. The Chair of the disciplinary panel which made the initial decision will be called to give evidence and shall state the reasons for the decision in the presence of the employee and his/her representative. They shall call such witness(es) as he/she wishes. Witnesses will appear one at a time and will only be present whilst they are giving their evidence.
- m. The employee and/or his/her representative shall have the opportunity to ask questions of the Chair of the Panel of the disciplinary panel which made the initial decision, and any witness(es).
- n. The panel members shall have the opportunity to ask questions of the Chair of the Panel of the disciplinary panel which made the initial decision and any witness(es).
- o. The employee and/or his/her representative shall have the opportunity to sum up his/her case. No new evidence may be introduced during the summing up.

- p. The Chair of the Panel of the disciplinary panel which made the initial decision shall have the opportunity to sum up the school's case. No new evidence may be introduced during the summing up.
- q. Both parties will be asked to withdraw.
- r. The panel will consider the evidence and the decision will be confirmed in writing to both parties within **5 working days**.
- s. The employee will receive a copy of the notes of the appeal meeting to which they can append their own notes

## 11 POSTPONING A DISCIPLINARY HEARING

If an employee cannot arrange to be accompanied for a proposed hearing date, the hearing can be postponed once, for up to five working days. If the employee fails to attend a further date, or does not turn up for any disciplinary hearing without a sound explanation the hearing may go ahead in their absence.

## 12 SUSPENSION FROM WORK

- a. The Principal or other senior staff so authorised by the Principal may send an employee home from work during the course of the working day, but further suspension from work may only be authorised by the Principal. If an employee is suspended then the Chair of Governors must be informed. **The Principal** will inform the local branches of Unison, GMB and the Teaching unions as applicable. Only the Governing Body can lift the suspension.
- b. The suspension will be confirmed in writing within **2 working days**.
- c. Suspension should not be used as a punishment, but it may be used as a means of facilitating an investigation where there is evidence that an employee may have potentially committed an act of gross misconduct. Suspension may be without pay if following the allegation the staff member is unavailable for work.
- d. If an employee has been suspended without pay, the disciplinary hearing may be arranged with his/her agreement within **5 working days**. If the employee is not dismissed following the disciplinary hearing, the pay will be restored. There will be a separate right of appeal against this action to the Appeals panel

## 13 SICKNESS ABSENCE DURING DISCIPLINARY ACTION

Should an employee become unfit for work due to illness whilst disciplinary action is being taken against him/her, any planned investigation meeting or disciplinary hearing will be delayed for up to 5 working days but a longer postponement may be agreed in exceptional circumstances. This will give the employee time to recover or to arrange for a colleague or trade union official to attend the meeting on their behalf. If the employee is unfit to attend

he/she can state their case in writing and this will be considered. If disciplinary action begins while an employee is unfit for work then it may be delayed for the reasons set out above.

#### **14 GRIEVANCES DURING DISCIPLINARY ACTION**

The school's grievance procedure is separate from the disciplinary policy. The grievance procedure does not apply to disciplinary matters. This means that if an employee is unhappy for any reason with the disciplinary procedure or sanction taken against him/her, then they should say so at the time and may appeal on those grounds, but an employee cannot raise a formal grievance about the process followed or the sanction given. If a grievance is raised by the employee about something else while disciplinary action is being taken against them, the school will decide whether the grievance should be heard before or after the disciplinary case and will give the reasons in writing for that decision.

#### **15 CRIMINAL ACTIVITY**

Disciplinary action can be taken against an employee even if the Police are carrying out a criminal investigation. However, an employee may not be disciplined or dismissed simply because he/she has been cautioned, charged with or convicted of a criminal offence. The Principal will decide whether a conviction or a caution has an effect on their employment. If it does, then disciplinary action may be taken once the facts have been established. If an employee is remanded to prison pending a criminal trial then he/she will be suspended from work which will normally be unpaid. Disciplinary action may be taken in the absence of the employee, but every effort will be made to ensure that they are able to make representations, for example via a written submission, or via a trade union official advocating on their behalf.

#### **16 DISCIPLINARY ACTION AGAINST THE PRINCIPAL**

Disciplinary action against the Principal can only be taken by the Governing Body. The Governing Body should appoint a person to undertake the role of the Investigating Officer. The disciplinary procedure set out above should be followed.

## APPENDIX 1. DISCIPLINARY RULES

The following lists are examples of particular acts or behaviour which are considered to be unacceptable to staff employed in the school and which could incur disciplinary action. This is not an exhaustive list.

### 1. Gross Misconduct

**“Gross misconduct”** means misconduct which is so serious that an employee can be dismissed for a first offence. Of course, circumstances will affect how serious an incident is. If an employee commits an act of gross misconduct, such as any of those listed below, then he or she risks being dismissed. Here are some examples of acts that may be regarded as gross misconduct:

#### a. Theft and Fraud

Stealing from the school, or its employees, pupils or any member of the public whilst at work; falsifying any document, record, claim or account; providing false information in support of an application for employment or promotion; corrupt practices such as asking for or accepting bribes or unauthorised hospitality, gifts, or gratuities; falsely claiming money or benefits from any local authority. (The academy's staff Code of Conduct gives guidance about the acceptance or giving of hospitality and gifts. Employees must ensure that they follow this guidance).

#### b. Serious misbehaviour

Assault; violent or dangerous behaviour, including fighting at work; serious physical or verbal abuse or bullying towards pupils, fellow employees, clients or members of the public, including maltreatment; indecent behaviour; serious negligence in performing work or in safeguarding property; failure to account for money or property of the school, or pupils when it is the employee's duty to do so, using school vehicles without authority; engaging in unauthorised employment during hours when contracted to work for the school or during periods of sick leave; bringing the organisation into serious disrepute; serious incapability at work brought on by alcohol or illegal drugs.

#### c. Serious breaches of school rules and policies

Failing to observe financial regulations, or school operating instructions; serious breaches of safety rules and precautions, including neglecting safety equipment; any action which directly endangers others; breaching confidentiality so as to prejudice seriously the interests of the school, or any individual; misuse of school information for unauthorised purposes.

#### d. A serious breach of the Equal Opportunities Policy

Harassing or victimising someone for any reason (for instance because of their race, sex, sexual orientation, religion or belief, disability, marital status, pregnancy or maternity or gender reassignment), or inciting or condoning such acts by others; serious breach of any equal opportunities legislation; serious or repeated contravention of the school's equal opportunities policies.

**e. Computer-related issues**

Serious misuse of, or deliberate damage to, any school computer hardware or software; any deliberate attempt to breach data protection or computer security rules (such as misusing passwords); accessing, storing or circulating offensive material via e-mail, the intranet or internet; deliberately breaching a software copyright or licence.

**f. Criminal offences**

Receiving a formal Police Caution or a conviction for any criminal offence which makes an employee unsuitable for employment within school; failure to disclose an unspent criminal conviction or formal Police Caution where they are employed in a relevant role that requires full disclosure.

**2. "Misconduct"**

The other type of misbehaviour is called misconduct. This is not as serious as gross misconduct. An employee will not be dismissed for a first instance of misconduct. If an employee has been given a previous warning, then he or she may be given a final warning for misconduct. Sometimes misconduct is so serious that one warning may be given which is both first and final. Once an employee has been given a final warning, then he or she may be dismissed if there is further misconduct.

**a. Misbehaviour**

Not obeying a reasonable instruction; insubordination by word, act or manner; abuse of authority; using language or behaviour which is offensive to pupils, colleagues or others; sleeping on duty or being under the influence of alcohol or drugs (these may be gross misconduct in some situations); engaging in activities which render the employee unable to carry out his or her duties properly (for example employees who take on second jobs out of normal working hours, leaving them too tired to carry out their contractual duties properly)

**b. Poor Attendance**

Prolonged or persistent absence from work without permission; persistent lateness; failing to comply with working hours arrangements; failing to comply with absence reporting procedures; failing to comply with sickness certification rules; neglect of health such that it affects an employee's fitness for work, or delays in returning from sick leave.

**c. Breaching School rules and policies**

Failure to notify the school or Trust of receipt of a gift, benefit, or hospitality; (the school has rules in the employee Code of Conduct about the acceptance of small gifts from pupils or parents as well as suppliers and service providers – misconduct concerns actions which do not fall within these rules); minor breach of health and safety procedures; carelessly losing school property; breaches of the Employee Code of Conduct (this may be gross misconduct in serious cases).

**d. Equal opportunities**

Minor breach of any equal opportunities legislation, or of the school's equal opportunities policies.

**e. Computer-related issues**

Unreasonable use of a work telephone or fax machine for personal calls without permission; overuse or misuse of the school's e-mail, intranet or internet system (this is gross misconduct in serious cases).

**f. Poor Work Performance**

Persistent inefficiency in the conduct of duty. Persistent failure to achieve acceptable standards of performance. (N.B. The school has a separate Capability Policy which sets out in some detail the procedure to be adopted for teachers and other professionals)

**APPROVAL**

Approved by the Full Governing Board for Parkwood Hall Co-operative Academy on:

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Signed \_\_\_\_\_

Principal

Signed \_\_\_\_\_

Chair of Governors