

## Staff Disciplinary Policy

Policy Code:	HR12
Policy Start Date:	July 2021
Policy Review Date:	July 2024

Please read this policy in conjunction with the policies listed below:

- F3 Anti-Corruption and Bribery Policy
- HR6 Data Protection Policy
- HR8A Equal Opportunities and Diversity Policy (Staff)
- HR13 Annual and Special Leave and Reporting Absences Policy
- HR15 Time off for Dependants Policy
- HR18 Sickness Policy
- HR23 Whistleblowing Policy
- HR24 Allegations of Abuse Made Against Adults Policy
- HR33 Records Management Policy
- HR42 Low-Level Concerns Policy
- HS4 Health and Safety Policy
- SW5 Safeguarding and Child Protection Policy
- Code of Conduct and Dress Code

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## **1 Policy Statement**

- 1.1 It is the Trust's policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before any formal action is taken.
- 1.2 References to the Trust or Academy within this policy specifically include all primary, secondary and special academies within the Trust, as well as the Early Years setting at the Priory Witham Academy, Priory Training and Lincolnshire SCITT.
- 1.3 This policy does not form part of any member of staff's contract of employment and it may be amended at any time.
- 1.4 This policy does not apply to agency workers or self-employed contractors.
- 1.5 This policy is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases, reference should be made to the appropriate policy or procedure.
- 1.6 All stages of the policy will operate in accordance with the Trust's duties to promote equality, to eliminate discrimination and to promote good relations between staff with protected characteristics as required under the Equality Act 2010.
- 1.7 The Trust is committed to leading a healthy organisation, which includes a commitment to and promotion of emotional wellbeing and mental health. Therefore, all Trust policies and procedures ensure this commitment is incorporated in order to support all staff and students. Members of staff are encouraged to speak to their line managers if they feel any part of this policy would affect their emotional wellbeing and mental health. Any such comments should be passed to the Trust's HR department (via [FederationHR@prioryacademies.co.uk](mailto:FederationHR@prioryacademies.co.uk)) for appropriate consideration at the next available point in the policy review cycle.

## **2 Roles, Responsibilities and Implementation**

- 2.1 The Pay, Performance and HR Committee has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework. This committee delegates day-to-day responsibility for operating the policy and ensuring its maintenance and review to the Human Resources Director.

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- 2.2 Leaders and managers have a specific responsibility to ensure the fair application of this policy and all employees are responsible for supporting colleagues and ensuring its success.

### **3 Aims**

- 3.1 The aim of this policy is to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary. The standards of conduct expected of all employees are set out in the Disciplinary Rules which are appended to this procedure.

### **4 Minor Conduct Issues**

- 4.1 Minor conduct issues can often be resolved informally between the employee and their line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on the employee's personnel file. Unless there is a legitimate safeguarding risk, the informal discussion note will be ignored for the purposes of any future disciplinary hearings. In some cases, an informal verbal warning may be given, which will not form part of the employee's disciplinary record. The line manager may give advice for the purpose of improving your future conduct. The employee will be given any reasonable support and assistance to effect such improvement. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
- 4.2 If the employee has difficulty at any stage of the procedure because of a disability, the employee should discuss the situation with their line manager or the Human Resources Director as soon as possible.

### **5 Confidentiality**

- 5.1 The Trust's aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat any information communicated to them in connection with an investigation or disciplinary matter as confidential.
- 5.2 Employees and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.

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- 5.3 The employee will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless the Trust believes that a witness' identity should remain confidential.

## **6 Investigations**

- 6.1 The purpose of an investigation is for the Trust to establish a fair and balanced view of the facts relating to any disciplinary allegations against the employee, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents. The Human Resources Director will usually appoint an Investigating Officer to carry out the investigation.
- 6.2 Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.
- 6.3 The employee will not normally have the right to bring a companion to an investigative interview. However, the Trust will consider requests on an individual basis.
- 6.4 The employee must co-operate fully and promptly in any investigation. This will include informing the Trust of the names of any relevant witnesses, disclosing any relevant documents to the Trust and attending investigative interviews, if required.
- 6.5 Once the investigation is completed, a report will be sent to the Head of Academy/ Service Lead who will consider the report and any recommendation within it and determine whether a disciplinary hearing is required.
- 6.6 If it is decided that the allegations do not justify further action or there is no evidence to substantiate the allegations, the effect on the employee(s) involved, along with other factors, will nevertheless be considered. This may be particularly the case where an employee has been suspended or temporarily transferred during investigation. In such instances, arrangements will need to be made for the employee's return to their place of work. It may be necessary to carefully plan and manage the reintegration of the employee as they may have been away from where they normally work for some time. It may also be considered appropriate to have the employee transfer, voluntarily, on the same grade, to another section or work base. Any such considerations will be discussed with the employee concerned as a possibility at this time.

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- 6.7 If new evidence comes to light during the investigation process, the investigating officer may re-categorise the level of misconduct. A further meeting will be requested with the employee under the new level of misconduct.

## **7 Criminal Allegations**

- 7.1 Where the employee's conduct is the subject of a criminal investigation, charge or conviction, the Trust will investigate the facts before deciding whether to take formal disciplinary action.
- 7.2 Unless we are instructed by the police to hold the investigation, the Trust will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where the employee is unable or has been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, the Trust may have to take a decision based on the available evidence.
- 7.3 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if the Trust considers that it is relevant to the employee's employment, this is irrespective of whether or not the employee is convicted or charged of any crime.

## **8 Child Protection and Safeguarding**

- 8.1 If an allegation of abuse is made against a member of staff, this will be dealt with in line with HR24 Allegations of Abuse Made Against Adults Policy.
- 8.2 Any incident involving a member of staff that puts the welfare of others at risk will be dealt with in line with this policy and the Trust or Academy Designated Safeguarding Lead (or the Deputy Designated Safeguarding Lead) will be involved in any investigation.

## **9 Suspension**

- 9.1 In some circumstances, the Trust may need to suspend the employee from work. The suspension will be for no longer than is necessary to investigate the allegations and the Trust will confirm the arrangements to the employee in writing. While suspended, the employee should not visit the Trust's premises or contact any of its students, suppliers, contractors or staff, unless the employee has been authorised to do so by the Human Resources Director
- 9.2 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. The employee will continue to receive their full salary and benefits during the period of suspension.

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## **10 Notification of a Hearing**

- 10.1 Following any investigation, if the Trust considers there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. The Trust will inform the employee in writing of the allegations against the employee, the basis for those allegations, and what the likely range of consequences will be if the Trust decides, after the hearing, that the allegations are true. The Trust will also include the following where appropriate:
- a) a summary of relevant information gathered during the investigation;
  - b) a copy of any relevant documents which will be used at the disciplinary hearing; and
  - c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case the Trust will give the employee as much information as possible while maintaining confidentiality.
- 10.2 The Trust will give the employee written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but the employee will be given a reasonable amount of time, usually 5 working days, to prepare their case based on the information the Trust has given the employee.

## **11 The Right to be Accompanied**

- 11.1 The employee may bring a companion to any disciplinary hearing or appeal hearing under this policy. The companion may be either a trade union representative or a colleague. The employee must tell the Human Resources Director who their chosen companion is, in good time (usually 2 working days) before the hearing.
- 11.2 A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.
- 11.3 If the employee's companion is unavailable at the time a meeting is scheduled and will not be available for more than 5 working days afterwards, the employee may be asked to choose someone else.
- 11.4 The Trust may, at its discretion, allow the employee to bring a companion who is not a colleague or union representative (for example, a member of their family) if this will help overcome a disability, or if the employee has difficulty understanding English.

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## **12 Procedure at Disciplinary Hearings**

- 12.1 If the employee or their companion cannot attend the hearing, the employee should inform the Trust immediately and the Trust will arrange an alternative time. The employee must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If the employee fails to attend without good reason, or is persistently unable to do so (for example, for health reasons), the Trust may have to take a decision based on the available evidence.
- 12.2 The hearing will be chaired by a Manager. The Investigating Officer and a member of the Human Resources Department will also be present. The employee may bring a companion with them to the disciplinary hearing (see *paragraph 0*).
- 12.3 At the disciplinary hearing, the panel will go through the allegations against the employee and the evidence that has been gathered. The employee will be able to respond and present any evidence of their own. The employee's companion may make representations to the hearing panel and ask questions, but should not answer questions on the employee's behalf. The employee may confer privately with their companion at any time during the hearing.
- 12.4 The employee may ask relevant witnesses to appear at the hearing, provided the employee gives the Trust sufficient advance notice (at least 2 working days before the meeting) to arrange their attendance. The employee will be given the opportunity to respond to any information given by a witness. However, the employee will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the panel decides that a fair hearing could not be held otherwise.
- 12.5 The panel may adjourn the disciplinary hearing if they need to carry out any further investigations such as re-interviewing witnesses in the light of any new points the employee has raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 12.6 The hearing panel will inform the employee in writing of their decision and their reasons for it, usually within one week of the disciplinary hearing. Where possible the panel will also explain this information to the employee in person.

## **13 Disciplinary Penalties**

- 13.1 The usual penalties for misconduct are set out below. No penalty will be imposed without a hearing. The Trust aims to treat all employees fairly and consistently, and a penalty imposed on another employee for similar

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misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

- 13.2 The employee will not normally be dismissed for a first act of misconduct, unless the Trust decides it amounts to gross misconduct or the employee has not yet completed their probationary period.
- 13.3 **Stage 1 - First written warning.** A first written warning will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary record.
- 13.4 **Stage 2 - Final written warning.** A final written warning will usually be appropriate for:
- a) misconduct where there is already an active written warning on the employee's record; or
  - b) misconduct that the Trust considers sufficiently serious to warrant a final written warning even though there are no other active warnings on the employee's record.
- 13.5 **Stage 3 - Dismissal.** Dismissal will usually only be appropriate for:
- a) any misconduct during the employee's probationary period;
  - b) further misconduct where there is an active final written warning on the employee's record; or
  - c) any gross misconduct regardless of whether there are active warnings on the employee's record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are set out in the Trust's Staff Disciplinary Rules appended to this policy.
- 13.6 **Alternatives to dismissal.** In some cases, at the discretion of the Trust, the panel may consider alternatives to dismissal. These may be authorised by the Chief Executive Officer, Head of Academy, or Human Resources Director and will usually be accompanied by a final written warning. Examples include, but not limited to:
- a) Demotion.
  - b) Transfer to another department or job.
  - c) A period of suspension without pay.
  - d) Loss of seniority.
  - e) Reduction in pay.
  - f) Loss of future pay increment or bonus.
  - g) Loss of overtime.
  - h) Risk Assessment.

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- i) Enhanced Training.
  - j) Formal Support Plan.
  - k) Capability Process.

## **14 The Effect of a Warning**

- 14.1 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.
- 14.2 A first written warning will usually remain active for 6 months and a final written warning will usually remain active for 12 months. (In exceptional cases verging on gross misconduct a final written warning may state that it will remain active indefinitely.) The employee's conduct may be reviewed at the end of a warning's active period and, if it has not improved sufficiently, the Trust may decide to extend the active period.
- 14.3 After the active period, the warning will remain permanently on the employee's personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

## **15 Appeals**

- 15.1 If the employee feels that disciplinary action taken against them is wrong or unjust, the employee should appeal in writing, stating their full grounds of appeal, to the Human Resources Director within one week of the date on which the employee was informed of the decision.
- 15.2 The employee does not have a right of appeal if they have less than 2 years continuous service.
- 15.3 If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful, the employee will be reinstated.
- 15.4 If the employee raises any new matters in their appeal, the Trust may need to carry out further investigation. If any new information comes to light, the Trust will provide the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing, and they or their companion may comment on any new evidence arising during the appeal before any decision is taken.

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- 15.5 The Trust will give the employee written notice of the date, time and place of the appeal hearing. This will normally be within 5 working days after the employee receives the written notice.
- 15.6 The appeal may be a review of the fairness of the original decision in the light of the procedure that was followed or may be a complete re-hearing of the matter and any new information that may have come to light. This will be at the Trust's discretion depending on the circumstances of the employee's case. In any event, the appeal will be dealt with as impartially as possible.
- 15.7 Where possible, the appeal hearing will usually be conducted impartially by an appeal panel, consisting of a more senior manager and / or a Governor who has not been previously involved in the case. A member of the Human Resources Department and the manager who conducted the disciplinary hearing may also be present. The employee may bring a companion with them to the appeal hearing (see paragraph 0).
- 15.8 The appeal panel may adjourn the appeal hearing if they need to carry out any further investigations in the light of any new points the employee may have raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 15.9 Following the appeal hearing, the appeal panel may:
- a) confirm the original decision;
  - b) revoke the original decision; or
  - c) substitute a different penalty.
- 15.10 The appeal panel will inform the employee in writing of their final decision as soon as possible, usually within 5 working days of the appeal hearing. Where possible the appeal panel will also explain this to the employee in person. There will be no further right of appeal.

## **16 Referrals to External Bodies**

- 16.1 The Trust has a statutory duty to consider referrals of cases involving serious professional misconduct / safeguarding. These may be referred to relevant third parties in line with the Trust Privacy Notice, which is available on the Trust website.

## **17 Policy Change**

- 17.1 This policy may only be amended or withdrawn by the Priory Federation of Academies Trust.

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## **The Priory Federation of Academies Trust Disciplinary Policy**

This Policy has been approved by the Pay, Performance and HR Committee:

Signed..... Name..... Date:

Trustee

Signed..... Name..... Date:

Chief Executive Officer

Signed..... Name..... Date:

Designated Member of Staff

Please note that a signed copy of this agreement is available via Human Resources.

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## Appendix 1 – Staff Disciplinary Rules

### 1 Rules of Conduct

1.1 While working for the Trust, employees should at all times maintain professional and responsible standards of conduct. In particular employees should:

- (a) observe the terms and conditions of their contract, particularly with regard to:
  - (i) hours of work;
  - (ii) confidentiality.
- (b) ensure that they understand and follow the Trust's Code of Conduct and Dress Code which is available from the Administration team at all Academies or from the Human Resources Team.
- (c) observe all of the Trust's policies, procedures and regulations which are published on the Trust website;
- (d) take reasonable care in respect of the health and safety of colleagues and third parties and comply with the Trust's Health and Safety Policy;
- (e) comply with all reasonable instructions given by managers and senior staff; and
- (f) act at all times in good faith and in the best interests of the Trust, its students and staff.

1.2 Failure to maintain satisfactory standards of conduct may result in action being taken under the Trust's Staff Disciplinary Policy.

### 2. Misconduct

2.1 The following are examples of matters that will normally be regarded as misconduct and will be dealt with under the Trust's Staff Disciplinary Policy:

- (a) Minor breaches of policies including the Sickness Absence Policy, ICT (Acceptable Use) Policy, and Health and Safety Policy;
- (b) Minor breaches of the employee's contract;
- (c) Damage to, or unauthorised use of, the Trust's property;
- (d) Poor timekeeping;
- (e) Time wasting;

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- (f) Unauthorised absence from work;
  - (g) Refusal to follow instructions;
  - (h) Excessive use of the Trust's telephones for personal calls;
  - (i) Excessive personal e-mail or internet usage;
  - (j) Obscene language or other offensive behaviour;
  - (k) Negligence in the performance of the employee's duties; or
  - (l) Smoking in no-smoking areas.

This list is intended as a guide and is not exhaustive.

### **3. Gross Misconduct**

3.1 Gross misconduct is a serious breach of contract and includes misconduct which, in the Trust's opinion, is likely to prejudice the Trust's business or reputation or irreparably damage the working relationship and trust between employer and employee. Gross misconduct will be dealt with under the Trust's Staff Disciplinary Policy and will normally lead to dismissal without notice or pay in lieu of notice (summary dismissal).

3.2 The following are examples of matters that are normally regarded as gross misconduct:

- (a) Theft, or unauthorised removal of the Trust's property or the property of a colleague, contractor, student or member of the public;
- (b) Fraud, forgery or other dishonesty, including fabrication of expense claims and time sheets;
- (c) Actual or threatened violence, or behaviour which provokes violence;
- (d) Deliberate damage to the Trust's buildings, fittings, property or equipment, or the property of a colleague, contractor, student or member of the public;
- (e) Serious misuse of the Trust's property or name;
- (f) Deliberately accessing internet sites containing pornographic, offensive or obscene material;
- (g) Repeated or serious failure to obey instructions, or any other serious act of insubordination;
- (h) Discrimination, victimisation or harassment;

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- (i) Bringing the organisation into serious disrepute;
  - (j) Being under the influence of alcohol, illegal drugs or other substances during working hours;
  - (k) Causing loss, damage or injury through serious negligence;
  - (l) Serious or repeated breach of health and safety rules or serious misuse of safety equipment;
  - (m) Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in the employee's possession is kept secure;
  - (n) Accepting or offering a bribe or other secret payment or other breach of the Trust's Anti-corruption and bribery policy;
  - (o) Accepting a gift from a parent, student, supplier, contractor or other third party in connection with the employee's employment without prior consent from the employee's line manager or Head of Academy;
  - (p) Conviction for a criminal offence that in the Trust's opinion may affect the Trust's reputation or its relationships with its staff, students or the public, or otherwise affects the employee's suitability to continue to work for the Trust;
  - (q) Possession, use, supply or attempted supply of illegal drugs;
  - (r) Serious neglect of duties, or a serious or deliberate breach of the employee's contract or the individual Academy processes;
  - (s) Knowing breach of statutory rules affecting the employee's work;
  - (t) Unauthorised use, processing or disclosure of personal data contrary to the Trust's Data Protection Policy and the Trust's Data Breach Policy;
  - (u) Harassment or victimisation of, or discrimination against, employees, contractors, students or members of the public, related to gender, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, disability, religion or belief or age contrary to the Trust's Equal Opportunities Policy.
  - (v) Refusal to disclose any of the information required by the Trust or any other information that may have a bearing on the performance of the employee's duties;
  - (w) Giving false information as to qualifications or entitlement to work (including immigration status) in order to gain employment or other benefits;

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- (x) Knowingly taking parental, paternity or adoption leave when not eligible to do so or for a purpose other than supporting a child;
  - (y) Making a disclosure of false or misleading information under the Trust's Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith;
  - (z) Making untrue allegations in bad faith against a colleague;
  - (aa) Victimising a colleague who has raised concerns, made a complaint or given evidence or information under the Trust's Whistleblowing Policy, Anti-corruption and bribery policy, Anti-harassment and Bullying Policy, Grievance Procedure, Staff Disciplinary Policy or otherwise;
  - (bb) Serious misuse of the Trust's information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of e-mail and the internet) contrary to the Trust's ICT (Acceptable Use) Policy;
  - (cc) Undertaking unauthorised paid or unpaid employment during your working hours;
  - (dd) Unauthorised entry into an area of the premises to which access is prohibited.

This list is intended as a guide and is not exhaustive.