



3.5 Staff Discipline Policy

Where a concern or complaint process has found disciplinary matters to be addressed or where a serious matter of concern rises directly, the principal shall act clearly and fairly to reach a suitable resolution following the provisions of the relevant collective or individual contract. In order to make the general provisions relevant and transparent within the context of this school, the following is a guide to initiating and carrying out staff disciplinary procedures at Parnell District School.

PURPOSES:

1. To ensure the disciplinary action is initiated by the appropriate person.
2. To ensure the employee is clear as to what aspect of their performance or behaviour is causing concern and what changes are expected and the time frame allowed in which to change that performance.
3. To ensure disciplinary procedures are fair and correct
4. To ensure disciplinary procedures are known to all employees
5. To highlight the role of the Board as employer.
6. To ensure the employer carries out a full and fair investigation of the problem before carrying out any form of disciplinary action.
7. To ensure the employee is given every opportunity to provide an explanation at all stages and that those explanations are further investigated where appropriate.

GUIDELINES

1. Every attempt will be made by the Principal and Board of Trustees to resolve any issues involving staff informally, prior to their becoming major issues requiring "discipline".
2. In principle, a verbal warning will always precede a written warning which will precede disciplinary action.
3. The staff member will be advised in writing of the right to request representation at any stage.
4. The staff member will be advised as to the matter(s) causing concern, the corrective action required to amend their behaviour, conduct, non-adherence to school policies or standards of performance and the time frame allowed. This will usually be given verbally in the first instance and in written form if it proceeds to the next stage.
Even at this verbal stage, a written record is to be given to the employee stating that this is a verbal warning.
5. The staff member will always be given an appropriate time to respond to the Principal's evaluation of the situation and that response will be considered before proceeding to the next stage through the three stage process (listed in 2 above).
This response might lead to further investigation when necessary.
6. The Principal is to have another member of the management team or an advisor present throughout this process.

7. All documentation as to the process and any disciplinary action are to be recorded, sighted and signed by the employee, the Principal and the Principal's witness and placed on the employee's personal file.
8. **Final Action**
 - The Principal will make a recommendation to the Board of Trustees.
 - The Principal is to remove him/herself from the final decision. This fact and a record of the Board's final discussions are to be accurately minuted.
9. The Board of Trustees will hold professional liability insurance at all times and the insurer will be notified immediately should any actual or probable claim against the Board be lodged.
10. The Board of Trustees and Principal will call upon the advice of the NZSTA and/ or NZEI and/or other appropriate unions throughout this process.
11. Nothing in this policy prevents summary dismissal without notice in the case of serious misconduct. Prior to such a decision for dismissal the employee will be suspended on full pay, and in such cases an unprejudiced investigation will be carried out and the employee given the opportunity to answer any allegations or results of any investigation.
12. The Principal and Board of Trustees, working together will decide whether it is appropriate, and if so, at what stage of proceedings, to invoke the "suspension" provisions of the employees' collective contract.
13. Excepting in cases against the Principal him/herself which will be initiated by the Board of Trustees Chairperson, all provisions up to final action stage will be the responsibility of, and initiated by, the Principal, who in turn will consult with, and keep informed, the Board of Trustees personnel sub-committee. The Board as a whole will be informed simply that there is a concern about a particular employee and that the Principal and personnel sub-committee are carrying out the necessary investigation along with any recommendations will be given to the Board in due course.
14. At no time during the investigative/improvement process is the Principal, any other senior staff member, or any member of the Board of Trustees to suggest to the staff member any change to their employment status as this might lead to an accusation of constructive dismissal later in proceedings. However, if a case for discipline is found against the employee, such action may be negotiated with the employee and the employee's representative.
15. At the stage at which the Principal presents his/her findings to the Board with a recommendation to terminate employment (or other recommendation) the employee will be invited to attend, will be given any written material put before the Board and will be given a final opportunity to respond.
16. The Employment Contracts Act requires the employer to provide, at the request of the employee, a written statement of the reasons for dismissal (section 38). This statement must be provided within 14 days of the receipt of the request.
17. Failure to provide the reason for dismissal, whether requested or not, or failure to provide the correct reason, may jeopardise an employer's position in the course of any ensuing personal grievance proceedings.

18. If the disciplinary action is against the principal, the Board will undertake the same steps outlined above through a board sub-committee.

DEFINITION OF SERIOUS MISCONDUCT

- Physical, sexual or verbal abuse including fighting or assault.
- Repeated failure to carry out lawful instruction.
- Continued failure to comply with school 'bylaws', policies or agreed practices.
- Intentional misappropriation of school money or property.
- Being under the influence of alcohol during school hours
- Lying or falsification of information.
- Deliberately undermining Board policies or damaging the integrity of the school.
- Possession and/or consumption of illegal or non-prescription drugs on school premises.
- Any other action or lack of action not included above which is considered by school management or Board "serious" in the light of the circumstances at the time.
- Conduct of an indecent or sexual nature
- Bringing pornographic material to school or accessing the same using school equipment either at school or in other places.
- Using the internet or social media to bring the school into disrepute

CONFIDENTIALITY

1. There is an obligation of non-disclosure upon the Board but following a dismissal it may be appropriate to disclose certain information about the dismissal to reduce damage to the school, to the employee or to other employees. This should be done following consultation with the dismissed party and their advisors.
2. The Board will go "into committee" to discuss disciplinary matters and the contents of that discussion are confidential.

MANDATORY REPORTING

It is mandatory for employers to report immediately to the Education Council if they

- dismiss a teacher for any reason.
- a teacher resigns from a teaching position, if within the 12 months preceding the resignation the employer advised the teacher it was dissatisfied with, or intended to investigate, any aspect of the teacher's conduct or competence, or on the expiry of the teacher's fixed-term contract.
- a teacher ceases to be employed by the employer, and within the following 12 months the employer receives a complaint about the teacher's conduct or competence while he or she was an employee.
- the employer has reason to believe the teacher has engaged in serious misconduct
- the employer is satisfied that, despite completing competence procedures with the teacher, the teacher has not reached the required competence level.