

ABC KIDZ EDUCARE

Disciplinary And Grievance Policy and Agreement

Entered into between:

The Employer
ABC KIDZ EDUCARE

And

The Employee
(Employee's name and ID number)

1. Aims of the code

This code has been implemented to regulate conduct in the workplace. The primary aim of this code is to correct unacceptable behaviour rather than to discipline employees. For this reason, progressive discipline will be applied, except in instances of serious misconduct where dismissal is a possibility.

2. Method

This policy will be implemented and updated by Esme Olyn, Principal who will be assisted by staff members who play the appropriate role.

3. Guidelines

The sanctions contained in this code offer guidelines of how misconduct will be treated. Employees' attention is drawn to the fact that, depending on the severity of the misconduct and the circumstances surrounding it, a deviation from the indicated sanction may be appropriate and justified.

An example or two will suffice to illustrate the fact that the code offers guidelines only. The code makes provision for a verbal warning in the event of a first instance of sleeping in duty. However, the circumstances may warrant a different sanction if an employee is caught sleeping, such as in the case where a member of staff falls asleep in the playground and fails to ensure the children's safety, a verbal warning is not sufficient, and this misconduct may result in a final warning or a dismissal. Likewise, in cases of negligence the code provides for a written warning. However, gross negligence may result in a final warning or dismissal.

4. Application of the code

Related offences have been grouped into categories for easy reference and to indicate which type of offence will lead to progressive discipline. The categories are:

- Attendance related offences
- Offences related to the damage or loss of company property
- Safety related offences
- Violence related offences
- Offences related to alcohol, drugs, and other prohibited substances
- Offences related to theft
- Offences related to dishonesty and fraud
- Security related offences
- Offences related to disorderly behaviour
- Offences related to traffic rules and the use of company vehicles
- Offences related to unprotected or illegal industrial action
- Offences related to unsatisfactory work performance.

In each category several offences have been included, each indicating the sanction, which may follow in the event of a transgression. However, note should be taken that each offence in a category is related and the transgression of more than one offence in a particular category will lead to progressive discipline. The following may serve as an illustration.

If an employee has been guilty of reporting late for duty, he or she would have received a verbal warning. If this employee makes him- or herself guilty of sleeping on duty while the verbal warning for lateness is still valid, the second transgression, namely sleeping on duty, will result in a written warning and not a verbal warning as indicated in the code.

The reason for this is that the employee is guilty of a related offence in which case progressive discipline is applied.

Separate warnings or other sanctions will be applied for different categories of offences. However, if an employee has received several warnings for unrelated offences, in other words for offences from different categories, the warnings can be jointly considered to decide on an appropriate sanction should that employee be found guilty of another offence.

5. Sanctions:

The sanctions contained in this code range from verbal warnings to dismissal. Verbal and written warnings will be accompanied by counselling. In the event of dismissal being the appropriate sanction, management may consider suspension without pay as an alternative to dismissal. Whether dismissal will be substituted by suspension without pay will depend entirely upon the severity of the offence, the circumstances, and the service record of the employee.

An employee's immediate superior may issue verbal and written warnings. In all cases that may lead to a final written warning or a dismissal, a disciplinary hearing will be held. An employee, who is notified to attend a disciplinary hearing, has the right to be present at that hearing and to present his or her case. He or she may be assisted and represented by a co-employee. The employee further has the right to an interpreter, the right to call witnesses and the right to cross-examine witnesses called by management.

6. Incapacity and Poor Work Performance

The code regulates misconduct and does not include instances of incapacity and poor work performance, the reason being that incapacity or poor work performance is seldom the fault of the employee.

In the event of physical incapacity, the circumstances will be evaluated, and management will take all reasonable steps to assist an employee to improve his or her health in order to continue with employment. If the incapacity is of an unreasonable duration which results in lengthy absences or poor work performance and assistance from the company has achieved no or unsatisfactory results, termination of services may be considered. However, before such termination an employee will be given an opportunity in the form of a hearing to state his or her case. The employee has in this instance the same rights as he or she would have in the case of a disciplinary hearing.

Where an employee performs poorly, in other words, he or she does not meet the required standards of performance, management will investigate the circumstances. Training or a transfer to another position will be considered if it is reasonably possible. If poor performance persists even after training, assistance or other measures implemented by management, termination of services may be considered. Before such termination an employee will be given an opportunity in the form of a hearing to state his or her case. In this instance, the employee has the same rights as he or she would have in the case of a disciplinary hearing.

If an investigation into incapacity or poor work performance proves that an employee has been guilty of misconduct and that this misconduct is the cause of or an aggravating factor to the incapacity or poor work performance, such employee may be charged with misconduct and the appropriate sanction will be imposed.

Misconduct that leads to incapacity or poor work performance is considered serious misconduct and may invite a sanction of a final written warning or dismissal.

7. Knowledge of the code

It is the responsibility of every employee to familiarise him- or herself with the contents of the code and to ensure that the code is properly understood. Where an employee does not understand the code, and the consequences it incorporates, he or she must consult to management to obtain the necessary clarification.

To assist employees to familiarise themselves with the code, the company undertakes to do the following:

- Upon appointment of an employee, the code will be discussed and explained to him or her
- In the event of any amendments to the code, employees will be notified in advance by way of staff meetings and/or written notification
- Each member of staff will have a copy of the code
- At the request of an employee, a copy of the code will be supplied to him or her free of charge.

Disciplinary Procedures

1. Policy Regarding Discipline

Disciplinary action is any action instituted by management as a consequence of the unacceptable, intolerable, or unsatisfactory performance and/or behaviour of an employee.

The workforce is considered to be an important component of the company and the company shall thus endeavour to maintain and improve performance by its employees. For this reason, disciplinary action is regarded as a manner in which unacceptable or intolerable behaviour and/or unsatisfactory performance is or could be improved. Punishment will, therefore, be regarded as a last resort in the event of an employee not heeding corrective action.

In the interest of sound labour relations and labour peace, the company undertakes to maintain fairness and consistency when disciplinary action is taken.

2. Authority To Discipline

The authority to discipline an employee shall vest with the principal, subject to the provision that final written warnings, suspensions without pay and dismissals shall be handed by the principal with the right to appeal to the principal.

3. Disciplinary Procedures

To ensure that no doubt exists about disciplinary action that has been taken, all reprimands, warnings and other disciplinary steps shall be kept on the file of the employee concerned.

4. Disciplinary Steps

Disciplinary action to be taken shall depend on the offence committed and shall comprise one or more of the following:

- **Verbal Warning:**
A verbal warning shall be accompanied by counselling. A verbal warning may be issued in the event of any form of misconduct or poor performance contained in the Disciplinary Code for which a verbal warning is justified (category 3). The employer shall notify the employee of the possible consequence(s) in the event of a re-occurrence of the same or similar offence.
- **Written Warning:**
A written warning may be issued in the event of any form of misconduct or poor performance contained in the Disciplinary Code for which a written warning is justified (category 1, 2 and 3) and may be a first or second or final warning. The purpose of such warnings is to endeavour to improve the poor performance or incorrect/intolerable behaviour of an employee.

All written warnings shall be valid against the employee for a period of six months from the date of its issue and shall be kept on the employee's file. The first written warning is considered the first formal disciplinary step against an employee.

This warning serves to inform the employee of future disciplinary action that can and shall be taken against him or her in the event of him or her committing the same or a similar offence again. This warning is used for serious offences.

A second written warning follows the first written warning when the same or similar offence has been committed and is used for serious and less serious offences.

A third written warning follows the second written warning when the same or similar offence has been committed and is used for serious and less serious offence.

- **Final Written Warning:**

A final written warning is considered the last step in endeavouring to improve the performance/behaviour of an employee. A final written warning is justified for serious, and some very serious offences as contained in categories 1 and 2 of the Disciplinary Code, as well as in the event of less serious offences being committed repeatedly.

- **Suspension Without Pay:**

Suspension without pay as a form of discipline shall only be justified in circumstances that justify the dismissal of an employee, so that suspension without pay shall be adopted in lieu of dismissal.

The period of such suspension shall be at the discretion of management but shall not exceed a period of two weeks.

Before an employee may be suspended without pay, a disciplinary hearing shall be held, and the employee shall be counselled.

- **Dismissal without notice or summary dismissal:**

Summary dismissal shall only be justified if an employee is guilty of a material breach of contract, i.e., if the employee is guilty of a category 1 offence with a criminal element or if a final written warning is still operative against him or her for any other offence. That means an employee shall only be dismissed if the employer has a valid reason for such dismissal, provided that such dismissals shall also be fair in the circumstances.

Such dismissal shall take immediate effect and no remuneration shall be paid out in lieu of notice. Management may, however, at its discretion and if circumstances warrant it, decide on the termination of an employee's services with notice or payment in lieu of notice, provided that such notice or payment in lieu thereof shall not exceed a period of two weeks.

Before an employee may be dismissed a disciplinary hearing shall be held.

5. Disciplinary Hearings (Enquiries)

If further action is required after an employee has received a final written warning, or in the case of a Category 1 offence a disciplinary hearing shall be held as soon as possible after an offence has been committed.

The employee shall be notified of the charge against him or her, as well as the date and time of the hearing. The employee shall be entitled to call any fellow employee as a representative at the hearing. Furthermore, the employee shall be entitled to an interpreter if he or she so chooses, provide that he or she shall notify management in advance in order for the necessary arrangements to be made.

The manager shall act as presiding officer at the hearing. In the event of the latter being closely involved with the matter at hand, he or she shall act as prosecutor and another senior member of management shall act as presiding officer.

At the hearing both management and the employee shall have the right to testify, produce evidence of whatever nature, call witnesses and cross-examine the other party and his or her witnesses.

Before a final decision is reached, management shall afford the employee an opportunity to prove mitigating circumstances, after which said employee's record and any other relevant information shall be taken into consideration.

The particulars of the hearing and the decision shall be recorded.

The employee shall be notified of her or her right to appeal against the decision taken at the hearing if such decision is a final warning, suspension without pay or dismissal.

6. Appeal

After the employee has been notified of his or her right to appeal at the disciplinary hearing, he or she has five working days in which to appeal against the decision taken at said hearing.

The employee shall appeal in writing on the prescribed form and shall state the grounds for his or her appeal.

The Appeal Hearing shall be chaired by an Attorney or any other person from management, other than the person who acted as Presiding Officer at the Disciplinary Hearing.

At the appeal hearing the employee shall have the same rights as the disciplinary hearing.

The proceedings of the appeal shall be recorded.

This policy was adopted on 27 December 2019. At Braamfontein and is in full force and effect at ABC Kidz Educare. Where necessary all the parents have been informed of this policy. All our employees have a good understanding of the contents of this policy and if at any time any of the clauses in this policy are contravened, normal disciplinary sanctions, as per the Basic Conditions of Employment Act, will be taken.

Name and Signature 1:

Name and Signature 2:

Name and Signature 3:

Name and Signature 4: