



GRIFFITH COLLEGE

DISCIPLINARY PROCEDURE

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1 POLICY STATEMENT

Griffith College takes the view that in the vast majority of cases individual commitment and performance will be consistent with achieving College objectives. Should difficulties arise the College is committed to their resolution in an open, fair, frank and timely manner. The purpose of the disciplinary policy and procedure is to help and encourage everyone to achieve and maintain the required standards of conduct, attendance and job performance. The following procedure will be applied in a fair and reasonable manner with due regard to the rights and responsibilities of the parties concerned.

2 GENERAL PROVISIONS

2.1 This policy applies to all staff members who have successfully completed their probationary/assessment period

2.2 The College will deal with matters of discipline in a manner that protects the dignity of the staff member and in accordance with the principles of natural justice and relevant legislation

2.3 The HR Department will provide advice on the approach to take in questions of discipline to ensure consistency and fairness is maintained throughout the College

2.4 The manager is, in the first instance, responsible for making staff members aware of the standards expected of them and for dealing with shortcomings promptly and fairly

2.5 All allegations will be fully investigated prior to any sanction being determined, although in the case of a serious nature a staff member may be suspended to facilitate the investigation and disciplinary process.

2.6 While the disciplinary procedure will normally be operated on a progressive basis from Stage I to Stage IV, as outlined below, the College reserves the right to commence disciplinary action at the stage of the procedure most appropriate to the severity of the matter at hand. The staff member's manager and/or other managers nominated by the College will conduct the disciplinary process with the assistance of the HR Department. While a member of the HR Department may participate in the disciplinary process and may chair a disciplinary meeting in to facilitate the disciplinary process, that member of the HR department will not be a decision maker.

2.7 Before the start of any stage in the procedure, the staff member will be told of the nature of the complaint and will be given copies of any relevant documentation including any complaints and witness statements. The staff member will have the right to consider these allegations and have a right to reply. All staff members will be afforded the right to attend such meetings accompanied by a



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colleague if they wish. The staff member participating in the formal process shall be entitled to cross examine other parties and any witnesses.

2.8 A staff member has the right to appeal against any disciplinary action imposed within five working days of the date of correspondence regarding such decisions.

2.9 Behaviour that may warrant disciplinary action includes, but is not limited to:

- Persistent poor timekeeping
- Contravention of Health and Safety regulations
- Stealing, dishonesty, fraud
- Destroying or damaging property
- Falsifying records
- Obtaining time off under false pretences
- Breach of any College policy
- Incapacity, incompetence or poor work performance
- Failure to carry out reasonable instruction
- Breaches by a staff member of the staff member's duties of trust, fidelity or confidentiality
- Failure to maintain a harmonious working relationship with fellow staff members
- Undermining the harmonious working relationships with other staff members through intemperate behaviour in deed or word
- Refusing to attend meetings with fellow staff members which are necessary for the proper or efficient conduct of the College business
- Wilful abuse of the College Grievance Procedure in making vexatious or malicious complaints
- Assaulting, threatening, intimidating or harassing a fellow staff member
- Reporting for work under the influence of drugs or alcohol so that, in the opinion of the staff member's Line Manager, the staff member is unfit for work
- Being in possession of drugs or alcohol on campus, whether such drugs or alcohol are for use, or for distribution, or for sale to others
- Engaging in immoral or indecent acts while on College time or premises
- Failure to maintain an acceptable quality or quantity of work
- Unacceptable personal use of College equipment such as Internet, phones, faxes, photocopiers, computer hardware, computer software etc
- Some other substantial reason



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2.10 While the College will endeavour to conduct the relevant process within the timeframes or periods referred to in this policy or other timeframes or periods that are discussed and agreed by the parties, those timeframes or periods may need to change depending on, among other things, the complexity of the matter, the timely participation by the parties in the process, the availability of witnesses, the availability of third parties including a mediator or the input of any expert, professional, adviser or other external person that may be required.

2.11 Confidentiality must be observed in matters connected with any allegations, investigation, informal process, mediation, formal process and their respective outcomes in so far as practical. The processes being followed under this policy are confidential internal College processes and for those participants who are employees of the College, the confidentiality obligations contained in their respective Contracts of Employment and the College's Confidentiality Policy shall apply. Participants who are not staff members or otherwise subject to the College's Confidentiality Policy, including representatives, may be required to agree to be bound by a confidentiality agreement in order to protect the confidentiality of the relevant process. If the College is not reasonably satisfied that confidentiality will be maintained by a representative, the College may request that another person be appointed as a representative. This confidentiality extends after conclusion of an informal process, mediation, investigation or formal process. Any persons found to be in breach of confidentiality will be dealt with through this procedure.

2.12 As part of the informal process or the formal processes described below, a manager may prepare, in consultation with the staff member, a written performance improvement plan that the staff member will be required to comply with. Their performance will be further reviewed by reference to, among other things, the requirements of that plan.

3 PRE-PROCEDURE

The HR Manager will provide advice on the approach to take in questions of discipline to ensure consistency and fairness is maintained throughout the College.

PRE-PROCEDURE - Informal Counselling

This is an informal stage where the manager deals with deficiencies in standards of conduct or attendance or job performance through discussion, counselling and appropriate assistance.

The line manager will meet with the staff member to:

- Give them precise details of the specific areas of concern



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- Explain what is expected of the staff member
- Give the staff member an opportunity to respond
- Provide appropriate support to the staff member
- Advise the staff member that failure to meet these standards in the future will lead to disciplinary action
- Set an appropriate time frame for review
- Set mechanisms in place to achieve this review

The Informal Counselling Form (Appendix I) must be completed. This gives details of the counselling interview and any follow up action agreed and is signed by the staff member and the line manager.

Where the conduct complained of consists of refusal by the person complained of to attend meetings with that person's line manager the line manager may proceed directly to the formal disciplinary procedure without informal counselling.

The College (acting through the HR Department) may at its discretion (acting reasonably) determine that it is more appropriate for an internal or external mediator be appointed to seek to resolve the issues giving rise to the alleged misconduct.

4 PROCEDURE

If the staff member fails, or continues to fail, to meet the required standards then the formal disciplinary procedure described below may be invoked. As part of this procedure, an investigation pursuant to Section 7, Section 8 or Section 9 may take place prior to a disciplinary hearing.

A disciplinary hearing (which may be preceded by an investigation process) may be convened at which the complaint will be put to the staff member who will be given an opportunity to respond and at which all evidence including the staff member's response will be considered. Staff members' rights must be upheld at each stage of the disciplinary process.

At the commencement of the hearing the staff member will first be asked that they understand their rights as set out in Appendix II, in the form of questions, for this purpose being set out in Appendix III.



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Stage I - Verbal Warning

A disciplinary hearing will be convened at which the complaint will be put to the staff member who will be given an opportunity to respond and at which all evidence including the staff member's response will be considered.

At the commencement of the hearing the staff member will be advised of their rights and such advice recorded in accordance with Appendix III. It may be necessary to adjourn the meeting to afford the staff member a full opportunity to exercise their rights.

A member of the HR Department will also attend the meeting and will take notes.

The staff member's manager or another manager (as appropriate to ensure fairness and impartiality) will meet with the staff member to:

- Outline the specific area of difficulty
- Hear the response of the staff member
- Adjourn the meeting to consider the response of the staff member
- Reconvene the meeting and if appropriate advise the staff member that they are being issued with a verbal warning
- Advise clearly what is expected of the staff member in future to remedy the deficiencies in standards of conduct, or attendance or performance
- Set an appropriate time frame for review
- Set mechanisms in place to achieve this review
- Advise the staff member that the warning constitutes the first stage of the disciplinary procedure and failure to improve may result in further disciplinary action under Stage II of the disciplinary procedure and that further breaches may lead to cumulative disciplinary action.

The HR Department will prepare the written communication to be sent to the staff member by the manager. A copy will be filed in the staff member's HR file.

The College will endeavour to complete the process within 4 weeks unless an investigation is requiring in which case the College will endeavour to complete the process within 12 weeks.

The record of a verbal warning shall be removed from the HR file after 6 months in the event that the staff member has not been the subject of any further disciplinary action (whether or not the processes provided for in this procedure have been completed).



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Stage II – Written Warning

This stage applies if the staff member fails to make the necessary improvements or if the nature of the unsatisfactory performance or conduct is more serious.

A disciplinary hearing will be convened at which the complaint will be put to the staff member who will be given an opportunity to respond and at which all evidence including the staff member's response will be considered.

At the commencement of the hearing the staff member will be advised of their rights and such advice recorded in accordance with Appendix III.

The staff member's manager or another manager (as appropriate to ensure fairness and impartiality) and a member of the HR Department will meet with the staff member to:

- Advise them of their continued failure to meet the required standard or a new offence has occurred
- Hear the response of the staff member
- Adjourn the meeting to consider the response of the staff member
- Reconvene the meeting and if appropriate advise the staff member that they are being issued with a written warning which gives details of the complaint, the improvements required and the timescale for improvement.
- Advise the staff member that the warning constitutes Stage II of the disciplinary procedure and failure to improve may result in further disciplinary action under Stage III of the disciplinary procedure.

The record of the meeting will be filed in the staff member's HR file.

The HR Department will prepare the communication to be sent to the staff member by the manager. A copy will be filed in the staff member's HR file.

The College will endeavour to complete the process within 4 weeks unless an investigation is required in which case the College will endeavour to complete the process within 12 weeks.

The record of a written warning shall be removed from the HR file after 12 months in the event that the staff member has not been the subject of any further disciplinary action (whether or not the processes provided for in this policy have been completed).



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Stage III - Final Written Warning

Stage III applies if the staff member continues to fail to meet the required standards.

A disciplinary hearing will be convened at which the complaint will be put to the staff member who will be given an opportunity to respond and at which all evidence including the staff member's response will be considered.

At the commencement of the hearing the staff member will be advised of their rights and such advice recorded in accordance with Appendix III.

The staff member's manager or another manager (as appropriate to ensure fairness and impartiality) and a member of the HR Department will meet with the staff member to:

- Advise them that having gone through Stages I and II, they have still not met the required standards or improvements
- Hear the response of the staff member
- Adjourn the meeting to consider the response of the staff member
- Reconvene the meeting and if appropriate advise the staff member that they are being issued with a final written warning which gives details of the complaint, the improvements required and the timescale for improvement.
- Advise the staff member that failure to improve may lead to dismissal or some other sanction short of dismissal under stage IV of the disciplinary procedure.
- Set an appropriate time frame for review
- Set mechanisms in place to achieve this review
- Further breaches may lead to cumulative disciplinary action

The record of the meeting will be filed in the staff member's HR file.

The HR Department will prepare the communication to be sent to the staff member by the manager and a copy will be filed in the staff member's HR file.

The College will endeavour to complete the process within 4 weeks unless an investigation is required in which case the College will endeavour to complete the process within 12 weeks.

The record of a final written warning shall be removed from the HR file after 18 months in the event that the staff member has not been the subject of any further disciplinary action (whether or not the processes provided for in this policy have been completed).



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Stage IV – Dismissal or Action short of Dismissal

Stage IV applies if the staff member continues to fail to meet the required standards.

Due to their serious nature and the fact that lesser sanctions may not be appropriate, Stage IV may also be applied by the College, at its discretion, where Serious Misconduct as outlined in Section 6 is alleged to have taken place or has been found to have taken place following an investigation. A disciplinary hearing will be convened at which the complaint will be put to the staff member who will be given an opportunity to respond and at which all evidence including the staff member's response will be considered.

At the commencement of the hearing the staff member will be advised of their rights and such advice recorded in accordance with Appendix III.

At Stage IV of the process, the disciplinary hearing will be conducted by (i) the staff member's manager and/or another manager (as appropriate to ensure fairness and impartiality) and (ii) a member of the College's Management Board or another senior manager designated by the Management Board.

The applicable manager(s) and a member of the HR Department will meet with the staff member to:

- Advise them that having gone through Stages I, II, and III they have still not met the required standards or improvements or advise them that it has been alleged, or determined that, they have committed serious misconduct.
- Hear the response of the staff member
- Adjourn the meeting to consider the response of the staff member
- If necessary, carry out, or procure that there is carried out, an investigation
- If necessary, meet with the staff member again and/or any witnesses
- Reconvene the meeting and if appropriate advise the staff member that he/she is being dismissed or impose some other sanction short of dismissal under stage IV of the disciplinary procedure.

Sanctions short of dismissal may include suspension without pay, transfer to another task or department or demotion.

A decision to dismiss a staff member or to impose a disciplinary sanction short of dismissal must be approved by both managers who are conducting the disciplinary process. Written notification of the dismissal, which will be signed by a member of the Management Board or the designated senior manager, will be issued to the staff member.



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5 APPEALS

5.1 The staff member may appeal any stage of the procedure to a level of management higher than the original decision maker. The written appeal, stating the grounds for the appeal must be received within five working days of the date of receipt correspondence regarding the decision which shall be deemed to be two working days after the date of the relevant correspondence.

5.2 In the event of an appeal being against dismissal and the appeal failing, the effective date of termination shall be the date on which the staff member was originally dismissed.

6 EXAMPLES OF SERIOUS MISCONDUCT

The following are some examples of serious misconduct which will be dealt with from the outset under Stage IV

- Theft, unauthorised removal or possession of College property
- Deliberate damage to property
- Fraud or deliberate falsification of documents / records
- Gross negligence or dereliction of duties
- Failure to maintain harmonious working relationships with fellow staff members
- Undermining harmonious working relationships with other staff members through intemperate behaviour in deed or word
- Refusing to attend meetings with fellow staff members which are necessary for the proper or efficient conduct of the College business
- Wilful abuse of the College Grievance Procedure in making vexatious or malicious complaints
- Incapacity to perform duties due to being under the influence of alcohol, un-prescribed drugs, misuse of prescribed medication or other substance
- Gross insubordination
- Serious breach of health and safety rules
- A complaint of bullying, sexual harassment, or harassment is upheld
- Discrimination against staff members, learners or anyone associated with the College
- Serious breaches by a staff member of the staff member's duties of trust and fidelity to the employer
- Breaches of confidentiality and/or unauthorised destruction, disclosure of College business/information



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- Computer fraud or sabotage
- Serious abuse of phone, e-mail, internet and other facilities
- Downloading/disseminating pornographic material
- Circulating offensive, obscene or indecent e-mails or text messages
- Corrupt or improper practice, e.g. using official position for personal/other gains
- Prolonged absence without notification
- Criminal offences committed within College employment
- Bringing the College into disrepute

Note:

Where a criminal act has taken place, the College reserves the right to inform the Gardaí.

The College may conduct its own investigation independent of the Garda investigation.

7 PROCEDURE FOR SERIOUS MISCONDUCT - INVESTIGATION

In all cases of alleged serious misconduct, a full investigation will be carried out to establish the facts in accordance with the following principles:

7.1 The staff member may be suspended pending the outcome of the investigation. This is not a disciplinary sanction.

7.2 The investigation will be conducted as speedily as possible.

7.3 The investigation will be carried out in accordance with the terms of reference and in accordance with the principles of natural justice, including a presumption of innocence.

7.4 Every effort will be made to carry out the investigation without undue delay and to adhere to the agreed timescales. The College will endeavour to complete the investigation process within 8 weeks. However, this timescale may be extended in exceptional circumstances e.g. due to the unavailability of key witnesses.

7.5 The investigation team will have the necessary expertise to investigate impartially.



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7.6 Confidentiality will be maintained throughout the investigation to the greatest extent consistent with the requirements of a fair investigation. It is not possible however to guarantee the anonymity of the complainant or any person who participates in the investigation.

7.7 A written record will be kept by the HR Department of all meetings and treated in the strictest confidence.

7.8 The investigation team may interview any person who they feel can assist with the investigation. All staff members are obliged to co-operate fully with the investigation process.

7.9 Staff members who participate in the investigation process will be required to respect the privacy of the parties involved by refraining from discussing the matter with other work colleagues or persons outside the organisation.

7.10 It will be considered a disciplinary offence to intimidate or exert pressure on any person who may be required to attend as a witness or to attempt to obstruct the investigation process in any way.

8 CONDUCTING AN INVESTIGATION

8.1 The investigation will be conducted by person(s) nominated by senior management

8.2 The investigation will be governed by predetermined terms of reference based on the alleged misconduct (which will be set out in writing) and any other matters relevant to the allegation.

8.3 The terms of reference shall specify, among other things, the following:

- The timescale within which the investigation will be completed;
- The scope of the investigation process.
- Whether the outcome of the investigation process will be confined to (i) the determination of facts or (ii) the determination of facts together with recommendations to senior management and/or (iii) other outcomes.

8.4 The staff member against whom the allegation is made will be advised of the right to representation and given copies of all documentation prior to and during the investigation process, e.g.

- Details of alleged misconduct
- Witness statements (if any)
- Minutes of any interviews held with witnesses



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- Any other evidence of relevance

The staff member against whom the complaint is made has the right to challenge evidence and examine witnesses if so desired.

8.5 The investigation team will interview any witnesses and other relevant persons. Confidentiality will be maintained as far as practicable.

8.6 Persons may be required to attend further meetings to respond to new evidence or provide clarification on any of the issues raised.

8.7 The investigation team will form preliminary conclusions in a draft investigation report based on the evidence gathered in the course of the investigation and invite the staff member affected by these conclusions to provide additional information or challenge any aspect of the evidence or the draft investigation report. A further meeting with the investigation team may take place for this purpose. The staff member will be given an opportunity to request such a meeting.

8.8 On completion of the investigation and having given the staff member an opportunity to provide further information, challenge the preliminary conclusions or the report and meet with the investigation team, the investigation team will form its final conclusions based on the balance of probabilities and submit a written report of its findings to senior management together with any recommendations (if applicable).

8.9 The staff member against whom the allegation is made will be given a copy of the final investigation report.

8.10 On completion of the investigation, the investigation team will submit the final investigation report in accordance with its terms of reference to senior management or the decision maker (as applicable).

8.11 No decision regarding disciplinary action or a disciplinary sanction (as applicable) should be made until senior management or the decision maker (as applicable) has held a hearing with the staff member concerned relating to the final investigation report. Unless agreed with the staff member, a decision relating to the final investigation report and the matters discussed at that hearing will not be made at that hearing. A further disciplinary hearing or hearings (if applicable) will be convened for this purpose.

8.12 The College reserves the right to tailor the procedures referred to in Section 3 and Section 4 above to reflect the fact that an investigation has been carried out and that the staff member



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concerned will have been given an opportunity to participate in the investigation process as described above.

9 OTHER INVESTIGATIONS

The College reserves the right to conduct an investigation in accordance with Section 7 and Section 8 in cases where the alleged misconduct does not amount to Serious Misconduct where, in the reasonable opinion of the HR Department, either an investigation is warranted or the alleged misconduct could only be determined following the completion of an investigation process.

10 REVIEW OF POLICY

The College reserves the right to review, update, amend, replace or delete this policy. The policy will be reviewed on an ongoing basis and it is the responsibility of each staff member to ensure that they keep themselves up to date.



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Appendix I

INFORMAL COUNSELLING FORM

FORM TO BE COMPLETED BY THE MANAGER AND STAFF MEMBER

	YES	NO
I confirm that:		
I was given the precise details of the specific areas of concern:		
It was explained to me what changes in my conduct, attendance or performance are expected in the future:		
I was given an opportunity to respond:		
I have been provided with appropriate support:		
I have been advised that failure to meet these standards in the future will lead to disciplinary action:		

Agreed actions to be taken:

Signed: _____
Staff member

Signed: _____
on behalf of Griffith College

Date of meeting: _____

This form to be retained by the manager



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Appendix II

Staff member Rights at a Disciplinary Hearing and Appeal Hearing

1 A staff member who is the subject of disciplinary proceedings is entitled prior to the disciplinary hearing, to a clear statement of the alleged misconduct.

2 A staff member who is the subject of disciplinary proceedings or who has requested an appeal hearing has in relation to the hearing to be convened for the purpose of adjudicating the complaint or appeal, the right to attend, to have a work colleague or other representative attend with them, to request sight prior to the meeting of evidence to be presented at the relevant hearing, to hear and see the evidence presented, to challenge the evidence on cross-examination and to present their own evidence.

3 A representative at a hearing may be a staff member, a relative, or close friend. It is the College's policy to only permit legal or other similar representatives (at the cost of the staff member) in exceptional circumstances.

4 The role of the representative is to support the staff member but not speak on their behalf.

5 A staff member who chooses the right not to have a work colleague or other representative attend with them shall be requested at the hearing to confirm in writing that they have been informed of their right of representation and has declined to exercise it.

6 The staff member has the right to appeal the decision.

7 If a staff member refuses to attend, or be represented at the hearing, the hearing shall proceed in the absence of the staff member. In the event that the staff member is willing, but unable, to attend a hearing, in exceptional circumstances (as determined by the College), a representative may attend on the staff member's behalf with the power to exercise the above rights.



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Appendix III

THIS FORM MUST TO BE COMPLETED PRIOR TO EACH MEETING

At each meeting the staff member will be asked the following questions. If the answer is ‘yes’ to all questions the matter can be then addressed. If the answer is ‘no’ - the meeting may need to be adjourned.

	YES	NO
1. I understand clearly the complaint being made of me		
<i>If the answer is no adjourn the meeting to allow them an opportunity to view and hear the evidence</i>		
2. I have seen the evidence prior to the hearing		
<i>If the answer is no adjourn the meeting to allow them an opportunity to view and hear the evidence</i>		
3. I understand that I have a right to see and hear all of the evidence against me		
<i>If the answer is no adjourn the meeting to allow them an opportunity to view and hear the evidence</i>		
4. I understand that I may cross examine witnesses		
<i>If the answer is no adjourn the meeting to allow them an opportunity to mount a defence</i>		
5. I have a copy of the Griffith College Disciplinary Procedure		
<i>If the answer is no adjourn the meeting to allow them an opportunity to read the policy</i>		
6. I understand I have a right to be accompanied at this meeting		
<i>If the answer is no adjourn the meeting to allow them an opportunity to arrange representation</i>		



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7. I am aware that I have the right to appeal the decision made following this meeting				
Comments:				

	I	II	III	IV
Indicate which stage of the Disciplinary Procedure:				

Signed: _____
Staff member

Signed: _____
on behalf of Griffith College

Date of meeting: _____



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Appendix IV

Date of meeting	
In attendance	
I have been informed of my right of representation at the disciplinary hearing on the date above, and have exercised it / declined to exercise it. <i>(Delete as appropriate)</i>	
Signature	