

HIGHVIEW COLLEGE STAFF PERFORMANCE MANAGEMENT, MISCONDUCT & DISCIPLINARY ACTION POLICY



Person Responsible – Board

(Ratified Annually)

Developed by	Lawyers, Clayton Utz	2013
Updated by	Principal, Melinda Scash	2016 / 2018
Review and Ratification by	The Highview College Board (Pending)	20 March 2019

Statement of Context and Purpose

Employees of Highview College are expected to meet appropriate conduct and performance standards and comply with Highview College's policy and requirements. Highview College is committed to addressing circumstances in which employees are not performing in accordance with organisational expectations, and to addressing circumstances in which an employee's conduct is inappropriate or unacceptable. Highview College's policies provide guidance for employees about the standard of performance and conduct they are expected to meet.

Highview College is committed to providing consistency in the procedures adopted to deal with any issues of performance and conduct. Highview College will ensure that all situations are handled professionally and in an appropriate manner.

This policy is designed to assist in ensuring employees of Highview College work in an environment which is safe, respectful and highly regarded. The disciplinary procedure aims to improve an employee's performance and / or conduct through enabling the employee to remedy deficiencies in performance and / or conduct.

Application

This policy applies to the Board, Principal and all the employees of Highview College.

Reference Points / Background Papers

- Board Delegated Authorities Policy
- Staff Wellbeing Policy
- Privacy Policy
- ICT Policy
- Grievance Resolution Policy
- Occupational Health & Safety Policy
- Staff Bullying, Harassment, Sexual Harassment and Discrimination Prevention Policy

Unsatisfactory Performance Explained

Unsatisfactory performance or misconduct may result in disciplinary action and an employee's employment being terminated, but the principal aim of the procedure is to try to rectify the unsatisfactory performance or avoid misconduct re-occurring.

Unsatisfactory performance occurs where an employee cannot or does not meet the required performance standard in accordance with organisational expectations for the job in which they are employed. Unsatisfactory performance can include, but is not limited to:

- inefficiency or neglect of duties and / or responsibilities
- failure to properly fulfil duties and / or responsibilities
- unauthorized absenteeism
- repeated lateness, or
- non-compliance with Highview College's policies or procedures

Misconduct Explained

Misconduct occurs when an employee engages in conduct that breaches or is inconsistent with the employee's employment obligations, applicable law and / or Highview College's policies or procedures. Misconduct can include, but is not limited to:

- harassment or discrimination
- bullying, verbally or physically abusing or threatening another employee, or other person in the workplace
- inappropriately disclosing information related to Highview College, students, parents, employees, contractors and other people associated with the school
- inappropriately dealing with property or equipment, and
- minor breaches of health and safety practices or procedures or any action which endangers the health or safety of the employee or others

Serious Misconduct Explained

Serious Misconduct is misconduct that is sufficiently serious as to warrant the termination of the employee's employment without notice and includes, but is not limited to:

- dishonesty
- disobeying a reasonable and lawful direction
- sexual harassment or discrimination
- any kind of physical assault, threatened or actual
- theft
- misappropriation or abuse of property, including electronic or intellectual property or wilful damage to property
- serious breaches of health and safety practices or procedures or any action which endangers the health or safety of the employee or others
- falsification or misrepresentation of qualifications or experience, or
- criminal activity while at work or performing duties

- criminal activity outside of work where such activity is inconsistent with the employee's contract of employment
- serious breaches of confidentiality
- other serious breaches of employment obligations, and
- repeated misconduct

Performance Management and Disciplinary Action

The purpose of counselling and disciplinary action is to ensure that the employee is aware of the standards and expectations required, that they are presently not meeting those standards and to assist and encourage them to improve to act in a manner and perform their duties in a manner that is satisfactory and appropriately contributes to Highview College. The processes are therefore directed at the employee being provided with the opportunity to improve, whilst noting that if improvement does not occur, then further disciplinary consequences may arise. Discipline refers to a formal action or procedure, up to and including potential termination of employment, undertaken by a manager to address or respond to an employee's unsatisfactory performance or misconduct.

Where an employee does not meet expectations in relation to performance and / or conduct, they may be counselled and disciplined in accordance with this policy and procedure. Highview College will determine, in its sole discretion, whether the performance and / or conduct of an employee warrants disciplinary action. Most often, employee conduct that warrants discipline results from misconduct and / or unsatisfactory performance.

Employees should be aware that disciplinary action can be taken in relation to their conduct that occurs outside of work hours or outside of Highview College premises where there is a relevant connection with the employee's employment with Highview College. This can include, at work-related functions, events or activities.

Disciplinary Procedure

The Principal will be briefed before any formal action is taken in relation to an employee's conduct or performance. The disciplinary process followed in each case will vary depending on the circumstances and will be at the discretion of Highview College. The following procedure is intended as a general guide:

Caution

Highview College will advise the employee, as to the nature of the unsatisfactory performance or misconduct and the standards required of someone in their position. Highview College will explain to the employee that he or she must remedy the misconduct or poor performance within a certain timeframe. Employees will be provided with support to meet the requisite standards. A failure to remedy the misconduct or poor performance will most likely result in a written warning.

A caution is appropriate where:

- the unsatisfactory performance and / or misconduct is minor, or
- where there is an expectation that alerting the employee to the problem will result in satisfactory improvement

Written warning

Highview College will advise the employee in writing, as to the nature of the unsatisfactory performance or misconduct and the standards required of someone in their position. Highview College will explain to the employee that he or she must remedy the misconduct or poor performance within a certain timeframe. A failure to remedy the misconduct or poor performance will most likely result in a final written warning.

A written warning is appropriate where:

- the employee does not satisfactorily remedy the misconduct or poor performance that was the subject of a caution
- the employee's performance and / or conduct declines further after being issued with a caution, or
- the employee engages in other misconduct or poor performance within a reasonable period after being issued with a caution

A written warning may also be appropriate where the employee's unsatisfactory performance and / or conduct is more serious than that appropriate to a caution.

Final written warning

Highview College will advise the employee in writing, as to the nature of the unsatisfactory performance or misconduct and the standards required of someone in their position. Highview College will explain to the employee that he or she must remedy the misconduct or poor performance within a certain timeframe. A failure to remedy the misconduct or poor performance will most likely result in a termination of employment.

A final written warning is appropriate where:

- the employee does not satisfactorily remedy the misconduct or poor performance that was the subject of a caution and / or written warning
- the employee's performance and / or conduct declines further after being issued with a caution and / or written warning
- the employee engages in other misconduct or poor performance within a reasonable period after being issued with a caution and / or written warning

A final written warning may also be appropriate where the employee's unsatisfactory performance and / or conduct is more serious than that appropriate to a caution or written warning.

Termination of employment

Highview College will usually give the employee an opportunity to respond to the allegations prior to the final decision to terminate their employment being made.

In the event that an employee's employment is terminated, the employee will be given notice of the termination of their employment (or payment in lieu), in accordance with the applicable award (if any), agreement (if any) or his or her contract of employment.

Employees should be aware that in cases of serious misconduct the employee will not be entitled to any such notice and may be terminated summarily.

Any accrued and untaken entitlements payable on termination of employment will also be paid out to the employee on termination of their employment.

Where Highview College considers that the employee's conduct amounts to serious misconduct, it may bypass any of the disciplinary actions set out above and move immediately to termination of employment.

Power to Suspend on Full Pay

At the discretion of Highview College, an employee may be suspended on full pay, effective immediately, pending the outcome of an investigation. An employee may be suspended on full pay to allow Highview College to conduct a full investigation and suspension does not constitute disciplinary action.

Unless directed otherwise, during the period of suspension, an employee:

- may be directed not to attend Highview College's premises
- may be directed not to have any contact with anyone from Highview College including via email, telephone or physical contact
- must continue to act in the best interests of Highview College
- must co-operate fully in the investigation procedure

Failure to comply with any of the above requirements may itself result in disciplinary action, including, but not limited to, termination of employment.

Consequences for Breach

This policy is a best practice procedure and does not create any binding obligations or rights.

Implications for Practice

At Board / Principal Level

To properly implement this policy, Highview College, the Board and/or the Principal must ensure:

- that this policy is endorsed every two years

- that copies of this policy are made available to employees on the Highview College website
- that this policy is incorporated into the Board's / Principal's record of current policies
- that this policy is incorporated into Highview College's induction program, to ensure that all employees are aware of the policy, have read and understood the policy, and acknowledge their commitment to comply with the policy

At Other Levels

To properly implement this policy, all Highview College's employees must ensure:

- that they will abide by this policy and assist Highview College in the implementation of this policy
- that they support and encourage each other to improve and meet the requirements of their employment