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*Cork Education and  
Training Board*

<b>Document:</b>	<b>Disciplinary Procedure for College Adult Learner</b>
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# Disciplinary Procedure for College Adult Learners

## Purpose

The purpose of this procedure is to serve a dual purpose in that it provides a framework, which enables teaching staff and College Management, to maintain satisfactory standards in work and conduct, while providing Learners access to a procedure whereby alleged failures to comply with standards may be fairly and sensitively addressed.

## Scope/to whom it applies

This procedure applies to all learners registered with the College.

## General Principles

Matters of discipline shall be dealt in accordance with the general principles of natural justice and fairness and in a manner that protects the dignity of the Learner concerned. In this regard, the following principles shall apply:

- Every effort will be made by all parties to resolve issues at the informal stage.
- Details of any allegations or complaints are put to the Learner concerned.
- The Learner will be advised in writing, in advance of a disciplinary meeting, of the precise nature of the matters concerned and will be given copies of all relevant documentation.
- The Learner concerned is given the opportunity to respond fully to any such allegations or complaints.
- That the Learner concerned has the right to examine and challenge all evidence available and to call witnesses on his/her behalf if required.
- The Learner concerned is given the opportunity to be accompanied during the procedure by a class representative or a fellow student.
- The Learner concerned has the right to a fair and impartial determination of the issues concerned, taking into account any other relevant or appropriate evidence, factors, or circumstances.
- Any disciplinary action arising should be reasonable and proportionate.
- There may be occasions where a Learner's work, conduct or other such issue is satisfactory throughout the review period only to lapse soon thereafter. Where such a pattern emerges, the Learner's previous conduct and pattern of behaviour may be considered as a whole in a future disciplinary procedure.
- Access to personal information held by an ETB will be made in accordance with the ETB's data protection policy (specifically with respect to the ETB's access procedure) and with the principles and requirements of the Data Protection Acts.
- That all matters relating to the disciplinary procedure are strictly confidential to the parties and their representatives.
- Nothing however shall prevent management from holding a disciplinary meeting/hearing and imposing a disciplinary sanction/s at a more advanced stage of the procedure appropriate to the nature of the conduct / behaviour.

While it is anticipated that Learners will co-operate fully with this disciplinary procedure, any failure to co-operate will not prevent the processing of a complaint to conclusion.

In the case of suspected or alleged gross misconduct, immediate precautionary suspension may apply pending an immediate investigation.

## **Informal Stage**

Where the Subject Teacher has a concern in respect of a Learner a meeting is to be arranged to discuss the issues of concern. The Learner should be verbally informed that this discussion/s is taking place within the informal stage of the disciplinary procedure. The Subject Teacher will discuss with the Learner:

- Any unsatisfactory performance or conduct and inform him/her of the improvements required.
- Possible methods of correction and an indication of acceptable time scale for such correction.
- Any support that might be provided to the Learner.
- That unless the necessary improvement is made within a reasonable period, the matter will proceed to the formal disciplinary procedure.

## **Formal Stage**

### **Stage 1 – Formal Verbal Warning**

Where unsatisfactory performance or conduct has not improved through the informal procedure, the matter shall be referred to the Course Director / Designated Person. A meeting is to be arranged with the Learner to discuss the issues of concern. The Learner should be informed in writing that this discussion/s is taking place within the formal stage of the disciplinary procedure. If not already provided, the Learner concerned should be given a copy of the ETB disciplinary procedure and be advised to familiarise him/herself with the various stages of the procedure that may be invoked and the range of sanctions available. The Designated Person will discuss with the Learner:

- Any unsatisfactory performance or conduct and inform him/her of the improvements required.
- Having considered all matters, the Designated Person will decide on whether or not a verbal warning is warranted. Correspondence confirming the decision (whether to issue a verbal warning or not), will be sent to the Learner as soon as possible from the stage 1 meeting.
- Where the Designated Person issues a verbal warning, it should state the improvement required, the timescale for improvement, any support that might be provided to the Learner. It should also state that the warning constitutes the first stage of the disciplinary procedures and failure to improve may result in progression to stage 2 (or higher as may be appropriate) of the disciplinary procedure.
- If in the opinion of the Designated Person, there is no basis for the issuance of a verbal warning then s/he may decide that no further action should be taken in relation to the issue. This decision will also be communicated to the Learner.

Note: A record of the Verbal Warning will be retained in the Learners file in accordance with Cork ETB Data Retention Schedule for Centres.

## **Stage 2 – Formal Written Warning**

Where unsatisfactory performance or conduct has not improved, the matter shall be referred to the Designated Person. The Designated Person shall review the file and determine an appropriate course of action which will be communicated in writing. This communication will also inform the Learner that the matter is now at Stage 2 of the disciplinary procedure. Where deemed necessary, a meeting may be arranged with the Learner to discuss the issues of concern. The Designated Person will discuss with the Learner:

- Any unsatisfactory performance or conduct and inform him/her of the improvements required.
- Having considered all matters, the Designated Person will decide on whether or not a formal written warning is warranted. Correspondence confirming the decision, will be sent to the Learner as soon as possible.
- Where the Designated Person issues a formal written warning, it should state the improvement required, the timescale for improvement, any support that might be provided to the Learner. It should also state that the warning constitutes the second stage of the disciplinary procedures and failure to improve may result in progression to stage 3 (or higher as may be appropriate) of the disciplinary procedure.
- If in the opinion of the Designated Person, there is no basis for the issuance of a written warning then s/he may decide that no further action should be taken in relation to the issue. This decision will also be communicated to the Learner.

Note: A record of the Formal Written Warning will be retained in the Learners file in accordance with Cork ETB Data Retention Schedule for Centres.

## **Stage 3 – Suspension / Expulsion**

Where unsatisfactory performance or conduct has not improved, or the behaviour is such to cause immediate concern in respect of the Learners presence on the course and/or in the College, the Principal may suspend the learner for a period of time. In such instances, the Principal will notify the Learner in writing of the duration of the suspension and whether or not the matter is being progressed to the Board for consideration.

Where unsatisfactory performance or conduct or there is a case of alleged gross misconduct, the matter shall be referred to the College Board of Management (BOM) for consideration.

- The Principal will inform the Learner in writing that issues of concern will be brought before the Board and that it is the Principals intention to make a recommendation to the Board that the Learner be expelled.
- The Principal shall draw up a statement of facts for the Board, a copy of which is to be forwarded to the Learner.
- A meeting of the Board shall be convened as soon as practical after the Principal notifies the Learner of their intention to make a recommendation to the Board for expulsion.
- The Board shall review the matters presented, allow representations to be made by the Learner and the Principal for the Board to reach a decision.
- If in the opinion of Board, there is no basis for expulsion, however there are concerns in respect of performance or conduct, the Board may consider alternative sanctions available under the procedure.
- The decision of the BOM shall be communicated in writing outlining the rationale for the Board decision.

- The decision of the Board may be appealed to Cork Education and Training Board.

Note: A record of the Suspension and/or Expulsion will be retained in the Learners file in accordance with Cork ETB Data Retention Schedule for Centres.

#### **Stage 4 – Appeal Process**

Where a Learner appeals the decision of a Board of Management to expel, the Learner shall

- Set out in writing to the Director of Further Education the rationale for the appeal enclosing a copy of the decision of the Board.
- The Principal shall be requested to forward the statement of facts as presented to the Board.
- A meeting with the Learner and the Principal shall be convened as soon as practical on receipt of the appeal.
- The Director shall review the matters presented, allow representations to be made by the Learner and the Principal.
- If in the opinion of the Director, there is no basis for expulsion, however there are concerns in respect of performance or conduct, the Director may consider alternative sanctions available under the procedure.
- The decision of the Director shall be communicated in writing outlining the rationale for the Directors decision.
- The decision of the Director shall be final.

Note: A record of the Suspension and/or Expulsion will be retained in the Learners file in accordance with Cork ETB Data Retention Schedule for Centres.

#### **Gross Misconduct**

Gross misconduct is a serious breach of College rules and procedures or of recognised and accepted standards and behaviour which results in a breakdown of the relationship of trust and confidence between College Management / Staff and the Learner. Gross misconduct if proven, will justify disciplinary action set out in this document including where appropriate, dismissal, without recourse to giving a verbal, first written or final written warning.

In all cases of alleged gross misconduct an investigation will be carried out. The Learner may be suspended, pending the outcome of such an investigation. Suspension is a precautionary measure and not a disciplinary sanction.

- Where a complaint is raised which may be considered as gross misconduct, the Principal shall designate the Deputy Principal to investigate the matter.
- On completion of an investigation, the Deputy Principal shall furnish the Principal with a report of the findings of fact with a recommendation as to whether there is a case to answer or not.
- The Principal on consideration of the report shall make a decision on the appropriate intervention required, which may include referral to the disciplinary procedure up and including exclusion.

#### **Examples of gross misconduct include, but are not limited to:**

- Breach of the terms of Child Protection Guidelines/Procedures

- Theft, fraud, embezzlement, misappropriation of funds
- Deliberate falsification of data (manual or automated)
- Serious/gross negligence which causes unacceptable loss, damage or injury
- Refusal to comply with legitimate instructions resulting in serious consequences
- Incapability through alcohol or being under the influence of illegal drugs or misuse of prescribed medication; possession and/or sale of illegal drugs.
- Serious breach of health & safety rules
- Serious abuse/misuse of the ETB's property/equipment/materials
- Deliberate damage to ETB property
- Serious bullying, inappropriate behaviour, sexual harassment or harassment against a staff member, student/learner, parent/guardian or party with whom the College conducts business
- Violent/threatening/disruptive behaviour
- Serious breaches of College email, internet, ICT telephone policies
- Manual or automated posting or circulation of offensive, obscene or indecent messages whether by email, text, social networking sites or any other form of communications' device; downloading/disseminating pornographic material
- Persistent non attendance