



DISCIPLINE HEARING PROCEDURE FOR LEARNERS POLICY

Date of review of policy:

September 2023

Date of next review:

September 2024

Review members:

- Mrs. L. Moyo – Head of Academics _____
- Mr. J. Smit – Executive Discipline Manager _____
- Mrs. K. Panayotakis – Academic Co-ordinator _____
- Quality Assurance Team (Ms. D. Whitham, Mr. K. Pillay, Ms. S. Malatji, Mr. J. Smit, Ms. L. Naegeli)

1. POLICY RATIONALE

It is vitally important to ensure compliance with substantive and procedural requirements of fairness when conducting a disciplinary hearing. These administrative procedures are informed by a legislative framework.

2. LEGISLATIVE FRAMEWORK

- The Constitution of South Africa (ACT 108 of 1996).
- The Promotion of Administrative Justice Act (Act 3 of 2000).
- The Promotion of Access to Information Act (ACT 2 of 2000).
- The South African Schools Act (Act 84 of 1996).
- The Regulations for Misconduct of Learners at Public Schools and Disciplinary Proceedings (General Notice 2591 of 2001).
- Circular 74 of 2007- Management of Suspension and Expulsion of Learners in Public Ordinary Schools.

3. BACKGROUND

The Disciplinary Committee/Chairperson must ensure that there is procedural and substantive fairness in the outcome that could lead to both the suspension and/or expulsion of a learner.

All Schools must have a code of conduct that complies with Provincial and National Legislation.

Balance of probabilities are taken into account when an outcome and sanction are delivered and the concept of “reasonable doubt” is not in effect in a school disciplinary hearing.

4. DISCIPLINE AS RESTORATIVE JUSTICE vis-à-vis PUNISHMENT

Punishment relates to rebuking people who flaunt the School Rules and Code of Conduct of the School.

Restorative relates to training to obey the School Rules and Code of Conduct to ensure “a positive” future relationship with the learner.

5. THE BEST INTEREST OF THE LEARNER

Section 28 of ACT 108 of 1996 – The child’s best interests are of paramount importance in every matter concerning the child. The question should be asked: What best suits the development of a child in discipline? A further matter to consider is what support should be given to the child (White Paper Six-School Based Support Teams).

6. MISCONDUCT PROCEDURES FOR LEARNERS AT ROYAL SCHOOLS

- Misconduct by learners.
- Violations/Demerits given to learners.
- Disciplinary Discussion with parents/guardian if continuous misconduct or for certain types of misconduct continue.
- Notice to attend a disciplinary hearing is given. If continuous misconduct or for certain types of misconduct continue.
- Precautionary Suspension depending on the seriousness of the transgression – 7 days maximum.
- Disciplinary Hearing – Consists of Chairperson, Initiator, learner and learner representative (**Only learner’s parent or legal guardian**).
- Findings/Outcome and Sanction.
- Appeal in writing within 3 working days after the outcome.
- Written response to the appeal and final sanction.

7. NOTICE OF HEARING

- Notice of at least 3 working days must be given to the learner and parent/guardian.
- The learner must sign the receipt of the notice.
- Parents/guardians must be informed – Telephonically and notice of hearing must be e-mailed.
- **Notice must:**
 - Describe the nature of the alleged misconduct, date and place.
 - Indicate the time, place and venue of the hearing.
 - Provide information on the rights of the learner:
 - Learner/Representative has the right to state their case.
 - Learner/Representative has the right to call witnesses.
 - Learner/Representative has the right to cross-examine witnesses.
 - Learner/Representative has the right to bring forth evidence.
 - Learner/Representative has the right to a translator.

8. DISCIPLINARY HEARING PROCESS

- An interpreter can be used if necessary.
- The chairperson will keep their own notes of the enquiry (No notes will be issued).
- The chairperson must introduce everyone and explain how the hearing will be run.
- The chairperson must explain their role – to keep an open mind, find out facts, hear evidence and act fairly.

- Confirmation must be provided that the Notice to attend the Hearing was received and a copy must be handed to the chairperson.
- Charges must be read and the chairperson must confirm that understanding of the charge(s) received.
- The chairperson must ask the learner if they plead guilty or not guilty to the charge(s).
- The initiator must present the opening statement.
- The learner or representative must present the opening statement.
- The initiator must present their case – witnesses and evidence.
- The learner or representative must present their case – witnesses and evidence.
- The initiator must give a closing argument and aggravating factors.
- The learner or representative must give a closing argument and mitigating factors.
- The Chairperson must adjourn the hearing to consider the findings – 3 working days at most.

9. FINDINGS/OUTCOME OF HEARING

- The Chairperson decides if the learner is guilty or not guilty of the charge(s) laid.
- The Chairperson must inform the initiator, learner’s parents or guardian, Disciplinary Manager and the Executive Principal of the verdict, findings and sanction in writing via e-mail.
- Serious misconduct may lead to expulsion.
- Sanctions can include:
 - Immediate Expulsion.
 - Expulsion at the end of the term.
 - Suspension of no longer than 7 days.
 - Final written warning (Conditional admission to school) – valid for 12 months.
 - Verbal warning – valid for 3 months.
 - Written warning – valid for 6 months.
 - Additional school work under supervision where parents were notified and assured of the learner’s safety.
 - Tasks in support of an offended person e.g. Detentions, Letter of apology etc.
 - Compensation that is affordable and agreed upon for damaged goods.
 - Replacement of damaged property.
 - Suspension from certain school activities e.g. Sports and/or Social functions.

10. APPEAL BY PARENT(S) / GUARDIANS(S)

- The learner’s parent(s) or legal guardian may appeal against the finding or sanction.
- The learner’s parent(s) or legal guardian must appeal in writing within 3 working days and the grounds for appeal must be clearly stated.
- A Chairperson will be allocated to handle the appeal.
- The appeal Chairperson will receive the notes from the disciplinary hearing Chairperson as well as the findings and sanction.
- Evidence from the disciplinary hearing will be provided to the appeal Chairperson.
- The learner and their representative (**parent or legal guardian**) will be allowed to state their reasons for their appeal and/or deliver further mitigating factors.

- The appeal Chairperson will give their outcome within 3 working days to the Executive Principal, Principal, Disciplinary Manager and the learner's parent/legal guardian in writing via e-mail.
- The outcome of an appeal can be one of the following:
 - The outcome and sanction are upheld.
 - The outcome and sanction are overturned.
 - The sanction can be changed.

11. NO APPEAL

Implementation of sanction.

12. AMENDMENTS TO POLICY

The School reserves its right to deviate from this policy if it deems it necessary or appropriate and to amend this policy from time to time in accordance with any changed policy considerations of the School or legal developments.