**3.1.5 Staff Disciplinary Procedure**

A). This Disciplinary Policy is based on the requirements of the relevant Collective Employment Agreement.

 It is appropriate to use this procedure for non-teaching employees when their employment agreement does not include a disciplinary procedure. Reference must be made to the relevant Collective or Individual Employment Agreement to determine whether those disciplinary procedures override Board policy.

B). For matters other than serious misconduct the following procedure applies.

 The Principal is delegated the power to apply this procedure as the day to day manager of the school.

 On the initiation of each step of the procedure the employee shall be advised of their right to request the assistance of a representative at any stage.

 **Step One:** Verbal Warning.

1. The Principal shall, outline the matter(s) of concern to the employee.
2. The employee shall be given a reasonable period of time to provide an explanation.
3. The Principal may need to make further inquiries to clarify the facts of the specific matter(s) causing concern before making a final decision.
4. If the Principal is satisfied that the matter(s) of concern are proven then he/she may issue a verbal warning to the teacher. The verbal warning shall outline the corrective action required to amend their conduct and the employee be given a reasonable opportunity to do so. The employee shall have explained to them that failure to take the corrective action will result in further disciplinary action.
5. The Principal has the discretion to make the verbal warning valid for a specific period.
6. The fact that a verbal warning has been given plus acknowledgement that the process has been followed is to be recorded, shown to the employee, signed by the employee and placed on the employee’s personal file.

**Step Two:** Written Warning.

1. Where a verbal warning fails to result in the required improvement, the Principal may wish to proceed with a written warning.
2. The Principal shall, in writing, outline the matter(s) of concern to the employee.
3. The employee shall be given a reasonable period of time to provide an explanation.
4. The Principal may need to make further inquiries to clarify the facts of the specific matter(s) causing concern before making a final decision.
5. If the Principal is satisfied that the matter(s) of concern are proven then he may issue a written warning to the employee. The written warning shall outline the corrective action required to amend their conduct and the teacher be given a reasonable opportunity to do so. The employee shall have explained to them that failure to take the corrective action will result in further disciplinary action being taken.
6. The Principal has the discretion to make the written warning valid for a specific time period.
7. The written warning plus acknowledgement that the process has been followed is to be recorded, shown to the employee, signed by the employee and placed on the employee’s personal file.

**Step Three:** Final Written Warning.

1. Where a written warning fails to result in the required improvement, the Principal may wish to proceed with a final written warning.
2. This is to follow the procedure of Step Two but the employee must be specifically advised that continued unsatisfactory behaviour or performance will result in dismissal.

**NB In some circumstances it may be appropriate to move straight to Step Two for misconduct or Step Three where there is sufficient concern to justify a final written warning. This shall occur with the authorisation of the Board.**

**Step Four:** Disciplinary Procedure before the Board.

1. Where the Principal believes the employee’s behaviour may constitute serious misconduct or an employee has continued to behave unsatisfactorily after receiving a final written warning, or a formal investigation is required to determine the facts, the matter shall be referred to the Board of Trustees by the Principal.
2. The Board shall decide whether to form a special committee or employ an independent investigator. They shall follow the procedures outlined in the previous steps and shall act in accordance with the delegated authority they are given by the Board e.g. determining the facts, making recommendations and / or determining penalty up to and including dismissal.
3. When the recommendation goes to the Board for it to decide on what disciplinary action to take, the employee or their representative shall be given the right to make a representation at the Board meeting before the decision is made.

C). Serious Misconduct.

The Board may dismiss without notice in the case of serious misconduct.

 Matters constituting serious misconduct include:

 \* theft, deliberate misuse or unauthorised use of Board property.

 \* fraud

 \* fighting and/or assault.

 \* refusing or failing to obey lawful instructions.

\* bringing non-prescription drugs or alcohol to work and/or consuming them

 at work.

 \* drunkenness at work.

 \* lying or providing false information.

 \* undermining Board policy or seriously damaging the integrity of the Board.

 \* conduct of an indecent or sexual nature or a serious breach of trust which

 renders the teacher unsuitable for employment in a school environment.

 \* inappropriate physical disciplining of students.

 These matters above are not an exhaustive list of serious misconduct.

D) Suspension.

 The provisions of the relevant employment agreement must be followed when considering a suspension of an employee. Suspension will only occur if the allegations are serious and will generally be on pay. No suspension will occur without the employee being given the opportunity to make submissions with representation unless it is impractical to do so. The Ministry of Education will generally only provide for teacher relief reimbursement if the suspension is related to criminal proceedings. The Board gives delegated authority to the Principal and the chairperson ( or deputy chairperson ) to suspend an employee or transfer to other duties.

E). Discipline of Principals.

 Where an allegation of misconduct or serious misconduct is directed at the Principal of the school, the Board of Trustees will have to undertake Step One, Two or Three itself. This can be done by the Board as a whole or through a sub-committee. The Board shall follow the provisions of the Primary Principals collective agreement.

F). Confidentiality.

 Boards should be aware that following through a disciplinary procedure can be stressful for all parties concerned. It is important that Board members are aware that the Boards role as an employer in relation to the potential discipline of its employees is not a matter for public debate. Such debate may limit the employee’s right to a fair hearing and damage the reputation of the school.

 The Board has the right to go “into committee” to discuss disciplinary matters. The content of such discussions are confidential. Breach of such confidentiality is a breach of the Trustees Code of Conduct.

G). Advice.

 The Principal should keep the Board Chairperson informed of potential disciplinary matters that he/she is delegated to take action on.

The Board or Principal shall notify the Board’s insurer as per the insurance policy requirements.

 With all disciplinary matters, the Principal or Board should seek advice from either the New Zealand School Trustees Association or a lawyer approved by the insurer.

Signed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ BoT Chairperson Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NEXT REVIEW DATE: 2021