

**Policy Name:** Disciplinary Policy

<b>Policy Title:</b>	Disciplinary Policy
<b>Description:</b>	The purpose of this policy is to make clear the relationship between people empowered by MIE to take disciplinary action and employees who are the subject of disciplinary action so that all concerned understand their rights and obligations.
<b>Author (Position):</b>	Human Resources
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## **Disciplinary Policy**

### **1. Context**

Marino Institute of Education (MIE) wishes to ensure that it maintains the highest possible standards in all its activities. MIE is responsible for the promotion of consistent and agreed codes of conduct and standards of behaviour within MIE. This policy aims to balance justice for the individual with the need for discipline in MIE. It is MIE policy that disciplinary procedures should be fair and uniform throughout.

### **2. Purpose**

The purpose of this policy is to make clear the relationship between people empowered by:

- 2.1. MIE to take disciplinary action.
- 2.2. Employees who are the subject of disciplinary action so that all concerned understand their rights and obligations.

This policy has been written in the light of the requirements of the [Unfair Dismissals Act, 1977](#) as amended. The procedure applies to all staff, whether full or part-time, except staff who are in their Probationary period.

### **3. Benefits**

The disciplinary procedure is designed to assist any member of staff whose conduct is in question, or is of less than a satisfactory standard, and its initiation should be seen as giving an opportunity to improve rather than as a first step in the process of sanctioning a dismissal.

### **4. Principles**

MIE considers that the Management within MIE who have responsibility for implementing disciplinary procedures should have a thorough knowledge of them and know how to conduct disciplinary interviews and hearings. MIE will ensure that they receive adequate training for this important responsibility.

- 4.1. These procedures are consistent with considerations of due process, fair procedure, natural justice, and the right of employees to be accompanied and/or represented by a colleague or a trade union representative. The employee's representative may be a work colleague or an authorised trade union representative, but not any other person or body unconnected with the Institute. If the employee is a union member, MIE will

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notify the local union representative of all meetings at the same time as the employee is informed, unless the employee requests otherwise.

- 4.2. MIE will ensure that a proper investigation of the facts is carried out. This may involve interviewing all parties concerned. At all stages disciplinary proceedings will be completed as quickly as compatible with the need to ensure that justice is done and seen to be done. Time limits may be varied at any particular stage by mutual consent.
- 4.3. MIE has an obligation and a right to retain material(s) in a Personnel File. Employees will have, on application to the Human Resources (HR) Manager, access to their own Personnel File. MIE will keep a written record of each disciplinary meeting, which will include details of the employee's case, the response of Management and the outcome of the meeting. The employee will be asked to agree and sign the record of the meeting, after the consultation with their representative. Where a formal verbal warning or written warning is given, records will be kept by MIE in the employee's personnel file detailing the nature of any breach of discipline, the action taken and the reasons for it, the date of the action taken, whether an appeal was lodged, its outcome and any subsequent developments. Disciplinary action will be treated confidentially as far as possible.
- 4.4. Any disciplinary action will be appropriate to the insubordination, incompetence, inefficiency or misconduct established. Consistency of treatment in similar situations will apply. The issuing within this procedure of verbal and/or written warnings to employees for different types of issues and/or shortcomings will be regarded as related. MIE reserves the right to suspend an employee pending investigation in cases of gross misconduct. An employee may be dismissed without going through the stages of procedures in an instance of gross misconduct.
- 4.5. Any mitigating circumstances and the previous record of service of the staff member concerned will be taken into account.
- 4.6. When the duration of a particular Warning or Suspension, indicated in the Disciplinary Stages outlined, has elapsed, the employee will revert to the Stage of the previous warning, and for the stated duration of that warning.

## **5. Definitions**

- 5.1. Misconduct: It is not possible to list in writing every possible act or omission, which will constitute misconduct. In any event, every employee is required to behave in a

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manner which will not endanger or inconvenience fellow employees, students or visitors or reflect badly on the Institute. Examples of misconduct which could lead to formal disciplinary action (if not resolved through informal procedures) are as follows:

- i. Consistently poor time-keeping
- ii. Negligence in the performance of duties
- iii. Failure to comply with a reasonable management instruction
- iv. Being absent without reasonable permission or reasonable excuse
- v. Reporting for work under the influence of alcohol or drugs
- vi. Misuse of telephone, e-mail and internet
- vii. Consistent non-co-operation with staff members or Management
- viii. Repeated breach of the Institute's policies
- ix. Violent or threatening behaviour
- x. Breach of confidence not amounting to gross misconduct
- xi. Deliberate breach of safety rules
- xii. Deliberate falsification of information relevant to the Institute
- xiii. Deliberately withholding information, which obstructs the work of the Institute
- xiv. Deliberately bringing the Institute into disrepute

## **6. Policy**

Where an employee's conduct, attendance or performance warrants disciplinary action, the following disciplinary procedures will apply, except in the cases of gross misconduct where immediate dismissal or suspension pending investigation may take place. There may be occasions when, depending on the seriousness of the misconduct involved, it will be appropriate to enter the procedure at a later stage, for example, Stage 3 (Written Warning) or Stage 4 (Final Written Warning). Disciplinary Proceedings will only be conducted by a member of Management and may take place in the presence of another member of Management. The six stages of discipline are:

- 6.1. Stage 1: Verbal Warning
- 6.2. Stage 2: Formal Verbal Warning
- 6.3. Stage 3: Written Warning
- 6.4. Final Written Warning

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6.5. Suspension

6.6. Dismissal.

- i. Stage 1 – Verbal Warning. A Head of Department will conduct a disciplinary interview and may decide to issue a verbal warning. The verbal warning should be administered in the presence of another Head of Department, and the employee's colleague or trade union representative. A note of such a Verbal Warning will be retained on the employee's Personnel File<sup>1</sup> and will be regarded as remaining in force for a period of three working months. In this case the Head of Department will agree with the employee and/or their (trade union) representative:
  - a. What action or improvement is to be taken to prevent further disciplinary action; the timeframe within which the required action should be taken or improvement made;
  - b. A plan for assistance and review.
- ii. Stage 2 – Formal Verbal Warning. If the Head of Department considers after the review that the progress is unsatisfactory they will conduct a disciplinary meeting and may issue a Formal Verbal Warning. The Formal Verbal Warning should be administered in the presence of another Head of Department and the employee's colleague or trade union representative. Details of how the employee's progress has not been satisfactory will be clearly outlined. A note of such Formal Verbal Warning will be retained on the employee's Personnel File<sup>1</sup> and will be regarded as remaining in force for a period of six working months. In this case the line manager will agree with the employee and/or their colleague or trade union representative:
  - a. What action or improvement is required to prevent further disciplinary action;
  - b. The time limit by which action should be taken or improvement made;
  - c. A plan for assistance and review.
- iii. Stage 3 – First Written Warning. If the Manager considers after the Stage 2 review that progress is unsatisfactory, a First Written Warning will be issued, specifying:
  - a. The precise nature of the problem;
  - b. The improvement required and by when;
  - c. A plan for assistance; and

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<sup>1</sup> See [Record Management Policy](#)

- d. The likely consequences if there is a subsequent lack of improvement.
- iv. Stage 4 - Final Written Warning. If the Head of Department considers after the Stage 3 review that progress is unsatisfactory, a hearing of the case will be arranged, following which the Head of Department may decide to issue a second and Final Written Warning. A written warning will state that any subsequent lack of progress or recurrence of the offence will lead to suspension (with or without pay) or dismissal. A record of this Final Written Warning will be retained on the employee's Personnel File<sup>2</sup> and will be regarded as remaining in force for a period of twelve working months.
- v. Stage 5 – Suspension. If the Head of Department considers after the Stage 4 Review that progress is unsatisfactory, the employee may be suspended (with or without pay) for a defined period of up to four weeks (with the exception of cases of Gross Misconduct -see below). The duration of the period of suspension will be consistent with the determination in the particular case and intended/designed to offer the employee a final opportunity to comply with the improvement required or to adjust their behaviour. A record of such a Suspension will be retained on the employee's Personal file<sup>2</sup> for two years.
- vi. Stage 6 – Dismissal. If progress remains unsatisfactory, after a formal review and hearing of all matters in the case, it may then be decided to dismiss the employee. Dismissal will be confirmed in writing and will be within the terms of The [Minimum Notice and Terms of Employment Acts, 1973-2005](#). This letter will state the grounds for the action taken, and the employee's access to the internal appeals procedure.

6.7. Conduct of Disciplinary interviews/hearings. At each Stage of the Disciplinary Procedure:

- i. The Manager will state the complaint, or fully describe the shortcoming(s) in which the investigation is to be carried out, referring where necessary to appropriate documentation, and may call witnesses at any stage as part of their presentation of the complaint.
- ii. If witnesses are called, they will be called in turn, and for each witness the procedure will be:
  - a. The manager may question the witness

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<sup>2</sup> See [Record Management Policy](#)

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- b. The employee, their selected colleague or trade union representative (same person throughout the hearings) may question the witness.
  - c. The employee, their selected colleague or trade union representative may question the manager at the conclusion of the presentation of their case.
  - d. The employee, their selected colleague or trade union representative presents the employee's case, referring where necessary to appropriate documentation, and may call witnesses at any stage as part of the presentation of the case.
  - e. If witnesses are called they will be called in turn, and for each witness the procedure will be:
    - f. The employee, their selected colleague or trade union representative may question the witness
    - g. The manager may question the witness
    - h. The manager may question the employee, their selected colleague or their trade union representative at the conclusion of the employee's case.
  - iii. The manager and the employee, their selected colleague or trade union representative may sum up their respective cases without introducing new evidence.
  - iv. The manager will withdraw to consider the case in consultation with the HR Manager. The decision will be notified to the employee after the hearing and will be confirmed in writing. The right to appeal will also be communicated.
- 6.8. The employee has the right to appeal at the end of every stage of the disciplinary hearing.
- 6.9. Appeals Procedure.
- i. The employee will be informed of their right to appeal, and how to exercise that right, at all stages of the disciplinary procedure.
  - ii. Appeals will be heard by an Appeals Panel consisting of the President, the HR Manager, and a Manager not connected with the processing of the particular case to date.
  - iii. The employee may be accompanied by a representative of their choice at any appeal hearing. The employee's representative may be a work colleague or an authorised trade union representative but not any other person or body unconnected with the Institute.

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- iv. An appeal should be made within seven working days of the decision by notifying the President in writing. The appeal will be heard as soon as possible but not later than fourteen working days from the receipt of notification from the employee.
- v. The date(s) and time(s) of the appeal hearing will be notified to the employee, the trade union representative, and the manager concerned.
- vi. The appeals process provides the opportunity for the Appeals Panel to consider and assess if the decision of the disciplinary hearing was reasonable under the circumstances.

**6.10. Conduct of Appeals Procedure.** An Appeal Hearing will be conducted as follows:

- i. The employee, their selected colleague or their trade union representative will put their case in the presence of the Head of Department, outlining the grounds for the appeal and the reasons why they consider the original decision was incorrect.
- ii. The employee and/or their trade union representative may call any witnesses or may refer to any document as necessary.
- iii. If witnesses are called, they shall be called in turn and for each witness the procedure shall be:
  - a. The employee and/or their (trade union) representative may question the witness;
  - b. The Head of Department may question the witness;
  - c. Members of the Appeals Panel may question the witness.
  - d. The Head of Department may question the employee and/or their trade union representative.
  - e. The Appeals Panel may question the employee and/or their (trade union) representative.
  - f. The Head of Department will put the case for disciplinary action in the presence of the employee and their trade union representative.
- iv. If witnesses are called, they shall be called in turn and for each witness the procedure shall be as follows:
  - a. The Head of Department may question the witness;
  - b. The employee and/or their trade union representative may question the witness;
  - c. Members of the Appeals Panel may question the witness.

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- d. The employee and/or their trade union representative may question the Head of Department.
  - e. The Appeals Panel may question the Head of Department.
  - v. The Head of Department and the employee and/or their (trade union) representative will sum up their respective cases.
  - vi. The Appeals Panel will consider the case in private.
  - vii. The decision of the Panel shall be notified to the employee verbally at the end of the hearing, or at another specified date -not later than ten working days - in the presence of the Head of Department and shall be confirmed in writing.
- 6.11. Gross Misconduct: MIE reserves the right to suspend (with or without pay) an employee pending investigation in cases of gross misconduct. MIE reserves the right to dismiss an employee in cases of gross misconduct. Some examples of what may be regarded as gross misconduct are:
- i. Malicious mischief resulting in danger to fellow employees, students, visitors or other persons, or danger to or destruction of the Institute's property or equipment
  - ii. Disclosing without consent any information obtained by the employee while employed by the Institute. This condition shall not apply to communications necessarily made by them in the course of their employment
  - iii. In the course of employment, inflicting bodily injury on another person
  - iv. Serious breaches of the MIE Bullying and Harassment Policies
  - v. Serious breaches of the Institute's Health and Safety Policy
  - vi. Failing to account for money or other property received on behalf of MIE
  - vii. Stealing
  - viii. Repeated acts of insubordination
  - ix. Repeated acts of misconduct
  - x. Bringing the Institute into disrepute
  - xi. Misuse of e-mail and internet<sup>3</sup>
- The above list is not definitive.

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<sup>3</sup> See [MIE Staff & Students Code of Conduct for Use of IT Systems](#)

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- 6.12. In such cases MIE will dismiss or suspend the employee concerned. Suspension may be with or without pay, while an investigation of the incident takes place. Such a suspension should last as short a time as possible.
- 6.13. The complaint against the employee and their rights under this procedure will be explained, including the right to be accompanied by a trade union representative or a person of their choice. The employee's representative may be a work colleague or an authorised trade union representative, but not any other person or body unconnected with the Institute. The employee will be told that if the complaint is upheld, it could lead to their dismissal.
- 6.14. Before a decision is reached the employee will be interviewed by the President (or their nominee) and given the opportunity to state their case. The procedure outlined above (Conduct of Disciplinary Hearings) will be followed
- 6.15. An employee dismissed by reason of gross misconduct has the right of appeal. The appeal should be made in writing to the President within seven working days of the decision and sent by recorded delivery.
- 6.16. The appeal will be heard by the Appeals Panel as soon as possible from the receipt of notification from the employee. The procedure outlined above under Conduct of Appeals Hearing will be followed.

## **7. Responsibility**

- 7.1. The responsibility for maintenance of this policy rests with HR.
- 7.2. Disciplinary action is the responsibility of MIE or the appropriate level of management to which disciplinary powers have been delegated.

## **8. Related Documents**

- 8.1. Contract of Employment
- 8.2. [Unfair Dismissals Act, 1977](#)
- 8.3. [Minimum Notice and Terms of Employment Acts, 1973-2005](#)
- 8.4. [MIE Staff & Students Code of Conduct for Use of IT Systems](#)
- 8.5. [Record Management Policy](#)