

# The College Ystrad Mynach

## College Disciplinary Policy and Appeals Procedure



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# THE COLLEGE YSTRAD MYNACH

## Disciplinary and Appeals Policy and Procedures

### 1. INTRODUCTION

It is emphasised that it is the overall policy of the College to provide support and help to staff and learners and that it is expected that this disciplinary and appeals policy and procedure would be invoked only in exceptional circumstances.

- i. This procedure applies to all learners enrolled by the College.
- ii. This procedure recommends appropriate management responses for different levels of misconduct.
- iii. It takes effect from 27 July 2010 and supercedes all previous disciplinary procedures and practices.

### 2. PURPOSE

This procedure is designed to help and encourage all learners to achieve and maintain acceptable standards of behaviour, attendance and performance and to ensure an atmosphere conducive to learning. The College requires that, whilst undertaking studies and associated activities, whether or not on College premises, learners should conduct themselves in a safe and proper manner, abiding by the college's policies and the appropriate conditions of admission. This procedure sets out the actions which may be taken when there are breaches of conduct or conditions of admission.

### 3. PRINCIPLES

- i. The College will take all necessary measures to ensure that all College policies, which are in force at any point in time, are available for all learners. ***It is the responsibility of individual learners to ensure that they are aware of and understand these rules and regulations.*** All Faculties have access to the electronic copy of this policy/procedure which can be found on the Moodle.net. A hard copy can be provided on request. Other formats are also available on request. An electronic copy of this policy is provided for Learners on Moodle.
- ii. The disciplinary procedure is designed to establish facts quickly and to deal consistently and fairly with disciplinary issues. No action will be taken until a matter has been fully investigated and a formal disciplinary hearing held. However, it may be necessary to suspend a Learner to enable investigations to take place before the formal disciplinary hearing. The disciplinary hearing can be at faculty or college level dependent on the seriousness of the case.

- iii. A learner shall be informed of the nature of the complaint made against him/her and will be given the opportunity to state his/her case at a disciplinary hearing. The learner will have the opportunity to be accompanied by their parents/guardian/carer or another representative at a hearing. Legal representation is not allowed at any level of the disciplinary process.
- iv. A learner has the right to appeal at any stage against any disciplinary penalty imposed. Who the learner appeals to depends upon who has issued the disciplinary penalty:

Issued by	Appeal to
Course Tutor	Head of School
Head of School	Head of Faculty
Head of Faculty	Vice Principal or Deputy Head Student Services
Vice Principal or Deputy Head Student Services	Disciplinary Committee

- v. A learner will be asked to sign the written disciplinary form, and a copy given to him/her. The issuer of the disciplinary form and the learner will both sign it. The learner will be given a copy. A failure to sign on the part of the learner does not invalidate this procedure. The staff member leading the disciplinary hearing will note on the form that the learner has refused to sign. By signing the disciplinary form the learner is not admitting the alleged offence. The reason for, and the implications of, the disciplinary hearing should be made clear to the learner before the hearing starts. If a learner has additional learning requirements a member of staff from Learning Support will be asked to attend and assist the learner where necessary.
- vi. The disciplinary procedure may be commenced at any stage of the policy if the learner's alleged misconduct warrants such action.
- vii. Repeated acts of misconduct or poor academic performance, whether of a similar OR dissimilar nature may result in the cumulative application of this procedure, where the warnings are current.
- viii. No learner will be dismissed for a first breach of discipline except in the case of gross misconduct.
- ix. A learner may be suspended by either the Vice Principal or Deputy Head Student Services whilst a disciplinary incident is being investigated. This will be confirmed in writing.

#### 4. PROCEDURE

- i. Where an investigation has produced evidence of misbehaviour, the following procedures will be used. In most cases the Course Tutor or an appropriate member of staff of the learner's faculty will accompany the person who issues the warnings. A member of the faculty in which the Learner is located will always present the evidence if Student Services is involved.

##### **STAGE 1 – RECORDED VERBAL WARNING**

If conduct or performance is found not to meet acceptable *standards following a disciplinary hearing*, the learner will normally be given a formal VERBAL WARNING (form A). He/She will be advised of the reason for the warning, that it is the first stage of the disciplinary procedure and of the right to appeal. A copy of the verbal warning will be given to the learner and another placed in the learner's file. The warning will be 'spent' after twelve months.

Level of issue: **Course Tutor**

##### **STAGE 2 – WRITTEN WARNING**

If the offence is a serious one, or if a further or another offence occurs, a WRITTEN WARNING (form B) will be given to the learner, following a disciplinary hearing. This will give details of the complaint, the improvements required and the timescale. It will warn that action under Stage 3 will be considered if there is no satisfactory improvement and will advise of the right to appeal. A copy of this written warning will be placed in the learner's file. The warning will be 'spent' after twelve months.

Level of issue: **Course Tutor/ Head of School**

### **STAGE 3 – FINAL WRITTEN WARNING**

If there is still a failure to improve, and conduct or performance is still unsatisfactory, or the case is sufficiently serious, a FINAL WRITTEN WARNING (Form C) letter will be given to the learner, following a disciplinary hearing. This will give details of the complaint and will warn that dismissal could be the next course of action. It will advise of the right to appeal. A copy of the final written warning will be placed in the learner's file. The warning will be 'spent' after twelve months.

Level of issue: **Head of Faculty**

### **STAGE 4 – DISMISSAL**

If conduct or performance is unsatisfactory, dismissal could result. (Form D). The learner will be provided with written reasons for dismissal, the date of termination, and will be informed of the right to appeal. (See Section 5 overleaf) Forms A – C will be required from the Faculty.

Level of issue: **Vice Principal Student Services/Deputy Head Student Services**

### **GROSS MISCONDUCT**

This is behaviour or actions of such seriousness as to warrant summary dismissal. If there is a case of gross misconduct, it may be necessary to suspend the learner while the College investigates the alleged offence. If, as a result of the investigation and disciplinary hearing, the College has reason to believe gross misconduct has occurred, the result will normally be summary dismissal.

Level of Issue: **Vice Principal Student Services / Deputy Head Student Services**

It is impossible to provide an exhaustive list of the types of offence which are regarded as gross misconduct. However, the following provides examples of the offences which, depending on the circumstances of the particular case, could be considered by the College as gross misconduct.

- a Theft or unauthorised possession from employees, the College or other learners.
- b Bullying, which can include: assault, abusive or threatening behaviour, including sexual harassment, in the course of his/her attendance as a learner, whether or not on college property. (See college policy on bullying and harassment).
- c Falsification and irregular practice in respect of cash, records or returns.
- d Fraud or attempt to defraud.
- e Unauthorised access to, or interference with, information held on computer or associated equipment or materials.
- f Misuse of College facilities to access inappropriate materials on the internet
- g A serious act of insubordination to any college employee
- h Gross negligence which causes unacceptable risk, loss, damage, injury, or damages the public reputation of the College.
- i A conviction at court for a criminal offence, whether or not committed in connection with the College, which may affect the learner's suitability for continued attendance.
- j Cheating in assessments and examinations or plagiarism.
- k Discrimination on the grounds of race, disability, gender, age, religious belief or sexual orientation
- l Interference with freedom of speech.
- m Malicious or wilful damage to property belonging to the College, its employees, agents, learners or others.
- n Possession or showing effects, of alcoholic drinks, offensive weapons, drugs or other substance misuse.
- o. A serious breach of health and safety regulations.
- p. Failure to declare a current criminal conviction in either the application or enrolment form.
- q. Falsification of any information, or failure to declare relevant information, on the enrolment or application form.
- r. Persistent misbehaviour which has led to the issue of at least two written disciplinary warnings.
- s. Violence against, or offered to, a member of staff or learner.

### **SUSPENSION**

In exceptional circumstances in a case of gross misconduct, suspension may be imposed as an alternative to dismissal (Form E). This will be where additional relevant and mitigating evidence or information has been made available in the course of a hearing or appeal. In such case, suspension may follow (up to a maximum

of ten working days). This action will also be accompanied by a final written warning. This action would be taken by the Vice Principal Student Services or the Deputy Head of Student Services.

Level of issue: **Vice Principal/Deputy Head Student Services**

If a student is alleged to have committed a disciplinary offence and ceases to attend college they will be invited to attend a disciplinary hearing. If they do not attend the hearing they will be informed, in writing, of the termination of their enrolment at college. Equally, if a student is suspended from college and fails to attend a disciplinary hearing they will be informed, in writing, of the termination of their enrolment.

If a student whose enrolment has been terminated in either way subsequently re-applies they will be referred to the Vice Principal and Deputy Head Student Services who will consider their application under point 8 of this document taking into account the alleged offence.

### **SUSPENSION DURING AN INVESTIGATION**

A learner may be suspended pending a disciplinary hearing. This should not be seen as a disciplinary penalty but to allow an investigation to establish the facts, and this may occur at any time during investigation. The suspension will be confirmed, in writing, within 5 working days. If the learner is found not to be at fault, the suspension will be lifted and an appropriate statement made in writing. A learner can only be suspended by the Vice Principal of Student Services or Deputy Head of Student Services.

### **FORMAL DISCIPLINARY HEARING**

A formal disciplinary hearing will be conducted by the person at the recommended level for the stage concerned. The learner's Course Tutor or another faculty representative will be present at all stages. The learner may be accompanied by a student union representative, fellow learner, parent, guardian or carer.

The purpose of the disciplinary hearing is:

- i to establish the facts of the case
- ii to consider those facts after hearing any representation by or on behalf of the learner
- iii to establish if there is a case to answer
- iv to decide upon the appropriateness of the proposed disciplinary action
- v to impose the disciplinary penalty or to make an alternative recommendation.

## **5. APPEALS PROCEDURE**

- i. Appeal to Vice Principal or the Deputy Head Student Services for all appeals except dismissal. Dismissal: Appeal to Principal.
- ii. A learner who wishes to appeal against all decisions except dismissal should inform the Vice Principal or Deputy Head Student Services in writing within 10 working days of receipt of the disciplinary form, stating the grounds for the appeal. The appeal would be heard by the Vice Principal or Deputy Head Student Services within 15 working days of the appeal being lodged.
- iii. A learner who wishes to appeal against dismissal should inform the Principal in writing within 10 working days of receipt of the disciplinary letter, stating the grounds for the appeal. The appeal should be heard by the Disciplinary Committee (see below) within 15 working days of the appeal being lodged.

## **6. APPEALS DECISION**

- i. The appeal decision of the Vice Principal or Deputy Head of Student Services will be final. At the appeal any disciplinary penalty imposed can be reviewed but it cannot be increased.
- ii. The appeal decision of the Disciplinary Committee will be final. At the appeal any disciplinary penalty imposed can be reviewed, but it cannot be increased.

## **7. DISCIPLINARY COMMITTEE**

- i. This committee will be chaired by the Principal. Only if the Principal is unable to chair the appeal within the fifteen day limit will it be chaired by another member of the Senior Management Team. Its membership will be:
  - 1 learner, nominated by the Students' Union;
  - One member of either the business or teaching staff. Staff from the learner's own faculty and staff from other Faculties who have taught the learner will not be considered.
  - 1 Governor
- ii. At the appeal the learner will have the opportunity to present their case and hear the case against them. They also have the opportunity to be accompanied. Legal representation is not allowed at any level of the disciplinary process.
- iii. The decision of the disciplinary committee will be based on majority voting. The decision will be communicated to the learner in writing within seven working days. The only exception to this will be where legal advice is being sought when it will be within fifteen working days.

## **8. PROCEDURES FOR DEALING WITH APPLICATIONS FROM LEARNERS WHO HAVE BEEN EXCLUDED FROM COLLEGE.**

Where a learner has been formally excluded from the College, a decision to re-enrol the learner will be made on an individual basis by either the Vice-Principal or Deputy Head of Student Services. Learners will only be readmitted to College:

- Where they are able to demonstrate that they have made sustained effort to address the issues that resulted in their exclusion.
- They can show evidence that they have made positive progress during the time out of College.
- Produce evidence that they have maintained positive behaviour over a substantial period of time.

After receipt of the application, the Vice-Principal or Deputy Head of Student Services will convene a meeting with the Head of Faculty, Head of School and any other appropriate staff of the applicant's previous faculty to consider the application. A response to the application will be given in writing within ten working days.

An applicant who succeeds in enrolling without going through the above procedure will have the enrolment invalidated. They will then be given the opportunity to apply to the Vice-Principal or Deputy Head Student Services and have their application considered. An appeal against a decision taken at this stage will follow that as laid down in point 7 of the College Disciplinary Policy. If the learner's application is allowed to proceed they will be required to sign a Learning Contract. If they are aged eighteen or under, the parent or carer is also required to sign the agreement.