

C-8 Disciplinary Action

National Quality Standards (NQS)

4.2	Management, educators and staff are collaborative, respectful and ethical.
4.2.1	Management, educators and staff work with mutual respect and collaboratively, and challenge and learn from each other, recognising each other's strengths and skills.
4.2.2	Professional standards guide practice, interactions and relationships.
7.1	Governance supports the operation of a quality service.
7.1.2	Systems are in place to manage risk and enable the effective management and operation of a quality service.
7.1.3	Roles and responsibilities are clearly defined, and understood, and support effective decision making and operation of the service.
7.2.1	There is an effective self-assessment and quality improvement process in place.
7.2.3	Educators, co-ordinators and staff members' performance is regularly evaluated and individual plans are in place to support learning and development.

Education and Care Services National Regulations

Reg. 145	Staff record
Reg. 168	Education and care service must have policies and procedures
Reg. 170	Policies and procedures to be followed
Reg. 181	Confidentiality of records kept by approved provider

Policy Statement

We strive to continually recruit, retain and develop highly competent and professional staff. We will encourage staff to maintain good working relationships with other staff, children, parents/carers, and school community while having a commitment to maintaining a quality standard of work. Instances may arise where a staff member's performance does not meet the standards required of the Centre and this will be addressed in a swift and considerate manner. The purpose of this policy is to achieve a positive resolution to unsatisfactory performance or conduct. The Centre is committed to ensuring that disciplinary procedures are fair and are practiced in accordance with the appropriate legislation.

Related Policies

- Child Protection Policy
- Conditions of Employment Policy
- Grievance Procedures Policy
- Interactions with Children Policy
- Maintenance of Records Policy

- Privacy and Confidentiality Policy
- Professional Development Policy
- Role of Management Committee Policy
- Staff Orientation and Induction Policy
- Staff Professionalism and Code of Conduct Policy
- Staff Recruitment and Selection Policy
- Staff Review and Appraisal Policy

Definitions

For the purpose of this policy:

Unsatisfactory conduct, behaviour or performance means:

- conduct which constitutes an impediment to the satisfactory performance of the work of the staff member or other staff members in the work area;
- failure to comply with a reasonable instruction given by the supervisor of the staff member or other person with authority to direct the staff member;
- conduct which is detrimental to the operation of the Centre, the children and/or families;
- action which is prejudicial to the health, welfare or safety of other staff, children or families.
- incompetence, negligence or failure to achieve the expected standard of performance in the specified position.

Procedure

It is important that all staff members are fully aware of their expectations as an employee of West Ryde BASC and that clear guidelines are given regarding staff duties, code of conduct and professionalism.

The Director will ensure that all staff members are given clear job descriptions and an induction into the position at the Centre. Staff members are responsible to address any concerns and clarify any issues in the job description or expectations that they are unsure of.

Staff members are encouraged to maintain good working relationships and have a commitment to maintaining a quality standard of work. Staff members will be given clear notification should their standard of work or conduct fall below what is expected and outlined in their job description.

Staff members have the right to appeal against any allegation and the right to speak on their behalf or to have a union representative appear on their behalf.

The following steps will be adopted in the resolution of unsatisfactory performance, behaviour and conduct in the workplace:

Step 1. Verbal Warning

Step 2. First Written Warning

Step 3. Final Written Warning

Step 4. Termination of Employment

These steps allow the staff member a maximum opportunity to come to terms with requirements. However, there may be instances where the problem is so serious that it requires immediate correction. In such a case it may be necessary to proceed immediately to the final warning stage (i.e. incidents of serious misconduct).

Should staff fall below clearly identified standards then the Director or Management Committee representative will follow the below steps:

Verbal Warning

- The staff member will be asked to attend a meeting with the Director or Assistant Director to discuss the performance or behavioural issue. The staff member will be advised that he or she has the right to representation, or a support person, if desired.
- The Director or Assistant Director will outline the unsatisfactory performance, behaviour and/or conduct and inform the staff member that they should amend their behaviour to comply with these standards.
- The staff member will be given opportunity to respond.
- The Director or Assistant Director will explain in clear and simple terms the consequences if the problem is not resolved, and the timeframes allowed for resolution. Together the parties should identify any support needed to assist the staff member to make the changes and take steps to implement these.
- The details of the meeting and its outcome will be recorded and signed by the Director or Assistant Director. The staff member will be requested to sign the record, as will the support person, if there has been one present. If either refuse to sign the form, the Director will make a note to that effect.

First Written Warning

- If the problem has not been resolved after the reasonable timeframe as outlined above, the Director/Management representative will progress to the next stage of the process.
- The staff member will be asked to attend a meeting with the Management Committee (or representative thereof) to discuss the performance or behavioural issue. The staff member will be advised that he or she has the right to representation if desired.
- The staff member will be given at least 48 hours' notice of the meeting
- The Management representative must clarify reasons for unsatisfactory performance or unacceptable behaviour, outline to the staff member the allegations or concerns, and the expected standards of performance or behaviour.
- The staff member will be given every opportunity to respond.
- The staff member will be advised that continuing failure to correct the performance problems, or any further instances of the unacceptable behaviour, will result in further disciplinary action up to, and including, dismissal.
- Following the meeting, and within five working days, the Management Committee representative will provide the staff member with a letter or record of meeting confirming

the matters discussed, the ramifications of continued unsatisfactory performance, behaviour or conduct and any agreed action plan. The letter will articulate:

- a) The specific areas of performance that are considered unsatisfactory;
 - b) The nature of the improvement required;
 - c) The time within which such improvement must occur;
 - d) The date proposed for a review of the specific areas of performance; and
 - e) The availability of professional development and other resources, where appropriate, to assist the staff member in improving performance.
- The staff member will be asked to sign a copy of the letter to indicate receipt and that it is a true and accurate record of what was discussed. If the staff member disagrees with the content of the document or wishes to make additional comments, he or she may provide a written statement in response.
 - A copy of the Written Warning form should be given to the staff member and another copy placed on the staff member's personal file.

Final Written Warning

- If there is a recurrence of the unacceptable behaviour, or a failure to correct the performance problem after a reasonable timeframe, the Management Committee representative will take further action to give the staff member one final opportunity to address the unsatisfactory performance, behaviour or conduct.
- The staff member will be asked to attend a meeting with the Management Committee (or representative thereof) to discuss the performance or behavioural issue. The staff member will be advised that he or she has the right to representation if desired.
- The staff member will be given at least 48 hours' notice of the meeting.
- The Management representative must clarify reasons for unsatisfactory performance or unacceptable behaviour; outline to the staff member the allegations or concerns, and the expected standards of performance or behaviour.
- The staff member will be given every opportunity to respond.
- The staff member will be warned in writing that continuing failure to correct the performance problems, or any further instances of the unacceptable behaviour, will result in further disciplinary action up to and including dismissal.
- Following the meeting, and within five working days, the Management Committee representative will provide the staff member with a letter confirming the matters discussed, the ramifications of continued unsatisfactory performance, behaviour or conduct and any agreed action plan. The letter will articulate:
 - a) The areas of concern;
 - b) The performance and/or behavioural standards to be met and how these will be assessed;
 - c) Agreed training and development requirements;
 - d) The time frame for the process.
- The staff member will be asked to sign a copy of the letter to indicate receipt and that it is a true and accurate record of what was discussed. If the staff member disagrees with the content of the document or wishes to make additional comments, he or she may provide a written statement in response.

- A copy of the Final Written Warning form should be given to the staff member and another copy placed on the staff member's personal file.

Termination of Employment

- If it is apparent, after three written warnings that there is no improvement, the Centre's Management Committee will meet to discuss the situation. If the Management believe that the staff member's performance is unlikely to improve then the staff member will be dismissed.
- The staff member will be asked to come to the meeting with the Management Committee to discuss the issue.
- The staff member will be told at the outset of the meeting that the meeting will involve a decision about their ongoing employment.
- At the meeting all the information available will be outlined to the staff member. The evidence of continuing problems since the final written warning will be outlined.
- The staff member will have a final opportunity to comment/respond.
- The staff member should be issued with a letter of termination outlining the date of dismissal and reason for termination as soon as practicable after the meeting.
- The staff member should be paid out in lieu of notice and any outstanding annual leave entitlement (where appropriate)
- Terminations will be carried out with dignity and with due consideration to the staff member, their colleagues and any other affected parties (i.e. children and parents).

Rectification

At any stage during this process it may become apparent that the unsatisfactory performance, behaviour or conduct has been rectified by the staff member. In such instances, the Director will meet with the staff member concerned and confirm the expectations have been met. The confirmation will also be provided in writing.

Procedure for dealing with serious unacceptable behaviour

Where a staff member in the workplace:

- Intentionally endangers life
- Is found stealing
- Reports to work under the influence of drugs or alcohol
- Inflicts or threatens physical or sexual abuse or harassment

The Director or Management Committee will suspend the employee without loss of pay pending an investigation. The investigation is to be completed within 72 hours and an interview date determined.

The interview is to be attended by the Director, a nominated representative of the Management Committee, the person reporting the unacceptable behaviour and a union representative, if desired. The employee is to be advised formally of the findings of the investigation and the action being taken.

When immediate termination is required, a dismissal notice will be prepared at the interview. When continued employment is recommended, a warning letter will be issued.

All the relevant records will be recorded on the employees file.

If the employee is absolved of the accusation, all relevant formal documentation will be removed from their file.

Sources

- Children and Young Persons (Care and Protection) Act 1998
- Children Services Award 2010
- Education and Care Services National Regulations 2011
- Fair Work Act 2009
- National Employment Standards (NES)
- National Quality Standard – Australian Children’s Education and Care Quality Authority
- Privacy Act 1988

Date Endorsed: 3/8/2022

Date of Review: 3/8/2024

Version Control			
Version	Changes Made	Initiated By	Director Sign-off
v.2.202208	<ul style="list-style-type: none"> - Updated NQS and National Regulations - Added maintaining relationships to policy statement - Added sentence about fairness to policy statement - Minor wording additions to procedure 	Staff	
v.2.201905	<ul style="list-style-type: none"> - Updated links to NQS, National Regulations - Combined definitions to one succinct overarching definition - Minor wording changes - Added paragraph on procedure for dealing with serious unacceptable behaviour 	Staff Committee Staff/Committee Staff	