

BISHOP BAVIN SCHOOL POLICY ON LEARNER DISCIPLINE AND DISCIPLINARY PROCEDURES

(Created January 2015)

1. Introduction

There are many factors and applicable legislation that need to be considered in the application of discipline at a school. Bishop Bavin School took care to incorporate all the applicable laws and practices in this Policy, which deals with learner discipline and disciplinary procedures, with specific reference to the South African Constitution, the South African Schools Act, the Labour Relations Act as well as universal norms of fairness regarding discipline – the rules of “natural justice”.

2. The Purpose of this Policy

The purpose of this Policy is to provide learners, parents and other stakeholders with an overview of the rules and procedures that apply to individual learner disciplinary measures, the disciplinary action process, disciplinary Hearings, the appeal review process and collective misconduct by a group of learners.

This Policy is considered an important element of the School's Code of Conduct and is applicable to all learners. This document may also have a bearing on the learner's behaviour outside of normal School hours or activities, should the learner's conduct impact negatively on the School/learner relationship, or the reputation and integrity of the School.

3. Principles

- 3.1 Should expected norms of conduct not be met by any learner, corrective action may be initiated by the School. Such corrective action may or may not include the application of formal disciplinary measures; steps applied to prevent further occurrences of unacceptable behaviour, or other measures to restore the School/learner relationship.
- 3.2 The maintenance of learner discipline and ensuring orderly school and classroom behaviour is an integral part of every teacher's job. The School will apply the procedures in an effective and equitable manner, in the interests of the wellbeing of the School, preserving and promoting educational excellence, and protecting the rights of all School stakeholders including the learner.
- 3.3 Given competing interests and rights, the wellbeing of the body of learners, and of the School as a whole, should take preference.
- 3.4 While the ethos and value system of the School is unashamedly founded in the Christian faith, specifically that of the Anglican Church, this will not be a justification to

avoid any disciplinary procedure or imposed sanction against a learner or group of learners. Equally, the Anglican Church structures have no role to play in preventing due disciplinary process or sanction.

4. Disciplinary Measures

It is impossible to list every possible type of rule infringement or misconduct by, and recommended sanction for learners. This Policy therefore only sets out the broader categories of infringement, and the norms for applying fair disciplinary measures at the School.

Various forms of informal and formal disciplinary measures may be initiated by the learner's responsible Teacher, Grade Tutor, or by the School management. The School will be entitled to apply corrective action and/or disciplinary measures that it believes are appropriate in the circumstances, within the guidelines provided. The procedures, judgment and discretion of Bishop Bavin School will be guided by the circumstances of each case.

The severity of action taken by the School on any incident will depend on the unique circumstances, its seriousness, the interests of other learners, the School and its employees, the interests of the offending learner/s and any other relevant mitigating or aggravating factors being of relevance.

Disciplinary action that may be applied by the School, in order of severity, includes (but is not limited to):

4.1 Informal measures

- 4.1.1 Counseling by an appropriate Bishop Bavin School staff member.
- 4.1.2 A verbal reprimand (noted on the learner's file and valid for three months).
- 4.1.3 Detention or time punishment.
- 4.1.4 "Community service" on or off-campus.

4.2 Formal measures

- 4.2.1 A warning or demerit recorded (usually effective for a period of 3 to 6 months).
- 4.2.2 Parental/guardian contact and an interview with them, generally after the conducting of an investigation by the School.
- 4.2.3 Suspension for a period from class, from Boarding, or from attending School, either pending the convening of a formal disciplinary Hearing, and/or as a form of corrective action after the conducting of a disciplinary Hearing.
- 4.2.4 Expulsion from Boarding or the School, generally only after the conducting of a disciplinary Hearing, and as a last resort, in the case of serious or repeated offences.

Discipline may, wherever feasible and effective, be applied progressively. Informal action for minor transgressions is generally applied at Teacher/Grade Tutor/Boarding Master/Mistress level, without a formal investigation being necessary. Repeated commission of a minor, similar or related offences may however result in progressively more severe and formal action being taken; particularly where a clear pattern or behaviour trend is indicated by the learner's continued misconduct.

Notwithstanding the principle of progressive discipline, a serious first offence may justify a formal and severe penalty.

Warnings or demerits issued by the School will be noted on the learner's record. Copies of warnings issued will also be provided to the parents by the School.

5. Disciplinary Action Procedure

This section summarizes the disciplinary procedure that will be followed, wherever possible, by the School when disciplinary action against a learner is considered appropriate by School authorities.

5.1 Informal procedures

- 5.1.1 Infringements that are not considered serious, or do not require formal disciplinary action in the opinion of the learner's Teacher, Grade Tutor, or by the School management, can be dealt with directly by the Teacher or Grade Tutor or other member of the School management. These are not generally recorded on the learner's record, but will be communicated to the learner's parents/guardians by the Grade Tutor, Head of Boarding or School management involved.
- 5.1.2 The various forms of informal action are as outlined above and may be implemented by the Boarding Master/Mistress, Teacher, Grade Tutor or other member of the School management.

5.2 Informal investigation

- 5.2.1 When an infringement occurs which appears to require formal disciplinary action, the staff member concerned (or another complainant such as a parent) will initiate the disciplinary process by reporting the incident to the relevant Grade Tutor, Head of Boarding or other member of the School management, or by submitting a written complaint.

A report or complaint may be supplemented by any additional information or statements to clarify or adequately detail the facts surrounding the alleged infringement.

- 5.2.2 The learner's responsible Grade Tutor or Head of Boarding, and another senior staff member if required, should investigate the reported infringement or written complaint received, to decide upon appropriate corrective measures. This investigation generally takes the form of an informal inquiry, and wherever possible includes an opportunity for the learner to state his/her case in response to the complaint.

5.3 Formal disciplinary measures

- 5.3.1 If, after investigation, the infringement is confirmed and considered to be of a nature which requires a formal response but not require severe action, the responsible Grade Tutor or Head of Boarding or other member of the School management may counsel the learner and issue an appropriate written warning or demerit to the learner concerned which will be valid for a period of six months. This course of action needs to be agreed with the Headmaster or Deputy-head of the College beforehand.
- 5.3.2 A copy of the warning issued should be given to the learner's parents/guardians by the Grade Tutor, Head of Boarding or other member of the School management involved. A meeting with the parents/guardians may be necessary to clarify the reasons for formal action being taken, as well as to reinforce the seriousness of the infringement and to highlight the expectations that the misconduct will not be repeated.

5.4 Final warning

- 5.4.1 A Final Warning is generally only imposed by a Grade Tutor, Head of Boarding, Deputy Head or the Executive Headmaster, if the learner's misconduct was (a) very

serious but (b) did not warrant suspension or a Hearing/expulsion, or if (c) misconduct occurs which is similar to a previous infringement for which a written warning had already been issued to the learner by the School.

- 5.4.2 If a Final Warning had been issued to a learner for misconduct, ANY further infringement by the learner during the period of such warning should be considered as warranting suspension and a disciplinary Hearing into the learner's behaviour at the School.

6. Disciplinary Hearing

When a serious infringement possibly warranting learner suspension or expulsion occurs, or in the case of a further alleged infringement by a learner with a valid Final Warning on his/her file, the School may conduct a formal Disciplinary Hearing to consider the allegations and if necessary determine appropriate measures to be taken against the learner.

The Hearing process is intended to investigate properly and transparently any allegation(s), to provide an opportunity for the learner/parents/guardians to provide their views or comments on the allegations being made, and to enable the Hearing Chairperson to objectively "hear both sides" - to objectively determine the guilt or innocence of the learner, and if applicable, the appropriate disciplinary measure to be taken by the School.

- 6.1 A notification of convening of a disciplinary Hearing will be completed by the School authorities and will be given to the learner concerned and his/her parents/guardians at least 48 hours (two school days) before the intended Hearing. This notification will provide sufficient information to ensure that the learner/parents/guardians are properly informed of the alleged complaint, the seriousness of the allegations, and the School's intention to convene a formal Hearing to investigate the infringement.
- 6.2 The learner's parents/guardians will be advised that they are expected to attend the Hearing, and that their non-attendance may prejudice their child's case; should they not attend, the Hearing may be held in their absence and decisions taken without their involvement. The parents/guardians may appoint another adult person such as a family member or friend to attend the Hearing on their behalf in the event that they are unable to attend, provided they informed the School beforehand.
- 6.4 The learner may be suspended pending the Hearing, if this is considered appropriate, given the seriousness of the alleged misconduct and his/her continued exposure to others in the School. The suspension of the learner will be indicated in the notification of Hearing to the parents/guardians.
- 6.3 Legal representation at disciplinary Hearings is not a legal requirement and is generally not permitted, unless both the School and the parents/guardians agree that particular circumstances of an incident warrant that both parties be legally represented. A disciplinary Hearing is an internal School procedure and the involvement of legal counsel may lead to unnecessary over complication and hindrance of the process.
- 6.4 The Hearing will be chaired by a competent and reasonably objective Hearing Chairperson, who will be responsible for leading and managing the entire Hearing process, and making the two critical and distinct decisions i.e.
- VERDICT: the guilt or innocence of the learner, relative to the allegations made by the School, and the evidence presented;
- and in the event of a guilty verdict the

- **PENALTY:** the appropriate measure action to be taken, after due consideration of mitigating and aggravating factors relevant to the matter.
- 6.5 The Hearing Chairperson will conduct the Hearing procedure in a proper manner that conforms to the rules of natural justice i.e. the learner and his/her parents/guardian -
 - 6.5.1 should be given adequate notice and be properly informed of the allegations being made by the School;
 - 6.5.2 should be requested to attend the Hearing as representatives for the learner, and that the Hearing is conducted timeously;
 - 6.5.3 should be presented with all facts and information relating to the allegations being made against the learner;
 - 6.5.4 should be given the opportunity to question evidence presented by the School, and be entitled to present their own perspective and explain/defend the relevant actions;
 - 6.5.5 are entitled to a Hearing to be chaired by a reasonably impartial chairperson, and to decisions being made in an objective and considered manner;
 - 6.5.6 are to be treated with dignity and respect throughout the Hearing;
 - 6.5.6 are to be assured of the greatest confidentiality possible;
 - 6.5.7 must be formally advised of the outcome of the Hearing (i.e. both verdict and penalty) by the Hearing Chairperson, and the reasons for such decisions; and
 - 6.5.8 should be offered the right to appeal against any decision made by the Hearing Chairperson.

7. Appeal Review Process

While it is a fundamental right in terms of the “rules of natural justice” for a learner and his/her parents/guardian to be provided with an opportunity for appeal against disciplinary findings or measures imposed by the Hearing Chairperson, our law does not dictate or prescribe whether this appeal process should be internal (made to and decided upon by another School authority) or external (made to a third party in terms of legal process, e.g. referring the matter to Court for adjudication).

The School believes that an internal appeal review process is more beneficial and fair for both the learner and the School, and provides a further, expeditious and less public process for the parties to resolve any dispute regarding disciplinary matters, in particular when considering the holistic educational interests of the learner.

- 7.1 Accordingly, the learner/parents/guardians have the right to appeal against any formal disciplinary action imposed by the School (i.e. against any formal disciplinary action taken by the School or any decisions by a Hearing Chairperson) as a final process in the School's disciplinary procedure. Similarly, the School has the right to appeal and must follow the same procedures as outlined below.
- 7.2 The lodging of an appeal against formal disciplinary action, or any decision by a Hearing Chairperson, only entitles the learner to an appeal review. The right to an appeal review therefore does not entitle the learner to a “re-Hearing” in any way.

An appeal review is generally a process that does not entail a full re-investigation or a re-Hearing of all the evidence heard at the Hearing, and the designated Reviewer is only required to review the matter, according to the grounds and motivation submitted by the appellant/parents/guardians. The Reviewer is expected to at least

review the Hearing Chairperson's findings and any documentation submitted by the respective parties

- 7.3 Due to the nature of the review process, the learner/parents/guardians wishing to appeal must fully motivate their appeal in writing, detailing the grounds for appeal and providing the Reviewer with any additional or new evidence they wish to submit in support of the appeal. Should new evidence come to light, the Reviewer may recommend a re-Hearing which will then follow process as described above.

The onus rests with the learner/parents/guardian to justify an appeal, and the grounds for the appeal must be clearly and comprehensively set out in the written appeal request. This should enable the Reviewer to appreciate and properly consider the appellant's grounds for the review.

- 7.4 Any request for an appeal must be submitted to the Executive Headmaster or the Hearing Chairperson within 5 (five) school days of the Hearing Chairperson's decisions having been provided to the learner/parents/guardians, so as not to delay review proceedings.
- 7.5 The Executive Headmaster may conduct the review or appoint an appropriate person, or review panel, to conduct the appeal review.
- 7.6 After reviewing the appeal motivation submitted by the appellant, and investigating any aspects of the disciplinary process considered necessary, the Reviewer or panel will make a decision relative to the grounds for appeal submitted by the appellant, within 5 five School days of being appointed.
- 7.7 A written Appeal Review Finding must be provided to the learner/parents/guardians and the Executive Headmaster by the Reviewer or Panel, within 2 (two) School days. A copy of the Review finding must also be placed on the learner's file for record purposes.
- 7.8 The communication of the appeal review decision marks the conclusion of the School's appeal process, and is the final step in the School's Disciplinary Procedure.

8. Collective/Group Misconduct

The above-described disciplinary procedure is principally designed to deal with instances of misconduct by individual learners. Alleged misconduct by a group of learners, where the infringement(s) are of a similar nature or with a related intent, is considered as being "collective group misconduct".

- 8.1 Collective/group misconduct is more effectively dealt with on a collective basis. An informal investigation into the alleged collective/group misconduct will be conducted initially by the Teacher, Grade Tutor or Head of Boarding. This investigation may include a discussion with the learners involved, and with anyone else who could provide relevant information, to attempt to get to the facts of the matter and to get the learners' perspective before deciding on the best way forward.
- 8.2 Dependent upon the outcome of this initial investigation, informal or formal disciplinary action may be considered appropriate by the responsible School official for the individual learners, and/or the collective/group of learners involved.
- 8.3 Should the alleged infringement be considered to be of a serious nature, a single disciplinary Hearing procedure may be conducted with all the learners concerned, subject to the same procedures described above under sections 5 and 6.

The same procedures as provided for 5 above (Disciplinary Hearing) are generally also followed in a collective disciplinary Hearing.

- 8.4 Despite the use of a collective/group Hearing procedure, individual learners will still be provided with the opportunity of demonstrating that their own circumstances may be different from that of the group, or of other learners, and for showing why they should be treated differently.
- 8.5 The same provisions set out in 7 above regarding appeal review procedures will apply in the case of collective/group disciplinary matters subject to due consideration of any time delays in facilitating the involvement of more parents/guardians in the procedures.

The School, however, reserves its right to initiate a separate or collective/group appeal review process, to deal with any appeals lodged by any learners affected. Similarly, a decision by the School to rehear any evidence against an individual learner involved, will not prejudice the School's rights to only conduct appeal reviews with other learners

With acknowledgement to the ISASA document on the same topic.

Adopted by the Bishop Bavin School Executive Committee in January 2015.

ACKNOWLEDGEMENT OF THE BISHOP BAVIN SCHOOL LEARNER DISCIPLINE AND DISCIPLINARY PROCEDURES POLICY

I, _____, a proud learner at Bishop Bavin School, have received a copy of the Bishop Bavin School learner discipline and disciplinary procedures Policy.

I believe that everybody should enjoy our School equally, and feel safe, secure and accepted regardless of colour, race, gender, age, academic or sporting ability, religion, belief, sexual orientation, popularity, intelligence or nationality.

By signing this acknowledgement, I agree to keep myself informed and aware of the School learner discipline and disciplinary procedures Policy, to report any incidents I may witness and to strive towards complying with all the School requirements.

I will work in partnership with Bishop Bavin School to encourage positive behaviour, valuing differences and promoting sensitivity to others.

Signature: _____

Date: _____