



## **Disciplinary Procedures Guidelines - Pupils**

**Date: January 2020**

### **PREAMBLE**

#### **Introduction**

##### **Section 1**

This guideline has been drawn up in order to inform all members of the MBM Private School community of the procedures the school will follow when dealing with allegations of misconduct on the part of pupils. It serves also to guide the school and its teachers in the application of disciplinary measures. This guideline should be read in conjunction with the School's Code of Conduct, which sets out the standards of conduct expected of pupils, and the school's other policy documents.

The disciplinary procedure contained in this guideline has been finalised after undergoing a process of discussion and consultation involving pupils, teachers, parents and the Board of Governors. The school has from time to time reviewed its procedures, and reserves the right to continue to review and adapt this guideline when necessary.

In all cases staff are to act in accordance with the requirements of South African Law and the Constitution.

##### **Section 2 - Disciplinary Measures**

The underlying purpose of all disciplinary measures initiated by the school will be to foster the standards of behaviour and principles stated in the Code of Conduct. The school will strive to maintain discipline in a manner that builds an atmosphere of mutual respect and tolerance and that enhances pupils' sense of self-confidence and self-worth.

The school reserves the right to exercise both informal and formal disciplinary measures as it deems appropriate and with particular reference to the age of the child concerned. The decision as to which procedure to follow will depend on the seriousness of the alleged infringement and any mitigating or aggravating circumstances.

Disciplinary measures that may be applied by the school include the following:

- Counselling by a member of staff
- Detention
- Community / School service
- Parent contact or an interview with parents
- Withdrawal of rights and privileges, including sport and social activities which form part of the Bridge House curriculum
- A formal written warning
- Suspension from school
- Expulsion

Discipline should be appropriate to the offence and applied progressively. Repetition of offences will result in progressively more severe action being taken. However, it is possible that a serious first offence could justify a severe penalty, including expulsion.

A serious offence will be recorded in a pupil's file for an appropriate period.

### **Section 3 - Disciplinary Process**

This section outlines the procedures that will be followed by the school when taking disciplinary action.

#### **Minor Infringements**

Infringements that are not considered serious, or do not require formal disciplinary action in the opinion of the relevant teacher, will be dealt with directly by the teacher. These informal disciplinary measures may be implemented by teachers without reference to a Head of Department, Head of Phase, Head of House, Deputy Head or the Head.

#### **Serious Infringements**

When a more serious infringement occurs or is alleged, the teacher concerned, and the Head of Department, Head of Phase, Head of House, Deputy Head or Head if appropriate, should investigate the complaint in order to determine the appropriate disciplinary procedure to be followed. At this stage, before the validity and details of the complaint have been established, the school will not necessarily advise the parents or guardian of a pupil that a complaint is being investigated. The parents or guardians will be informed if the matter is to proceed further.

The school reserves the right to record any interviews conducted during the course of the investigation phase, as well as to record the hearing itself.

The school shall, in exercising discipline over pupils, act according to the principles of natural justice.

While written statements are not part of the formal hearing, as they cannot be subject to cross-examination, as part of the investigation phase pupils are encouraged to write down their version of the incident. This statement should be dated and signed by the pupil. These written statements can be shared with both the defendant and the prosecutor before the case is heard.

The school will offer the services of an experienced senior staff member to act as an independent advisor before the disciplinary process is conducted. This person will be available to advise the pupil and his/her family about the nature of the charge, the process, the possible consequences, and options available to the child. The role is not to prepare a case nor to gather information on behalf of the accused. This person may not take part in the investigation or the hearing of the case.

If the circumstances warrant it, the infringement will be noted on the pupil's record and / or the pupil's parents or guardian advised of the misconduct.

Where necessary, a written notification of a disciplinary hearing will be given to the pupil and to his / her parents or guardian. The school reserves the right to suspend the pupil pending the hearing in appropriate circumstances.

All suspensions will be preceded by an informal meeting involving the representatives of the school (not the person who is to preside over the disciplinary hearing) and the pupil's parent/s or guardian where reasonably possible, and at which representations, if any, on whether to suspend the pupil, will be heard.

The notification of a disciplinary hearing must:

- State when and where the hearing is to be held;
- State the name of the person chairing the hearing;
- State the nature and substance of the complaint or complaints against the pupil;
- Advise the pupil and his / her parents or guardian that they are expected to attend the hearing as their non-attendance may prejudice their case and result in the hearing being held in their absence. In the case of boarders, a representative may be nominated, in writing, by the parents.

Whenever possible the pupil and his / her parents or guardian should be notified of the hearing at least two school days before the scheduled date.

In terms of good governance and communication, the Chairman of the Board of Directors should be made aware by the Head, of the process and later informed of the outcome.

The principles of natural justice will apply to both parties at the hearing, including that all parties can lead evidence, by calling and cross-examining witnesses:

- Legal representation is not permitted at a disciplinary hearing as of right, although if any party wishes to be legally represented they may address a motivated written request to the chairperson, 24 hours prior to the hearing's commencement. The chairperson's ruling in this regard will be final.
- A senior representative of the school should chair the disciplinary hearing.
- If the school deems it necessary, it may engage the services of a suitably qualified, experienced, neutral third party to conduct the inquiry.
- A disciplinary hearing is an informal inquiry in which the formal rules of evidence are not strictly applicable. The chairperson will have a broad discretion to determine the manner in which evidence is led and in which manner the proceedings are to be conducted.

These guidelines should be followed in order to ensure a fair hearing:

- The chairperson should act impartially, and as far as possible should not have been involved directly in the events which form the basis of the complaint(s) or have taken any part in the investigation
- The chairperson's findings should be based only on evidence and argument presented at the hearing
- The proceedings should be conducted with due regard to the rights to dignity and privacy of all concerned
- The pupil and his/her parents or guardian must be placed in a position to properly understand the complaint(s) before the commencement of the hearing
- The pupil and his / her parents or guardian must be presented with all the relevant facts and information relating to the complaint(s)
- In the case of boarders, the pupil and his/her parents may appoint a suitable person to represent them. This must be confirmed in writing by the parents. This also applies if a staff member represents the boarder and boarder's parents in the hearing.
- The pupils and his / her parents or guardian must be allowed to challenge the evidence presented in support of the complaint(s), to present their own evidence in relation to the events and to explain and / or defend the pupil's actions. If they choose to do so, they may lead evidence or make arguments in support of the pupil's defence.
- After the evidence on the merits, the chairperson must determine whether the pupil is guilty of the misconduct alleged in the notification of the disciplinary hearing. The pupil's plea, if guilty, should be interrogated by the chairperson. No finding of misconduct should be made in respect of infringements for which prior notice was not given or where there was not a proper opportunity to challenge the allegations. In the case of such a secondary complaint(s) either a second hearing, conducted in the same informal manner and subject to the same principles as the first, should be held to determine the appropriate sanction for that complaint, or the secondary complaint/s must be added as a charge/s in the initial hearing and if necessary the parties afforded an opportunity to prepare in relation to such further charges.
- If the chairperson returns a finding of guilty on any one or more charges, he/she shall announce this and then call for further submissions (or evidence) from the school and thereafter the pupil and/or his or her parents or guardian in relation to an appropriate sanction. The chairperson must then impose a sanction.

After the hearing, copies of the minutes of the proceedings will be sent by the minute secretary to all parties involved, for approval. Any editing of the minutes must be accepted by all parties. Should there still be dispute, the chairperson will be the final arbiter as to the correctness of the minute.

After the completion of the disciplinary hearing, the findings made and any sanction imposed should be communicated in writing to the pupil and his/her parent/s or guardian by the chairperson. If the pupil is found guilty of any misconduct, the chairperson must briefly state the reasons for the finding and the sanction imposed. In the event that the sanction is expulsion, this notification must include a reminder that the pupil has the right to appeal to the Chairman of the Board of Directors, in writing, within five school days of the hearing's outcome being communicated.

An appeal will be read by a person or persons appointed by the Chairman of the Board of Directors. The chairperson must ensure that a record or summary of all evidence led at the inquiry is kept, and that all documentation submitted by both the respondent and the school at the hearing is made available to the appointed person reading the appeal. Only documents or a record of evidence led in the hearing are admissible, and no new documentation may be added to the appeal process.

Should new evidence be submitted by the accused, during the appeal process, the appeal chairperson may either direct that a re-trial should be conducted, or afford the school the opportunity to submit comment on the new evidence.

The chairperson must ensure that a record or summary of the evidence led at the inquiry is kept. The school must keep copies of the record and all documentation used at the inquiry for at least six months after the conclusion of the hearing.

If the pupil has been suspended pending the conclusion of the hearing, he/she will remain suspended until the end of the disciplinary enquiry.

If the pupil has been suspended pending the completion of the hearing process, the submission of an appeal will not affect the suspension which will remain in place until the appeal has been concluded, unless the chairperson of the hearing rules otherwise at the time of imposing a sanction.

The appeal should as far as reasonably possible be conducted within a further seven school days of receipt of the appeal and accompanying motivation. The written motivation for the appeal must detail which portion/s of the finding and/or sanction are appealed and the reason/s therefore. (Substantial or procedural errors etc.)

This motivation will serve before the appeal chairperson and the school shall be permitted if it so chooses to deliver written representations in response thereto within a further two school days of receipt of the appeal motivation.

When a decision has been made by the appeal chairperson, after giving due consideration to the matters raised in the appeal, the written finding must be provided to the pupil and his/her parent/s or guardian of the pupil within a further five school days of the finding having been made.

The decision of the appeal chairperson is final and binding on the parties and is not subject to any further appeal or review.

In the event of their appeal being overturned, the parents/guardians may be held liable for any legal costs incurred in the appeal process. The school reserves the right to communicate the details of the offence, the process that was followed and the sanction that resulted from the hearing, with the wider school community (or not), and has discretion over what degree of detail this communication includes.

#### **Section 4 - Collective Disciplinary Action**

The above disciplinary procedure is principally designed to deal with instances of misconduct by individual pupils. Allegations of misconduct by a group or groups of pupils, or involving several alleged infringements of a similar nature, constitute collective misconduct.

Collective misconduct may be dealt with more effectively on a collective basis. A single investigation and disciplinary hearing may then be held, subject to the principles set out above, adapted where necessary for the context.

In a collective disciplinary hearing, individual pupils will be given the opportunity to state or testify that their circumstances differ from the rest of the group.

The school reserves the right to adopt either individual or collective procedures as it deems appropriate in the circumstances.