



# **STUDENT DISCIPLINARY POLICY & PROCEDURES**

**AUTHOR: Executive Team Member with responsibility for Student Discipline**

**REVIEW DATE: December 2019**

# STUDENT DISCIPLINARY POLICY & PROCEDURES

## 1 PURPOSE

1.1 The purpose of this Policy and Procedures is to assist the College:

- to manage students' conduct and apply appropriate sanctions where College rules are infringed
- to safeguard the welfare of students and staff
- to seek to ensure that effective student learning takes place and students enjoy a positive experience
- to support students in seeking to become responsible learners and employable individuals
- to protect the College's reputation.

## 2 APPLICATION AND IMPLEMENTATION

2.1 Students are required at all times (both on and off College premises and not just during term time) to comply with all College rules, regulations, codes, conditions, policies and procedures including the Student Code of Conduct. This includes (but is not limited to) when on course or other College related activities such as placements and trips. In the event of failure by a student to comply with any College rules, regulations, codes, policies or procedures the College may implement the Procedures set out below.

2.2 Academic performance is not treated as a disciplinary issue in the first instance. Issues such as repeated low-level disruption, failure to adopt appropriate study habits, failure to accept appropriate guidance and advice, and failure to adhere to the Commitment to Study agreement are initially dealt with through the Harlow College Academic Performance Policy and Procedures. However, when a student has failed to meet their Action Plans for Academic Progress, they can be referred to Stage 3 of the Disciplinary Policy and the Academic Performance Policy.

2.3 School link students will only be allowed to remain on their course if they comply with all College rules, regulations, codes, conditions, policies and procedures. The school from which the link students originate will deal with this through the school's rules.

2.4 Allegations of minor misconduct will normally be dealt with under Stage 1 of these Procedures. Allegations of misconduct and repeated or persistent minor misconduct will normally be dealt with under Stage 2 (red card). Allegations of gross misconduct will normally be dealt with under Stage 3. See Appendix 1 for examples of minor misconduct, misconduct and gross misconduct.

2.5 At each stage of these Procedures, the College will consider whether support can be offered to the student including whether the student can be referred to any relevant sources of support such as counselling services, Student Services, Students' Union support, external agency support, etc.

**2.6** The parent(s)/ guardian(s)/ carer(s) of students aged under 18 and of students who have learning difficulties and/or disabilities must be kept fully informed of any operation of any stage of this Procedure beyond Stage 2 (red card). Where a student has learning needs and/or a disability, then appropriate consideration must be given to their support needs in these procedures.

**2.7** Employer sponsors should be advised at the operation of all stages of these Procedures.

**2.8** These Procedures may be implemented at any Stage without a previous Stage having first been implemented or exhausted.

**2.9** All students have the right to be accompanied at Stage 3 and beyond by one person, for example a friend, parent, guardian, carer, relative or support worker. No individual may accompany and/or represent a student in the capacity of a solicitor or barrister or other legally qualified professional.

**2.10** All time periods stated in these Procedures may be varied in the interests of fairness or if it is not reasonably practicable to adhere to them. However, all parties will try as far as practicable to keep within the stated time periods. Reasons for extension to the normal stated time periods by the College will be explained to the student.

**2.11** The standard of proof for determining allegations of misconduct under these Procedures is the balance of probabilities.

**2.12** With the exception of Senior Postholders, references in these Procedures to specific members of College staff include their nominees. References to Senior Postholders are to the Principal and the Deputy Principals.

**2.13** Where a student elects to withdraw from his/her course prior to action being taken by the College under these Procedures, the College may decide to take no action under these Procedures.

### **3 INVOLVEMENT OF THE POLICE**

**3.1** If any criminal activity by a student is suspected, the College will normally involve the Police and reserves the right to pursue matters through legal process. In the event of emergency, any staff member may call the Police, although normally this will be done via the Campus Operations Manager.

**3.2** In matters involving suspected criminal activity, the College may postpone taking any action under these Procedures pending the outcome of any stage of any Police or criminal investigation or proceedings.

**3.3** The College is not bound by the outcome of criminal proceedings.

**3.4** Where a student is escorted from College premises by the Police, the student is deemed to be automatically suspended and a letter confirming suspension will be sent to the student's notified address by a designated manager. The notified address is the address held by the College on the student record system.

## **4 SUSPENSION FROM THE COLLEGE**

**4.1** A Senior Postholder (the Principal or Deputy Principals) may suspend a student from the College and/or any College-related activity (such as a placement) on the advice of an investigating manager if the manager reasonably considers that the student's continued presence poses:

- a risk to the health, safety or welfare of the student and/or other individuals
- a serious risk of disruption to students' learning or other College activities or the College's reputation
- a serious risk to property and/or
- a risk of prejudicing the College's ability to implement these Procedures (eg to conduct an investigation).

In the event that a Senior Postholder is unavailable, the power to suspend will be delegated to an Assistant Principal.

**4.2** Any such suspension of a student will be reported by the Assistant Principal at the earliest possible opportunity to a Senior Postholder.

**4.3** Where a student is escorted from College premises by the Police, the student is deemed to be automatically suspended. In the event a student is arrested and/or charged by the Police the College will normally suspend the student pending further information in relation to the surrounding circumstances where they would bring the College into disrepute and/or where the learner's presence will cause safeguarding concern.

**4.4** Any period of suspension will be for no longer than is necessary in the circumstances.

**4.5** Any suspension under this section 4 is a neutral act and does not imply any finding of guilt on the part of the student and is not a disciplinary sanction.

**4.6** The student will be informed of any decision to suspend under section 4 normally by telephone, in person or by letter on the same day and receive confirmation in writing within 5 working days of the date of the decision.

**4.7** During any suspension period the student must not attend College premises or (where relevant) engage in any College-related activity (eg a placement) unless s/he is specifically authorised to do so by a member of College staff (such as the student's Academy Manager), for example in order to submit coursework, sit an examination or attend a meeting or hearing. In most circumstances, the student will retain their access to the College virtual learning environment.

**4.8** Whilst there is no right of appeal against a decision to suspend a student under section 4, any decision to suspend will be kept under regular review by the Senior Postholder. If at any point the Senior Postholder considers that the suspension should no longer continue, s/he will inform the student, in person or by telephone with confirmation in writing, that s/he is no longer suspended and that s/he may return to College.

**4.9** The student will be provided with a nominated point of contact for the duration of the period of any suspension and s/he may contact this person for information in relation to any aspect of the suspension.

**4.10** In addition, the College recognises that suspension may affect the student's academic performance and consequently, where practicable, the College may make arrangements for work to be sent to the student and undertaken from home during any suspension period. Where a student who has been suspended subsequently returns to his/her course, the College may take steps which take account of the effect that the suspension may have had on the student's academic performance.

## **5. INVESTIGATIONS**

**5.1** The College may at any stage of these Procedures appoint an impartial member of staff to act as Investigating Officer to conduct an investigation into the allegations of misconduct made against the student in order to assist in dealing with the matter. Any investigation will be carried out fairly and impartially. It may include the collection of information from relevant individuals (such as staff and students) and may involve the taking of written statements. The Investigating Officer may invite the student against whom the allegations have been made to make a statement but the student will not be obliged to make a statement.

**5.2** Evidence arising from any investigation for Stage 2 (red card) and Stage 3 will normally be made available to the student, including copies of any written statements taken. Anonymous statements will normally not be permitted however in specific circumstances the identity of witnesses will not be released.

**5.3** The College may, in light of an investigation, decide not to take any further steps under these Procedures and will advise all parties accordingly.

## **6. STAGE 1 (YELLOW CARD): MINOR MISCONDUCT**

**6.1** Allegations of minor misconduct may be dealt with by any member of College staff as s/he considers appropriate in the circumstances. The student will be informed of the allegations of misconduct made against them and given an opportunity to respond to them.

**6.2** Where the member of staff dealing with the matter determines that the student has committed the alleged misconduct s/he may impose one or more of the following sanctions:

- a Stage 1 warning (a "yellow card" warning) which may include conditions on future conduct and/or an action plan

**6.3** Where the student has been found to have committed the alleged misconduct, s/he will be informed that any repeat or further minor or other misconduct, or failure to comply with any conditions or action plan imposed, may result in action being taken under Stage 2 (red card) and/or Stage 3 of these Procedures.

**6.4** A Stage 1 "yellow card" warning will be notified to the student's Personal Tutor which will be recorded on the student's file for the duration of their enrolment

and may be referred to if further disciplinary action is taken. A copy will be given to the student concerned.

## **7 STAGE 2 (RED CARD): MISCONDUCT, REPEATED / PERSISTENT MINOR MISCONDUCT**

**7.1** Allegations of misconduct or repeated or persistent minor misconduct will be dealt with by the head of academy or the assistant academy manager. The student will usually be invited to a meeting to talk with staff at which the allegations will be considered.

**7.2** The process to be followed at the Stage 2 (red card) Meeting will be at the discretion of the head of academy or the assistant academy manager or delegated college staff who may allow witnesses to attend and written evidence to be produced.

**7.3** Following consideration of the allegations at Stage 2 (red card), the head of academy or the assistant academy manager or delegated college staff will determine whether or not the student has committed the alleged misconduct. Where a student has been found to have committed the alleged misconduct, the head of academy or the assistant academy manager or delegated college staff may impose one or more of the following sanctions:

- a Stage 2 (a “red card”) warning which may include conditions on future conduct and/or
- an action plan which may include targets

**7.4** Where the student has been found to have committed the alleged misconduct, they will receive a copy of the “red card” warning and any action plans normally within 5 working days of the Stage 2 Meeting. S/he will be informed that any repeat or further misconduct, or failure to comply with any conditions or action plan imposed, may result in action being taken under Stage 3 of these Procedures.

**7.5** A Stage 2 (“red card”) warning will be notified to the student’s Learner Mentor and recorded on the Stage 2 (red card) form and placed in the student’s file and may be referred to if further disciplinary action is taken.

## **8 STAGE 3: GROSS MISCONDUCT**

**8.1** Allegations of gross misconduct will be dealt with by a Disciplinary Panel at a Stage 3 Disciplinary Hearing. The Disciplinary Panel will comprise no less than two/no more than three members of staff from outside the student’s course area. One of the panel will be a senior manager who will act as Chair. Where there is an equal division of opinion, the Chair will have the casting vote. A clerk will be appointed to administer the hearing arrangements and to take notes of the hearing.

**8.2** The student will be invited to the Disciplinary Hearing at which the allegations of gross misconduct will be considered. The student will be informed in advance of the Hearing in writing of the allegations against him/her together with the evidence in support of those allegations and will be given a full opportunity to respond to them at the Hearing. The student will normally be given 5 working days’ notice of the date, time and place of the Hearing. The College will ask the Investigating Officer to present the allegations against the student to the Disciplinary Panel.

**8.3** The process to be followed at the Stage 3 Hearing will be at the discretion of the Chair of the Disciplinary Panel but will normally follow the guidelines contained in the documents “Setting Up Disciplinary Hearings” and “Conduct and Outcomes of Disciplinary and Appeal Hearings”:

**8.4** The student must take all reasonable steps to attend the Disciplinary Hearing. Failure to attend the Hearing without good reason may be treated as misconduct in itself. If either the student and/or any person accompanying and/or representing him/her is unable to attend, the student must inform the Clerk of this immediately so that the College may consider whether an alternative date and time should be arranged for the Hearing. Where the student and/or his/her representative does not, without good reason, attend the Disciplinary Hearing (or fails to attend on two or more occasions), the Chair may at his/her discretion determine that the Hearing may nonetheless proceed and a decision may be made in the absence of the student and/or his/her representative.

**8.5** Any party calling witnesses at a Stage 3 Hearing must give written notice of so doing to the other party (including the name of each witness and the capacity in which they will be called) at least **5** working days in advance of the date of the Hearing.

**8.6** Following the Stage 3 Hearing, the Disciplinary Panel will determine whether or not the student has committed the alleged gross misconduct. Where the student is found to have committed the alleged gross misconduct, the Disciplinary Panel may impose one or more of the following sanctions:

- a Stage 1 (yellow card) or Stage 2 (red card) warning (which may include conditions and/or a behaviour contract and warning of what action the College may take in the event of breach by the student)
- a Stage 3 (final written) warning (which may include conditions and/or a behaviour action plan and warning of what action the College may take in the event of breach by the student)
- exclusion for a defined period.
- expulsion from the College

**8.7** If the student receives a warning and fails to fulfil any conditions set or breaches any behaviour contract, the Academy Head may request that the Disciplinary Panel reconvenes to consider any further action.

**8.9** The student will be informed in writing of the outcome (with reasons) of the Stage 3 process normally within 10 working days of the Stage 3 Hearing and of the right to appeal under these Procedures under Section 9 and the outcome will be recorded on the student’s file. In the case of exclusion or expulsion, the outcome letter must be signed or counter-signed by a Senior Postholder. Senior Postholders are currently the Principal and Deputy Principals.

## **9. APPEAL**

**9.1** A student may request an appeal of the outcome of a Stage 3 Hearing in writing addressed to the Principal within 10 working days of the date of notification of the Stage 3 decision. The request for appeal must state the grounds for appeal.

**9.2** An appeal may be made on one or more of the following grounds:

- there is new additional evidence which was not reasonably available at the time of the original Stage 3 Hearing;
- there is mitigation for the sanction imposed that was not reasonably available at the time of the original Stage 3 Hearing
- proper procedures were not followed
- the decision is unreasonable and/or the sanction disproportionate.

**9.3** Upon receipt of a request for an appeal the Principal will consider the request and determine whether grounds for appeal are disclosed. If the Principal determines that grounds are not disclosed, the Principal will write to inform the student of this within 10 working days of the date of receipt by the College of the request for appeal. If the Principal determines that grounds for appeal are disclosed, the Principal will refer the matter to another Senior Postholder to deal with the appeal and will invite the student to submit written representations in support of the appeal.

**9.4** In all cases, a Senior Postholder will act as the Disciplinary Appeal Hearer. S/he will determine the format of the appeal, which could be a Disciplinary Appeal Hearing, a meeting with the appellant or a review of the case. Another member of the College staff will also be present to take notes of the Appeal Hearing, meeting or review.

**9.5** Where a Disciplinary Appeal Hearing is called, the student will be normally be invited to attend the Hearing within 10 working days of the date of receipt of his/her appeal request by the College and will normally be given 5 working days' notice of the date, time and place of the Disciplinary Appeal Hearing. At the Disciplinary Appeal Hearing, s/he or his/her representative will be entitled to make oral representations to the Disciplinary Appeal Hearer.

**9.6** The process to be followed at the Appeal Hearing will be at the discretion of the Chair of the Disciplinary Panel but will normally follow the guidelines contained in the documents "Setting Up Disciplinary Hearings" and "Conduct and Outcomes of Disciplinary and Appeal Hearings":

**9.7** If either the student and/or any person accompanying and/or representing him/her is unable to attend, the student must inform the Disciplinary Appeal Hearer of this immediately so that the College may consider whether an alternative date and time should be arranged for the Hearing. Where the student and/or his/her representative does not, without good reason, attend the Disciplinary Appeal Hearing (or fails to attend on two or more occasions), the Disciplinary Appeal Hearer may at his/her discretion determine that the Disciplinary Appeal Hearing may nonetheless proceed and a decision may be made in the absence of the student and/or his/her representative.

**9.8** Any party calling witnesses at the Disciplinary Appeal Hearing must give written notice of so doing to the other party (including the name of each witness and the capacity in which they will be called) at least 5 working days in advance of the date of the Disciplinary Appeal Hearing.



**9.9** Following the Disciplinary Appeal Hearing, the Disciplinary Appeal Hearer will determine the appeal and may make one or more of the following decisions:

- to uphold the original decision/sanctions
- that the appeal be dismissed in whole or in part
- impose a lesser or alternative disciplinary sanction as is available under Stage 3
- refer the matter back to the original Stage 3 Disciplinary Panel to determine the matter again
- refer the matter to a new Stage 3 Disciplinary Panel to determine the matter afresh
- convene a rehearing at the appeal stage before a new Senior Postholder.

**9.10** The decision of the Disciplinary Appeal Hearer (together with reasons) will be communicated in writing to the student normally within 10 working days of the date of the Disciplinary Appeal Hearing and recorded on the student's file.

**9.11** The decision of the Disciplinary Appeal Hearer is final and there is no further right of appeal.

## **10 Data Protection**

Under the provisions of the Data Protection Act 1998, all data under this procedure must be held securely by members of staff, and named students have the right to see any information held on them. Members of staff involved in a case may share such information on a 'need to know' and confidential basis. Information may be shared with third parties normally with the permission of the student where further referral is necessary, although there are some circumstances eg safeguarding of young or vulnerable students, where confidentiality may be breached in the best interests of a student. No breach of confidentiality may be made without reference to the College Data Protection Manager (currently the Clerk to the Corporation).

In the case of exclusion, the letter must also be copied to the College Senior Information Manager (Paul Whitehead), who will add the student's name to the list of excluded students.

## **Appendix 1 Examples of Minor Misconduct, Misconduct and Gross Misconduct**

The following examples are given as a guide only and are not exhaustive. The College may discipline students for any such misconduct whether committed on or off College premises. Some examples of minor misconduct/misconduct could also be gross misconduct, depending on their seriousness. The College will review the individual circumstance to determine this.

### Minor Misconduct and Misconduct

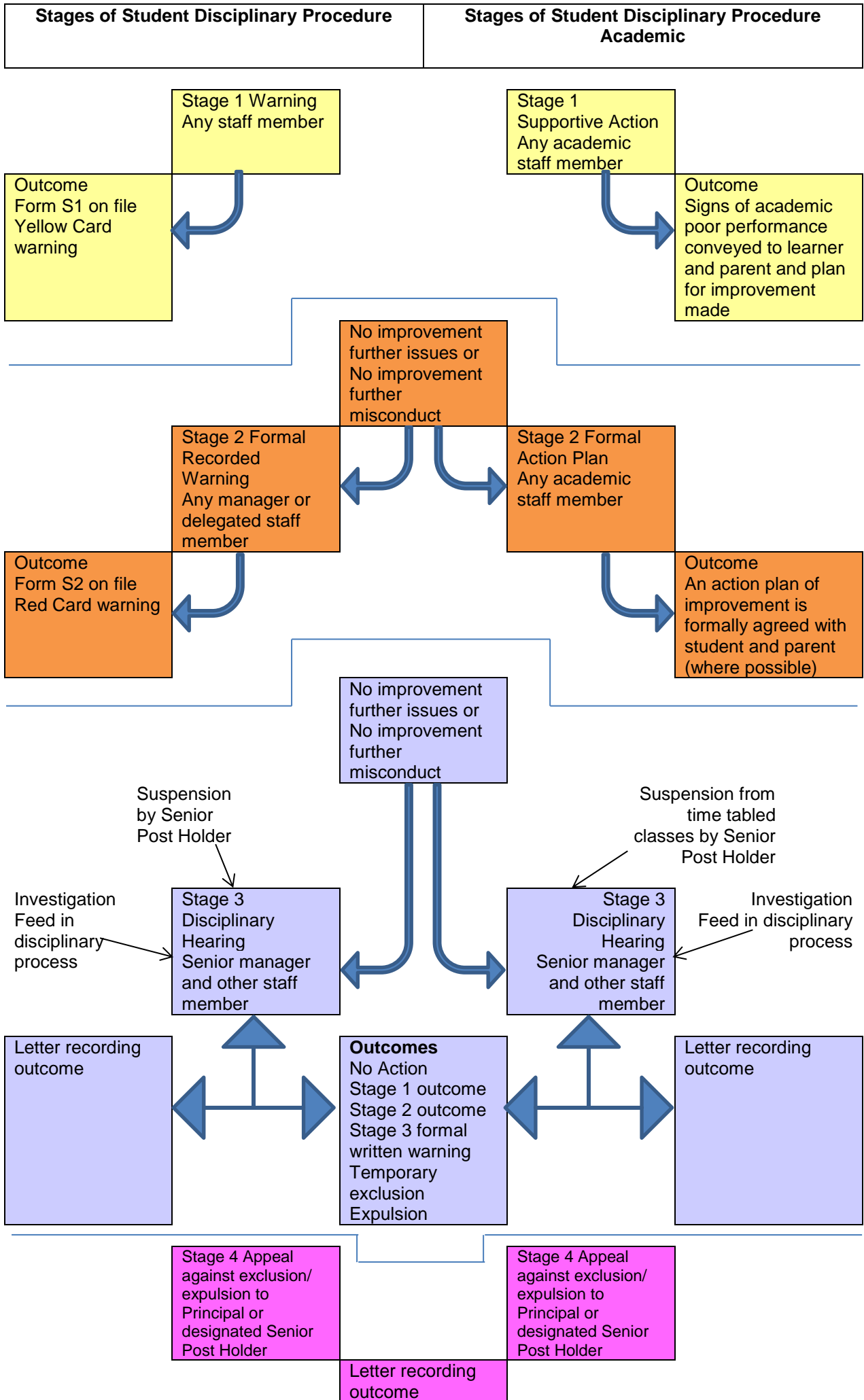
Examples include:

- rowdiness/disruptive behaviour
- rudeness, impolite or inconsiderate behaviour
- behaviour in any part of the College or on placement that interferes with the rights of others eg playing music, loud telephone conversations etc
- disruption of the work or recreation of others
- use of mobile phones in class except with the express agreement of the member of staff when mobile phones are being used to support learning eg as a calculator, for internet access
- offensive language or behaviour
- refusal to readily identify themselves
- plagiarism/copying the work of other students or staff or cheating
- refusal to comply with a lawful instruction of College staff
- acting in an unsafe manner or not co-operating with safety procedures
- smoking in non-designated areas
- misuse of email/ the internet/ College resources
- gambling
- disrespect for College or placement staff
- failure to adhere to an employer's rules when on a visit, work placement etc

### Gross Misconduct

Examples include:

- repeated or persistent acts of minor misconduct or misconduct
- fighting, violent behaviour, or threatening to use physical violence
- foul language used in an aggressive or threatening manner
- deliberate and significant damage to College property or the property of others
- breach of the College's Equal Opportunities Policy
- bullying/intimidation
- theft
- causing a serious safety hazard
- possession or use of or being under the influence of drink whilst in College or on a College related activity eg a placement or trip
- being under the influence of or possession of or use of drugs or other illegal substances
- possession or use of a weapon or anything which resembles or which can be used as a weapon,
- fraud
- attempting to enter College while suspended
- serious negligence
- any criminal activities affecting the College or other students or staff or which could bring the College into disrepute
- failure to disclose a criminal conviction (where relevant to nature of the course)
- insubordination or refusal to carry out a legitimate instruction issued by the College
- misuse of computer facilities including intentionally downloading defamatory, offensive, obscene, malicious or copyright protected material
- bringing the College into disrepute through any medium or print or social media.



## TRACKING and REFERENCE INFORMATION

**Date Approved: 12th December 2013**

**Last Reviewed: 9 January 2018**

**Next Review Date: December 2019 (or as required)**

**Author/Responsibility: Deputy Principal with Responsibility for Student Discipline**

**Equality Impact Assessment: N/A**

### **List of related policies, procedures and other documents:**

Complaints Procedure  
Equality & Diversity Policy  
Equality and Diversity Scheme  
Data Protection Policy  
Safeguarding Policy

**Complaints:** If you wish to submit a complaint about the application of this policy or the procedure of it, please send your request in accordance with the provisions of the Grievance Procedure.

**Monitoring:** The application of this policy and associated procedure will be monitored by Deputy Principal with Responsibility for Student Discipline

**Easy reading:** To receive this policy/procedure in a different format, please contact: HR Services