



POLICY:	Staff Disciplinary Policy and Procedures
----------------	--

ADOPTED	UR2020#04
----------------	-----------

AMENDMENTS:	
--------------------	--

REVIEW:	2025
----------------	------

1.0 Policy Statement

1.1 As an employer, Mary Immaculate College ('the College') has certain expectations of its staff members. These include the maintenance of appropriate standards of conduct, performance and attendance. When an employee's performance or conduct is unsatisfactory, they may be subject to the provisions of this policy.

1.2 All policies, guidelines and protocols of Mary Immaculate College, will reflect the College's commitment to the promotion of equality in accordance with law.

2.0 Scope of Policy

2.1 This Policy applies to all staff of the College and is prepared in line with the Code of Practice on Grievance and Disciplinary Procedures (S.I. no 146 of 2000) under the Industrial Relations Act 1990 ('the Code').

2.2 The policy is without prejudice to all other policies and procedures which may be engaged from time to time by the College.

3.0 Responsibilities

3.1 Each employee has a responsibility to meet acceptable standards of work performance, conduct and attendance, to comply with the provisions of their contract of employment and to fully co-operate with all College policies and procedures, to include the procedures set out in this document.

3.2 Those with responsibility for the management of other staff have a responsibility to:-

- Make themselves aware of the contents of this policy;
- Co-operate with the implementation of this policy;
- Ensure employees are aware of what is expected of them in their role within the College,
- Ensure that the work performance and conduct of employees under their management or supervision is monitored;
- To assist and facilitate staff in reaching the required standards where they do not meet those standards;
- To provide or facilitate appropriate interventions such as counselling, training and support for staff members where appropriate and to take advice from the Human Resources Office, where necessary;
- To apply this policy and its procedures in a fair and objective manner.

3.3 The Human Resources Office shall provide a copy of this policy to all staff within 28 days from the date of commencement of employment, and has the responsibility for providing appropriate training and guidance to management and staff in relation to the policy and to provide advice to management and staff in relation to the policy where sought.

3.4 *An tUachtarán* and the Executive Team of the College shall be responsible for the implementation of and adherence to this policy.

4.0 General Principles of the Disciplinary Procedure

4.1 The emphasis in operating the disciplinary process, other than in cases of gross misconduct, is to make staff aware of any matters affecting acceptable standards of work performance and/or conduct that require attention and to assist the staff member to achieve necessary improvements in the first instance.

4.2 It is the general policy of the College to attempt to resolve any performance or conduct related issue informally in the first instance, directly between a staff member and their immediate manager/supervisor on a confidential basis without immediate recourse to the formal disciplinary process set out at section 5 of this policy. However, where the issue complained of is deemed by the College to be sufficiently serious, the formal disciplinary procedure will be engaged without first attempting such informal resolution.

4.3 At any investigation, disciplinary and appeal hearings the nominated College arbiter(s) may be accompanied by a note-taker who will be responsible solely for documenting the minutes of that hearing.

4.4 Where an employee fails or refuses without reasonable cause to participate in any stage of the disciplinary process, that stage of the process may be concluded, and a decision reached without the employee's participation. Depending on the particular circumstances, an employee who is subject to the disciplinary procedure will generally be given three separate opportunities to engage in any given stage before the College will proceed in absence of the employee's input.

4.5 In accordance with the Code, at any investigation, disciplinary and appeal hearing, an employee has the right to be accompanied by a colleague of the employee's choice or a representative/official of a recognised trade union but not any other person or body unconnected with the College, unless in exceptional circumstances where an unconnected representative, such as a legal representative, has been requested and pre-approved by the College. The employee must notify the College in writing in advance of any hearing of the identity of their chosen representative and the College reserves the right to require the employee to select an alternative representative, where it considers on reasonable grounds that the employee's chosen representative would imperil or otherwise jeopardise the conduct of the hearing.

4.6 Where it is deemed appropriate, to include when an allegation of gross misconduct is involved, the College will suspend an employee on full pay pending the outcome of an investigation and disciplinary hearing pursuant to this policy. The decision to suspend an employee with pay may only be made by *An tUachtarán*, or where *An tUachtarán* is involved, by the Chair of *An tUdaras Rialaithe*. *An tUachtarán* may delegate authority to other employees to suspend an employee with pay, in which case such delegation will be confirmed in writing by *An tUachtarán*. Where an employee is suspended pursuant to this

section, they are not permitted to attend at the College's premises, access College paper or electronic systems or data, act or purport to act on behalf of the College and/or make contact with staff or students of the College regarding College business without the prior permission of *An tUachtarán*.

4.7 An employee may be placed on administrative leave after full consideration of the necessity for such a measure. Prior to being placed on administrative leave, the employee will be notified of the reasons for same and where practical and appropriate, An employee may be placed on administrative leave pending the conclusion of an investigation and/or a disciplinary process in order:

- to prevent repetition of the conduct complained of;
- to prevent interference with evidence;
- to protect individuals at risk from the conduct complained of;
- to protect the reputation of the College; and/or
- to facilitate the proper conduct of an investigation and/or any disciplinary process

4.8 Disciplinary sanctions will normally be applied on a progressive basis as outlined in the matrix table set out at section 5.5.5 of this policy. However, the College reserves the right to bypass certain sanctions where the seriousness of the matter warrants it. Furthermore, the College reserves the right to decide that a verbal warning, first written warning or final written warning will remain active for periods longer than the periods specified at section 5.5.7 of this policy where the College deems it necessary for specified reasons which will be outlined to the employee.

4.9 Any party nominated as an Investigation Officer, Disciplinary Officer or Appeal Officer will, where possible, be a more senior member of staff to the employee against whom the policy has been invoked. Where this is not possible (for example, where there is a conflict of interest) or where there is no-one suitable at the necessary level to fulfil such a role, the College may engage a suitably experienced external third party to fulfil the relevant role.

4.10 Where an investigative, disciplinary or appeal meeting is being conducted, the College will ensure there is gender representation in the composition of its arbiters, in so far as is reasonably practicable having regard to the availability of appropriate expertise.

4.11 If it is not possible to carry out an investigation hearing, disciplinary hearing and/or appeal hearing on a face-to-face basis for whatever reason, the College reserves the right to carry out such hearing by alternative means, such as video conferencing.

4.12 This policy will be implemented in a manner which is consistent with the employee's rights to fair procedures, natural justice and dignity at work which includes the following:-

- Disciplinary action, where necessary, is taken promptly and in a fair, uniform and consistent manner;
- The details of any allegations or complaints are put to the employee concerned and the employee is given the opportunity to respond fully to any such allegations or complaints;

- The employee concerned is given the opportunity to avail of the right to be represented during the procedure in accordance with section 4.5 of this policy;
- The employee concerned has the right to a fair and impartial determination of the issues concerned, taking into account any representations made by, or on behalf of, the employee and any other relevant or appropriate evidence, factors, circumstances that the College is aware of;
- The employee is given detailed reasons for decisions taken against them; and
- The employee has the right to appeal decisions taken against them.

4.13 The engagement of this policy shall, insofar as possible, be carried out in a confidential manner both by the College and the employee in question. Breaches of confidentiality by parties to the disciplinary process may result in separate disciplinary action.

5.0 The Disciplinary Process

5.1 The disciplinary procedures set out hereunder will be invoked where informal measures have not resulted in achievement of acceptable standards of work performance or conduct or in respect of more serious matters where informal measures are deemed by management to be inappropriate as a first recourse.

5.2 Examples of conduct which may result in the engagement of this process include:-

- Unsatisfactory work performance;
- Behaviour which could bring the College into disrepute, subject to the provisions of the Protected Disclosures Act, 2014;
- Breach of a workplace policy or procedure;
- Persistent absenteeism and/or lateness;
- Unauthorised absence;
- Refusal to carry out a reasonable request;
- Breaches of health and safety regulations;
- Being under the influence of an intoxicant at work;
- Unauthorised use or negligent damage or loss of College property; and/or
- Inappropriate behaviour outside the workplace which has an impact or could reasonably be considered likely to have an impact within the workplace or to bring the College into disrepute.

The above list is not exhaustive and more serious or repetitive instances of the foregoing conduct (or any other unlisted form of misconduct which arises) may be deemed by the College to amount to serious misconduct.

5.3 Save where this policy provides otherwise, the general stages of the disciplinary process are as follows:-

1. Investigation Stage;
2. Disciplinary Hearing;
3. Appeal Hearing (at the discretion of the employee).

5.4 Investigation Stage

5.4.1 The College will generally investigate any alleged underperformance or misconduct by an employee. In limited circumstances where there can be no dispute as to fact regarding the underperformance or misconduct (which may include where an employee admits to the particular issue), the College may proceed directly to the disciplinary stage outlined at section 5.5 below.

5.4.2 Alternatively, an investigation carried out under another College policy or procedure (for e.g. the Dignity and Respect at Work Policy) may constitute an investigation for the purposes of the disciplinary procedure. In such cases the College will be entitled to proceed directly to the disciplinary stage based on the findings of any investigation carried out under the other policy or procedure.

5.4.3 Where the investigation stage is engaged, the investigation will be conducted by a person or persons nominated by *An tUachtarán* who will be known as the Investigation Officer(s). The Investigation Officer(s) will be a member of staff who has had no prior involvement in the breach of discipline alleged.

5.4.4 The investigation will be conducted in line with a Terms of Reference prepared by the Investigation Officer(s) and will usually involve an investigation hearing whereby the employee is invited to an investigation hearing to give their version of events and to produce any evidence which they wish in support of their position.

5.4.5 Where possible, at least 24 hours in advance of an investigation hearing, an employee will be provided with a copy of the Terms of Reference together with written notice of the issues under investigation and any documentary evidence held by the College which will be referred to by the Investigation Officer(s) during the investigation hearing. An employee may also make written submissions to the Investigation Officer(s) during the investigation stage which will be taken into account during the investigation, save where the Investigation Officer(s) deems such submissions to be inappropriate, excessive or irrelevant.

5.4.6 The employee will have the right to question any person(s) making allegations against them and/or any person engaged pursuant to section 5.4.7, unless the Investigation Officer(s) decide that it is inappropriate to permit this. In such an eventuality, the employee will be entitled to challenge the allegations/evidence given by that person by another means as deemed appropriate by the Investigation Officer(s). The employee also has the right to request the Investigation Officer(s) to interview any person whom the employee believes has relevant information in respect of the matter(s) under investigation. The Investigation Officer(s) will determine whether or not to interview any such person.

5.4.7 The Investigation Officer(s) may require any person they believe has information relevant to the matter that is the subject of the investigation to participate in the investigation. Where such person is a staff member and that staff member fails to participate in the investigation such person may be subject to separate disciplinary action.

5.4.8 The Investigation Officer(s) will make findings on the balance of probabilities based on the evidence at their disposal. Potential outcomes of the investigation stage include but are not limited to the following:-

- No further action necessary;
- Issuing an informal letter of concern; or
- Recommendation to attend a disciplinary hearing.

5.4.9 Upon the conclusion of the investigation process, the Investigation Officer(s) findings/recommendations will be notified to the employee in writing.

5.5 Disciplinary Hearing

5.5.1 If the outcome of the investigation stage is that the matter should proceed to disciplinary hearing, the employee will be invited at the earliest available opportunity to attend a disciplinary hearing. The disciplinary hearing will be conducted by two or more persons nominated by *An tUachtarán* who will be known as the Disciplinary Officers, each of whom will have had no prior involvement in the breach of discipline alleged.

5.5.2 At this hearing, the Disciplinary Officers will give the employee an opportunity to make comments on what has emerged from the investigation stage and will allow the employee to present any further evidence should they wish.

5.5.3 The Disciplinary Officers will consider all the facts before them in order to decide to what extent, if any, action should be taken. In reaching a decision in relation to the matter the Disciplinary Officers may take account of any other matters which they consider relevant including any mitigating circumstances and the employee's employment record.

5.5.4 The Disciplinary Officers may adjourn the disciplinary hearing to deliberate further before deciding upon an appropriate outcome.

5.5.5 Where it is decided that a disciplinary sanction is appropriate, the sanction implemented will generally be in accordance with the following matrix:-

<u>Offence</u>	<u>First Occasion</u>	<u>Second Occasion</u>	<u>Third Occasion</u>	<u>Fourth Occasion</u>
Minor Misconduct or Underperformance	formal verbal warning	written warning	final written warning	dismissal
Serious Misconduct or Underperformance	written warning	final written warning	dismissal	
Gross Misconduct or Underperformance	summary dismissal			

5.5.6 Alternatively the Disciplinary Officers may implement any of the following sanctions, where they deem it appropriate:-

- Suspension without pay;
- Transfer to other duties;
- Demotion; or
- Some other appropriate disciplinary action short of dismissal.

5.5.7 A verbal warning will generally remain on an employee's record for 6 months and a written and final written warning will generally remain on record for 12 months.

5.5.8 In circumstances where dismissal is the appropriate sanction, at least one of the Disciplinary Officers will have authority from *An tUachtarán* to dismiss the employee in question.

5.5.9 The Disciplinary Officers may also conclude that no disciplinary action should be taken and if this is the outcome, the Disciplinary Officers may decide to issue the employee with an informal warning or letter of concern.

5.5.10 Upon the conclusion of the disciplinary process, a decision will be notified in writing to the employee accompanied by information as to the employee's right of appeal as well as information on how to lodge an appeal. The College will defer the implementation of the proposed disciplinary action in order to allow the employee to appeal the decision in accordance with the procedures for appeal outlined at section 5.6 of this policy. In the event that no appeal is submitted, the disciplinary action will take effect on expiry of the relevant time limit for appeal. In cases where an appeal is in respect of a decision to terminate employment, the employee will be deemed to be suspended without pay pending the outcome of the appeal.

5.6 Appeal Hearing

5.6.1 An employee may appeal the decision of the Disciplinary Officers within ten (10) working days from the date of notification to the employee of the decision to take disciplinary action by following the process outlined in the outcome letter referred to at section 5.5.10. In its appeal, the employee must specify the grounds for appeal which may relate to procedural grounds, insufficient consideration of evidence or submission of new evidence and/or the severity of the sanction imposed.

5.6.2 Once the appeal has been received, *An tUachtarán* will nominate an Appeal Officer(s) to hear the appeal, who will have had no prior involvement in either the investigation or disciplinary stages, who will invite the employee to attend an appeal hearing.

5.6.3 For the purposes of the appeal hearing the Appeal Officer(s) will consider the entire facts of the case, to include the material provided for and produced at both the investigation and disciplinary stages together with any new evidence or submissions made by the employee either in writing prior to the appeal hearing or orally at the appeal hearing itself, in order to decide whether the employee's appeal is dismissed or upheld.

5.6.4 Following the appeal hearing, the Appeal Officer(s) will make a decision as to whether the appeal should be upheld or dismissed. If the appeal is upheld, the Appeal Officer(s) will decide upon the consequences of that decision which may include imposing an alternative sanction to that originally imposed at the disciplinary stage. If the appeal is dismissed the outcome decided upon by the Disciplinary Officer(s) will take effect from the date the decision is notified to the employee.

5.6.5 The outcome of the appeal hearing will be communicated to the employee in writing as soon as practicable after a decision has been made.

6.0 Gross Misconduct

6.1 Gross misconduct is misconduct which is sufficiently serious to warrant summary dismissal (i.e., dismissal without notice or payment in lieu of notice, irrespective of whether the employee has any previous warnings on their record). It is a serious breach of the College's rules and procedures and/or of recognised and accepted standards and behaviour which results in a breakdown of trust and confidence between the College and the employee.

6.2 Examples of conduct which is likely to constitute gross misconduct includes:-

- A breach of trust and confidence;
- Theft, fraud, financial irregularity, embezzlement, misappropriation of funds, bribery or corruption;
- Assault, violent or threatening behaviour;
- Refusal to comply with a reasonable instruction;
- Refusal to comply with approved policies, protocols, codes and/or custom & practice norms that are in use in MIC;
- Conflict of interest;
- Breaches of MIC Safeguarding policies and procedures;
- Inappropriate fraternisation with students;
- Falsification of records, violation or misuse of confidential information or College property, material or equipment;
- Unauthorised entry/access to computer and/or other records/files, using the Colleges computers/networks to access pornography or any other materials considered inappropriate by the College;
- Serious breaches of health and safety regulations;
- Serious breaches of the employee's employment contract;
- Working while under the influence of alcohol, illegal drugs, or legal medication which have been used otherwise than specified by a prescription;
- Possession and/or sale or use of illegal drugs;
- Discrimination, bullying, harassment and/or sexual harassment;
- Illegal activity and/or criminal conviction that has implications for the employee's employment whether it relates to an alleged wrong conducted within or outside the employment;

- Research misconduct, including breaches of the Research Integrity Policy and the Code of Good Practice in Research;
- Bringing the College into disrepute subject to the provisions of the Protected Disclosures Act 2014.

This list is non-exhaustive.

6.3 In respect of any alleged gross misconduct, the procedures outlined at section 5.4 and 5.5 of this policy will be followed by the College and the employee concerned will have the right to appeal in accordance with section 5.6.

7.0 Power to Suspend or Adjourn Procedure Pending Criminal Investigation

7.1 *An tUachtarán*, or any party nominated by *An tUachtarán* to fulfil a particular role under this policy may, at its discretion, suspend the disciplinary procedure outlined where there is a simultaneous criminal or regulatory investigation ongoing in relation to the matter which is the subject of action under this policy, until such investigation is complete. If this is the case, where an employee has been suspended with pay, such suspension may be maintained until the disciplinary procedure has been concluded. Nothing in this section 7.1 shall be deemed to place a mandatory obligation on the College to suspend the disciplinary procedure where alternative investigations are ongoing, and the College reserves the right to complete the disciplinary process in such circumstances regardless of whether any other investigation has concluded.

8.0 Conflict of Interest

8.1 Where *an tUachtarán* is the subject of disciplinary proceedings, or is directly involved in the matter which is the subject of such proceedings (as a complainant, witness or otherwise) or for other good reason, should be excused from performing such functions in any particular case, the Chairperson of *an tUdaras Rialaithe* shall perform the functions or responsibilities laid out in this policy which would otherwise have been performed by *an tUachtarán*.

9.0 Audit and Evaluation

9.1 This policy will be reviewed on a five yearly basis or as required. The Director of Human Resources will initiate the review.