



# GEELONG GRAMMAR SCHOOL™

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## HUMAN RESOURCES POLICY AND PROCEDURE

Discipline and Misconduct	Document No:	HR
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Responsible Officer:	Human Resources Manager	
Authorising Officer:	Principal	

### 1. PURPOSE AND SCOPE

This document provides all employees with guidance on the standards and procedures for the Discipline and Misconduct policy of the School.

The Discipline and Misconduct procedures are used when a member of staff breaches the "Staff Code of Conduct" and/or engages in behaviour that would reasonably be regarded as unacceptable (that includes but is not limited to behaviour that is illegal, damaging, negligent or dangerous) to the School, students and/or other staff. Behaviour regarded as misconduct and/or gross misconduct may result in dismissal.

### 2. POLICY

Geelong Grammar School requires that all employees fulfil the performance expectations and requirements of their role and demonstrate appropriate behaviours in line with the School's "Code of Conduct". The Code of Conduct aims to ensure employees behave appropriately and with integrity with all parties and act as role models to students.

Employees who do not meet the performance expectations of their role or who fail to comply with the "Code of Conduct" and/or any other policy that the School has in place are contravening their contract of employment and may be disciplined for misconduct and/or possibly dismissed for gross misconduct accordingly.

### 3. AUTHORITY AND RESPONSIBILITY

The Principal has the authority to terminate an employment contract with an employee as an outcome of an investigation into allegations of misconduct and/or gross misconduct and the application of the disciplinary procedure.

Employees who supervise the work of other employees are responsible for advising and counselling employees about unsatisfactory performance and reporting incidents of misconduct immediately to Principal and Human Resources Manager for investigation.

The Human Resources Manager is responsible for providing advice to all employees and coordinating the disciplinary and dismissal procedures and processes.

The Investigator(s) is an employee, nominated by the Principal, who is responsible for undertaking an investigation of the allegations of misconduct in an unbiased manner and reporting the findings to the Principal and/or Head of Campus.

#### 4. DEFINITIONS

Performance counselling is the process used to discuss and improve the performance of a member of staff, when it does not meet the expectations for the position. Performance counselling should provide all parties with an understanding of the expectations of performance and the corresponding timeframe for improvement. Where repeated formal requests for improvements are unsuccessful, despite all reasonable attempts by the School to provide training and development opportunities to improve performance, it may be necessary to commence dismissal proceedings.

Representation is when an individual acts on behalf of and/or supports an employee or the employer. In the context of this policy, representation may be necessary or requested when an employee's performance, behaviour and/or conduct does not meet the expectations of their position or the School as defined in the "Code of Conduct". The representative can be a union representative or another other person selected by the employee or employer, other than a person who is a practising solicitor or barrister.

Misconduct occurs when an employee's behaviour constitutes transgression and contravention of Geelong Grammar School's "Code of Conduct" and/or would reasonably be regarded as unacceptable. Misconduct usually relates to inappropriate and unacceptable behaviour by an individual towards another person and/or the property of Geelong Grammar School. Repeated acts of misconduct or failure to rectify or improve behaviour and/or performance may be regarded as gross misconduct and may lead to dismissal.

Gross Misconduct is behaviour that is illegal, damaging, negligent or dangerous and may include but is not limited to the following: theft, fraud or deliberate falsification of records, physical violence, serious bullying or harassment, serious insubordination and serious incapability brought about by alcohol or illegal drugs. Gross misconduct may lead to instant dismissal.

Preliminary investigation is the term used to describe the initial process used to gather background information about an incident, event or behaviour to determine whether it requires further investigation and/or action.

Investigator(s) is an individual or group of people (usually senior staff) nominated by the Principal in consultation with the employee, to investigate allegations of misconduct.

Independent investigation Investigation carried out by an employee/person not involved in the alleged incident or the day to day work with the employee suspected of misconduct.

Supervising staff are employees responsible for supervising the work of other employees. Supervisory positions include but are not limited to roles such as the Head of Campus, Director, Head of Department, Head of Faculty, Head of House, Manager, Supervisor, Coordinator or Team Leader.

The Code of Conduct is a statement that defines the behavioural expectations of all staff employed by Geelong Grammar School.

## 5. MISCONDUCT AND GROSS MISCONDUCT PROCEDURE

<p><b>Procedure - Misconduct and Gross Misconduct</b></p> <p>The misconduct and gross misconduct procedure is to be applied when the conduct of an employee breaches the "Code of Conduct" and/or is unacceptable which may include but is not limited to behaviour that is illegal, damaging, negligent and/or dangerous and as such may justify disciplinary action or dismissal. An accurate record of the events and decisions must be documented as evidence of due process.</p>		<p><b>Responsibility</b></p>
<p><b>Reporting of alleged misconduct</b></p>	<ul style="list-style-type: none"> <li>• All employees must immediately inform the relevant supervisory staff of any alleged misconduct or serious misconduct and provide any information or evidence that may substantiate the allegation. Further advice can be sought from the Human Resources Manager.</li> <li>• If the available evidence indicates that the incident requires further investigation, then supervisory staff in consultation with the Head of Campus and Human Resources Manager must report the alleged incident to the Principal and employees directly involved with and/or subject to the allegation of misconduct (where possible within 24 hours after becoming aware of the alleged misconduct).</li> </ul>	<p>All staff</p>

Background information	<ul style="list-style-type: none"> <li>• The Principal determines whether the allegation is to be investigated in accordance with the due process of this Policy. In doing so, the Principal may request that further information be gathered to assist this determination.</li> <li>• If the Principal determines that there is insufficient evidence or contrary evidence that does not support the allegation, then no further action will be taken and where appropriate, all parties involved in the alleged incident will be informed that no further action is to be taken.</li> </ul>	Principal
Formal Investigation	<ul style="list-style-type: none"> <li>• When a formal investigation is to be conducted, the Principal must advise the employee in writing (and any other parties involved in the incident as mentioned above) and make arrangements to ensure that the employee is advised of their right to representation and the process and associated timeframes for the investigation.</li> <li>• The Principal must appoint an independent person to investigate the allegation(s). The investigation must be completed as quickly as possible and afford due process to the employee under investigation (where possible to commence within 24 hours of being appointed by the Principal).</li> <li>• The findings from the investigation are presented to the Principal.</li> <li>• The Principal determines whether there is sufficient evidence to require a hearing and if so requests a meeting with the employee(s) (and representative if required) to present the allegation(s) and associated evidence for a response. A document containing any allegations and associated witness statements or evidence must be provided to the employee. Additional time may be granted to enable the employee to respond to the allegations (approximately 24 to 48 hours).</li> <li>• If the Principal determines that there is insufficient or contrary evidence to support the allegation then the employee is advised (and any other parties involved in the alleged incident) and the matter is regarded as closed. No documentation is to be placed on personnel files.</li> </ul> <p>Note: Where there is a perceived to be a risk to the welfare of the employee, other parties or the due process of the investigation if the employee were to remain on duty, the Principal may elect to suspend the employee with pay for the duration of the investigation. The employee must be advised in writing if they are to be suspended with pay.</p>	Independent investigator (Nominated member of staff an/or the Human Resources Manager)
Hearing of allegation(s) and evidence	<ul style="list-style-type: none"> <li>• The Principal meets with the employee/representative and provides opportunity for the employee to respond to the documented allegations and evidence.</li> <li>• The Principal determines whether to dismiss or uphold the allegations and if so must determine the disciplinary action</li> </ul>	Principal

	<ul style="list-style-type: none"> <li>The Principal must advise the employee of their decision as an outcome from the investigation and again ensure that the employee is aware of their rights and entitlements in accordance with their terms and conditions of employment. The Principal may undertake but is not limited by the following actions. <ul style="list-style-type: none"> <li>(a) verbal warning</li> <li>(b) written warning (placed on personnel file where a further indiscretion may result in further action including dismissal)</li> <li>(c) request a performance improvement plan (placed on personnel file. See also Performance Improvement policy)</li> <li>(d) dismiss the employee (see Dismissal below)</li> </ul> </li> <li>If the employee is to remain in employment (subject to any warning and ongoing monitoring of performance and behaviour) their employment arrangements would remain in accordance with all previous Terms and Conditions of Employment.</li> </ul> <p><b>Note:</b> It may be necessary for the Principal to request further investigation into the allegations or any aspect of the investigation process as a consequence of the hearing. Should this be necessary then the investigation must be in accordance with this policy.</p>	Principal
Dismissal	<ul style="list-style-type: none"> <li>Where it is determined that allegations of misconduct or gross misconduct are substantiated, the Principal may terminate the employment contact with the employee immediately, in accordance with their Terms and Conditions of their Employment.</li> </ul> <p><b>Note:</b> Dismissal can only be undertaken if the allegation(s) of misconduct or gross misconduct is substantiated on the balance of probabilities and unbiased evidence.</p> <p><b>Note:</b> Employees have the right to appeal their dismissal to relevant external Tribunals, Commissions and Courts as defined by law.</p>	Principal

## 6. RECORDS

Records shall be retained for at least the period shown below.

Record	Retention/Disposal Responsibility	Retention Period	Location
Investigation documentation and outcome from hearings	Human Resources Manager	Duration of employment and then minimum of 7 years (archived)	Human Resources or Principals Office (Teaching Staff)
Performance Improvement Plan and summary of outcomes	Human Resources Manager	Minimum of 2 years	Human Resources or Principals Office (Teaching staff)

## 7. REFERENCES

### Geelong Grammar School (GGS) Policies and Procedures:

- Geelong Grammar School Code of Conduct
- Geelong Grammar School (teaching Staff) Enterprise Agreement 2006
- GGS Handbook for Non Teaching Staff (2006)
- GGS policies including Harassment & Bullying, OH&S, Performance Management
- Relevant Common Rule Awards.

### Legislation

- EEO Act
- Privacy Act
- OH&S

## 8. ATTACHMENTS

None