



Performance Management - Discipline and Dismissal Policy

Enquiries to:	Centre Manager, Chairperson
Applies to:	All children, parents, guardians and kaiako.
Date Developed:	May 2021
Date Reviewed:	May 2021
Date Approved:	
Review Date:	March 2024

Reference

Employment Relations Act, Centre Charter, Personnel Policy, ECE Collective Agreement, Licensing Criteria, GM 4.1, 4.6,

Purpose: To have in place a procedure to follow when dealing with dismissals or disciplinary matters.

Rationale:

The principles and procedures for dealing with discipline and dismissal are outlined in the current Early Childhood Collective Agreement.

The following information supports and is consistent with the policy and procedures outlined in the Collective Agreement, including discussions in a Māori context. The Centre will follow the principles of procedural fairness and natural justice, ie by listening to an employee's statement or response with an open mind, and will handle any disciplinary issue in a manner that reflects the dignity and mana of the employee concerned.

This policy outlines the process for dealing with performance-related (competency), conduct or disciplinary issues. Any complaints relating to a contractor or agency Kaiako will be addressed by the employer using this policy as a guide. Complaints about the relationship or behaviour management of any child by employees should be forwarded to the Centre Manager for investigation. A separate complaints process exists for dealing with issues between kaiako and parents.

Pre-Disciplinary Stage

1. The employee and employer will discuss the issue/s to try to solve it informally, eg assistance and guidance may be through coaching, training, counselling or changes to work methods/hours. This discussion should include the employer confirming the performance (competence), conduct or discipline expectations they have of the employee, and noting the gap between the current behaviour/misconduct and standards expected. Any concerns will be advised to the employee in writing.
2. Complaints about an employee's performance, conduct or discipline that are not able to be solved informally, or are repeated after a reasonable period of time, will be addressed using the Disciplinary Process.

Disciplinary Process:

1. Preparation

The employee will be advised of any complaint or allegation in writing and informed of the process to be followed. Where more information is required, or the issue is of a serious nature, the employer will investigate the complaint or allegation by reviewing the facts and gathering written statements from relevant witnesses. The witnesses will be advised that their statements will be disclosed to the employee.

If the investigation findings show that the complaint or allegation may have substance, the employee will be invited to attend a disciplinary meeting to discuss the complaint or allegation, and to give their version of events. The employee will be:

- Provided with the investigation findings for the employee to consider
- Given the opportunity to bring or discuss the matter with a support person, eg kaiako union or whanau representative, and
- Informed that, if substantiated, the complaint or allegation may result in disciplinary action up to and including dismissal.

2. Suspension

If the allegation or complaint is of a serious nature, the employee may be suspended on pay, or temporarily transferred to other duties, while the matter is investigated. The employee will be given an opportunity to comment upon whether suspension is appropriate. Suspension will occur where the employer believes that welfare and safety of any child or other employee is at risk. The suspension period will be kept to the minimum possible, consistent with ensuring the allegations are properly investigated

3. Meeting

At the meeting the employer will provide the employee with an opportunity to respond to the allegation or complaint, and any investigations findings. The employer may adjourn the meeting in order to consider the information and employee's response properly, and to reach a decision.

4. Decision Making

After the adjournment, the employer will state their decision to the employee. If the employer believes the allegation is substantiated, and constitutes misconduct or serious misconduct, the employer will determine what disciplinary action is appropriate. Disciplinary action may involve a first warning, a final warning, or dismissal, depending on the seriousness of the misconduct. The employee will be provided with an opportunity to comment on any proposed disciplinary action before a final decision is taken.

The employer will provide the employee with a letter setting out the findings in respect of the complaint or allegation, the outcome of the disciplinary process, and the reasons for the outcome. In cases of serious misconduct, eg assault, the employee will be liable for instant dismissal. Written warnings may be relied upon for a maximum period of twelve months.

Where dismissal occurs, the Centre will advise the NZEI union, if the Kaiako is a member.

Also Notify the Ministry of Education

5. Personal Grievance

If the employee feels that he or she:

- has been unjustifiably disadvantaged or unjustifiably dismissed
- has been treated unfairly or
- has been sexually or racially harassed or discriminated against as a member of a union or under the prohibited grounds of the Human Rights Act 1993.

They may raise a personal grievance in accordance with the Collective Agreement. In the case of harassment or discrimination, the employee may decide instead to make a complaint to the Human Rights Commission.

Confidentiality

The employer and parties involved will agree not discuss the issue or nature of any action to be taken with other parents or kaiako, unless they are directly involved.

All information relating to a disciplinary issue will be held on the employee's personal file, unless removal is agreed between the parties. Any information related to the issue will be destroyed if no further action is to be taken.

Performance Improvement Process:

Where the employer considers that an employee's performance is below standard, or requires material improvement in any way, they shall follow the following process.

The employer will first outline any performance concerns with the employee on an informal basis, with a view to enabling the employee to improve their performance without implementing a formal process. The employer will allow the employee a reasonable opportunity to improve.

Should the employee's performance not improve, the employer will set out the areas for improvement in a formal written Performance Improvement Plan (PIP). The PIP shall state:

- the specific performance (competency) areas for improvement in as clear and measurable manner as possible,
- the expected time frame for the employee to demonstrate improvement,
- any appropriate support available to the employee,
- the right of the employee to seek representation at any stage.

The employer shall schedule a review meeting after a reasonable period of time in which to review the employee's performance in respect of the PIP. If the employee's performance has met the requirements of the PIP, the employer may schedule a further review meeting, or may discontinue the process.

First written warning

If the employee has not met the requirements of the PIP, the employer may give the employee a first written warning. The employer shall then review and restate the requirements of the PIP, and convene a further review meeting, after a reasonable period of time.

Second written warning (Final Warning)

If the employee's performance has met the requirements of the PIP the employer may schedule a further review meeting, or may discontinue the process. If the employee has not met the requirements of the PIP, the employer may give the employee a final written warning. The employer shall then review and restate the requirements of the PIP, and convene a further review meeting, after a reasonable period of time.

Dismissal on notice

If the employee's performance has met the requirements of the PIP the employer may schedule a further review meeting, or may discontinue the process. If the employee has not met the requirements of the PIP, the employer may dismiss the employee on notice. Where dismissal occurs, the Centre will advise the NZEI Union, if the Employee is a member.

Serious Misconduct:

Serious misconduct means any of the following:

- (a) theft
- (b) assault/harming a child
- (c) fraud
- (d) at work-
 - (i) being under the influence of Alcohol or a drug, or
 - (ii) causing an imminent risk of serious bodily injury or work caused illness or a dangerous event happening, or
 - (iii) behaving in a way that is inconsistent with the employment agreement or Job description.

Vicariously liable: When an employer is found to be liable for the acts of one of its employees.

Serious Misconduct will be brought to the Board of Trustees attention Immediately who will work with the Centre manager on a course of Action.

Board of Trustees consulted	Yes/No	Kaiako consulted	Yes / No
Parents consulted	Yes / no		
Approved by _____		Designation _____	Date _____

