



**ST SWITHIANS COLLEGE**  
**POLICY: STAFF DISCIPLINARY PROCEDURE**  
**(Final: November 2009)**

**Introduction**

1. The Disciplinary Code describes the standards of conduct expected of employees employed by the College. The College may discipline or dismiss employees for any reason sufficient in law, even if it is not mentioned in the Code.
2. The Disciplinary Code sets out a range of possible offences, which should be read in conjunction with the College's Policy on [Code of Conduct](#). The penalties for misconduct range in severity, including verbal warnings, written warnings, final written warnings and dismissal, depending on the frequency and seriousness of the offence. Written warnings will tend to be valid for six months while final written warnings may be valid up to a year after being issued to the employee. Each case depends on its own merits and the application of the Code will be treated with discretion and sound judgement.
3. The rules may be altered from time to time to suit the needs of the College. Employees will be notified timeously of any change to the rules, including the justification for the change, where necessary.
4. Where appropriate, the purpose of the disciplinary action is corrective rather than punitive. In other words, it is required to educate and encourage desirable behaviour in accordance with the Code of Conduct and Disciplinary Code. In the case of serious misconduct, mentioned under category A offences below, the employee may be dismissed for a first offence.

**Disciplinary Procedure**

5. Prior to any dismissal, a disciplinary investigation will be held where the employee will be afforded the following rights:
  - prior notification of the allegations
  - a reasonable time to prepare a response (at least 48 hours)
  - representation or assistance by a shop steward or fellow employee
  - an opportunity to state his / her case
6. After the disciplinary hearing the employee will receive the decision taken in writing.
7. Where appropriate an employee may be suspended on full pay pending the outcome of the disciplinary hearing.
8. An employee will only be dismissed for a fair reason, in accordance with a fair procedure.
9. Forms to assist the College in following the above disciplinary procedure are linked to this policy including:
  - College Disciplinary Code
  - Counselling form
  - Notification of attendance of Disciplinary Enquiry
  - Suspension Form
  - Investigation Record
  - Disciplinary / Incapacity Investigation Checklist
  - Written Warning Form
  - Notification of Findings of Disciplinary Enquiry

## **Informal Disciplinary Action**

10. It is not necessary to hold a formal enquiry in order to issue a verbal or written warning.

Verbal or written warnings may be issued in the following way:

- 10.1 A manager will investigate the alleged misconduct and decide whether it warrants formal or informal disciplinary action in terms of the College's policy or previous disciplinary history of the employee.
- 10.2 Where it is decided to go the informal disciplinary action route, the employee is called to a meeting with the manager.
- 10.3 The employee will have the right to representation by one fellow employee (who is available on the premises at the time of the meeting).
- 10.4 The manager will have a meeting with the employee which will include:
  - a. What the employee did wrong and what evidence supports this
  - b. The employee should have the chance to state his / her case in response to the allegations
  - c. Whether the employee is guilty or not guilty of the allegations
  - d. What the employee should do to ensure that the misconduct is not repeated
  - e. What will happen to the employee if the misconduct is repeated
- 10.5 A brief record of the meeting should be kept by the manager conducting the process, which should be signed by both the manager and the employee as record of the discussion. Where the employee refuses to sign, a note should be made thereof. A record of the discussion should be kept on the employee's file together with a copy of the investigation.
- 10.6 If the employee is found guilty, a verbal or written warning and the duration of the warning should be issued to the employee. This must be placed on the employee's file. Where an employee is already on a warning which is still operative, discipline should progress to the next level unless very strong mitigating circumstances exist.

**Annexure A: College Disciplinary Code**

**Annexure B: Warning Form**

## **Formal Disciplinary Action**

- 11 Where misconduct is serious or repeated it is appropriate to go straight into formal disciplinary action.
- 12 An investigator should be appointed to gather evidence and information for the enquiry. Brief statements may be requested of witnesses at this stage.
- 13 A notice of enquiry should be issued with a least 48hrs notice of the enquiry

**Annexure C: Notice of Disciplinary Enquiry**

**Annexure D: Suspension Form**

**Annexure E: Investigation Record**

**Annexure F: Investigation checklist**

- 14 The employee may be represented by one fellow employee of his or her choice at the enquiry.
- 15 At the enquiry the employee should have a chance to state his / her case, call witnesses and present evidence in response to the allegations.
- 16 The investigator(s) should have a chance to call witnesses and to present evidence to prove the misconduct occurred.
- 17 All witnesses should be allowed to make a statement and may be questioned or cross-questioned.
- 18 It is advisable for the Chairperson when deciding on the appropriate penalty to take into account factors such as the gravity of the misconduct, the usual penalty issued for this type of misconduct, the employee's circumstances (length of service, previous disciplinary record and personal circumstances), the nature of the job and the circumstances of the infringement itself.
- 19 The enquiry should be minuted.
- 20 The chairperson must issue written findings of the enquiry.

**Annexure G Notification of Findings for Enquiry**

**Annexure H: Appeal Review Request**

## **Incapacity Dismissal**

- 21 Incapacity dismissals deal with the termination of an employee because of his / her inability to perform his work due to either poor performance or illness / injury.
- 22 An incapacity dismissal differs from a misconduct dismissal on the basis of culpability. In other words, one takes the view that an employee's poor performance is not due to any direct fault or deliberate attempt by the employee, but is the result of a lack of ability (knowledge, skill, personal attributes) or due to poor health (physical or mental illness / injury). For this reason an incapacity dismissal should be handled with the appropriate level of understanding and sensitivity.
- 23 All incapacity dismissals will be dealt with in terms of the Code of Good Practice in Schedule 8 of the Labour Relations Act. In addition to holding an incapacity investigation (according to the guidelines outlined for a disciplinary investigation), no employee should be dismissed for his incapacity unless the following steps have been taken:
- 24 Poor Performance:
  - the employee was informed that he / she was not meeting the required performance standard(s) by means of counselling sessions held with him / her, including providing further training, guidance, assistance and support where necessary
  - the employee was given a fair opportunity to meet the required performance standards
  - the employee was warned of the consequences of failing to meet the required performance standards by way of written warning(s). This should include the fact that his / her poor performance may jeopardise his / her continued employment at the College.
  - dismissal is regarded as an appropriate sanction for not meeting the required performance standard, including considering all other alternatives (e.g. a suitable alternative position, further training etc.)
- 25 Ill-health:
  - Assessing whether or not the person is capable of performing his / her function, including a thorough objective performance assessment where necessary
  - Establishing the extent to which the employee is unable to perform his / her work, including the nature and cause of the illness / injury and whether the incapacity is permanent or temporary in nature
  - Establishing whether the employee's work circumstances might be adapted to accommodate the disability, or where this is not possible, the extent to which the employee's duties might be adapted
  - Investigating the availability of any suitable alternative positions

## **Dismissal for Operational Grounds**

- 26 This refers to dismissals for any economic, technological, structural or similar needs of the College and generally refers to retrenchments and redundancies. These dismissals will only be effected in terms of the relevant clauses in the Labour Relations Act and with the assistance of expert legal advice.
- 27 Dismissal procedures contained in any current and valid Recognition Agreement will apply to union members.

**APPROVED AND ADOPTED BY THE COLLEGE EXECUTIVE: 2 NOVEMBER 2009**



## COLLEGE DISCIPLINARY CODE

(Final November 2009)

Type or nature of offence	Guideline: Recommended Penalty for Offence		
	First Offence	Second / Repeated Offence	Subsequent Offence
<p>1 Submitting false documentation, reports, evidence, allegations, claims, information regarding previous employment, criminal convictions or misconduct that impacts upon the relationship of trust.</p> <p>Dishonesty: Timekeeping offences, tampering with timekeeping equipment, falsifying timekeeping records or entries in attendance or other College registers, the submission of false overtime claims</p>	Hearing / Dismissal		
<p>2 Gross negligence causing damage to the employer, co-worker, clients or third parties.</p> <p>Improper and /or dangerous operation of equipment, tools or machinery.</p> <p>Reckless behaviour and grossly irresponsible acts or omissions.</p>	Hearing / Dismissal		
<p>3 Assault (actual or threatened) of a co-worker, client or third party – on or off the premises.</p> <p>Fighting in the workplace.</p> <p>Violent or threatening behaviour.</p>	Hearing / Dismissal		
<p>4 Gross or serious dishonesty (actual or intended) that impacts on the relationship of trust.</p> <p>Bribery, fraud, theft or unauthorized possession or removal of another's property (actual, intended or attempted).</p> <p>Being an accomplice, colluding, conspiring, assisting / abetting or instigating dishonesty, fraud, or theft.</p> <p>Refusing (or failure) to take reasonable steps to protect the College's property, serious breach of security procedures, unreasonably refusing to submit to a search or a test.</p>	Hearing / Dismissal		
<p>5 Sabotage, malicious or willful damage to property or assets (College or third parties).</p> <p>Intentional (unprotected) work-stoppage, go-slow or work-to-rule.</p> <p>Willful wastage of material and incurring unnecessary costs or penalties.</p>	Hearing / Dismissal		

Annexure A

6	Gross insubordination, refusal to comply with a reasonable and lawful instruction or directive	Hearing / Dismissal		
7	Sexual or co-worker / learner harassment, gender abuse, behaviour considered degrading or insulting by another.  Making racist, lewd, suggestive or inappropriate gestures, statements or innuendoes to a co-worker, client or supplier.  Storage, creation, sale or distribution of obscene or offensive material, publications, email, cartoons or objects.	Hearing / Dismissal		
8	Intimidation, victimisation, or the incitement of others to act unlawfully or to fail to act properly.  Willful interference with the work of others.  Intentionally creating disharmony in the workplace, or within a group.	Hearing / Dismissal		
9	Unauthorised possession, removal (attempted or actual), misappropriations, unauthorised “borrowing”, use and/or abuse of College or client property or facilities.  Operating or removing a College vehicle without permission or without a license.	Hearing / Dismissal		
10	Being in unauthorised possession of a dangerous weapon (or potentially dangerous object), intoxicating substance or any illicit material or objects that may threaten, endanger or interfere with College operation - concealed or otherwise.	Hearing / Dismissal		
11	Actions, or omissions, that result in actual or potential exposure of co-workers, clients or third parties to injury, or expose the College to potential accidental loss or damages - whether due to willful, grossly negligent or unintended acts.  Behaviour, acts or omissions that endanger the safety and welfare of others.  Dangerous ‘horseplay’ and unsafe acts or omissions, persistent failure to wear issued safety clothing or use safety equipment provided.  Failure to report an incident, unsafe act or situation, accident or injury – on duty (or off duty and impacting on College or employment relationship).  Failure or refusal to report serious misconduct, unlawful or unsafe acts to the College.	Hearing / Dismissal		
12	Serious misconduct or actions that may bring the reputation of the College, or its stakeholders, into disrepute.  Soliciting or accepting gifts, considerations or favours from any third party.	Hearing / Dismissal		
13	Sleeping while on duty, thereby exposing the employee, co-workers, the College or third parties to damages or danger.	Hearing / Dismissal		

Annexure A

<p>14 Competing with the College, unauthorised moonlighting or free-lancing, having undisclosed personal or other interests that are a conflict of interest, and /or contrary to the interests of the College.</p> <p>Willfully disclosing or making available to other College records or information of a confidential nature without prior consent.</p> <p>Industrial espionage or related deliberate breaches of confidentiality that may have serious consequences for the College or its employees or other stakeholders (learners or parents or sponsors).</p>	<p>Hearing / Dismissal</p>		
<p>15 Desertion (intentional or implicit) – abandoning the employment relationship / willful repudiation of contract, refusal to resume employment, extended unexplained absence for no good reason (period of absence in excess of 5 working days)</p>	<p>Summary Dismissal (without hearing)</p>		
<p>16 Any misconduct considered to be a serious and material breach of the contract of employment, possibly justifying termination as a first offence</p>	<p>Hearing / Dismissal</p>		
<p>17 Making statements, allegations and comments that are derogatory to the College, its management, co-workers or clients / suppliers, that are detrimental to the interests of the College and its stakeholders</p>	<p>Final written warning</p>	<p>Hearing / Dismissal</p>	
<p>18 Breach of College internet / email or telephone system usage procedures, abuse of College IT facilities or infrastructure for personal and/or unauthorised purposes.</p>	<p>Final written warning</p>	<p>Hearing / Dismissal</p>	
<p>19 Gross insolence, adopting a disrespectful attitude toward any superior or client / supplier.</p> <p>Being discourteous to another, affecting the employment relationship or the reputation and business interests of the College.</p> <p>Unco-operative or obstructive behaviour.</p>	<p>Final written warning</p>	<p>Hearing / Dismissal</p>	
<p>20 Reporting for duty under the influence of any intoxicating or debilitating substance</p>	<p>Final written warning</p>	<p>Hearing / Dismissal</p>	
<p>21 Use of foul and inappropriate language in presence of others or clients, especially with learners or parents</p>	<p>Final written warning</p>	<p>Hearing / Dismissal</p>	
<p>22 Smoking in a non-smoking area, or refusing to make use of designated smoking areas.</p>	<p>Final written warning</p>	<p>Hearing / Dismissal</p>	
<p>23 Willful abuse of College privileges or seniority status, abuse of position and authority</p>	<p>Final written warning</p>	<p>Hearing / Dismissal</p>	
<p>24 Any act or omission considered to be serious, but not sufficient grounds for dismissal as a first offence</p>	<p>Final written warning</p>	<p>Hearing / Dismissal</p>	

Annexure A

25	Failure to adhere to proper procedures, poor quality of work, sub-standard performance. Loafing, loitering, indolent or slow work.	Written warning	Final written warning	Hearing / Dismissal
26	Persistent timekeeping infringements, late return from lunch, abuse of smoke-breaks, leaving work early without permission, excessive time-off. Absence without permission, failure to report for duty as scheduled, unreasonable refusal to work scheduled overtime or to perform emergency work. Leaving position or workplace without permission while on duty.	Written warning	Final written warning	Hearing / Dismissal
27	Carelessness which does not result in serious damage, or potential exposure to serious damage to others or to the College	Written warning	Final written warning	Hearing / Dismissal
28	Failure to comply with job instructions, policy provisions or procedures that do not initially result in serious damage to the relationship of trust	Written warning	Final written warning	Hearing / Dismissal
29	Abuse of sick or special leave	Written warning	Final written warning	Hearing / Dismissal
30	Use without consent, misuse or persistent abuse of College facilities for personal or unauthorised purposes	Written warning	Final written warning	hearing / Dismissal





**Corrective action taken by Manager / Supervisor**

1. Corrective steps: .....

2. Disciplinary Action:  
First / Second / Final (delete) Written Warning / Other (specify):  
.....

**Kindly note that should you be found guilty of any other act of misconduct, related or otherwise to previous misconduct having led to a final warning, you may render yourself liable for dismissal.**

3. Other steps:  
.....  
.....  
.....  
.....

Action taken by ..... (name) on ..... (date).

.....  
Signature of Manager / Supervisor

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**Acknowledgement of Receipt**

I, ..... (full name) acknowledge that I have been advised on the corrective action / disciplinary measures indicated above.

.....  
Date

.....  
Signature of Employee

.....

.....

Annexure B

Date

Signature of Witness



**NOTIFICATION OF ATTENDANCE OF DISCIPLINARY ENQUIRY**

Date: .....  
To: ..... (name of employee)  
.....(Department )  
Dear ..... (employee)

You are hereby informed that a disciplinary inquiry will take place on ..... (date) at ..... (time) in .....(venue).

In summary, the following incident will be investigated at the inquiry:

.....  
.....  
.....  
.....  
.....  
.....  
.....

(insert a description of the incident – attach additional information if necessary)

In terms of the College’s Disciplinary Code, the specific charges made against you are -

- .....
- .....
- .....
- .....

**You are required to attend a Disciplinary Enquiry and to present evidence in your defense.**

In terms of the College’s Disciplinary Procedure, you are / are not (delete) suspended on full pay from all normal duties as from ..... (date) until the date of the Enquiry.

During the period of your suspension you are not permitted to enter College premises without the express and prior permission of your direct line manager.

You may however approach a colleague of your choice to assist you during the upcoming hearing, and engage with others ONLY as may be necessary for you to prepare yourself and any witnesses for the Enquiry. Abuse of these rights will result in your access being restricted and you are therefore urged to respect the rights of your co-workers to continue to work without interference or pressure.

Please note the following:

The Enquiry will be chaired by \_\_\_\_\_ (name)

At the Enquiry you will be entitled to:

1. Be represented by a fellow employee who is willing to assist you (“representative”)
2. Cross-examine witnesses and dispute evidence submitted by the College in support of its case against you
3. Present your own evidence / defense in relation to the above charge(s)
4. Call relevant witnesses to give pertinent evidence on your behalf.

Please also note that the alleged offence(s) and charge(s) indicated above are considered to be of a serious nature, possibly justifying your dismissal should you be found to be guilty thereof.

You are urged therefore to treat this Enquiry with seriousness, and to prepare yourself, and your case and witnesses, accordingly.

Should you require any assistance with preparing for your Enquiry, or with making arrangements for access to or the attendance of witnesses (or your representative), kindly contact the undersigned timeously to make the necessary arrangements PRIOR to the Enquiry.

Kindly sign this notification in the space provided to confirm that you have received it.

Sincerely

.....  
Signature of Issuing Manager

**Acknowledgement of Receipt:**

I, ..... (full name) acknowledge that I have been issued with the above Notification of Disciplinary Enquiry.

.....  
Date

.....  
Signature of Employee

.....  
Date

.....  
Signature of Witness



## ST STITHIANS COLLEGE

A South African School Making a World of Difference

### NOTICE OF SUSPENSION ON FULL PAY

TO: \_\_\_\_\_

FROM: \_\_\_\_\_

TODAY'S DATE: \_\_\_\_\_ PRESENT TIME: ) \_\_\_\_\_

In light of the serious allegations against you, you are hereby suspended from the College with immediate effect pending the outcome of an investigation scheduled for \_\_\_\_\_.

During this suspension period you will not be permitted access to the College's premises, except by special arrangement (through your Manager) for the purposes of liaising with your representative, if required.

Please note that this suspension is on full pay and will therefore not result in any loss of benefits to you during this period.

Manager's Signature: \_\_\_\_\_

Employee's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Witnesses:

Signature: (College representative – if required) \_\_\_\_\_

Signature: (Employee's representative – if required) ) \_\_\_\_\_

Private Bag 2 Randburg 2125 Republic of South Africa **Website:** <http://www.stithian.com>

**Entrances:** Hendrik Verwoerd Drive Randburg or 40 Peter Place Lyme Park Sandton **Telephone:** 011 577 6000



**College Rector**  
**Head of Girls' College**  
**Head of Girls' Prep**  
**Head of Boys' College**  
**Head of Boys' Prep**  
**Head of Junior Prep**

Stephen Lowry BA HDE (PG) (Wits) MA (London)  
Ivanka Acquisto BA BEd (Rem Ed) HDE (PG) (Wits)  
Celeste Gilardi BPrimEd BEd MEd (Wits)  
David Knowles BA (Hons) HDE (Rhodes) FDE (Unisa)  
Alistair Stewart BPhysEd BEd (Wits)  
Melony Dace DipEd (Rhodes) FDE (Sp.Ed) (UCT) BEd (Hons) (Wits)





## INVESTIGATION RECORD

This document records the details of an investigation held on \_\_\_\_\_

Welcome everyone present and explain that this is an investigation regarding the allegations against the employee (name) and read out the allegations or reason for the investigation from the Notification Form.

Ask the employee the following questions and record the answers:

Have you received prior notification of the allegations against you? YES / NO

Do you understand the allegations against you? YES / NO

If NO, explain the allegations against the employee.

Have you had sufficient time to prepare for the allegations against you? YES / NO

If NO, reschedule the investigation to allow for sufficient time.

Do you require a representative YES / NO

### **PRESENT:**

All people present at the investigation should complete their name and sign below:

***CHAIRMAN'S NAME*** \_\_\_\_\_

***SIGNATURE:*** \_\_\_\_\_

***ACCUSER'S NAME*** \_\_\_\_\_

***SIGNATURE:*** \_\_\_\_\_

***EMPLOYEE'S NAME:*** \_\_\_\_\_

***SIGNATURE:*** \_\_\_\_\_

***REPRESENTATIVE'S NAME*** \_\_\_\_\_

***SIGNATURE:*** \_\_\_\_\_

***OTHER: (specify)*** \_\_\_\_\_

***SIGNATURE:*** \_\_\_\_\_











**MITIGATING FACTORS:**

Ask the employee whether s/he has any mitigating factors which should be taken into account and record these below:

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Record the following information, if necessary ask the employee to provide any relevant input: (12)

- Length of service with the employer: \_\_\_\_\_
- Number of years in current position: \_\_\_\_\_
- Has the employee received training to perform his/her duties: \_\_\_\_\_
- Age of the employee: \_\_\_\_\_
- Number of dependants supported by the employee: \_\_\_\_\_

**OUTCOME:**

Determine the employee's guilt based on the evidence heard during the investigation: (13)

GUILTY / NOT GUILTY

Reason/Justification:

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Specify sanction: \_\_\_\_\_

Reason/Justification:

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Please note: This Investigation Record must be filed for future referral, if necessary



## DISCIPLINARY ENQUIRY/INCAPACITY HEARING CHECKLIST

The following procedure is to be followed by the Chairperson:

### OPENING THE ENQUIRY

- Open the investigation by introducing yourself and each member at the investigation.
- NOTE:** It is required that minutes be taken at the investigation, and/or the proceedings are recorded on audiotape. These minutes must be filed on the employee's personal file.
- Outline to those present that the purpose of the investigation is to establish the facts relating to certain allegations and explain that the employee has the right to present his/her case, call witnesses and to challenge any evidence led against him/her.
- Explain how the investigation is to proceed
  - Management evidence;
  - Management witness(es) evidence;
  - Cross-examination by employee;
  - Employee's evidence;
  - Employee's witness(es) evidence;
  - Cross-examined by management;
- Note:** Witnesses will only present while giving evidence;
- Decision and Outcome
- Ask the employee if he/she:
  - Has received notification of the allegations against him/her
  - Has had sufficient time to prepare for the case;
    - Is aware of the right to representation;
    - Requires an interpreter;
    - Is satisfied with the composition of the investigation (i.e. the people present); and
    - Has any objection to the chairperson chairing the investigation;
    - Complete the attendance register

### CONTINUING THE INVESTIGATION

- Read the allegation(s) to the employee. Ask whether they are understood and whether he/she pleads "guilty" or "not guilty" to them. (If guilty proceed to step \*□\*).
- Ask the Company representative (Accuser) to state the College's case.

- Ask the Accuser to call the College’s witness(es) (one by one).
- Ask each witness
  - To state name and employment position;
  - To describe what happened and how;
  - Who was involved;
  - Where it occurred;
  - When it happened; and
  - To describe any other relevant facts relating to the charge.
  - Note: The person present at the hearing should be instructed to allow each witness to complete his/her testimony before being opened up for cross-examination. A witness can be interrupted on a point of clarity only and this must be done through the chairperson.
- Once the management witness(es) have completed their version of events, the employee and representative should be asked to put any questions to the witness.
- The chairperson should also put any questions he/she might have in cross-examination to the witness.
- Call any additional management witnesses if appropriate in a similar fashion to that outlined above.
- After the College’s case is completed, the employee should be called on to present his/ her case. The line of questioning should follow that outlined as above and question should be raised on any point of contradiction, any discrepancies and necessary points of clarification.
- The employee may then call any witnesses to substantiate his/her version of events. The witnesses may be cross-questioned after testifying.
- Chairperson to summarise.

**\*\* ADJOURN THE INVESTIGATION (GUILTY/NOT GUILTY DECISION)**

- Having heard all the evidence, it is advisable to adjourn for a while (at least 2 hours – possibly longer in the case of serious misconduct) to review the evidence and to weigh up whether, on the balance of probabilities, the employee is guilty of the allegation. Remember that, generally, no weight should be given to hearsay evidence, and evidence that is corroborated is generally the strongest. No reference to the employee’s record should be made at this stage.

**RECONVENE THE ENQUIRY**

- Reconvene the hearing as prearranged and notify the employee as to your verdict of “guilty” or “not guilty” including reasons for the verdict.
- If the decision is “not guilty” then the matter is quashed and the employee should be requested to resume his/her duties.
- If the decision is “guilty” then the employee and his/her representative should be asked to raise any mitigating factors and the College representative may present any aggravating factors.

## **ADJOURN THE ENQUIRY**

- At this stage the chairperson should make a decision regarding the disciplinary sanction to be imposed. The employee's file should now be examined.
- In arriving at a decision, the following will need to be considered:
- Mitigating factors: The employee may have raised factors that may reduce blameworthiness. These may include personal circumstances, provocation or other influences, work record and a genuine desire to change behaviour or improve performance.
- Aggravating factors: The employer (usually the Accuser) may raise factors that increase blameworthiness. These may include a poor work record, a failure to express remorse, an inability to change behaviour or improve performance and the breakdown of the trust relationship.
- Employer circumstances: These may include the College's Code of Conduct, the nature of the business, the degree of prejudice suffered by the College and past practice with regard to similar cases.

### **DISMISSAL FOR MISCONDUCT Consider:**

- The Employee's knowledge of the rules;
- Reasonableness of the rules;
- Whether the rules have been applied consistently; and
- The nature / degree of misconduct and whether it warrants dismissal.

### **DISMISSAL FOR POOR PERFORMANCE Consider:**

- The extent and degree of the employee's poor performance;
- Whether the employee was informed of the required performance standard and consequences of failing to improve (counselling records/warnings)
- Whether the employee was given adequate opportunity to improve;
- The likelihood of future improvement;
- The possibility of altering the employee's job content to match his/her capabilities or alternative positions available;
- The status and consequences to the employee; and
- Other mitigating factors.

## **RECONVENE THE INVESTIGATION**

- Reconvene the investigation as pre-arranged (at least 12 hours later in the case of serious misconduct that could lead to the employee's dismissal);
- Inform the employee of the decision and the reason for coming to this decision (when possible comment on points raised by the employee and his/her representative).
- Inform the employee of his/her right to appeal against the decision. The relevant documentation should be completed and written notice of the outcome of the enquiry should be given to the employee.
- File documents in the employee's personal file.



# ST STITHIANS COLLEGE

A South African School Making a World of Difference

## NOTIFICATION OF FINDINGS OF DISCIPLINARY ENQUIRY

Date: .....

To: ..... (name of employee)  
.....(Department / Region)

Dear ..... (employee)

You have been charged with misconduct as follows:

### CHARGES:

.....  
.....  
.....  
.....

FINDING: GUILTY / NOT GUILTY (delete)

Reasons for findings – see attached finding statement by Enquiry Chairperson

DISCIPLINARY ACTION TO BE TAKEN (reasons attached):

.....  
.....  
.....  
.....

Private Bag 2 Randburg 2125 Republic of South Africa **Website:** <http://www.stithian.com>  
**Entrances:** Bram Fischer Drive Randburg or 40 Peter Place Lyme Park Sandton **Telephone:** 011 577 6000



<b>College Rector</b>	Stephen Lowry BA HDE (PG) (Wits) MA (London)
<b>Head of Girls' College</b>	Ivanka Acquisto BA BEd (Rem Ed) HDE (PG) (Wits)
<b>Head of Girls' Prep</b>	Celeste Gilardi BPrimEd BEd MEd (Wits)
<b>Head of Boys' College</b>	David Knowles BA (Hons) HDE (Rhodes) FDE (Unisa)
<b>Head of Boys' Prep</b>	Alistair Stewart BPhysEd BEd (Wits)
<b>Head of Junior Prep</b>	Melony Dace DipEd (Rhodes) FDE (Sp.Ed) (UCT) BEd (Hons) (Wits)



You have the right to appeal against this decision and the procedure is as follows:

.....  
.....  
.....

Note: If no appeal has been lodged within \_\_\_ / 5 working days after a dismissal, the date hereof will be deemed to be the date of the final decision to dismiss for the purposes of section 191(1)(b)(i) of the LRA.

Yours faithfully

.....

Signature of Enquiry Chairperson / Manager (delete)

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### Acknowledgement of Receipt:

I, ..... (full name) acknowledge that I have been issued with the above Findings of Disciplinary Enquiry.

.....

Date

.....

Signature of Employee

.....

Date

.....

Signature of Witness

Private Bag 2 Randburg 2125 Republic of South Africa **Website:** <http://www.stithian.com>  
**Entrances:** Bram Fischer Drive Randburg or 40 Peter Place Lyme Park Sandton **Telephone:** 011 577 6000



<b>College Rector</b>	Stephen Lowry BA HDE (PG) (Wits) MA (London)
<b>Head of Girls' College</b>	Ivanka Acquisto BA BEd (Rem Ed) HDE (PG) (Wits)
<b>Head of Girls' Prep</b>	Celeste Gilardi BPrimEd BEd MEd (Wits)
<b>Head of Boys' College</b>	David Knowles BA (Hons) HDE (Rhodes) FDE (Unisa)
<b>Head of Boys' Prep</b>	Alistair Stewart BPhysEd BEd (Wits)
<b>Head of Junior Prep</b>	Melony Dace DipEd (Rhodes) FDE (Sp.Ed) (UCT) BEd (Hons) (Wits)







**APPEAL REVIEW REQUEST**

Date: .....

To: The Enquiry Convener / Head  
c/o ..... College

Dear .....

APPEAL AGAINST DISCIPLINARY ACTION / ENQUIRY FINDINGS / DISMISSAL (delete)

I hereby wish to formally appeal against the decision to discipline / dismiss me (delete) taken by .....(name of Enquiry Chairperson / Issuing Manager / Head) on ..... (date of warning being issued / notification to dismiss).

The grounds upon which I appeal are (in detail):

.....  
.....  
.....  
.....  
.....  
.....

..... (attach further pages / notes if necessary)

I believe that the more appropriate action is

.....  
.....  
.....  
.....  
.....

Yours faithfully

.....

Signature of Employee

..... (name of employee)