

Disciplinary Hearings/Tribunals Procedure Guidelines

**COMPILED FOR:
GLEN AUSTIN HIGH SCHOOL**

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PART I PRELIMINARY

1. Preamble

The contents of this guideline should be observed in the context of the whole Education Disciplinary and Tribunals field. It is a very complex, dynamic and therefore constantly changing field, urging all stakeholders to be aware of the continuous need to update and refresh to stay abreast with new developments.

2. Purpose

The guideline has been drawn up in order to inform all learners and parents of the procedures the school will follow when dealing with allegations of misconduct on the part of learners. It serves also to guide the school and its Educators in the application of disciplinary measures.

3. Scope

- (a) This guideline should be read in conjunction with the **SCHOOL'S PROSPECTUS**, which sets out the standards of conduct expected of learners. It is also in line with the school's other policies.

- (b) The disciplinary procedure contained in this guideline has been finalised after undergoing a process of discussion and consultation involving educators, learners and the Governing Board. The school has from time to time reviewed its procedures, and reserves the right to continue to review and adapt this guideline when necessary.

4. Legislation

- (a) Section 8 (4) of the South African Schools Act provides that all learners attending a school are bound by the Code of Conduct of the school. All learners are expected to sign a statement of commitment to the Code of Conduct.

- (b) The administration of the Code of Conduct is the responsibility of the Disciplinary Committee of the school.

PART II

DISCIPLINARY MEASURES AND HEARINGS

5. Disciplinary Measures

- (a) The underlying purpose of all disciplinary measures initiated by the school will be to foster the standards of behaviour and principles stated in the Code of Conduct. The school will strive to maintain discipline in a manner that builds an atmosphere of mutual respect and tolerance and enhances learners' sense of self-confidence and self-worth.
- (b) The school reserves the right to exercise both informal and formal disciplinary measures as it deems appropriate. The decision as to which procedure to follow will depend on the seriousness of the alleged infringement and any mitigating or aggravating circumstances.
- (c) Disciplinary measures that may be applied by the school include the following:**
- ✓ Counselling by a member of staff and Warning and letter to parents OR interview with parents
 - ✓ Detention
 - ✓ Community / School service
 - ✓ Disciplinary hearing
 - ✓ Withdrawal of rights and privileges, including sport and social activities which form part of the Glen Austin High Curriculum
 - ✓ Suspension from school
 - ✓ Expulsion
- (d) Discipline should be appropriate to the offence and applied progressively. Repetition of offences will result in progressively more severe action being taken. However, it is possible that a serious first offence could justify a severe penalty, including expulsion. A serious offence will be recorded in a learner's file for an appropriate period.

6. Disciplinary Hearings

- (a) Written notice of a disciplinary hearing will be given at least five (5) school days before the hearing is scheduled to take place, which could imply temporary suspension from classes, excluding formal scheduled tests and examinations which count towards the learner's year mark.
- (b) When the notice is issued to the learner, the learner must acknowledge receipt of the notice by signing for it. This is **NOT** an admission of guilt on the part of the learner.

- ✓ The notification of a disciplinary hearing must:
 - ✓ state when and where the hearing is to be held;
 - ✓ state the nature and substance of the complaint or complaints against the learner;
 - ✓ advise the learner and his / her parents or guardian that they are expected to attend the hearing as their non-attendance may prejudice their case and result in the hearing being held in their absence;
- (c) If a learner does not appear at a hearing, the hearing will be conducted in his/her absence.
- (d) A written verdict of the hearing will be issued to the offender. The offender must acknowledge the content by signing the document.
- (e) The hearing will also be attended by the learner, and any other learner he/she may need for his/her defence**
- (f) The principles of natural justice will apply to both parties at the hearing, including that all parties can lead evidence, by calling and cross-examining witnesses;
- (g) Legal representation IS PERMITTED at a disciplinary hearing as of right, although if any party wishes to be legally represented they may address a motivated written request to the chairperson prior to the hearing's commencement. The chairperson's ruling in this regard will be final.**
- (h) The disciplinary hearing should be chaired by a senior representative of the school. If the school deems it necessary, it may engage the services of a suitably qualified or experienced third party to conduct the inquiry.
- (i) The chairperson will have a broad discretion to determine the manner in which evidence is led and in which manner the proceedings are to be conducted.
- (j) A learner has the right to request a review of the disciplinary action taken against him/her if sufficient grounds exist. This is determined by the Chairperson of the Disciplinary Hearing. Disregard of punishment of the Disciplinary Committee will lead to temporary suspension pending a hearing.

PART III
DISCIPLINARY COMMITTEE

7. Formation of the Disciplinary Committee

(a) The Disciplinary Committee will consist of the following members:

- (i) The School Monitoring Forum Chairperson OR Member of Disciplinary Portfolio
- (ii) Principal
- (iii) Human Resources Department Representative

(b) The Vice Principal (Discipline Officer) will keep copies of the records of all documentation relating to the offence, the conducting and findings of the hearing, and the disciplinary measures imposed. The Vice Principal (when necessary) will also furnish the Grade Head and register teacher with all the information necessary for their records.

PART IV
TRANSGRESSIONS

8. Types of Transgressions

(a) This section outlines the procedures that will be followed by the school when taking disciplinary action.

(b) Minor Infringements

Infringements that are not considered serious, or do not require formal disciplinary action in the opinion of the relevant teacher, will be dealt with directly by the teacher. These informal disciplinary measures may be implemented by teachers without reference to a head of department or the Vice Principal:

School avoidance is forbidden.

- (ii) Learners may not leave the school premises during school hours without having the necessary permission from the Principal.
- (iii) "Bunking" (staying away from any classes) is forbidden.

(c) Serious Infringements

When a more serious infringement occurs or is alleged, the teacher concerned, and the head of department or Head if appropriate, should investigate the complaint in order to determine the appropriate disciplinary procedure to be followed. At this stage, before the validity and details of the complaint have been established, the school will not necessarily advise the parents or guardian of a learner that a complaint is being investigated. The parents or guardians will be informed if the matter is to proceed further:

- (i) Repetition of misbehaviour: Repeated transgressions of the School's Code of Conduct or school rules are deemed as unacceptable behaviour.
- (ii) Academic Dishonesty : Any attempt to obtain improved results by any dishonest means – electronic or otherwise-for self or another learner for any project test or exam is totally prohibited.
- (iii) Unauthorised possession of another person's property: No learner may take any Object or property that is not his or hers.
- (iv) Smoking: A learner may not smoke whilst under school supervision nor have any articles relating to smoking on him/her or be in the presence of other learners who are smoking.
- (v) Habit forming substances: The possession, use, transmission or visible evidence of narcotic or unauthorised drugs, alcohol or intoxicants of any kind is forbidden. No learner in school uniform or under school supervision may be in possession, hand it over or be under the influence of any matter of this description or be in the presence of learners who are guilty of contravening this rule.
- (iv) Undermining of Authority: Any form of dishonourable behaviour or rude language albeit towards educators or any other employee of the school will not be tolerated.
- (v) Physical contact: Fighting, enticement to fight, bullying or the use of any form of physical abuse is strictly forbidden.
- (vi) Harassment: Any form of intimidation, emotional harassment or defamation of character is strictly forbidden.

- (vii) Vandalism: Vandalism in any form albeit towards school or private property will not be tolerated.
 - (viii) Inappropriate physical contact: Sexual misbehaviour, including kissing and fondling during school hours or whilst in school uniform or when under School supervision is untoward and is forbidden.
 - (ix) Pornography: Possession or spreading of any form of pornography is forbidden. The purposeful observation or creation thereof, in whatever form or media, is also forbidden.
 - (x) Weapons and other dangerous items: No dangerous articles (e.g. knives, scissors, and pistols) or any other item (e.g. fireworks, explosives, matches, etc.) that may cause injury or damage to property may be brought to school or carried on the person. No object (dangerous or not dangerous) may be used in such way that it could cause injury or damage to property.
 - (xi) Cult activities: Involvement in cult activities e.g. Satanism, gangsters or any similar activities which are disapproved by the parent community, is forbidden whilst under school supervision.
 - (xii) Dishonouring of school name or image inside or outside school: Any form of disgraceful or distasteful behaviour (e.g. giving of distasteful signs, use of foul language etc. or behaviour that is aimed to deliberately harm the school image (e.g. the dissemination of false information etc.) as well as convictions in a court of law are forms of unacceptable behaviour.
- (d) The school shall, in exercising discipline over learners, act according to the principles of natural justice particularly if expulsion is a possible sanction. If the circumstances warrant it, the infringement will be noted on the learner's record and / or the learner's parents or guardian advised of the misconduct.
- (e) Where necessary, a written notification of a disciplinary hearing will be given to the learner and to his / her parents or guardian. The school reserves the right to suspend the learner pending the hearing in appropriate circumstances.
- (f) All suspensions will be preceded by an informal meeting involving the representatives of the school (not the person who is to preside over the disciplinary hearing) and the learner's parent/s or guardian where reasonably possible, and at which representations, if any, on whether to suspend the learner, will be heard.

9. The SMART School Management Software

(a) GAHS uses the SMART School Management Software to record transgressions. A copy of every learner's record will be made available at a parents request and at ALL disciplinary hearings.

(b) The following table is programmed on the system:

No.	Conduct	Demerits
1	Bullying	-5
2	Bunking class	-5
3	Cult Activities	-5
4	Dishonesty	-1
5	Disobedience	-1
6	Disruptive behaviour	-1
7	Fighting	-5
8	Forbidden area	-1
9	Habit forming substances	-5
10	Harassment	-1
11	Homework not done	-1
12	Language	-1
13	Late for class	-1
14	Missing activities scheduled without excuse	-1
15	Physical Contact	-1
16	Pornography	-5
17	Possession of another person's property	-5
18	Smoking	-5
19	Undermining Authority	-1
20	Uniform	-1
21	Vandalism	-5
22	Weapons	-5

(c) Action taken by the school will be according to the following criteria:

Number of Demerits on SMART	Action
-5	Warning and letter to parents / Counselling by staff member
-8	Detention
-12	Community Service
-16	Disciplinary hearing which can have the following outcome: <ul style="list-style-type: none"> - Suspension from certain activities in GAHS curriculum - Extended community service - Suspension for 3 school days - Suspension for 5 school days - Immediate Expulsion - Suspended Expulsion

(d) Learners who are involved in the following could face a disciplinary hearing without having a -16 score on the discipline demerits table:

(e) Fighting

(ii) Cult activities

(c) Being under the influence or in the possession of habit forming substances or in the presence of such behaviour

(iv) Being in the possession of a weapon

(vi) Vandalism

(d) In cases whereby the principal, after consultation with the governing board sees a learner as being dangerous to other learners and staff

(e) Learners facing a disciplinary hearing without the -16 demerits, will receive the maximum demerits (-5) for the offence and be subjected to the punishment the disciplinary committee proposes.

PART V
DISCIPLINARY HEARING PROCEDURE

10. Procedure during Disciplinary Hearings

(a) The Chairperson of The Committee must:

- (i) Lead the proceedings by welcoming everyone
- (ii) Explain the procedure of the hearing
- (iii) Introduce those present and state their functions
- (iv) Ensure that witnesses are present only while giving their evidence
- (v) To explain the nature of the alleged breach or misconduct to those present at the Disciplinary Hearing

(b) The Presiding Officer must inform the learner of his/her rights:

- (i) Informs the offender(s) of the sanction
- (ii) The right to appeal within five (5) days against any penalty imposed by the Disciplinary Committee

(c) The Prosecutor must:

- (i) Leads the charge(s)
- (ii) Read out all the learner's rights
- (iii) Ask the learner to plead (guilty/not guilty)

(d) Below are the learner's rights:

- To a formal hearing
- The right to be present at the hearing
- The right to be given time to prepare for the hearing case
- The right to be given advance notice of the charges against him/her
- The right to be represented at the hearing by one (1) internal representative
- The right to be accompanied at the hearing by parents/guardian if the learner is a minor
- The right to ask questions on any evidence produced, or on statements of witnesses
- The right to call witnesses to testify on his/her behalf
- The right to an interpreter, to be requested 24 hours prior to the hearing

11. The Process and Action of Hearing

- (a) If the learner does not attend, the hearing will continue in his/her absence

- (b) The evidence of the complainant and his/her witnesses will be heard first. The learner and panel may ask questions about the evidence. The learner and his/her witness may then give evidence and the complainant and Committee may ask them questions.
- (c) When all the evidence has been heard, The Chairperson must close the enquiry; dismiss the complainant, the accused, their representatives, the parent/guardian and all witnesses.
- (d) The Disciplinary Committee must discuss and weigh the evidence and come to a decision.
- (e) The Chairperson must reconvene all interested parties same day, unless there are aggravating circumstances that warrant a delay in issuing out the sanction same day.
- (f) The Presiding Officer is to communicate the decision of the Committee.
- (g) The Presiding Officer must explain the decision of the Committee and the reasons for the penalty (if any) that has been imposed.
- (h) The learner must be advised of his/her right to appeal the decision.
- (i) The complainant and the learner must sign the disciplinary form and a copy must be handed to the learner. If the learner refuses to sign, a witness must sign in the presence of the learner.
- (j) The signing of the document by the learner does not imply an acknowledgement of guilt.

12. Disciplinary Action

- (a) No action on a verdict from the Committee of 'not guilty'
- (b) A suspension from school for a minimum of two (2) school days.
- (c) A suspension from school for a maximum of five (5) school days.
- (d) Recommendation for expulsion from school to the Head of Education.
- (e) Alternative, corrective action depending on the severity of the charges against the learner.

To Note:

- Glen Austin High School has the right to expel the learner immediately
- The decision made by the Committee is **FINAL** and **BINDING**

13. Level One Disciplinary Hearing: Suspension

- Occasionally the **behaviour requires intervention by all the role-players**. The **Vice Principal (in consultation with the Principal)** jointly decides on the need for a disciplinary hearing.
- These hearings are subject to the provisions of the (Gauteng Provincial School Education Act, 1997-Act 12). The parents are consulted telephonically and in writing by the Vice Principal and notified of the hearing and the issues to be discussed.
- This affords the parents an opportunity to prepare themselves for the hearing. In order to deal with the matter effectively and reduce additional stress for the child, the hearing is scheduled for within five days of the incident having occurred.

14. Level Two Disciplinary Hearing: Suspension And Expulsion

- If, after the first hearing, the **learner continues to display behaviour that in terms of the S.A. Schools Act constitutes serious misconduct**. Then a final hearing is conducted with the **Vice Principal, the Chairperson of the Governing Body, the Disciplinary Committee, legal representatives (if necessary) and the parents**.
- The child is immediately suspended from attending school until the hearing is held. The hearing will take place within 5 school days of the parents being notified in writing. **The Principal** is informed and the request for expulsion.
- All role players will be furnished with these procedures in the event of a level one or level two hearing taking place. Accordingly, it would follow that a hearing would take place in accordance with these prescriptions.

The following is a summary of disciplinary procedures in cases of suspension and possible expulsion from Glen Austin High School:

- (e) **The Vice Principal** is involved in an initial assessment of the learner's conduct and an assessment that appropriate disciplinary measures could involve either a limited suspension from attendance at School or an indefinite suspension with a view to possible expulsion.
- (f) If it is practically possible, he contacts the learner's parents, gives them an outline of the situation and requests that they meet him with their child. At the meeting the Vice Principal discusses the matter with the parents.
- (g) If after this meeting the Vice Principal remains of the opinion that appropriate disciplinary steps may involve either suspension or expulsion from the school, he consults with the Disciplinary Committee and/or Principal. After taking their advice, he decides whether to suspend the learner from attendance at the School indefinitely while conducting investigations in preparation for the disciplinary hearing.
- (h) **The Disciplinary Committee may play an intermediary role** by contacting the learner's parents to advise them of the procedural aspects of the matter, the implications of an expulsion from the School and their son's rights to legal representation and to hear any further points they may wish to raise.
- (i) When it necessitates the Disciplinary Committee may **appoint an attorney**. The attorney frames a Statement of Allegations and delivers this to the learner's legal representative. **The learner's legal representative submits a Plea**. They are entitled to agree the facts to be put before the Disciplinary Committee. The Statement of Allegations, any Plea submitted or any Stated Case is then to be distributed to all members of the Committee.
- (j) Each cross-examines the other's witnesses and they are then re-examined. Thereafter they each lead argument on the merits of the allegations against the learner. After conclusion of the argument on the merits, the Disciplinary Committee discusses the evidence given and the arguments advanced and make their decision. The chairman announces the decision as to whether the learner is found guilty or not guilty of each allegation made.
- (k) If the Disciplinary Committee finds the learner guilty of any of the allegations evidence is led in regard to sentencing. The members then decide the sentence

to be imposed on the learner. This can be immediate expulsion or reinstatement subject to conditions.

- (l) The Committee's decision is announced immediately and then communicated to the learner and parent body (School Monitoring Forum) of the School. Such decision is final and binding on the school as well as the learner and the parent.

15. Collective Disciplinary Action

- (a) The above disciplinary procedure is principally designed to deal with instances of misconduct by individual learners. Allegations of misconduct by a group or groups of learners, or involving several alleged infringements of a similar nature, constitute collective misconduct.
- (b) Collective misconduct may be dealt with more effectively on a collective basis. A single investigation and disciplinary hearing may then be held, subject to the principles set out above, adapted where necessary for the context.
- (c) In a collective disciplinary hearing, individual learners will be given the opportunity to state or testify that their circumstances differ from the rest of the group.
- (d) The school reserves the right to adopt either individual or collective procedures as it deems appropriate in the circumstances.

PART VI MISCELLANEOUS

16. Final Word

The school will ensure that at all level one or two actions (of which the learners will be informed in writing) their right to:

- (a) lawful administrative action,
- (b) procedurally fair administrative action and
- (c) justifiable actions, **will be upheld**

These guidelines should be followed in order to ensure a fair hearing:

- (a) The chairperson should act impartially, and as far as possible should not have been involved directly in the events which form the basis of the complaint(s) or have taken any part in the investigation;

- (b) The chairperson's findings should be based only on evidence and argument presented at the hearing;
- (c) The proceedings should be conducted with due regard to the rights to dignity and privacy of all concerned;
- (d) The learner and his/her parents or guardian must be placed in a position to properly understand the complaint(s) before the commencement of the hearing;
- (e) The learner and his / her parents or guardian must be presented with all the relevant facts and information relating to the complaint(s);
- (f) The learners and his / her parents or guardian must be allowed to challenge the evidence presented in support of the complaint(s), to present their own evidence in relation to the events and to explain and / or defend the learner's actions. If they choose to do so, they may lead evidence or make arguments in support of the learner's defence;
- (g) At the conclusion of the evidence on the merits, the chairperson must determine whether the learner is guilty of the misconduct alleged in the notification of the disciplinary hearing. No finding of misconduct should be made in respect of infringements for which prior notice was not given or where there was not a proper opportunity to challenge the allegations. In the case of such a secondary complaint(s) either a second hearing, conducted in the same informal manner and subject to the same principles as the first, should be held to determine the appropriate sanction for that complaint, or the secondary complaint/s must be added as a charge/s in the initial hearing and if necessary the parties afforded an opportunity to prepare in relation to such further charges.
- (h) If the chairperson returns a finding of guilty on any one or more charges, he shall announce this and then call for further submissions (or evidence) from the school and thereafter the learner and/or his or her parents or guardian in relation to an appropriate sanction. The chairperson must then impose a sanction.
- (i) After the completion of the disciplinary hearing, the findings made and any sanction imposed should be communicated in writing to the learner's parent/s or guardian by the chairperson. If the learner is found guilty of any misconduct, the chairperson must briefly state the reasons for the finding and the sanction imposed. In the event that the sanction is expulsion, this notification must include a reminder that the learner has the right to appeal to the Principal in writing within five school days of the hearing's outcome being communicated. An appeal will be conducted by a person or persons appointed by the Chairman of the Board.
- (j) The chairperson must ensure that a record or summary of the evidence led at the inquiry is kept. The school must keep copies of the record and all documentation used at the inquiry for at least six months after the conclusion of the hearing.
- (k) If the learner has been suspended pending the conclusion of the hearing, he/she will remain suspended until the end of the disciplinary enquiry.
- (l) If the learner has been suspended pending the completion of the hearing process, the submission of an appeal will not affect the suspension which will remain in place

until the appeal has been concluded, unless the chairperson of the hearing rules otherwise at the time of imposing a sanction.

- (m) The appeal should as far as reasonably possible be conducted within a further seven school days of receipt of the appeal and accompanying motivation. The motivation must detail which portion/s of the finding and/or sanction are appealed and the reason/s therefore. This motivation will serve before the appeal chairperson and the school shall be permitted if it so chooses to deliver written representations in response thereto within a further two school days of receipt of the appeal motivation.
- (n) When a decision has been made by the appeal chairperson after giving due consideration to the matters raised in the appeal, the written finding must be provided to the parent/s or guardian of the learner within a further five school days of the finding having been made.
- (o) The decision of the appeal chairperson is final and binding on the parties and is not subject to any further appeal or review.
- (p) In the event of their appeal being overturned, the parents/guardians may be held liable for any legal costs incurred in the appeal process.

17. Minutes

Accurate and detailed minutes of all interviews and a record correspondence will be taken. This ensures that all events, actions; interviews and disciplinary measures are accurately documented should the school face legal proceedings.

SIGNED: _____

Chairman Glen Austin High School Governing Body

PART VII

TEMPLATES LISTED ACCORDING TO DISCIPLINARY PROCEDURE

TEMPLATE 1:

COMPLAINT FORM

SECTION 1

Learner Name: _____

Position: _____

Date of Offence: _____ Time: _____

Charged with: _____

SECTION 2 – Details of Complaint

Date: _____

2.1 What is/are your complaint(s)?

- _____
- _____
- _____
- _____

2.2: Have you tried to solve the above issue(s)/ concern(s) with the accused? If yes; what was the outcome? State how many times you have tried. If not, please state why?

- _____
- _____
- _____
- _____

2.3: What do you want Human Resources Department to do for you?

- _____
- _____
- _____

Name of Complainant: _____

Date: _____

Signature: _____

TEMPLATE 2:

CERTIFICATE OF SANCTION: DISCIPLINARY ACTION

TO BE COMPLETED AND COMMUNICATED BY THE CHAIRPERSON OF A DISCIPLINARY HEARING

A disciplinary hearing was held in the case of:

(Surname and initials)

(Date of hearing)

The student has been with the school since:

(Date)

The nature of the non-conformance is:

MISCONDUCT

The alleged offence is linked to the **Prospectus Rule No.1 (1.9)**. This non-conformance, in the circumstances warrants the following sanction :(Mark with X)

Suspension from other activities in GAHS activities

Extended community service

Suspension for 2 days

Suspension for 5 days

Suspended Expulsion

Expulsion

Indicate the duration of the suspension/suspended expulsion (months/years):

From (date): _____ To (date): _____

Comments if any: _____

DECLARATION BY RESPONDENT:

Acceptance of the above decision? Yes No

Signature of Learner

Signature of Parent/Representative

Date Today: _____

CHAIRPERSON OF THE ABOVE DISCIPLINARY HEARING:

(Surname and Initials)

Function

Signature

Date Today

TEMPLATE 3Z :

APPLICATION TO APPEAL AGAINST DISCIPLINARY ACTION

TO BE COMPLETED BY THE APPELLANT AND HANDED IN TO THE PRINCIPAL, WITHIN FIVE (5) DAYS AFTER BEING ADVISED OF THE SANCTION

(Learner Surname and Initials)

(Learner number)

I wish to apply for appeal against the disciplinary action that was taken against me.

My reason for appeal is: (Mark with X):

- I can present new evidence
- In my view the Disciplinary action is unfair:
Procedurally
- Other reason
Substantively

Specify:

I was advised of the disciplinary action on (date):

Today's date is:

Where applicable, give reason why this application is late in terms of the Appeal Procedure:

(Signature: Learner)

(Learner Representative Signature)

Acknowledgement of receipt: Principal / Vice Principal

(Surname and initials)

(Signature)

(Date)

Comments if any:
