



## DISCIPLINARY PROCEDURE FOR STUDENTS' POLICY HANDBOOK

### Guideline for The Bay Academy Board of Governors, Management, Educators, Students and Parents

#### 1. INTRODUCTION AND PRINCIPLES

The Bay Academy fully supports the principles of fair discipline and the consistent and justified application of appropriate disciplinary measures where necessary. This procedure and code for students indicates the broad standards of behaviour that are expected of all students at The Bay Academy and encourages a responsible and self-disciplined approach by students themselves.

- 1.1. Should expected norms of conduct not be met by any student, corrective action will be initiated by The Bay Academy management. Corrective action may or may not include the application of formal disciplinary measures; steps applied to prevent further occurrences of unacceptable behaviour, and to restore The Bay Academy / student relationship.
- 1.2. This procedure and code are considered an important element of the Academy's Code of Conduct and is applicable to all students. This document may also have a bearing on the student's behaviour outside of normal Academy hours, should the student's conduct impact negatively on the Academy / student relationship, or the reputation and integrity of the Academy.
- 1.3. The maintenance of discipline and ensuring orderly classroom behaviour is an integral part of every educator's job. The onus therefore lies with the Academy's educators and its management to apply this procedure in an effective and equitable manner, in the interests of the wellbeing of the Academy, preserving and promoting educational excellence, and protecting the rights of all Academy stakeholders including the student.
- 1.4. The Bay Academy's procedure is to be made readily available to every Academy employee, all students and parents upon or before enrolment, and upon request.

#### 2. THE BAY ACADEMY CODE OF CONDUCT

In The Bay Academy context, administrators, educators, parents and students all have responsibilities. To sustain a positive, orderly and disciplined learning environment, it is important that these parties to the education relationship acknowledge their responsibilities.

##### 2.1. Educators

Educators at The Bay Academy subscribe to the SACE Code of Professional Ethics and The Bay Academy's own Code of Conduct for Staff. *Inter alia*, the Academy's educators undertake to:

- Be punctual, well prepared and professional in their approach to education
- Manage student performance effectively and motivate students to achieve realistic and meaningful personal and educational goals
- Be sensitive to the needs of their students and address learning difficulties in a positive manner
- Praise, encourage, recognise and reward students who strive to achieve
- Create a classroom climate which is based on a learning partnership which makes education both relevant and stimulating
- Set a positive example for their students to follow
- Administer discipline correctively and with dignity when necessary.

Our Academy prides itself on having good relations with The Bay Academy's community, its students and their parents. While parents must expect the Academy and its educators to provide the best education possible with the resources available to The Bay Academy, parents must also accept responsibility to assist The Bay Academy achieve this goal.

## **2.2. Parents**

Parents enrol their children at The Bay Academy, subject to their acceptance of all The Bay Academy's rules and other conditions of enrolment. Parents also have the responsibility to:

- Actively support the efforts of The Bay Academy and its educators to teach their children
- Fully involve themselves in Academy activities
- Make positive suggestions and contributions to improve the Academy's education process and the learning environment
- Support the disciplinary structures and procedures of The Bay Academy, and the reasonable efforts by The Bay Academy to apply discipline effectively and fairly
- Encourage their children to participate fully in Academy and extra mural activities
- Participate in the learning process and assist their children with homework, provide encouragement, check results and communicate freely with The Bay Academy
- Not expect The Bay Academy to meet their child's every need or to take over the parenting of their child
- Ensure that the student is in attendance of all compulsory attendance functions and activities, and that The Bay Academy's conduct and timekeeping requirements are observed.

## **2.3. Students**

In terms of the Constitution, every student does have the right to education. The Bay Academy does strive to provide the educational opportunities that its students and the community deserve. Students themselves however must also recognise that they have responsibilities to their parents, The Bay Academy, their educators, their fellow students and themselves.

Students therefore must accept and comply with The Bay Academy's rules and its conditions of enrolment. In more general terms, students must also:

- Comply with instructions from Academy officials, and with the general rules of The Bay Academy
- Behave responsibly and not endanger the safety, welfare and rights of others
- Respect and care for the property of The Bay Academy and others
- Maintain sound relations with others at Academy, be courteous and respect the dignity and self-worth of others
- Be punctual and observe the timekeeping practices of The Bay Academy • Demonstrate a positive attitude towards the opportunity to learn, and be diligent in their efforts to learn
- Behave honestly and conduct themselves with integrity
- Not harass, threaten violence or use force to intimidate, abuse, coerce or interfere with others, with Academy activities or with Academy property
- Accept legitimate disciplinary measures taken against them as being necessary.

The Bay Academy has a number of rules that define the kinds of behaviour expected of its students. Students are to also keep their parents advised of these rules (please see Academy rules) and students are expected to conduct themselves in accordance with the rules provided.

### **3. DISCIPLINARY MEASURES**

It is impossible for this procedure or the disciplinary Code (attached) to list every possible type of rule infringement or misconduct by students. This procedure and the attached code therefore only set out the broader categories of infringement, and the norms for applying fair disciplinary measures at The Bay Academy.

Various forms of informal and formal disciplinary measures may be initiated by the student's responsible educator, or by The Bay Academy authorities. The Bay Academy will be entitled to apply corrective action and/or disciplinary measures that it believes are appropriate in the circumstances; within the guidelines provided in this procedure. The judgement and discretion of the Academy officials to apply disciplinary measures will therefore not be rigidly restricted by the procedure or code, but will rather be guided by the circumstances of each case and the various measures described herein.

The severity of action taken by The Bay Academy or official will depend on the circumstances, the seriousness of an infringement, the interests of fellow students, The Bay Academy and its employees, the interests of the offending student and any other mitigating or aggravating factors being of relevance. For this reason, the guidelines enclosed seek to promote and assure consistency, but do not remove the necessary discretion of The Bay Academy authorities to apply a lesser (or more severe) penalty should circumstances so dictate.

Disciplinary measures applied in response to student misconduct will therefore require that The Bay Academy officials involved exercise their own judgement in deciding on the appropriate and fair action to be taken. Disciplinary action that may be applied by The Bay Academy, in order of severity, includes -

Informal measures:

- a counselling by the educator or the head of department
- a verbal reprimand (noted on the student's file)
- "community service"

Formal measures:

- a written warning recorded (usually effective for a period of 3 to 6 months)
- parental contact and an interview with parents, generally after the conducting of an investigation by The Bay Academy
- suspension for a period from class, or from attending The Bay Academy, pending the convening of a formal disciplinary hearing, and/or as a form of corrective action after the conducting of a disciplinary hearing
- expulsion from The Bay Academy (as a last resort in the case of serious or repeated misconduct), generally only after the conducting of a disciplinary hearing, and as a last resort.

3.1. Discipline must, wherever feasible and effective, be applied progressively. Informal action for minor transgressions is generally applied at educator level, without a formal investigation being necessary. Repeated committing of a minor, similar or related offence will however result in progressively more severe and formal action being taken; particularly where a clear pattern or behaviour trend is indicated by the student's continued misconduct.

3.2. Notwithstanding the principle of progressive discipline, a serious first offence may justify a formal and severe penalty and mitigate against the imposition of a lesser form of action (please see the Disciplinary Code attached for guidelines on penalties).

3.3. Warnings issued by The Bay Academy will be noted on the student's record. Copies of warnings issued should also be provided to the parents by The Bay Academy.

### **4. DISCIPLINARY ACTION PROCESS**

This procedure summarises the disciplinary process that will be followed, wherever possible, by The Bay Academy when disciplinary action against a student is considered appropriate by the Bay Academy authorities.

#### **4.1. Informal Procedures**

- 4.1.1. Infringements that are not considered serious, or do not require formal disciplinary action in the opinion of the student's responsible educator, can be dealt with directly by the educator. These are not generally recorded on the student's record but will still require communication with the student's parents by the educator involved.
- 4.1.2. The various forms of informal action are as outlined above and can be implemented by the educator without the involvement of the head of department or Academy Head.

#### **4.2. Informal Investigation**

- 4.2.1. When an infringement occurs which appears to require formal disciplinary action, the educator concerned (or another complainant such as a parent) will initiate the disciplinary process by reporting the incident to the Principal, or by completing a letter of complaint.

A report or complaint may be supplemented by any additional information or statements to clarify or adequately detail the facts surrounding the alleged infringement.

*Note:*

*A copy of a notice or letter of complaint need not be provided to the student if informal action is taken against the student. If formal disciplinary measures are considered to be appropriate, it is important in the interests of transparency that a copy of any complaints or reports also be provided to the student / parents. Withholding this information may cast some doubt on the authenticity or seriousness of the alleged infringement (and complaint) and may even result in a formal request for disclosure of the complaint from the student's parents.*

- 4.2.2. The student's responsible educator, and the Principal if required, should investigate the reported infringement or a letter of complaint received, to decide upon appropriate corrective measures. This investigation generally takes the form of an informal inquiry, and wherever possible includes an opportunity for the student to state his/her case in response to the complaint.

#### **4.3. Formal Disciplinary Measures**

- 4.3.1. If, after investigation, the infringement is confirmed and considered to be of a nature which does not require severe action, the responsible educator or Principal may counsel the student and issue an appropriate WARNING to the student concerned.
- 4.3.2. A copy of the warning issued should be given to the student's parents by the educator or Principal involved. A meeting with the parents may be necessary to clarify the reasons for formal action being taken, as well as to reinforce the seriousness of the infringement and to highlight the expectations that the misconduct will not be repeated.

#### **4.4. Final Warning**

- 4.4.1. A Final Warning is only imposed by The Bay Academy Principal, if the student's misconduct was (a) very serious but (b) did not warrant suspension or a hearing / expulsion, or if (c) misconduct occurs which is similar to a previous infringement for which a written warning has already been issued to the student by The Bay Academy.
- 4.4.2. If a Final Warning has been issued to a student for misconduct, ANY further infringement by the student should be considered as warranting suspension and a disciplinary hearing into the student's behaviour at The Bay Academy.

*Note:*

*It is not sound disciplinary practice, nor an effective corrective or disciplinary penalty, to impose a 'second final warning'. A final warning is exactly that - "one more strike and you are out" is the intended message of a final warning.*

## 5. DISCIPLINARY HEARING

When a serious infringement possibly warranting student suspension or expulsion occurs, or in the case of a further alleged infringement by a student with a valid Final Warning on his/her file, The Bay Academy will generally be required to conduct a formal Disciplinary Hearing to determine appropriate measures to be taken against the student.

The hearing process is intended to investigate any new allegation(s) properly and transparently, to provide an opportunity for the student / parents to challenge the allegations being made, and to enable the hearing Chairperson to objectively "hear both sides" - to objectively determine the guilt or innocence of the student, and if applicable, the appropriate disciplinary measure to be taken by The Bay Academy.

5.1. A notification of convening of a disciplinary hearing is to be completed by The Bay Academy authorities and is given to the parents of the student concerned. This notification must provide sufficient information to ensure that the student/parents are properly informed of the alleged complaint, the seriousness of the allegations, and The Bay Academy's intention to convene a formal hearing to investigate the infringement.

*Note:*

- a. *The student's parents should be notified of the hearing at least 48 hours (2 (two) clear School days) before the scheduled date of the hearing. This will provide the parents with reasonable time to prepare for the hearing. In complex cases, the preparation time provided may be extended, but should not exceed 5 (five) School days wherever possible as extended suspension or delays may unfairly prejudice the student's education.*
- b. *The student may be suspended pending the hearing, ONLY if this is considered appropriate, bearing the seriousness of the alleged misconduct and his/her continued exposure to others in mind. The suspension of the student should be indicated in the notification of hearing to the parents, the period of suspension preferably not exceeding the 5 (five) Academy days limit indicated in (a) above.*  
*(Failure to suspend a student accused of GROSS misconduct, pending a disciplinary hearing, may call into doubt the seriousness of the alleged misconduct itself, and/or the necessity for a severe penalty. A short period of suspension should not be unfair in such serious cases.)*
- c. *The student and his/her parents must be advised that they are expected to attend the hearing, and that their non-attendance may prejudice their child's case (indicate a waiver of their rights to respond to the allegations being made) and may even result in the hearing being held in their absence - and a decision being made without their involvement.*
- d. *The student and his/her parents must be advised of the serious nature of the allegations, and the **possibility** of severe disciplinary (further suspension or expulsion) action being taken should the student be found guilty of the allegations made against him/her. They should be advised to prepare themselves accordingly*
- e. *Legal representation at disciplinary hearings is NOT a legal requirement and is generally not permitted, unless both The Bay Academy and the parents agree that it is appropriate for BOTH parties to be legally represented. A disciplinary hearing is an internal Academy procedure, and the involvement of legal counsel can lead to unnecessary over-complication and hindrance of the process. In any event, the parents DO have the right to legally challenge any decision of the hearing Chairperson after the hearing has been conducted.*

- 5.2. The conducting of the formal disciplinary hearing is an integral part of The Bay Academy's disciplinary process if serious disciplinary measures are being contemplated against any student. Expulsion, or extended suspension with a final warning as an alternative to expulsion (if feasible or appropriate), in the absence of a disciplinary hearing being conducted is reserved for exceptional circumstances only.

The hearing should be chaired by a competent and reasonably objective hearing Chairperson, who will be responsible for leading and managing the entire hearing process, and making the two critical and distinct decisions i.e.

- VERDICT: the guilt or innocence of the student, relative to the allegations made by The Bay Academy;  
and only thereafter - if the student is found guilty of the alleged infringement, the second decision as to
- PENALTY: the appropriate measure / action to be taken, after due consideration of mitigating and aggravating factors relevant to the matter.

- 5.3. The Hearing Chairperson is required to conduct the hearing procedure in a proper manner that conforms to the rules of natural justice (see paragraph 3 of The Bay Academy Procedure's Introduction) i.e. the student and his/her parents:

- should be given adequate notice and be properly informed of the allegations being made by The Bay Academy
- should be requested to attend the hearing as representatives for the student, and the hearing is to be timeously conducted
- should be presented with all facts and information relating to the allegations being made against the student
- should be given the opportunity to question evidence presented by The Bay Academy, and be entitled to present their own perspective and explain/defend their child's actions
- are entitled to a hearing to be chaired by a reasonably impartial chairperson, and to decisions being made in an objective and considered manner
- are to be treated with dignity and respect throughout the hearing
- are to be assured of the greatest confidentiality possible
- must be formally advised of the outcome of the hearing [i.e. as to both verdict and penalty) by the hearing Chairperson, and the reasons for such decisions
- should be offered the right to appeal against any decision made by the hearing Chairperson.

*Note:*

*The formality of the hearing process will be determined by the customs and practices of The Bay Academy, and the "style" of the hearing Chairperson. There is some leeway as to the formality of internal disciplinary hearings and a 'quasi-legal and highly formalized procedure is NOT a prerequisite to demonstrate a proper procedure and fair decision making.*

*A record of hearing proceedings should be kept by the hearing Chairperson, or by a nominated scribe. Electronic / voice recording of the hearing is not required but may be provided for at the request (and expense) of the parents if this is feasible. If the outcome of a hearing is expected to be contested, it is preferable that proceedings be properly recorded and minuted.*

- 5.4. In accordance with the above principles, the parents should be formally advised of the decisions of the hearing Chairperson after the completion of the hearing i.e. the two decisions made regarding guilt or innocence, and whether to impose disciplinary action or not.

This notification of the outcome, preferably distributed within 5 (five) Academy days of the hearing being completed, should include a reminder that the student / parents have the right to appeal against any corrective and disciplinary action decided upon by the Chairperson, within a further 5 (five) The Bay Academy days of the outcome being made available to the parents.

- 5.5. Copies of all disciplinary hearing related documentation must be retained by The Bay Academy for actioning, recording and safekeeping purposes.

## 6. APPEAL REVIEW PROCESS

While it is a fundamental right in terms of the “Rules of Natural Justice” for a student (parents) to be provided with an opportunity for appeal against disciplinary measures imposed by the hearing Chairperson, our law does not dictate or prescribe whether this appeal process should be internal (made to and decided upon by another The Bay Academy authority) or external i.e. made to a third party in terms of legal process e.g. referring the matter to Court for adjudication.

The Bay Academy believes that an internal appeal REVIEW process is more beneficial and fairer for both the student and The Bay Academy, and provides a further, expeditious and less public avenue for the parties to seek to resolve any dispute regarding disciplinary matters, primarily in the educational interests of the student.

- 6.1. Accordingly, the student / parents have the right to appeal against any formal disciplinary action imposed by The Bay Academy (i.e. against any formal disciplinary action taken by The Bay Academy or any decisions by a hearing Chairperson) as a final process in The Bay Academy’s disciplinary procedure.
- 6.2. The lodging of an appeal against formal disciplinary action, or any decision by a hearing Chairperson, only entitles the student to an appeal review, however. The right to an appeal review therefore does not entitle the student to a “re hearing”.

An appeal review is generally a process that does not entail a full re-investigation or a rehearing of all the evidence heard at the hearing, and the Reviewer is only required to review the matter, according to the grounds and motivation submitted by the appellant/ parents. The Reviewer is expected to at least review the hearing Chairperson’s findings and any documentation submitted by the respective parties, and to consider any further or new evidence provided by either party.

- 6.3. Due to the nature of the review process, the student / parents wishing to appeal must be advised to **fully motivate their appeal** in writing, detailing all the grounds for appeal and providing the Reviewer with any additional or new evidence they wish to submit in support of the appeal.

The onus rests with the student / parents to justify an appeal, and the grounds for the appeal must be clearly and comprehensively set out in the appeal request. This will enable the Reviewer to appreciate and properly consider the appellant’s grounds for the review.

- 6.4. Any request for appeal must be submitted to The Bay Academy Head or the hearing Chairperson within 5 (five) Academy days of the hearing Chairperson’s decisions having been provided to the student/parents, so as not to delay review proceedings.

*Note: Appeal / Review*

- a. *The student's right to an appeal against disciplinary action imposed by The Bay Academy does not ordinarily mean that all matters raised at the hearing will be re-heard. As already indicated, the appeal review procedure is limited to an objective review of the decisions made by The Bay Academy or the hearing Chairperson. A full 're-hearing' is ONLY necessary when the disciplinary procedure or hearing appears to have been materially defective, and/or the decisions reached appear to be patently flawed.*
- b. *Should it become obvious that a full re-hearing is required for a fair appeal process, usually due to a materially defective disciplinary hearing process having taken place or substantial new evidence having come to light after the hearing, a full appeal (re)hearing should be conducted in accordance with the principles highlighted in section 5 above but chaired by a new and impartial appeal Chairperson.*
- c. *It is now an accepted principle in our law that even substantial defects in a disciplinary hearing can be effectively "cured" by the conducting of a new and full ('fresh') re-hearing.*

- 6.5. The Bay Academy will be responsible for appointing an appropriate person, or review panel, to conduct an appeal review, or a re-hearing if this is considered necessary. It is common practice for an appropriate Academy Board member to be appointed as the Reviewer, subject to his/her not having been consulted or involved in the matter to be reviewed.
- 6.6. After reviewing the appeal motivation submitted by the appellant and investigating any aspects of the disciplinary process considered necessary, the Reviewer will make a decision based on his / her findings, relative to the grounds for appeal submitted by the appellant.
- 6.7. When a final decision has been made by the Reviewer (or rehearing chairperson / panel as the case may be), a written Appeal Review Finding must be provided to the student/parents by the Reviewer, wherever possible within 5 (five) The Bay Academy days. A copy of the Review finding must also be placed on the student's file for recording purposes.
- 6.8. The communication of the Reviewer's appeal decision marks the conclusion of The Bay Academy's appeal process, and is the final step in The Bay Academy's Disciplinary Procedure.

The student / parents will have to resort to external authorities should they wish to pursue an appeal to a further level.

## **7. COLLECTIVE / GROUP MISCONDUCT**

The above-described disciplinary procedure is principally designed to deal with instances of misconduct by individual students. Alleged misconduct by a group of students, where the infringement(s) are of a similar nature or with a related intent, is considered as being "collective misconduct".

- 7.1. Generally, collective misconduct is more effectively dealt with on a collective basis. An informal investigation into the alleged group misconduct is generally conducted initially by the educator or Principal. This investigation will normally include a discussion with the students involved, to attempt to get to the facts of the matter and to get the students' perspective before deciding on the best way forward.
- 7.2. Dependent upon the outcome of this initial investigation, informal or formal disciplinary action may be considered appropriate by the responsible Academy official for the individual students involved.
- 7.3. Should the alleged infringement be considered to be of a serious nature, a single disciplinary hearing procedure may be conducted with all the students concerned, with their parents present.



The same procedures as provided for in section five above (Disciplinary Hearing) are generally also followed in a collective disciplinary hearing.

- 7.4. Despite the use of a collective hearing procedure, individual students must still be provided with the opportunity of demonstrating that their own circumstances may be different from that of the group, or other students, and for showing why they should be treated differently.

*Note:*

*In certain cases, it may be more appropriate by The Bay Academy to conduct separate investigations or hearings with individual students, despite the allegations of misconduct being similar.*

*The Bay Academy reserves its right to exercise its option to conduct individual or collective hearing procedures, the disclosure of its reasons for this decision to also be at its sole discretion.*

- 7.5. The same provisions set out in section six above regarding appeal review procedures will apply in the case of collective disciplinary matters.

The Bay Academy reserves its right to initiate a separate or collective / group appeal review process, to deal with any appeals lodged by any students affected. Similarly, a decision by The Bay Academy to rehear any evidence against an individual student involved, will not prejudice The Bay Academy's rights to only conduct appeal reviews with other students.

## **8. DISCIPLINARY CODE**

The Bay Academy's disciplinary code for students is attached and is ONLY intended as a guideline for assessing and determining appropriate disciplinary measures for various types of infringement or misconduct by students. As indicated previously, the circumstances of a particular case, especially mitigating considerations, may justify a less severe penalty than that indicated in the Code.

Similarly, aggravating considerations relevant to a particular case may justify a more severe penalty than that recommended in the Code.

- 8.1. The various infringements set out in the Code are not intended to be an exhaustive or full listing of possible infringements or misconduct by students, but are rather to be interpreted as indications of the broad types and severity of offences by students, and the appropriate sanctions if the student is found to be guilty by The Bay Academy.
- 8.2. The Code makes provision for 'progressive' or accumulative penalty i.e. the imposition of a more severe penalty for a repeated and similar infringement by the same student.

## **9. PRACTICAL APPLICATION NOTES**

### **9.1. Penalty and Consistency**

The penalties set out in the attached disciplinary code indicate the recommended penalty that could be imposed for a particular infringement. Obviously, a lesser penalty may be applied, should mitigating considerations indicate that the indicated penalty is not appropriate in the circumstances.

While the application of disciplinary measures should be consistent, due consideration of factors relating to each case is of equal importance. For this reason, the Code should be viewed as a guideline, and the penalties reflected therein need not be slavishly followed. It is important to note that being absolutely consistent, every time, may well demonstrate UNFAIR application of disciplinary measures!

### **9.2. Cumulative Effect**

Cumulative action for a repeated offence i.e. imposing a more serious penalty for misconduct than that imposed previously for misconduct, is only appropriate if the second infringement is of a "similar nature" to the previous type of misconduct. The

nature and type of offence should therefore be the same, and any warnings issued previously for the related offence should also not have expired.

### **9.3. Burden of Proof**

As the onus generally rests with The Bay Academy to prove the reasonableness and fairness of disciplinary action taken against a student, care must be taken to follow all the procedural steps outlined in this procedure and code. Any material and unjustified deviation from the recommended procedures set out in this procedure may well result in the actions of The Bay Academy being challenged.

### **9.4. Misconduct Off The Bay Academy Premises**

Imposing disciplinary action against a student for misconduct that took place “off-site” (e.g. after hours and/or off The Bay Academy’s premises) requires that The Bay Academy clearly demonstrate the negative impact of that misconduct on The Bay Academy/ student relationship.

### **9.5. Criminal Misconduct at The Bay Academy**

Should a student admit to, be suspected of or be found guilty of a criminal offence (such as a theft of a cell phone or The Bay Academy property for example, or the imbibing or possession of illegal drugs) at The Bay Academy or on The Bay Academy premises, it is recommended that The Bay Academy conduct the appropriate disciplinary procedures as a matter of urgency. The disciplinary procedures applied by The Bay Academy are not directly dependent upon any possible or later criminal proceedings that may be initiated by the State or other parties against the student.

The procedures that may be applicable in accordance with criminal law have no direct bearing upon The Bay Academy / student relationship. It is not prudent for The Bay Academy to wait until criminal / court proceedings have run their course (or not as is more often the case) before initiating any disciplinary steps against an offending student. The imposition of disciplinary measures against a student after investigation by The Bay Academy, such as expulsion for serious misconduct, will not be nullified or viewed as “double punishment” should the student also be sentenced, if found guilty by a court of law.

### **9.6. Suspension (Two Forms of Suspension)**

#### *9.6.1. As a penalty:*

In exceptional cases, extended suspension from class or from The Bay Academy activities may be acceptable (and possibly appropriate in certain limited circumstances) as a severe form of punishment, and ONLY as an alternative to expulsion of a student by The Bay Academy. Such a suspension is also conditional upon this form of penalty being requested / agreed to by the student’s parents, and a final warning also being imposed in conjunction with the suspension.

Suspension as a penalty can therefore only be agreed upon once a disciplinary hearing has been conducted, and the student has been found guilty of serious misconduct. In addition, an extended period of suspension should not be of such duration as to jeopardise the educational interests of the student. Such an extended and prejudicial suspension may then well lead to (justifiable) challenge on Constitutional rights grounds.

#### *9.6.2. Pending a hearing:*

Suspension of the student from Academy activities pending the conducting of a formal hearing (i.e. if expulsion is being considered) should ordinarily not be of a duration that would prejudice the educational rights of the student.

The disciplinary hearing should therefore be conducted as soon as possible after the suspension of the student takes effect. It should also be clearly indicated to the student / parents that this suspension is not a form of punishment, and is a practical arrangement to remove the student, temporarily and in the best interests of The Bay Academy, the student and other students.

### **9.7. Expulsion as a Last Resort Only**

Expulsion should ONLY be affected after conducting a formal disciplinary hearing. The procedural requirement of conducting a hearing prior to expulsion, even if the student admits guilt, should not be flouted.

Justice must be seen to be done, and expulsion without a hearing will almost certainly result in legal challenge. The penalty of expulsion is a last resort, if no reasonable alternative or lesser form of penalty is considered appropriate.

The Bay Academy may well be called upon to motivate why a less severe penalty than expulsion was not imposed, and to even provide information on why alternatives to expulsion were not considered appropriate

# DISCIPLINARY CODE: STUDENTS

| Disciplinary Code: Students<br>Examples of Infringements and Recommended Sanctions  |                                    |                           |                    |
|---|------------------------------------|---------------------------|--------------------|
| Type or nature of infringement or student misconduct  | Guideline:<br>Recommended Penalty  |                           |                    |
|   | First Offence                      | Second / Repeated Offence | Subsequent Offence |
| <b>VERY SERIOUS MISCONDUCT</b>  |                                    |                           |                    |
| <p>1 Violent, abusive or threatening behaviour (verbal or physical)</p> <p>Fighting, battery or assault (threatened or actual)</p> <p>Victimisation, bullying or initiation of any sort</p> <p>Transferring, using or being in possession of a dangerous weapon, fireworks, explosives or any object that may be considered as being potentially dangerous (at Academy or at The Bay Academy events)</p> <p>Intimidating or wilfully interfering with others (attempted or actual)</p> <p>Inciting, advising or rewarding others to perform violent, offensive or threatening acts</p> <p>Any “gang” related activity that may threaten the safety or welfare of others (at Academy or at Academy events, or in relation to The Bay Academy)</p> <p>Harassment (sexual, racial or religious)</p> <p>Issuing a bomb threat or arson (attempted or actual)</p> <p>Behaviour that may pose a danger to the safety and welfare of others (at Academy or at The Bay Academy events, or in relation to Academy)</p> | Suspension and Hearing / Expulsion |                           |                    |
| <p>2 Being in <b>possession</b> of alcoholic, hallucinogenic or dangerous / prohibited substances, or <b>distributing, storing or consuming</b> any of these substances (at The Bay Academy or at The Bay Academy events.)</p>  | Suspension and Hearing / Expulsion |                           |                    |
| <p>3 Being in possession of another’s property without their knowledge or consent, or attempting to remove another’s property without consent or their knowledge</p> <p>Theft or attempted theft</p> <p>Sale of another’s / stolen property</p>   | Suspension and Hearing / Expulsion |                           |                    |

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| <p>4 Serious dishonesty (actual or intended)</p> <p>Cheating, copying or tampering with test or exam results, reports or assignments</p> <p>Being in possession of or distributing material or information that may give an advantage in a test or an exam</p> <p>Extortion, bribery, corruption or fraud (Attempted or actual)</p> <p>Being an accomplice to, colluding, conspiring, assisting / abetting or instigating dishonesty, fraud, or theft</p> <p>Inciting, advising or rewarding others to be dishonest or to cheat</p> <p>Serious breach of Academy security procedures, unreasonably refusing to submit to a search</p> <p>Off-site criminal misconduct that disrupts or substantially damages The Bay Academy/student relationship and the educational process</p> | <p>Suspension and Hearing / Expulsion</p> |  |  |
| <p>5 Obscene, indecent or sexually explicit behaviour or gestures, or attempts to make unwanted physical contact</p> <p>Sexual harassment, inappropriate sexual innuendos or graphic comments</p> <p>Intentional and offensive, insulting, abusive, racist or lewd behaviour</p> <p>Storage, creation, sale or distribution of pornographic, obscene or offensive material, publications, symbols, email, text / SMS / MMS, cartoons or objects</p>   | <p>Suspension and Hearing / Expulsion</p> |  |  |
| <p>6 Sabotage, malicious or wilful damage to Academy or others' property</p> <p>Unauthorised occupation of any The Bay Academy property or facility, or having the effect of depriving others from using this property or facility.</p> <p>Preventing or seeking to prevent free assembly by others on The Bay Academy's property, without The Bay Academy permission</p> <p>Blocking off any entrances or exits to or from The Bay Academy premises, with the intention or effect of interfering with free access / egress by others</p>   | <p>Suspension and Hearing / Expulsion</p> |  |  |
| <p>Participating in or supporting industrial or protest action, preventing students from attending The Bay Academy activities</p>   |   |  |  |

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| 7                            | <p>Actions that expose others to serious danger or injury, or expose The Bay Academy to potential accidental loss or damages - whether due to wilful, grossly negligent or unintended acts</p> <p>Unsafe acts or behaviour that endangers the safety and welfare of others</p> | Suspension and Hearing / Expulsion             |                                    |  |
| 8                            | <p>Serious misconduct or actions that may bring the reputation of The Bay Academy, students or other stakeholders into disrepute</p>   | Suspension and Hearing / Expulsion             |                                    |  |
| 9                            | <p>Any other misconduct considered to be very serious and possibly justifying expulsion as a first offence.</p>  | Suspension and Hearing / Expulsion             |                                    |  |
| <b>SERIOUS INFRINGEMENTS</b> |  |  |                                    |  |
| 10                           | <p>Strong suspicion of habitual use (abuse) or regular use of medication, drugs or alcohol at The Bay Academy or at The Bay Academy events</p>   | <b>See separate Drugs Policy</b>               |                                    |  |
| 11                           | <p>Playing of obscene, insulting or demeaning games</p> <p>Dangerous horseplay</p> <p>Malicious teasing</p>  | Counselling/ / Parental Contact/ Final Warning | Suspension and Hearing / Expulsion |  |
| 12                           | <p>Inappropriate behaviour or comments in public or at The Bay Academy events that brings The Bay Academy into disrepute</p> <p>Abuse of The Bay Academy privileges or seniority / status, abuse of position of authority</p>  | Counselling/ / Parental Contact/ Final Warning | Suspension and Hearing / Expulsion |  |
| 13                           | <p>Smoking or being in possession of tobacco or cigarettes (on The Bay Academy premises or at The Bay Academy events)</p>  | <b>See separate Drugs Policy</b>               |                                    |  |
| 14                           | <p>Forgery or falsification of The Bay Academy documents and reports</p> <p>Lying and unfair behaviour (with less serious initial consequences)</p>  | Counselling/ / Parental Contact/ Final Warning | Suspension and Hearing / Expulsion |  |
| 15                           | <p>Vandalising property or equipment (The Bay Academy or others), improper use or not taking due care of property or equipment</p> <p>Accidental damage to property</p>  | Counselling/ / Parental Contact/ Final Warning | Suspension and Hearing / Expulsion |  |

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| <p>16 Acts or behaviour designed to create a hostile or threatening The Bay Academy environment, or that may reasonably have resulted in such an environment</p> <p>Wilful disruption of The Bay Academy activities, interference with The Bay Academy authorities</p> <p>Conduct designed to be prejudicial to good order or discipline at The Bay Academy</p>   | <p>Counselling/ /<br/>Parental<br/>Contact/<br/>Final<br/>Warning</p> | <p>Suspension<br/>and Hearing /<br/>Expulsion</p>                                |   |
| <p>17 Any misconduct by the student that is considered by The Bay Academy authorities to warrant more than a Counselling, verbal reprimand or an ordinary warning.</p>  | <p>Counselling/ /<br/>Parental<br/>Contact/<br/>Final<br/>Warning</p> | <p>Suspension<br/>and Hearing /<br/>Expulsion</p>                                |   |
| <b>LESS SERIOUS INFRINGEMENTS</b>   |   |  |   |
| <p>18 Disregard for rules, directions, instructions or for any persons in authority</p> <p>Defiance or disrespect towards The Bay Academy authorities, parents, visitors or peers</p> <p>Being discourteous towards Academy authorities, adults or peers, or displays of insolence</p> <p>Being unreasonably intolerant of others, and their personal beliefs, traditions, appearance or of diversity</p> <p>Persistent violation of Academy rules (with less serious initial consequences)</p> | <p>Counselling<br/>and<br/>Reprimand or<br/>Warning /<br/>Demerit</p> | <p>Further<br/>counselling /<br/>Final<br/>Warning/<br/>Parental<br/>Contact</p> | <p>Suspension<br/>and Hearing /<br/>Expulsion</p> |
| <p>19 Use of excessive force when playing games or during sporting events</p> <p>Playing games in an area where others may be injured or where property may be damaged</p> <p>Riding skateboards, wheelies, bicycles or motorbikes in areas where such activities are prohibited, or in such a manner as may cause injury to others or damage to property</p>   | <p>Counselling<br/>and<br/>Reprimand or<br/>Warning /<br/>Demerit</p> | <p>Further<br/>counselling /<br/>Final<br/>Warning/<br/>Parental<br/>Contact</p> | <p>Suspension<br/>and Hearing /<br/>Expulsion</p> |
| <p>20 Noisy or disruptive behaviour, disturbing the activities of others</p> <p>Highly disruptive or unruly classroom behaviour</p> <p>Trespassing or entering Academy premises without permission or without supervision, and/or after The Bay Academy hours</p> <p>Refusing to identify oneself upon request by a person in authority of The Bay Academy</p>  | <p>Counselling<br/>and<br/>Reprimand or<br/>Warning /<br/>Demerit</p> | <p>Further<br/>counselling /<br/>Final<br/>Warning/<br/>Parental<br/>Contact</p> | <p>Suspension<br/>and Hearing /<br/>Expulsion</p> |

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| <p>21 Swearing and use of vulgar, profane (foul) language</p>  | <p>Counselling and Reprimand or Warning / Demerit</p> | <p>Further counselling / Final Warning/ Parental Contact</p> | <p>Suspension and Hearing / Expulsion</p> |
| <p>22 Tardiness, littering and poor housekeeping<br/>Poor grooming, unhygienic personal habits, improper use of The Bay Academy facilities or ablutions</p>  | <p>Counselling and Reprimand or Warning / Demerit</p> | <p>Further counselling / Final Warning/ Parental Contact</p> | <p>Suspension and Hearing / Expulsion</p> |
| <p>23 Tampering with the possessions or equipment of others<br/>Use of Academy equipment without permission (with no serious consequences)</p>   | <p>Counselling and Reprimand or Warning / Demerit</p> | <p>Further counselling / Final Warning/ Parental Contact</p> | <p>Suspension and Hearing / Expulsion</p> |
| <p>24 Refusal or failure to complete homework or assignments<br/>Refusal to deliver or return reports, reply slips or letters to parents or to The Bay Academy<br/>Unreasonable and unexplained refusal to attend or participate in Academy activities or compulsory events<br/>General uncooperativeness and / or being wilfully obstructive<br/>Poor application to studies, Academy work or assignments</p> | <p>Counselling and Reprimand or Warning / Demerit</p> | <p>Further counselling / Final Warning/ Parental Contact</p> | <p>Suspension and Hearing / Expulsion</p> |
| <p>25 Truancy, poor timekeeping practices<br/>Unexplained absences from classes or from compulsory events or activities<br/>Leaving class or The Bay Academy premises without permission<br/>Persistent late-coming or early unauthorised departure from class / The Bay Academy.</p>  | <p>Counselling and Reprimand or Warning / Demerit</p> | <p>Further counselling / Final Warning/ Parental Contact</p> | <p>Suspension and Hearing / Expulsion</p> |
| <p>26 Persistent misuse of personal communication devices during The Bay Academy activities</p>  | <p>Counselling and Reprimand or Warning / Demerit</p> | <p>Further counselling / Final Warning/ Parental Contact</p> | <p>Suspension and Hearing / Expulsion</p> |



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| <p>27 Any other infringements that may be considered serious enough to warrant the implementation of corrective action and taking disciplinary measures.</p> | <p>Counselling and Reprimand or Warning / Demerit</p> | <p>Further counselling / Final Warning/ Parental Contact</p> | <p>Suspension and Hearing / Expulsion</p> |
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