C-8 Disciplinary Action

NQS

QA. 4.2	Professionalism.
QA. 4.2.1	Professional collaboration.
QA. 4.2.2	Professional standards.
QA. 7.1.2	Management systems.
QA. 7.2	Leadership.
QA. 7.2.1	Continuous improvement.
QA. 7.2.3.	Development of professionals.

National Regulations

Reg. 145	Staff record
Reg. 168	Education and care service must have policies and procedures
Reg. 170	Policies and procedures to be followed
Reg. 181	Confidentiality of records kept by approved provider

Policy Statement

We aim to provide a quality service through the professional behaviour and high standards of conduct of our staff. We will encourage staff to maintain good working relationships and have a commitment to maintaining a quality standard of work. Should staff fall below clearly identified standards then we will address this in a swift and considerate manner. The Centre is committed to ensuring that disciplinary procedures are fair and are practiced in accordance with the appropriate legislation.

Related Policies

- ENOSHCP Policy A-11: Maintenance of Records
- ENOSHCP Policy A-15: Role of the Management Committee
- ENOSHCP Policy A-17: Privacy and Confidentiality
- ENOSHCP Policy C-2: Conditions of Employment
- ENOSHCP Policy C-3: Educator Orientation and Induction
- ENOSHCP Policy C-4: Educator Professionalism
- ENOSHCP Policy C-7: Grievance Procedures

Procedure

It is important that all staff are made fully aware of their expectations as an employee in the Centre and that clear guidelines are given regarding staff duties, code of conduct and professionalism. This will be explained through the orientation process for all new employees.

The Management Committee will ensure that all staff are given clear job descriptions and orientation into the position with opportunity to clarify any issues.

Staff are responsible for addressing any concerns and clarifying any issues in the job description or expectations that they are unsure of.

Staff are encouraged to maintain good working relationships and have a commitment to maintaining a quality standard of work.

Staff will be given clear notification should their standard of work or conduct fall below what is expected as outlined in their job description.

Staff have the right to appeal against any allegation and the right to speak on their behalf or to have a union representative appear on their behalf.

The following steps will be followed to deal with poor work performance or conduct. There may not be the need to go through all the steps when the issue is resolved however staff should be aware of the whole process.

Should staff fall below clearly identified standards then the Director or Management Committee will follow the below procedure.

Step 1: Verbal Warning

- Give a verbal warning as soon as possible indicating the specific problem regarding the performance of their work or conduct. The issues must clearly relate to the job description or code of conduct.
- Indicate what should happen to improve the situation and how the staff member can improve their performance.
- Identify any support needed to assist the staff member to make the changes and take steps to implement these.
- Indicate how the improvements will be measured and when a review will take place (1-4 weeks depending on the circumstances).
- Provide an opportunity for the staff member to respond to the concerns and seek union representation if required.

If this resolves the issue then there is no need to go any further.

Step 2: Written Notice

- Where the problem continues to occur, the staff member will be given written notice of the complaints against them.

- A formal documented interview with the Management Committee will take place. The worker should attend and has the right to reply and discuss any complaints against them, or to be represented by a union member or other representative of their choice.
- The Staff member will be given at least 48 hours' notice of the meeting.
- Minutes will be taken of the meeting and a copy given to the staff member and kept in their staff file. The staff member may attach a written reply to the minutes.
- The aim of the meeting is to negotiate how the situation may be improved.
- The staff member will again be given specific indication of where their performance standards are not being met, indication of where changes are required and ways of achieving these, and told the method and date of review of their performance.
- The staff member will be granted another probationary period.
- The staff member will be informed at this stage that termination will be considered if no changes occur.

If this resolves the issue then there is no need to go any further.

Step 3: Final Written Warning

- If the problem still persists, another meeting of the Management Committee should be called and the staff member given notice to attend.
- The matter should be discussed as per the first meeting and further action considered.
- At this stage the staff member will be given a "final written warning".
- Again the staff member has the right of reply and can discuss the situation. They also have the right to have a union representative or person of their choice attend the meeting.

If this resolves the issue then there is no need to go any further.

Step 4: Termination of Employment

- If the problem still continues after the 3 warnings, another special meeting of the Management Committee will be called and a decision made as to the employment of the staff member.
- If Management believes that the staff member's performance is unlikely to improve then the staff member will be dismissed.
- A written notice will be given indicating date of dismissal (2 week from notice) and reasons for dismissal.
- The staff member may be paid out in lieu of such notice.

Procedure for dealing with serious unacceptable behavior

- Where a staff member in the workplace:
  - intentionally endangers life
  - is found stealing
  - reports to work under the influence of drugs or alcohol
  - inflicts or threatens physical or sexual abuse or harassment

- The Director or Management Committee will suspend the employee without loss of pay pending an investigation.
- The investigation is to be completed within 72 hours and an interview date determined.
- If the employee is a union member, the union representative will be informed.
- The interview is to be attended by the Director, a nominated representative of the Management Committee, the person reporting the unacceptable behaviour and the union representative if desired. The employee is to be advised formally of the findings of the investigation and the action being taken.
- When immediate termination is required, a dismissal notice is prepared at the interview. When continued employment is recommended, a warning letter will be issued.
- All the relevant records will be recorded on the employees file.
- If the employee is vindicated of the accusation, all relevant formal documentation is to be removed from their file.
- The Management Committee will pass on any illegal actions to the NSW police.

Sources

- Education and Care Services National Regulations 2011
- National Quality Standard
- Privacy Act 1988
- Staff Handbook
- Fair Work Act 2009

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