

## **Discipline and Dismissal Policy**

### **Rationale:**

Te Rāwhiti Kindergarten is committed to establishing the basis for fair and reasonable employment practices in relation to performance, discipline and dismissal, which align with the Employment Relations Act 2000 and Ministry of Education Licensing Criteria GMA7: Processes for Human Resource Management including discipline/dismissal procedures.

### **Te Whāriki:**

Well-being/Mana Atua: Children experience an environment where they are kept safe from harm.

### **Procedures:**

#### **Te Rāwhiti's Obligations to Employees**

1. To support the individual to reach an acceptable level of capability through support, training and development
2. To meet its contractual obligations
3. To meet legislative requirements, with particular attention to acting in a good faith manner and seeking a relationship based on mutual trust and confidence.

#### **Employee's Obligations to Te Rāwhiti**

4. To behave reasonably during the course of their employment in line with all kindergarten policies and procedures and relevant early childhood regulations and legislation.
5. To perform all duties in accordance with the terms and conditions of their employment
6. To meet legislative requirements, with particular attention to acting in a good faith manner and seeking a relationship based on mutual trust and confidence.

#### **Underlying Principles**

7. Employees know the required behaviour and performance standards.
8. Employees are advised if they are not meeting those standards, and the extent of the failure, in a timely manner.
9. Employees are told what they need to do to meet those standards, within a reasonable timeframe.
10. Te Rāwhiti gives the employees time, training and encouragement to meet the standard, except in circumstances of serious misconduct.
11. Employees are informed of the possible outcomes, prior to any meeting, regarding their conduct or capability.
12. Questions of competence, conduct and/or discipline should be handled in a manner which, as far as possible, protects the mana and dignity of the employee concerned. Employees may seek whānau, family and professional support in relation to such matters.

#### **Unacceptable Performance**

13. In the event of an employee not meeting the expectations of his/her position, the Kaiārahi will advise the employee in writing of the concern(s) and request a meeting (NB: The employee has a right to seek representation at any stage).
14. At this meeting the reason behind the unacceptable level of performance should be established. It may include factors such as the job itself, personal problems or relationships with co-workers. The Kaiārahi will emphasise the expected performance standards and identify steps that are necessary to remedy the problem. Consideration may be given to counselling, personal training, reallocation of workloads, job redesign, medical assessment or updating knowledge/skills.
15. An action plan should be created ensuring the employee is clear on what is expected. It should include:
  - a) the specific matter(s) causing concern.
  - b) the corrective action(s) required to address the matter(s).
  - c) the timeframe within which this action(s) must be undertaken.
  - d) the employee's right to seek representation at any stage.
16. The action plan must be signed by both parties.
17. Thereafter, if the employee fails to show an improvement the disciplinary process is invoked.

### **Disciplinary Process**

18. Where there is a complaint(s) regarding an employee's conduct of duties, treatment of a child or any other matter except unacceptable performance (detailed above), the procedure is as follows:
  - a) The Kaiārahi will investigate the specific allegation of misconduct.
  - b) The Kaiārahi will advise the employee in writing of the specific allegation and inform the employee of their right to request assistance or representation.
  - c) The employee will be given a real opportunity to explain or refute the allegation, either in writing or at a formal meeting between the employer and employee. Kaiārahi will enact an unbiased consideration of the employee's response and take all factors into account when deciding upon action.
  - d) If the concern is not resolved at this point, the Kaiārahi will investigate the concern further with the possibility of the employee being suspended with, or without, full pay until resolution is reached. Services to support the ongoing investigation are:
    - i. The Employment Relations Service
    - ii. NZEI Te Riu Roa
    - iii. The Teachers' Council Complaints Assessment Committee
    - iv. The Teachers' Council Disputes Tribunal
  - e) Once the concern is resolved the improvements or changes, if any, that are required of the employee, the timeframe of implementation and the consequences of further misconduct will be outlined in writing by Kaiārahi and must be signed by both parties.
  - f) Instant dismissal will apply if an employee engages in serious misconduct (see Guidelines to Unacceptable Conduct below for examples).

\*N.B. If the misconduct is related to an allegation of serious abuse against a child and the matter has been referred to Oranga Tamariki and/or the Police, then the exact nature of the allegation cannot be divulged to the employee. This information is given once the

investigation by the external agencies has been completed and Te Rāwhiti undertakes their own disciplinary meeting.

### **Guidelines to Unacceptable Conduct**

19. The following guidelines are not intended to cover every possible situation. The Kaiārahi reserve the right to add to, amend, or delete these guidelines.

#### **a) Misconduct**

Depending on the circumstances, the following are examples of actions or behaviour likely to result in formal warnings and, if repeated, dismissal:

- i. Acting in a careless or negligent manner in the carrying out of duties.
- ii. Continued lateness or absenteeism.
- iii. Acting in an unprofessional and/or discourteous manner towards other employees or members of the Te Rāwhiti community.
- iv. Abusive or offensive language.
- v. Failure to observe safety, quality, or hygiene rules.

#### **b) Serious Misconduct**

The following are examples of actions or behaviour likely to result in summary dismissal without notice or formal warning:

- i. Using unjustified or unreasonable physical force on a tamaiti or encouraging another person to do so.
- ii. Emotional abuse that causes harm or is likely to cause harm to a tamaiti.
- iii. Neglecting a tamaiti.
- iv. Failing to protect a tamaiti due to negligence or misconduct, not including accidental harm.
- v. Breaching professional boundaries in respect of a tamaiti with whom the kaiako is, or was, in contact as a result of the teacher's position as a teacher. For example:
  - engaging in an inappropriate relationship with the tamaiti.
  - engaging in, directing, or encouraging behaviour or communication of a sexual nature with, or towards, the tamaiti.
- vi. Viewing, accessing, creating, sharing, or possessing pornographic material while at a Te Rāwhiti, or while engaging in business relating to this service.
- vii. Acting dishonestly in relation to the teacher's professional role, or committing theft or fraud.
- viii. Being impaired by alcohol, a drug, or another substance while responsible for the care or welfare of a tamaiti or a group of tamariki.
- ix. Permitting or acquiescing in the manufacture, cultivation, supply, offer for supply, administering, or dealing of a controlled drug or psychoactive substance by a tamaiti.
- x. An act or omission that may be the subject of a prosecution for an offence punishable by imprisonment for a term of 3 months or more:
- xi. An act or omission that brings, or is likely to bring, the teaching profession into disrepute.

### **Mandatory Reporting**

20. Te Rāwhiti will make a mandatory report to the Teaching Council of Aotearoa New Zealand about a kaiako in the following situations:
- a) Reason to believe kaiako has engaged in serious misconduct.
  - b) Any dismissal of a kaiako for any reason.
  - c) A kaiako resigning 12 months or less after a conduct or competence issue is raised – if a kaiako resigned or their contract ends, and the school or centre told the teacher it was unhappy with or was going to investigate the teacher’s conduct or competence within less than 12 months before the teacher’s resignation.
  - d) Complaints about kaiako who recently left – if Te Rāwhiti receives a complaint about the conduct or competence of their former kaiako, less than 12 months since after their employment ended.
  - e) Competence – if, after taking steps to address the problem, Te Rāwhiti believes the kaiako hasn’t reached the required competence level.

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