



DISCIPLINARY AND GRIEVANCE POLICY AND PROCEDURE

OF THE BAPTIST THEOLOGICAL COLLEGE OF SOUTHERN AFRICA

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1. PRINCIPLE AND OBJECTIVES

The College is governed by legislation, policies and guidelines. These are necessary to maintain order and discipline and regulate general conduct within the College. Disciplinary policies provide guidelines on acceptable behaviour, and how Management should maintain order within the College. The primary objective of disciplinary policies and procedures is not to be punitive, but rather correct behaviour which places the College, its effective running and reputation at risk. Similarly, grievance processes are put in place to provide employees with a channel to air grievances within a safe and structured process.

2. PURPOSE

The purpose of this policy is to guide employees and Management on what behaviour is deemed unacceptable, and what the corrective measures are. At the same time, the policy aims to set out procedures which not only empower the College but also provide employees with a fair and just process through which they can voice concerns and participate in the process without the fear of victimisation.

3. ROLES AND RESPONSIBILITIES

- a. Management is responsible for managing and enforcing discipline within the College. Failure to comply with this responsibility in a fair and consistent manner may in itself result in disciplinary action.
- b. Management also acts as an advisor and assists in facilitating a fair and just process. Management is responsible for maintaining an objective role throughout the process.
- c. Designated Chairpersons who are responsible for being objective, and fair may be appointed to follow the general principles and guidelines as set out in this policy and relevant statutory provisions, guidelines or codes.
- d. Employees are deemed to be aware of the content of the College policies, and similarly the consequences of acting in contravention of the college policy. Therefore, each employee carries the responsibility of familiarising themselves with the College policies and adhering to the behavioural and ethical standards as set out in the policies.

4. DEFINITIONS

- a. **Misconduct:** Describes behaviour which is against the policies, ethics and values of the college, which causes a breach of trust, creates disharmony in the workplace, poses a threat to other employees, impacts the profitability and sustainability of the College or harms the reputation of the College.

- b. **Incapacity:** Occurs when an employee is not capable of performing his or her duties as agreed upon in the job profile. Incapacity can be due to poor work performance, i.e. Performance below required standards or due to ill health which prohibits the employee from performing certain duties as expected.
- c. **Dismissal:** Any instance where the employee's employment is terminated against his or her will.
- d. **Sanction:** The corrective measures taken to alter or address unacceptable behaviour.
- e. **Review:** An internal process available to management and employees who are not satisfied with the outcome of any disciplinary hearing for reconsideration by another Chairperson.
- f. **Day:** For this policy, means a normal working day excluding Saturday, Sunday or Public Holidays.
- g. **CCMA:** The Commission for Conciliation Mediation and Arbitration
- h. **Disciplinary Hearing:** A formal meeting, chaired by the management of the College or an external person with requisite qualifications, conducted to obtain the relevant facts of the alleged misconduct and to take the necessary corrective action.
- i. **Employee Representative:** A colleague or co-employee.
- j. **Legal Representation:** Employees may, in certain circumstances and in terms of their specific notice to attend a disciplinary hearing, be represented by a practising legal representative subject to prior approval by the Chairperson of the hearing.
- k. **Management:** Refers to the Principal, Deputy Principal or Registrar of the College.

5. SCOPE

- a. All staff members of the College are subject to this policy.
- b. As a Christian institution, BTC holds all staff responsible for maintaining accepted Christian standards of conduct and morality both on and off the College premises. Should a staff member be found guilty, subject to due process, of conduct unbecoming to the College, the College reserves the right to discipline said staff member in an appropriate manner, to the point of dismissal should it be so deemed.

6. DISCIPLINARY POLICY

6.1. General

- a. The College, as a fair employer, subscribes to the provisions of the Labour Relations Act, as amended from time to time, as well as the guiding principles of the current Code of Good Practice.

- b. The disciplinary process is primarily aimed at a relatively short and informal problem-solving process. Depending on the degrees of severity, verbal warnings, written warnings or, in more serious infringements or repeated misconduct, dismissal may be imposed.
- c. Termination of employment might be legitimate on three grounds: The conduct of the employee, the capacity of the employee, and the operational requirements of the College.
- d. Dismissal should be reserved for cases of serious misconduct or repeat offences. Generally, it is not appropriate to dismiss an employee for a first offence, except if the misconduct is serious and of such gravity that it makes the continued employment relationship intolerable.
- e. No employee may be dismissed without being granted an opportunity to state his/her case at a disciplinary hearing unless an employee has either absconded, is unwilling to return to work or refuses to attend a disciplinary hearing after being notified thereof, in which case a hearing will be conducted in the absence of the employee.
- f. There are two categories of disciplinary processes:
 - a. Misconduct
 - b. Incapacity
 - i. Poor Performance
 - ii. Medical Incapacity/ill health

6.2. Misconduct

- a. Misconduct is considered any behaviour which is in direct contravention of the College's Conditions of Employment.
- b. The Conditions of Employment contain the behaviour or standards expected from employees.
- c. The levels categorised in the Disciplinary Code which follows in the tables below are to be assessed, construed and interpreted as being merely guidelines and under no circumstances prescriptive to any chairperson of a disciplinary hearing of any penalty to be imposed. In this regard, each particular offence depends upon the facts and circumstances of the matter and should be assessed in that light.
- d. The Disciplinary Code is not intended to and does not set out all the grounds on which disciplinary steps may be taken and the common-law grounds for discipline and termination of employment exist hand-in-hand with this disciplinary code. Where there are no specific regulations set out, the biblical principles of the College such as integrity, honesty, ethical behaviour and responsibility should be a guide to the expected standard of behaviour.

TIME KEEPING AND ABSENTEEISM

NATURE OF OFFENCE	LEVEL OF OFFENCE	PROPOSED SANCTION
Late for work or leaving work early without good reason	Less serious offence	Verbal warning; written warning
Leaving college premises whilst on duty without authorisation	Serious offence	Final written warning; dismissal
Absence from work without good reason or without authority, or without notifying management before/during the period of absence	Serious offence	Verbal warning; final written warning; dismissal
Abuse of sick leave	Very serious offence	Final written warning; dismissal
Desertion: absent from work for five or more consecutive days without valid reason	Very serious offence	Written warning; final written warning; dismissal

Repetitive occurrence of the above offences may lead to a final written warning or dismissal

WORK OUTPUT OFFENCES RELATING TO WORK ETHIC AND THE EMPLOYEES WORK OBLIGATIONS

NATURE OF OFFENCE	LEVEL OF OFFENCE	PROPOSED SANCTION
Incompetence or poor quality of work and/or not working to standards	Serious offence	Verbal warning; Written warning; Final written warning
Negligence with no serious consequences	Serious offence	Written warning; Final written warning
Gross negligence in carrying out duties with serious consequences	Very serious offence	Final written warning; Dismissal
Refusal of failure to carry out instructions or duties	Very serious offence	Final written warning; Dismissal
Having financial or other interests in another business, supplier or competitor which might be construed as a conflict of interest, without written authorisation from the College	Very serious offence	Final written warning; Dismissal
Repetitive occurrence of the above offences may lead to a final written warning or dismissal		

QUALITY OF WORK OFFENCES

NATURE OF OFFENCE	LEVEL OF OFFENCE	PROPOSED SANCTION
Wastage of materials, stock or resources	Serious offence	Written warning
Injury to another through negligence of horseplay	Very serious offence	Final written warning; Dismissal
Repetitive occurrence of the above offences may lead to a final written warning or dismissal		

SOCIAL OFFENCES		
NATURE OF OFFENCE	LEVEL OF OFFENCE	PROPOSED SANCTION
Reporting for duty whilst being under the influence of alcohol, intoxicating drugs or illegal substances at work	Very serious offence	Dismissal
Possession or distribution of alcohol and/or the administration of drugs (for non-medical purposes), or any other intoxicating substances including cannabis on premises	Very serious offence	Dismissal
Assault of attempted assault or threat to physically harm or injure a person	Very serious offence	Dismissal
Harassment or victimization on any listed or arbitrary ground including sexual harassment	Very serious offence	Final written warning; Dismissal
Dishonesty or any act which involves dishonest intent or motive	Very serious offence	Dismissal
Slander or misrepresentation of the college or its employees on any social media platform	Very serious offence	Final written warning; Dismissal
Repetitive occurrence of the above offences may lead to a final written warning or dismissal		

ATTITUDINAL OFFENCES		
NATURE OF OFFENCE	LEVEL OF OFFENCE	PROPOSED SANCTION
Failure to carry out a reasonable and lawful instruction	Very serious offence	Final written warning; Dismissal
Failure to observe security and safety regulations	Serious offence	Written warning; Final written warning
Use of abusive, derogatory or offensive language and/or signs	Very serious offence	Final written warning; Dismissal
Gross negligence (very serious carelessness)	Very serious offence	Final written warning; Dismissal
Gross incompetence (Lack of ability despite claims of carelessness)	Very serious offence	Verbal Warning, Written Warning, Final written warning, Dismissal
Gross dereliction of duty (severe failure to do the job task without good reason)	Very serious offence	Final written warning; Dismissal
Breach of employer's duty of good faith	Very serious offence	Dismissal
Creating disharmony in the workplace	Very serious offence	Written warning
Insubordination	Very serious offence	Final written warning; Dismissal
Gross insubordination, serious disrespect, impudence and insolence	Very serious offence	Final written warning; Dismissal
Repetitive occurrence of the above offences may lead to a final written warning or dismissal		

OTHER OFFENCES		
NATURE OF OFFENCE	LEVEL OF OFFENCE	PROPOSED SANCTION
Theft	Very serious offence	Dismissal
Unauthorized possession and/or removal of College property or co-employee's property	Very serious offence	Dismissal
Divulgence of confidential information of the College, student, co-employee or supplier	Very serious offence	Dismissal
Fraud	Very serious offence	Dismissal
Misrepresentation of information or making a false statement	Very serious offence	Dismissal
Excessive personal use of College telephones, email or internet or excessive personal use thereof without authority	Serious offence	Written warning; Final written warning
Using College property for the distribution or accessing of offensive material or information such as email or social media	Very serious offence	Final written warning; Dismissal
Accepting or giving gifts or money to or from suppliers, students, employees which could influence the actions of that person	Very serious offence	Dismissal
Unauthorized statements to the press, a third party or on any social media platform on behalf of the college	Very serious offence	Dismissal
Bribery	Very serious offence	Dismissal
Any other reason in law as being sufficient grounds for dismissal	Very serious offence	Dismissal
Unauthorized distribution of College intellectual property	Very serious offence	Dismissal
Repetitive occurrence of the above offences may lead to a final written warning or dismissal		

6.3. Sanctions

6.3.1. Verbal Warning

- a. If management is of the opinion that the behaviour or performance of an employee is unsatisfactory, but does not warrant a written warning, final warning, or dismissal, then a verbal warning may be given.
- b. The verbal warning will be noted and recorded, and placed in the employee's file, with a copy being given to the employee.
- c. This verbal warning will remain valid for a period of three months from the date of issue.

6.3.2. Written Warning

- a. Before issuing a written warning, Management must conduct a disciplinary discussion to check if the suspected employee could have been guilty and conduct an investigation.
- b. Meet with the employee and explain the accusation. Management must make sure that the employee understands the complaints and receives enough time to prepare for the disciplinary discussion.
- c. Notification for a disciplinary discussion will not be shorter than 24 hours.
- d. During the discussion, the employee has to be given the opportunity to put forward his or her side of the story.
- e. The employee's version must be carefully considered and if necessary, a further investigation should be carried out. The decision as to whether the employee is guilty or not must be based on facts and on a balance of probability.
- f. If found guilty, the employee must be informed of the reason for it. He or she should be further informed of what is expected of him/her in future and how his/her progress towards meeting the requirements will be monitored. Assistance to the employee will be given by Management to overcome obstacles to the employee's achievement.
- g. When issuing the employee with a warning, information like the transgression, date and time of the corrective meeting, what is expected of the employee in future and any agreement reached must be confirmed.
- h. A written warning will be valid for a period of six months and a copy will be placed on the employee's personal file. The employee will receive a copy for his or her own records.

6.3.3. Final Written Warning

- a. A final written warning is a serious level of warning which indicates that an employee is literally on his or her final chance.
- b. Final written warnings can only be issued as a sanction following a disciplinary discussion or disciplinary hearing.
- c. If the employee commits a further offence while the final written warning is valid, the employee will be taken into a further disciplinary hearing and dismissal may be the next sanction issued.
- d. The final written warning shall be valid for twelve months from the date of issue.
- e. The employee and the employee's representative should be made aware of the fact that should the employee commit a further offence within twelve months following receipt of the final written warning, the future employment of the employee will be at risk.
- f. The employee and the employee's representative should be made aware of the fact that the employee may refer an unfair labour practice dispute to the CCMA if the employee disagrees with the issuing of the final written warning within 120 days of the dispute arising.

6.3.4. Dismissal

- a. Dismissal as a sanction is the final resort where progressive discipline has not yielded the desired corrective action or when the nature of the offence is so serious that dismissal is warranted in the first instance.
- b. Dismissal can thus occur either:
 - a. As a summary dismissal where the offence committed by the employee is of such a serious nature, that the trust relationship has been irreparably damaged and the continued employment relationship is impossible; or
 - b. ii. As an outcome of progressive discipline, where the employee has a valid final written warning on file and has committed a further offence within the prescribed period of twelve months.
 - c. The Chairperson of the disciplinary hearing shall ensure that the employee and the employee's representative are made aware of the right of the employee to appeal against the disciplinary action taken or the right to refer the dispute to CCMA, whichever is applicable.

6.3.5. Suspension or Demotion

Demotion and suspension without pay as sanctions be implemented as per the disciplinary process and as an alternative to dismissal.

- a. Suspension with pay: In some cases, there could be a risk in keeping the employee at the workplace as he or she may, e.g.

tamper with the evidence, intimidate witnesses, interfere in the investigation or cause further harm or damage to the College, its property or co-employees. In that case, he or she may be suspended with pay pending an investigation and finalization of the disciplinary hearing.

- b. Suspension without pay: As an alternative to dismissal the Chairperson may impose suspension without pay as an outcome of a disciplinary hearing. The Chairperson will consider the circumstances and nature of the offence, the employee's conduct during the hearing, and whether the employee acknowledged wrongdoing and showed remorse which could restore the trust relationship.
- c. Demotion: As an alternative to dismissal, the Chairperson may offer the employee the choice of a less severe sanction than dismissal such as a demotion. The Chairperson will consider the circumstances and nature of the offence, the employee's conduct during the hearing, and whether the employee acknowledged wrongdoing and showed remorse which could restore the trust relationship. The employee has to explicitly accept the demotion as an alternative to dismissal in writing.

6.4. Incapacity

6.4.1. Poor Performance

- a. Poor performance refers to a standard of performance by an employee which does not meet the agreed criteria and required level of output.
- b. Poor performance differs from misconduct, due to the fact that it is purely related to outputs and job performance.
- c. Employees who are deemed to be poor performers will be identified by means of the performance appraisal process.

6.4.2. Mental Incapacity or Ill Health

- a. Incapacity due to ill health may be permanent or temporary. The Code of Good Practice, of the Labour Relations Act, determines that the College has an obligation to investigate the nature of the illness and its impact on the workplace. The fair approach is to consider alternatives short of dismissal before following the most extreme course of action.
- b. Reasonable accommodation measures must be exhausted prior to dismissal. The College recognises that there is a more onerous duty to retain employees with disabilities (as defined in the EEA), where possible, prior to considering their exit from the workplace. The College understands that disability within the context of employment equity does not necessarily equate to an inability of a person to perform a job. However, the person with the disability could also become incapacitated to work.

- c. Employees should be afforded an opportunity to state their case and be represented by a colleague.
- d. Where possible, the College should seek alternative employment or adapt the workplace to accommodate an employee's disability or incapacity.
- e. Where there are no viable alternatives, the College is obligated to follow a fair process in terminating an employee's services based on incapacity related to ill-health.

7. GRIEVANCE POLICY

- a. The College believes that communication and the channels used for it are essential for the growth of the College, and the grievance procedure is an important communication system to support the College's employment relations.
- b. The grievance procedure is a form of upward communication from the employees to the College, concerning problems and work-related issues.
- c. Management should be aware of grievances and the source of dissatisfaction and therefore employees should be encouraged to utilise the grievance procedure.
- d. The operation of the grievance procedures during all the stages should be just and fair and no employee should be victimised or discriminated against for utilising the procedure.
- e. The employee or group of employees is entitled to representation during all the stages in the grievance procedure

8. DISCIPLINARY PROCEDURE

8.1. Misconduct

- a. Less serious cases of misconduct and sub-standard performance should be handled by means of a problem-solving discussion. The problem-solving approach will take the form of a one-on-one discussion between the employee and Management. The agenda of the problem-solving discussion will be as follows:
 - a. Confirm the required standard of performance;
 - b. Explain the nature of the misconduct to the employee. Agree on an objective of future conduct or performance required. Identify and analyse the problems that led to the misconduct or sub-standard performance.
 - c. Generate alternative plans to solve the problem and choose the best plan.
 - d. Agree on an action plan (who is going to do what, when); and
 - e. Agree on follow-up actions and/or reporting on progress.
- b. In the case of repeated less serious misconduct or sub-standard performance, the problem-solving discussion may be combined with an appropriate written warning.
- c. Where the problem-solving approach fails to rectify cases of less serious misconduct and sub-standard performance or in a case of serious misconduct a formal disciplinary hearing should be held.

The following are the phases of the formal disciplinary hearing and the steps to be followed:

8.1.1. Phase 1: Investigation

- a. The aim of the investigation is to determine whether the College has a valid case against the employee.
- b. The employee should be asked to provide a written statement explaining events from his or her point of view if applicable and he or she is willing.
- c. Management obtains original documentary proof.

8.1.2. Phase 2: Formulate Charges

- a. Management confirms the validity of the case. Management formulates the misconduct charges or sub-standard performance.
- b. Once the charges are formulated, they are presented to the employee, to enable the employee to get a clear understanding of the allegations against him/her and to provide the employee with an opportunity to prepare his/her defence in order to state his/her case at the hearing.
- c. In the case of a disciplinary discussion, an employee should receive a minimum of 24 hours' notice.
- d. Where a formal disciplinary hearing is to be conducted, a minimum of 48 hours notice is required.

8.1.3. Phase 3: Appoint of a Chairperson

- a. A chairperson, within the ranks of management, external experienced practitioner may be appointed.

8.1.4. Phase 4: The Disciplinary Hearing

8.1.4.1. Step 1: Introduction

- a. The Chairperson ensures the presence of all parties. The following are supposed to be present:
 1. Chairperson
 2. Management representative from an inside or external experienced practitioner
 3. Employee
 4. Employee representative – if so required (e.g. co-employee)
- b. The Chairperson determines the language preference and makes use of an interpreter, if necessary;
- c. The Chairperson explains the aim and process of the hearing, which is to establish the facts so that a finding can be made;
- d. The Chairperson explains the rights of the employee: The right to
 - a. representation;
 - b. a fair hearing;

- c. ask questions and to cross-examine the College's witnesses;
- d. an interpreter;
- e. state the case;
- f. call witnesses;

8.1.4.2. Step 2: Establishing the Facts

- a. Management presents the facts established at the preliminary investigation;
- b. The Chairperson allows the employee or representative to ask questions;
- c. The Chairperson allows the employee or representative to state his or her case;
- d. The Chairperson allows Management to ask questions;
- e. Both parties are given the opportunity to make a closing statement if required.
- f. The Chairperson adjourns to establish from the facts whether the employee is guilty or not guilty.
- g. The Chairperson conveys the findings and the reason for the findings either at the hearing or in writing within a reasonable time depending on the nature and extent of the case and the volume of evidence presented.

8.1.4.3. Step 3: Establishing Fair and Proper Sanction

- a. If the verdict is guilty, the Chairperson allows the employee or representative to raise mitigating circumstances and must consider them when deciding on the sanction. Management will then be allowed to counter the employee's evidence with aggravating evidence.
- b. The Chairperson considers the previous disciplinary record, work performance and personal circumstances of the employee. The Chairperson may also consider the circumstances in which the transgression took place.
- c. The Chairperson considers the penalty on his or her own.
- d. The Chairperson communicates the sanction to be imposed at the hearing or in writing within a reasonable time after the submission of mitigating and aggravating factors depending on the circumstances of the case.
- e. The Chairperson explains or records in his written outcome the right of the employee to refer the matter for appeal or to the CCMA within 30 days from the date of receipt of the sanction.

8.1.4.4. Step 4: Appeal

If the employee feels unhappy about the outcome, he/she has the right to appeal except where the Chairperson of the hearing is an external legal practitioner in which case the employee can refer his dispute directly to the CCMA if so advised in the written outcome. If the employee wishes to appeal, the following procedures must be followed:

- a. The employee may appeal against the decision of the Chairperson by completing the appropriate form within three working days from the date on which the findings were given. The grounds for the appeal must be clearly stated.
- b. Should an employee lodge an appeal, the decision of the Chairperson of the disciplinary hearing shall remain in force until such time as the appeal has been completed.
- c. If the request for an appeal is not made within three days, the decision of the Chairperson of the disciplinary hearing will be binding.
- d. The appeal will be heard by another manager or Chairperson not previously involved in the case.
- e. The manager or Chairperson shall be handed all documentation relevant to the case.
- f. The manager or Chairperson shall consider all the evidence of the case as well as the reasons for the appeal.
- g. The manager or Chairperson may decide as to whether to hold a formal appeal hearing or to rely on the information provided.
- h. The manager or Chairperson shall make a finding and such finding shall be final.
- i. If the guilty verdict is upheld, the Chairperson shall explain the right of the employee to refer the matter to the CCMA, if he or she so wishes.

8.2. Incapacity

8.2.1. Poor Performance

As soon as an employee is put onto a formal poor performance process, the following procedure will be followed:

- a. The employee will be given a formal letter, specifying the areas of concern.
- b. A meeting will be held, during which the areas of concern are discussed, and where the employee is afforded the opportunity to state his or her case.
- c. Management and the employee will discuss what measures are necessary to assist the employee in improving his or her performance.
- d. During this meeting, goals and deliverables will be agreed upon, with timelines.
- e. Follow-up meetings will be held with the employee at agreed intervals, during which progress and improvement are measured.
- f. During the final meeting, the employee's performance will be evaluated, and a decision will be made as to whether the employee has sufficiently improved, or not.
- g. Should the employee not have improved to Management's satisfaction, the employee shall remain on the performance improvement plan cycle until completed.
- h. If there has not been sufficient improvement, the Management will set up a disciplinary hearing, with an independent Chairperson.
- i. The process for a disciplinary hearing will be followed, where the employee may be dismissed for poor performance.

8.2.2. Medical Incapacity/Ill Health

- a. When an employee becomes incapacitated due to ill health, Management has to launch an investigation. The purpose of this investigation is to establish whether the incapacity is temporary or permanent.
- b. The investigation will serve to establish the nature of the disability, the impact and alternatives short of dismissal.
- c. The employee should be afforded an opportunity to state his or her case.
- d. The nature of the incapacity will determine the fairness of dismissal.
- e. Where it is possible to accommodate an employee in a different position, or alternatively have their work circumstances adapted, these options should be considered as first choices.
- f. If there is no alternative, and after an investigation is held, the dismissal should proceed.

9. GRIEVANCE PROCEDURE

9.1. Phase 1: Verbal Complaint

- a. An employee with a grievance must raise the complaint verbally with Management.
- b. Management will investigate the complaint and endeavour to resolve the grievance, which should ideally be done within two working days.

9.2. Phase 2: Written Complaint

- a. Should the employee not be satisfied at the end of step one, he or she must lodge a written grievance with the next level of Management.
- b. This step should be completed within three working days.

9.3. Phase 3: Escalation

- a. If the employee remains dissatisfied after steps one and two, then the written grievance, together with the report from Management's investigation, must be escalated to the next level of Management.
- b. Management will select a Chairperson to conduct a grievance hearing. All parties involved will have an opportunity to state their cases.
- c. The Chairperson will convey his or her decision to the parties in writing. This should ideally be done within three working days.

9.4. Phase 4: Final Resolution

- a. Should settlement still not be reached, management will decide and compile a finding which must be circulated to all parties concerned.
- b. The finding, together with grievance proceedings, will be submitted to the next level for a final decision.

- c. Should a group of employees have a mutual problem, at most two of them should be appointed by the group to discuss the problem at the various stages.
- d. The College's 'Grievance Form' and grievance decision form should be completed by the relevant role players during the grievance procedures.

10. GENERAL

- 10.1 Refer to the Labour Relations Act, as amended from time to time.
- 10.2 All relevant College policies and procedures should be considered in conjunction with this policy and relating to the transgressions stipulated herein, which is as stated not exhaustive.