

ADvTECH GROUP

Human Resources

Policy Document

Policy Name	DISCIPLINARY PROCEDURE
Policy effective date	1 November 2021

Purpose	The purpose of this policy is to outline the standard conduct and rules applicable to all employees. It is accepted that a disciplinary code and procedure are necessary for the efficient running of the business, the safety and fair treatment of all employees and for ensuring sound labour and management relations. This code aims to provide guidelines for management to ensure the fair, just and uniform application of disciplinary measures and to provide a reference for management engaged in applying discipline.
Scope	This policy covers all ADvTECH employees in all employment categories; Permanent, Temporary, Fixed Term Contractors, and Casuals.
Principles	1. Disciplinary action should be corrective as opposed to punitive. This aims to bring about a change in the behaviour of employees through greater acceptance and understanding of the standards of conduct and performance. 2. Punitive action should only be taken when prior corrective action has proved ineffectual or when an offence is so serious that the relationship of trust between parties is broken. 3. As far as are practicable, similar offences committed in similar circumstances should be treated equally through similar disciplinary action, subject to aggravating or mitigating circumstances.
Categories of Offences	1. Misconduct These cases involve intentional or negligent fault on behalf of the employee, which implies an unwillingness to perform. This may include a breach of law (theft, assault) or a company rule or condition of employment. The employee will be charged with the alleged misconduct (offence), and the disciplinary procedure will be followed from that point onwards. 2. Incapacity Incapacity of poor performance cases involves no fault on the part of the employee, which implies an inability to perform. This may include ill health, injury, incompetence or the inability to acquire new skills. The counselling procedure is followed as it is designed to assist the employee to perform to the required standards.

Levels of Offences	1. Serious Offences These could, subject to a hearing, result in action against the employee in the form of dismissal. 2. Offences These usually consist of breaches of general discipline resulting in disciplinary action.
Formal Disciplinary Hearing	The decision to order a formal disciplinary hearing or the suspension of an employee is at the discretion of the Manager after consulting with the HR Business Partner, Principal / Managing Director / Head of Department. No sanction can be imposed without a disciplinary hearing. Principles and Requirements of the Hearing • The hearing must be held as soon as possible after the event, provided that a reasonable time, but not less than 48 hours, is accorded to the employee to prepare for their defence. • The employee may be suspended on pay, prior to, during or pending the outcome of the hearing at the discretion of the Manager after consulting with the HR Business Partner, Principal / MD / HOD. • The employee should be notified in writing of the date, time and venue of the hearing, as well as of the misconduct which they are alleged to have committed, and their rights at the hearing. Hearing Participants • The Chairperson: appointed by Management - may be an external impartial person. • The Offender (employee) • An employee representative, if required. This must be a fellow employee. • An employer representative (observer), if required. • An interpreter, if required. • The complainant. • Any witnesses required. After hearing all sides of the case, the Chairperson must decide whether the alleged misconduct was committed or not. The decision will be based on the evidence, just cause and on the balance of probability. Right to Appeal • An employee has the right to appeal to a person appointed by the company against any sanction. This appeal must be lodged in writing within five (5) days

	of the decision and handed to the relevant Manager. The sanction can be challenged on the following grounds: ○ Harshness of the sanction ○ New evidence ○ Procedural unfairness • An appeal can be held in the form of a full re-hearing of the matter, or it can take the form of a review of the hearing. This is at the discretion of the chairperson of the appeal hearing and will depend on the reasons of the appeal. The Disciplinary Enquiry Appeal form must be completed by the employee and submitted to the line manager. • An employee is not contractually entitled to two (2) hearings. The employer is entitled to cure any defect (procedural or otherwise) at the appeal hearing.
Disciplinary Sanctions	If an employee is not exonerated, there are at least four (4) possible sanctions that can be imposed against an employee: 1. Verbal Warning In cases of a moderate offence, a superior will conduct an informal disciplinary interview or counselling session with the employee that may result in a verbal reprimand. A written record is kept of this warning for three (3) months. 2. Written Warning If the verbal warnings fail, the Manager should give the employee a formal written warning. This is valid for a period of six (6) months and is held in the employee record. ○ Final Written Warning A repetition of wrongful behaviour or a more serious offence can result in a final written warning. This is valid for a period of twelve (12) months, or as determined by the person imposing the sanction. It is held in the Employee file and a copy is given to the employee. 3. Dismissal When a series of verbal or written reprimands for minor misconduct has not been effective, they may be dismissed with pay in lieu of notice / summarily dismissed. When an employee commits an act of misconduct so serious that it destroys the relationship of trust or makes the continued relationship intolerable, then the employee is dismissed.

	Any person who is determining whether a dismissal for misconduct is unfair should consider the following: • Whether or not the employee contravened a rule or standard, regulating conduct in the workplace • If a rule / standard was contravened whether or not: ○ The rule was a valid or reasonable rule or standard ○ The employee was aware, or could reasonably be expected to have been aware of the rule or standard ○ The rule or standard has been consistently applied by the employer, and dismissal was an appropriate sanction for this contravention. 4. Other Such other decision the Chairperson considers appropriate (suspension without pay, demotion to a position paid at a lesser rate or specialist-focused counselling). A schedule of offences is available. This is a guideline, but the circumstances and merits of each individual case must be considered, and the Chairperson is expected to use their discretion in making value judgements. Deviations from the disciplinary code are permitted where mitigating or aggravating circumstances warrant it.
Appendices & Related Policies	• Group Disciplinary Code (Appendix A) • Schedule of offences
Accountability	The Group HR department is responsible for issuing and updating this policy as necessary to comply with regulations. It is the responsibility of all employees to ensure they are fully aware of company policies and that they are acting in accordance with these policies. Managers and the HR department have responsibility for monitoring compliance with the policy.

VERSION	REVIEW DATE	REVISIONS MADE
00	1 June 2002	• Initial Release
01	1 June 2012	• Update & Review
02	1 November 2021	• Update & Review

Appendix A: DISCIPLINARY CODE

1. A duty to render services

Employees need to place their personal services at the disposal of their employer during work hours. A failure to do so is in breach of the contract of employment and if it is without a valid reason or permission, the employer has the right to discipline an employee accordingly. Employees also have the responsibility in terms of the employment contract to contact their employer should they not be able to render their services when required to do so.

2. A duty to maintain reasonable efficiency

Employees have a positive duty to deliver work of an acceptable standard and within a reasonable time frame. Failure to do so will constitute misconduct only once the employer can prove that the employee is capable of performing the tasks allocated to him or her. If the employee cannot deliver work of an acceptable standard due to an inability to do so, then the employer should adopt the Incapacity due to Poor Work Performance procedure which significantly differs from misconduct procedures indicated below.

3. A duty to demonstrate acceptable conduct and to refrain from misconduct in general

Throughout the employment relationship employees should always endeavour to refrain from misconduct by demonstrating acceptable conduct towards clients, fellow employees, management, the public and overall environment. Such conduct must uphold the image of the business and not be detrimental to the maintenance of good order within the workplace. Employees also have to ensure that when placing their services

at the disposal of the employer, they are to be in a proper mental and physical state. Reporting for duty under the influence of any intoxicating substance is unacceptable and regarded as a very serious offence.

4. A duty to be respectful and obedient

The employee is under the control of the employer in terms of the contractual powers related to the employment relationship. The employer therefore has the right to draft and implement policies and procedures as well as issue instructions that determine the way work will be conducted, provided it is lawful and reasonable. If the employee fails to comply or carry out these policies, procedures and instructions with obedience and respect, it is a material breach of the contract of employment.

5. A duty to act with honesty and integrity

Trust and confidence is an essential component of the employment relationship between the employer and employee. The employee therefore has to ensure that he or she maintains a high level of integrity and honesty when dealing with the Company, its clients and its fellow colleagues. A failure to act with honesty and integrity could render the trust relationship irreparable thus making the employment relationship intolerable which may justify termination.

6. A duty to further the employer's business interest and to act within good faith

Employees must endeavour to devote their interests, skills and energies to furthering the company's business interests. Any form of conduct that intentionally places an employee in a situation where their own interests or the interests of others that they are furthering, conflicts with those of the employer may render the employment relationship intolerable.