

1. Purpose statement

The purpose of this policy is to ensure:

- All TLC Learning stakeholders act honestly, conscientiously, professionally and reasonably at times, mindful of their responsibilities, the interests of the Registered Training Organization (RTO) and the welfare of all other stakeholders
- The orderly conduct of affairs and operations of the TLC Learning RTO at all times
- The ongoing preservation and maintenance of the professional and business reputation of TLC Learning and its products and services at all times
- TLC Learning complies at all times with all aspects of Commonwealth and/or State legislation, regulations, standards and codes of practice (including the standards and requirements of the VET quality framework).

2. Scope

This policy applies to all staff providing support services to students and clients while they are participating in TLC Learning's education and training services. It also includes students and clients enrolled in TLC Learning's education and training services and covers student misconduct as defined in the TLC Learning student code of conduct.

3. Policy statement

TLC Learning is committed to nurturing and maintaining an educational and learning environment in all senses that supports and allows all stakeholders to engage in and benefit from (the use of) opportunities, services, resources, equipment and facilities.

With personal freedom in the maintained context of an orderly and non-disruptive environment. TLC Learning will therefore ensure that any inappropriate behavior or actions putting at risk the enjoyment of such an environment are promptly identified and managed.

As such, acts of misconduct will be subjected to disciplinary measures as deemed appropriate in the circumstances.

The following principles underline and are embedded into this policy:

- Matters of misconduct will be treated in a conciliatory manner. Individual circumstances, including extenuating circumstances or factors, that may affect or influence an individual's behavior will be afforded due consideration
- When dealing with misconduct, the emphasis is on timely and prompt resolution of matters
- The Manager of TLC Learning will take all reasonable attempts to assist individuals in difficulties
- Confidentiality will be guaranteed at all stages of disciplinary counselling discussion and communication in respect of the misconduct. The mandates of the privacy policy will be strictly adhered to at all times; individuals' rights in this regard will be protected at all times
- TLC Learning recognise that individuals have the right to access and instigate complaint or grievance claims in response to disciplinary actions in accordance with the provision of the complaints and appeals policy.

4. Implementation

4.1 Roles & responsibilities

TLC Learning Manager

- Policy, procedure and related documentation distributed throughout the RTO
- Implementation of policy and relevant procedures
- Contribute to the approval of disciplinary procedures and documents as related to area of operational/business responsibility
- Ensuring implementation and evaluation of disciplinary principles
- Ensuring systems and processes are in place for compliance with all relevant legislative, regulatory and statutory requirements, professional standards and guidelines
- Implementation of relevant inductions to ensure staff practices are compliant
- Ensuring staff compliance with relevant policies and procedures and protocols through implementing audits and analysing relevant data trends
- Receiving and acting upon client, student and other stakeholder feedback

5. Definitions

Item 1 – Misconduct

Misconduct is defined as an behaviour that impairs the reasonable freedom of other person to pursue their learning, assessment or other activities that breaches the rules of the RTO; or that otherwise damages the resources, equipment, facilities and/or professional and business reputation of TLC Learning.

Misconduct is a disciplinary offence and includes, but is not limited to, such behaviours, conduct or actions as:

- Wilfully obstructing or disrupting any TLC Learning meeting, activity, learning opportunity or assessment
- Failing to comply with the reasonable instruction of a TLC Learning staff member
- Wilfully behaving in any manner that may be detrimental to the health, safety and well-being of the students, clients, staff of other RTO stakeholders and interested parties of TLC Learning
- Wilfully damaging or wrongfully dealing with any TLC Learning property, resources or equipment or the property resources or equipment of any persons within premises under the control of TLC Learning
- Cheating and plagiarism
- Making a false, fraudulent or misleading representation as to a matter affecting student or client status
- Breaching any rules relating to the conduct of assessment
- Any indictable offence which impinges on the operations of TLC Learning
- Using TLC Learning technology or communication facilities or resources in a manner which is illegal or which will be detrimental to the rights or property of others (including TLC Learning)

5.2 Item 2 – Gross or serious misconduct in the workplace

Gross or serious misconduct in the workplace is characterised as an objectionable action that is willful and cannot be described as a mistake or an act of negligence. Examples of gross misconduct include:

- Wanton disregard for the safety of others
- Deliberate acts of violence or hostility
- Attempts to financially defraud a company
- Significant levels of insubordination
- Dishonesty through falsification of documents
- Plagiarism
- Physical or sexual assault
- Embezzlement

Procedure

1. Related policy statement

The purpose of this policy is to ensure:

- All TLC Learning stakeholders act honestly, conscientiously, professionally and reasonably at times, mindful of their responsibilities, the interests of the RTO and the welfare of all other stakeholders
- The orderly conduct of affairs and operations of the TLC Learning RTO at all times
- The ongoing preservation and maintenance of the professional and business reputation of TLC Learning and its products and services at all times
- TLC Learning complies at all times with all aspects of Commonwealth and/or State legislation, regulations, standards and codes of practice (including the standards and requirements of the VET quality framework)

2. Procedural steps

2.1 Consequences of misconduct

Where behaviour, conduct or action is deemed misconduct (not being serious or gross misconduct as determined by the RTO Manager) the following steps will be taken:

- **2.1a STEP ONE (1):** In the first instance (a first offence) a verbal warning will be issued by the RTO manager at a witnessed meeting or communication session. A written record of this verbal warning will be documented in a disciplinary notification form (as signed and dated or otherwise acknowledged by the RTO manager, student and witness). A copy of the disciplinary notification form will be placed on the relevant individual's file
- **2.1b STEP TWO (2):** In the second instance (second offence) a written warning will be issued by the RTO manager at a witnessed meeting or communication session. The written warning will be documented in a disciplinary notification form (as signed and dated or otherwise acknowledged by the RTO manager, student and witness). A copy of the disciplinary notification form will be placed on the relevant individual's file

- **2.1c STEP THREE (3):** In the third instance (third offence) a final written warning will be issued by the RTO manager at a witnessed meeting or communication session. The final written warning will be documented in a disciplinary notification form (as signed and dated or otherwise acknowledged by the RTO manager, student and witness). A copy of the disciplinary notification form will be placed on the relevant individual's file
- **2.1d STEP FOUR (4):** In the fourth instance (fourth offence), a dismissal notice will be issued by the RTO manager at a witnessed meeting or communication session. The dismissal notice will be documented in a disciplinary notification form (as signed and dated or otherwise acknowledged by the RTO manager, student and witness) A copy of the disciplinary notification form will be placed on the relevant individual's file.

2.2 Consequences of gross or serious misconduct

Where behavior, conduct or actions are deemed gross or serious as determined by the CEO of the RTO or RTO manager the following steps will be taken:

- **2.2a** The individual will be immediately suspended by the Learning Manager pending investigation into the behaviour, conduct or action as documented on a file note (as signed and dated or otherwise acknowledged by the Learning Manager, student and witness)
- **2.2b** The individual will be notified in writing of a meeting time with the Learning Manager and such other independent person or persons arranged by the Learning Manager
- **2.2c** The individual will be provided with a disciplinary notification form detailing the reasons for the disciplinary action and being given reasonable time and opportunity to respond to the allegation(s)
- **2.2d** The individual will attend the witnessed meeting at the appointed time (The individual will be advised of their rights in terms of grievance procedure in respect of the matter)
- **2.2e** The Learning Manager with the support of the Human Resources Manager will make a final decision in respect of the matter, which will be documented in a disciplinary notification form (as signed and dated or otherwise acknowledged by the Learning Manager, student and witness and subsequently placed on the individual's file).

3. Responsibilities

3.1 TLC Learning Manager

- Manage and conduct the disciplinary process
- Determining behaviour, conduct or actions as misconduct
- Issuing verbal warnings at a witnessed meeting or communication session
- Documenting verbal warning on disciplinary notification form signed and dated by TLC Learning Manager, student and witness and file copy on students' file
- In the second instance (second offence) TLC Manager issue a written warning to the student. TLC Learning Manager will document the warning on a disciplinary notification form, signed and dated by TLC Learning Manager, student and witness and copy filed in student's file

- In the third instance (third offence) TLC Learning Manager will issue a final written warning at a witnessed meeting. The final written warning will be documented on a disciplinary notification form signed and dated by the TLC Learning Manager, student and witness and filed in the Learner's file
- In the fourth instance (fourth offence) a dismissal notice will be issued by the TLC Learning Manager at a witnessed meeting signed and dated by TLC Learning Manager, student and witness. A copy of the disciplinary notification form will be placed on the relevant individual's file
- TLC Learning Manager will ensure confidentiality throughout the disciplinary procedure in respect to the misconduct. The student's rights will be protected at all times throughout the process by adhering to the mandates of the privacy policy throughout the process at all times.
- TLC Learning Manager will audit the student's file to determine if any competencies have been achieved up to point of dismissal and issue a qualification /statement of attainment
- TLC Learning Manager will update student management system for:
 - Any competencies satisfactorily achieved
 - Change status to "withdrawn"
 - Enter withdrawal date in student profile

 - Print out record of student's competencies and place on student's file
 - If the student is a trainee, cancel traineeship using VRQA traineeship cancellation advice form and submit to the AAC responsible for signing the trainee's agreement
- If the student instigates a complaint or grievance in regards to the disciplinary action taken investigate the complaint as per the complaints and appeals policy
- Report disciplinary action to HR Executive and CEO.

3.3b Serious or gross misconduct

- Determine if the behaviour, conduct or action constitutes gross or serious behaviour
- The student is suspended immediately pending investigation into the behaviour, conduct or action. This will be documented on a file note signed, dated by the RTO manager –the students and witness
- Advise the student in writing of a meeting time with TLC Learning Manager and other individuals as arranged by TLC Learning Manager
- Provision of a disciplinary notification form to the student detailing the reasons for the disciplinary action
- Advising the student of a reasonable time and opportunity for response to the allegations – five (5) working days
- Organisation of a meeting with the student to discuss the disciplinary actions to be taken after five (5) working days
- Advising the student of the date, time and venue of the meeting in writing

- Advising the individual of their rights in terms of grievance procedure should they wish to appeal or instigate a grievance against the action taken
- TLC Learning Manager with the support of the CEO will make a final decision in respect of the matter which will be documented in a disciplinary notification form – signed and dated by TLC Learning Manager, TLC, student and witness, and filed in the student's file
- TLC Learning Manager will ensure confidentiality throughout the disciplinary procedure in respect to the misconduct. The student's rights will be protected at all times throughout the process by adhering to the mandates of the privacy policy throughout the process at all times.
- TLC Learning Manager will audit the student's file to determine if any competencies have been achieved up to point of dismissal and issue a qualification /statement of attainment
- TLC Learning Manager will update student management system for:
 - Any competencies satisfactorily achieved
 - Change status to "withdrawn"
 - Enter withdrawal date in student profile
 - Update student profile in VETtrak
 - If the Student is a trainee, cancel traineeship using VRQA traineeship cancellation advice form and submit to the AAC responsible for signing the trainee's agreement
- If the student is a trainee, advise the employer of the disciplinary action taken and the outcome
- If the student instigates a complaint or grievance in regards to the disciplinary action taken investigate the complaint as per the complaints and appeals policy and the student code of conduct management procedure.

4. Related documents

- Disciplinary notification form
- Complaints and appeals policy
- TLC Learning code of ethics
- TLC Learning RTO code of conduct
- Bullying and harassment policy
- Privacy policy
- Cheating and plagiarism policy