

Labour (Employment Code of Conduct: National Employment Council for School Development Associations and Committees in Government and Council run Schools) Regulations, 2016

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ARRANGEMENT OF SECTIONS

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IT is hereby notified that the Minister of Public Service, Labour and Social Welfare has in terms of section 101(9) of the Labour Act [Chapter 28:01], made the following regulations—

**1. TITLE AND APPLICATION**

For the purpose of this Employment Code of Conduct;

- 1.1 The code shall apply to all employees of SDA/Cs. It shall not apply to members of the School Development Association/Committee.
- 1.2 The purpose of this code is to provide a uniform procedure for corrective action in all instances where a party is alleged

to have been involved in behaviour of a kind, which might be expected to result in suspension, dismissal, or other kind of penalties.

- 1.3 It is the authority's prerogative to set standards of conduct and performance at workplace and maintain discipline. The administration of discipline must be seen to be consistent in that equal treatment is meted out for similar offences. Further, before a party can be held accountable for breaches of rules and regulations of an establishment he or she must be made aware of them by displaying this employment code of conduct on an official school notice board or being circulated by memorandum to each worker or being an Annexure on his or her contract of employment.

## **2. OBJECTIVES**

The objectives of this code are as follows—

- 2.1 To ensure that all employees in the school observe such standards of conduct as will tend to improve the productivity, performance and reputation of the schools.
- 2.2 To provide employees with a means for seeking to have grievances redressed.
- 2.3 To develop a culture of internal resolution of matters at schools.
- 2.4 To enhance harmonious working relations conducive to optimal productivity.

## **3. PRINCIPLES GOVERNING THE CODE**

The principles underlying the implementation of this code are as follows—

- 3.1 Expeditious resolution of grievances and disciplinary matters.
- 3.2 The corrective rather than punitive purpose of disciplinary action.
- 3.3 Confidentiality of proceedings and their outcomes.

- 3.4 Natural Justice: Every party has a right to be heard before judgment and no one should be a Judge in his or her own cause.
- 3.5 Mutual respect of parties in proceedings.
- 3.6 Observance of the code at all times.
- 3.7 Integrity, fairness and openness in proceedings without fear of reprisal or victimisation.
- 3.8 Spirit of the code: Any misconduct not expressly covered by the code will be dealt with in the spirit of the code.
- 3.9 Right of employees to appeal.

#### **4. DUTIES AND OBLIGATIONS OF EMPLOYEES**

All employees should aspire to high standards of performance with special regards to—

- 4.1.1 punctuality and attendance at all stipulated times;
- 4.1.2 alertness whilst on duty;
- 4.1.3 care for school property;
- 4.1.4 performance of work to expected or acceptable standards.
- 4.2 All employees are expected to exhibit exemplary behaviour at all times, with special regards to—
  - 4.2.1 obedience to lawful instructions;
  - 4.2.2 respect for the person, reputation, dignity and authority of all other persons in the work place, whether fellow employees, school children, suppliers or visitors;
  - 4.2.3 the protection of school property;
  - 4.2.4 the protection of the school's image;
  - 4.2.5 the integrity of documentation.
- 4.3 All employees are expected to be totally honest and truthful in all their dealings;
- 4.4 All employees are expected to respect the procedures of the school and the state in regard to the settlement of grievances, by the avoidance of any of the following—

- 4.4.1 illegal strike action;
- 4.4.2 the incitement of others to illegal strike action;
- 4.4.3 acts of sabotage.

## **5. DUTIES AND OBLIGATIONS OF THE SCHOOL DEVELOPMENT ASSOCIATIONS OR COMMITTEES**

The School Development Associations or Committees shall have the following duties and obligations:

- 5.1 to be familiar with the code and to observe it at all material times;
- 5.2 to issue or present clear guidelines on grievance and disciplinary processes;
- 5.3 to ensure timeous implementation of agreements;
- 5.4 to assist employees to develop;
- 5.5 to respect employees and their representatives;
- 5.6 to ensure harmonious working relations conducive to optimal productivity;
- 5.7 to make sure that every employee shall be subject to an induction course incorporating knowledge of the employment code of conduct;
- 5.8 encourage employees to form workers committee;
- 5.9 encourage formation of works councils at schools.

## **6. INTERPRETATION**

In this code:

- 6.1.1 **“THIS EMPLOYMENT CODE OF CONDUCT”** (The Code hereinafter) shall be referred to as the School Development Associations and Committees employment code of conduct;
- 6.1.2 **“Act”** means the Labour Act [Chapter 28:01];
- 6.1.3 **“authority”** means the National Employment Council for the School Development Associations and Committees;

- 6.1.4 “day” means a working day;
- 6.1.5 “examine” means considering or deliberating on the appeal case on record or in any manner deemed necessary and making a decision to remit the case or confirm, vary, rescind the decision;
- 6.1.6 “grievance” means any dissatisfaction or complaint by an employee, employer or employees concerning any matter related to the employment and any claimed violation, misinterpretation or misapplication of any law, rule or regulation affecting the conditions of employment;
- 6.1.7 “grievance appeal committee” means a committee established by School Development Association or Committee, to determine appeals that remain unresolved;
- 6.1.8 “line supervisor” means a senior employee to whom the employee immediately and directly reports;
- 6.1.9 “penalty” means any corrective or disciplinary action to be administered arising from proven breach of the code;
- 6.1.10 “subcommittee” means the subcommittee of the appropriate Authority that reports to the main School Development Association or Committee establishing it.
- 6.1.11 “party/parties” means the Zimbabwe Schools Development Association/Committees (ZSDA/C) and the National Education Union of Zimbabwe (NEUZ);
- 6.1.12 “council” means the National Employment Council for Zimbabwe Schools Development Associations and Committees of Zimbabwe;
- 6.1.13 “trade union” means any trade union with registered interest in the Zimbabwe School Development Association/Committees in government and council run schools industry;

- 6.1.14 “hearing officer” means a person appointed to hear and reconcile employer and employee/employees concerning any matter related to the employment, and any claimed violation, misrepresentation or misapplication of any law, rule or regulation affecting the conditions of employment;
- 6.1.15 “SDA/C” means School Development Association or Committee—the employer.
- 6.1.16(A) Disciplinary Hearing Committee Composition:  
All minor offences will be handled by the immediate supervisor.
- STAGE I
- (1) Chairperson who shall be one of the following—The Deputy Head, Vice-Chairperson of the SDA/C Executive Committee or the Senior Teacher.
  - (2) Any two members from the SDA/C Executive Committee.
  - (3) Any two members from the Workers Committee. If one representative is present from either side they shall form a quorum.
  - (4) A member of the academic staff shall be appointed by the Committee to take the minutes of the proceedings.

(B) Appeal Committee composition:

- STAGE II
- (1) The Human Resources Subcommittee Chairperson shall be the Hearing Officer of the Appeal Committee.
  - (2) Any two members from the following: School Head, SDA Secretary and any other member of the SDA Committee who did not attend Stage I.
  - (3) Any two members from the Workers Committee. If one representative is present from either side they shall form a quorum.

- (4) A member of the academic staff shall be appointed by the Committee to take the minutes of the proceedings.
- (5) When all internal appeal channels have been exhausted and if any party is still aggrieved he or she can appeal to the NEC appeal Committee within 21 days from the date of receiving the decision of the last internal appeal channel.

(C) The NEC Appeal Committee Composition:

STAGE III (1) The NEC Appeal Committee will consist of the Chairman, secretary both coming from the NEC, two members of the employers association and two members from the trade union.

- (2) If not satisfied with the decision of the NEC Appeal Committee, he or she can appeal to the Labour Court.
- (3) If the matter is not resolved within 30 days of commencement of proceedings the employer or employee concerned may refer the matter to a Labour Officer or Designated Agent, who will deal with it and issue a determination.

- 6.2 In the case that deadlocks are reached, the Chairman will have a casting vote.
- 6.3 Unless a contrary intention is expressly stated any term used in the Labour Act [*Chapter 28:01*] will import or have the same meaning in this code.
- 6.4 Words importing the masculine shall include the feminine.

## 7. GRIEVANCE PROCEDURE

### 7.1 PREAMBLE

- 7.1.1 Any employee who has a grievance with regard to his or her employment has a right to speak to his or her immediate supervisor at any suitable time, and that

supervisor is required to give him or her a fair hearing with a view to finding a fair settlement of the issue.

- 7.1.2 Any employee who has a grievance with regard to his or her employment shall complete a grievance form in triplicate, as per attached form ZSDA/C 01.
- 7.1.3 Such grievance form will be completed so as to indicate clearly the details of the complainant and his or her grievance, and the original form must be lodged with the employee's immediate supervisor within two working days. The aggrieved employee will retain his or her copy.
- 7.1.4 Grievances involving more than two employees shall be referred to the appropriate subcommittee if the immediate supervisor fails to resolve the problem.

## 7.2 STAGE 1

- 7.2.1 Within seven working days of receiving the Grievance Form ZSDA/C 01 the immediate supervisor will meet to seek to settle the grievance to the best of their ability with the following:—

- 7.2.1a the employee (grievant); and
- 7.2.1b two fellow employees of the aggrieved person's choice/two members of the workers committee; and
- 7.2.1c hearing officer who shall be one of the following—The Deputy Head, Vice-Chairperson of the SDA/C executive Committee or the senior teacher;
- 7.2.1d any two members from the SDA/C Executive Committee;

If one representative is present from either side they shall form a quorum.

- 7.2.1e A member of the academic staff shall be appointed by the Committee to take the minutes of the proceedings.

- 7.2.2 Having heard comments and inputs of the case from both employee and employer representative, the hearing officer in consultation with both parties must make a ruling on the matter.
- 7.2.3 Details of the settlement or ruling must be recorded.
- 7.2.4 The employee or employee's representative must be asked to signify acceptance or rejection of the ruling.
- 7.2.5 Rejection by the employee in itself signifies an appeal.
- 7.2.6 The employee may delay his or her acceptance or rejection for no longer than five working days (appeal time).

### **7.3 STAGE 2**

- 7.3.1 Within seven working days of the noting of an appeal the Human Resources Sub Committee in co-ordination with the School Head will meet with the aggrieved employee and the employee representative, and attempt to settle the grievance.
- 7.3.2 If a settlement cannot be achieved after having heard comments from both parties, the Human Resources Sub Committee in co-ordination with the School Head and worker representative must make a ruling on the matter.
- 7.3.3 Details of the settlement or non-settlement must be on record.

### **7.4 STAGE 3**

- 7.4.1 Any aggrieved person who remains dissatisfied with the outcome of the action taken in terms of Stage 2 above may appeal within five working days of the ruling to the Grievance Appeal Committee (Provincial Appeals Committee);
- 7.4.2 Within six working days the Grievance Appeal Committee (Provincial Appeals Committee) will

meet with the aggrieved person and employee's representative and determine the matter.

## **7.5 STAGE 4**

- 7.5.1 In the event that the employee does not accept the committee decision (all committee stages) the grievance shall be referred to a Designated Agent.

## **8. DISCIPLINE**

### **8.1 PREAMBLE**

It is recognised that, though it is possible to categorise acts of misconduct according to their severity, such categorisation must have a broad element of latitude, being made more severe by aggravating circumstances and less severe by mitigating circumstances. This latitude must be allowed for, in meting out discipline.

### **8.2 OFFENCES OR MISCONDUCTS**

Under this code offences or misconducts shall be categorised as follows: —

#### **8.2.1 MINOR ACTS OF MISCONDUCT**

##### **8.2.1(i) Absenteeism**

It is an offence for an employee to absent himself or herself from work, for one or two days, without authorisation from the employer or overstaying leave for one or two days without reasonable excuse.

##### **8.2.1(ii) Disobeying safety rules**

It is misconduct for an employee to disobey or disregard safety rules and regulations even if there is no injury both to property and human beings.

##### **8.2.1(iii) Breach of school rules or conditions of employment**

It is an act of misconduct if an employee does not take reasonable care in the

performance of his or her job to avoid acts of omissions which he or she can reasonably foresee would be likely to cause loss, danger or injury.

**8.2.1(iv) Sleeping on duty where the misconduct did not affect others; or property is not damaged**

It is misconduct if an employee sleeps on duty instead of performing his or her duties. An employee has a duty to be awake throughout the period of his or her shift and therefore he or she neglects that duty if he or she falls asleep. Sleeping on duty is aggravated if the job involves security or operating moving machines.

**8.2.1(v) Negligence**

An employee is negligent if he or she does not take reasonable care in the performance of his or her job to avoid acts or omission which he or she can reasonably foresee would likely cause loss or damage or injury of the value of not more than US\$100,00.

**8.2.1(vi) Poor time keeping**

It is an offence for an employee to report for work late or leave place of employment early without authority or to take an unauthorised break during working hours.

**8.2.1(vii) Discreditable Conduct**

It is discreditable conduct for an employee to be rude and un-obliging towards members of the public who have dealings with the employer.

## **8.2.2 SERIOUS ACTS OF MISCONDUCT**

### **8.2.2(i) Absenteeism**

It is an offence for an employee to absent himself or herself from work for three to four consecutive working days without authorisation for leave or overstaying leave for three to four consecutive working days without a reasonable excuse.

### **8.2.2(ii) Sleeping on duty where it causes minor damage to school property**

It is a serious misconduct if an employee sleeps on duty instead of performing his or her duties. An employee has a duty to be awake throughout the period of his or her shift and therefore he or she neglects that duty if he or she falls asleep. Sleeping on duty is aggravated if the job involves security or operating a moving machine, if the damage caused is US\$101,00 but not more than \$500,00 it becomes a serious offence.

### **8.2.2(iii) Neglect of Duty**

An employee neglects his or her duty if he or she does not perform his or her job at all, or half performs it, or abandons it, or does not care whether his or her job is done or not, and, or engages himself or herself in other unauthorised activities during working time. If the damage caused by negligence is US\$101,00 but not more than US\$500,00 it becomes serious offence.

### **8.2.2(iv) Negligence**

An employee is negligent if he or she does not take reasonable care in the

performance of his or her job to avoid acts of omission which he or she can reasonably foresee would likely cause loss or damage of US\$101,00, but not more than US\$500,00 it is a serious offence.

**8.2.2(v) Misuse of school property**

It is an act of misconduct if an employee does not take reasonable care in his or her job to avoid acts of omission which he or she can reasonably foresee would be likely to cause loss, danger or injury. Similarly an employee loses property if any property belonging to the employer which is entrusted into his or her care or custody is lost.

**8.2.2(vi) Doing private business or work during working hours**

An employee is bound to devote his or her time, during working hours to the work he or she is employed to do. It is misconduct if he or she devotes that time to do his or her own private business or work, whether or not it is for personal gain during working hours.

**8.2.2(vii) Incompetence/Poor performance**

An employee is guilty if he or she fails to perform duties or work to acceptable standards.

**8.2.2(viii) Concealing one's defective work**

An employee commits an act of misconduct if he or she covers or conceals work which is not properly done and not up to standard.

**8.2.2(ix) Use of abusive or insulting language**

An employee uses abusive or insulting language if he or she uses language

which ridicules or shows contempt  
for another and is likely to provoke  
physical/verbal violence.

**8.2.2(x) Smoking in prohibited places**

An employee commits an offence by  
smoking in prohibited place.

**8.2.3 DISMISSIBLE ACTS OF MISCONDUCT**

**8.2.3(i) Absenteeism**

It is misconduct for an employee to  
absent himself or herself from work, for  
five or more consecutive days without  
authorisation from the employer or  
overstaying leave for five or more  
consecutive working days without a  
reasonable excuse.

**8.2.3(ii) Sleeping on duty where it causes  
damage to property worth more than  
US\$501,00, or injury to people causing  
damages of more than US\$501,00**

It is misconduct if an employee sleeps  
on duty instead of performing his or her  
duties. An employee has a duty to be  
awake throughout the period of his or her  
shift and therefore he or she neglects that  
duty if he or she falls asleep. Sleeping  
on duty is aggravated if the job involves  
security or operating machines and the  
injury or damage caused cost more than  
US\$501,00.

**8.2.3(iii) Inefficiency**

An employee is inefficient if he or she  
fails to perform work to the required set  
standard, or is unable to do his or her  
work with the level of skill and speed

which would be reasonably expected of an employee qualified for that particular job.

Failure to carry out work to the required standard without reasonable cause, displaying a lack of appropriate skill.

**8.2.3(iv) Habitual or substantial neglect of duties**

An employee's habitual or substantial neglect of his or her duties or if he or she does not perform his or her job at all, or half performs it or abandons it or does not care whether his or her job is done or not or engages himself or herself in other unauthorised activities during working hours.

**8.2.3(v) Refusing to perform a contractual duty**

It is misconduct for an employee to refuse to perform any of those duties which he or she is bound to perform, which are part of, or incidental to the job he or she is employed to do.

**8.2.3(vi) Refusing to work overtime or perform standby duties**

An employee commits misconduct if he or she refuses to work overtime or perform standby duties when one is given adequate notice by a person in authority.

**8.2.3(vii) Insubordination**

It is a misconduct to wilfully refuse to obey a lawful order or instruction from a supervisor.

**8.2.3(viii) Making threats**

An employee makes threats if, intending to cause fear and alarm by any act or omission and whether by words, or

conduct leads another to apprehend fear to the person or family whether immediately or in future.

**8.2.3(ix) Assault**

An employee is guilty whether provoked or not, if he physically attacks a fellow employee, a school child or a superior resulting in either minor or serious injury.

**8.2.3(x) Fighting**

This is an exchange of blows between two or more employees usually following a challenge by one to another. If an injury is inflicted, the matter should be reported to the police.

**8.2.3(xi) Possession of dangerous weapons**

An employee is guilty of an offence if found in possession of dangerous weapons such as fire arms on duty unless with special permission from authorities.

**8.2.3(xii) Sexual harassment**

- (a) This is unwanted conduct of a sexual nature, or other conduct based on sex, affecting the dignity of school children, men and women at the school. This includes unwelcome physical, verbal or non-verbal conduct, sex-based conduct that denigrates ridicules or intimidation or physical abuse of an employee or school child because of her or his sex.
- (b) Viewing of pornographic or sexually explicit material on the internet and distribution of such material by e-mail to fellow employees and school children.
- (c) If sex is demanded for favours promised.

**8.2.3(xiii) Drunkenness on duty**

It is misconduct for one to drink alcohol or to be under the influence of intoxicating liquor or drugs during working hours, rendering it impossible for one to undertake his or her normal duties. Save for drugs prescribed by a medical practitioner.

**8.2.3(xiv) Damaging school property where the value exceeds US\$501,00**

Any employee damages property (value exceeding US\$501,00) if without necessity or justification he or she wilfully causes damage to any property or destroys it wilfully or recklessly or does not care whether any such property would be damaged or destroyed.

**8.2.3(xv) Theft**

An act where an employee dishonestly takes property belonging to the school or another employee or schoolchild with the intention of permanently keeping the property or to dispose of it as his or her own.

**8.2.3(xvi) Embezzlement**

An employee embezzles the school property if he or she converts to his or her own use property which has been received by him or her on behalf of the school or schoolchildren.

**8.2.3(xvii) Fraud**

An employee commits fraud where he or she makes a false statement or claim whether in oral or written form and to make any false representation by word or conduct in order to obtain material advantage. Uttering or attempting to utter fraudulent or false documents.

**8.2.3(xiii) Bribery or Corruption**

Giving or receiving or attempting to give or receive any bribe or doing or attempting to do, or inducing or attempting to induce any person to do, any corrupt act to the detriment of the school.

**8.2.3(xix) Forgery**

Falsifying or changing any document with fraudulent intent or attempting to do so.

**8.2.3(xx) Misappropriation**

Applying or attempting to apply to a wrong use, for any unauthorised purpose, any funds, assets or property belonging to the school or schoolchildren.

**8.2.3(xxi) Illegal collective job action**

Any concerted action by two or more employees to withdraw their labour or go slow or work to rule or otherwise interfere with the normal operation of the school in furtherance of a dispute.

**8.2.3(xxii) Incitement to strike**

Any action by an employee to incite, persuade or encourage another employee to take illegal collective job action.

**8.2.3(xxiii) Sabotage**

Any act by an employee or group of employees to interfere with the normal operations of the school by damaging any plant, machinery, furniture or equipment or by interrupting any supplies of power, fuel, material or services including abandoning tasks necessary to the operations at the school.

**8.2.3(xxiv) Breach of Confidence**

An employee who has access to confidential information by virtue of his or her position commits an act of misconduct if he or she discloses such information to unauthorised people.

**8.2.3(xxv) Criminal conviction**

An employee is guilty if he or she is convicted of any criminal case than traffic offence and sentenced to imprisonment without an option of a fine.

**8.2.3(xxvi) Disobedience of orders and breach of school rules or conditions of employment**

An employee disobeys or breaches school rules if he or she shows clear intention that he or she will not carry out the order or does in effect not carry out the order which may be in the form of safety rules, school regulations, standing orders, circulars or instructions whether written or oral brought to the notice of the employee by a person in authority must be obeyed unless they are unlawful.

**9. SCHEDULE OF PENALTIES**

CLASS OF ACT MISCONDUCT	1ST OFFENCE	2ND OFFENCE	3RD OFFENCE	4TH OFFENCE
MINOR	VERBAL WARNING	FIRST WRITTEN WARNING	FINAL WRITTEN WARNING	DISMISSAL
SERIOUS	FIRST WRITTEN WARNING	FINAL WRITTEN WARNING	DISMISSAL	
DISMISSABLE	DISMISSAL			

## **10. DISCIPLINARY PROCEDURES**

- 10.1 There should be no selective application of the law; the same procedures will be applied equally to all employees.
- 10.2 Every employee who is found to have committed a minor offence or misconduct may be disciplined informally by any person who stands in a supervisory position to him or her in the presence of an employee representative.
- 10.3 Any supervisor shall, if he or she has reasonable grounds to believe that a serious offence has been committed, formally lodge a written report. The report will be completed in quadruplicate, one copy being delivered to the School Head, one to the chairman of SDA/C, one to the accused and one retained by the person making the report (complainant).
- 10.4 The line supervisor shall ensure investigations of the alleged misconduct are conducted, and shall compile the record incorporating the evidence drawn.
- 10.5 The chairperson of the SDA/C should be notified immediately of all cases likely to result in a Final Written Warning or dismissal.
- 10.6 The Chairperson of the hearing will notify the alleged offender of the venue, date and time to attend the hearing and should make sure the case is concluded within nine days.
- 10.7 The chairperson of the SDA/C in co-ordination with the School Head will inspect the record to make sure that it complies with the requirements of this CODE and then forward it to the disciplinary hearing committee as defined in 6.1.15 and together they will fix a date, time and venue for a hearing to be conducted. The School Head will secure the attendance of the accused employee using Form ZSDA/C 05; the writer of the misconduct report, representative of the employee, and such witnesses as may be required for the hearing.

- 10.8 At the hearing, the line supervisor will:
  - 10.8.1 Put the charges to the employee (making sure that the charge is understood) and invite the employee to accept or deny the charge.
  - 10.8.2 Ensure that where available, evidence is given by witnesses giving room for cross examination of the witnesses.
- 10.9 The line supervisor, when satisfied that the facts have been established, will, in the absence of the accused, ask for comments from the employee's representative (if present).
- 10.10 In arriving at the decision, the disciplinary hearing committee will take into account, the following factors, if applicable:
  - 10.10.1 That the offence was involuntary, impossible to avoid, justifiable or reasonable.
  - 10.10.2 That the allegation is found to have been false or malicious.
  - 10.10.3 That the offence arose as a result of conflicting or unclear instructions.
- 10.11 The disciplinary hearing committee will then dismiss the charges or impose such penalty as is provided for in this code as is appropriate and such decision shall be recorded in writing.
- 10.12 The record will be filed in the employee's personal file and a copy shall be given to the employee.

## **11. THE APPEALS PROCEDURE**

The Appeals Procedure provides for a system where an employee who has been subjected to disciplinary proceedings, whether written warnings or dismissal is able to seek redress should he feel that proceedings were conducted in an unfair and unjust manner. A disconcerted employee shall follow the following channel.

- 11.1 Within seven days of being informed of the disciplinary action taken against him by the immediate supervisor, the employee concerned shall notify the Head of Department and Human Resources Chairperson of his or her intention to appeal and the following shall be contained in the letter of appeal:
- (i) the charge that was laid;
  - (ii) the decision reached;
  - (iii) reasons for appeal.
- 11.2 If an employee is not satisfied with the decision of the disciplinary hearing committee in Stage I, he or she may appeal within seven days to an appeal committee in Stage II which shall hold disciplinary proceedings as outlined in the Employment Code of Conduct.
- 11.3 If still not satisfied with the decision of the appeals committee in Stage II, the employee may appeal to the NEC appeals committee within seven days which shall hold disciplinary proceeding as outlined in the Employment Code of Conduct.
- 11.4 If still not satisfied with the decision of the NEC appeals committee in Stage III, the matter is then referred to the Labour Court when thirty days have lapsed and the matter has not been resolved either party may refer it to a designated agent.

It should be noted that all appeals should be lodged within the stipulated periods as indicated in the Employment Code of Conduct. All appeals after this stage go to the Labour Court.

## **12. THE ADMINISTRATION OF DISCIPLINE**

### **12.1 Verbal warning**

The verbal warning must take place in front of an employee representative.

## **12.2 Written Warning**

- 12.2.1 A written warning may be given when a verbal warning is considered inadequate or when a current, similar verbal warning has not had a desired effect.
- 12.2.2 Written warning may be specified as final written warning in very serious offences, serious written warning in serious offences and written warning in minor offences.
- 12.2.3 Written warning will be given by a line manager/supervisor or from Human Resources Chairperson.
- 12.2.4 Dismissal may only be administered by persons who have been authorised to do so.
- 12.2.5 N.E.C should be notified in writing on all cases of dismissal so that the dismissal is noted and recorded.

## **12.3 Validity of warning**

- 12.3.1 Written warning has a validity of two months.
- 12.3.2 Serious written warning has a validity of three months.
- 12.3.3 Final written warning has a validity of six months.
- 12.3.4 In the event that an offender commits the same offence while a warning is still valid, the penalty that the second offence will attract is one higher penalty than that normally prescribed for that level in this code for the particular offence.

## **12.4 Demotion or reduction in pay**

An employee may be demoted or his or her wages/salary reduced by the Chairperson of the School Development Association or Committee after receiving recommendation from the hearing officer.

- 12.4.1 Demotion or alternative reduction in pay is only to be applied when the employee has been proved to be incompetent to perform his or her assigned job, or when his or her conduct indicates his or her unsuitability to continue in his or her position.
- 12.4.2 No employee shall be demoted to more than three subgrades below his or her current grade.
- 12.4.3 After two years in the demoted grade an employee will be eligible to apply for a higher position (if available).
- 12.4.4 If an employee is demoted he or she may appeal to the council if he or she is not satisfied with the decision of the appeal committee.

## **12.5 Loss of privileges**

- 12.5.1 It shall be up to the discretion of the hearing officer to recommend the loss of privileges or forfeiture of privileges (such as bonus) in place of any other punishment.
- 12.5.2 If an employee loses his or her privileges he or she may appeal to the council if he or she is not satisfied with the decision of the appeal committee.

## **12.6 Dismissal**

An employee may be dismissed in the following circumstances:

- 12.6.1 For a dismissible offence.
- 12.6.2 When a final written warning that has been given for the same offence is still valid.
- 12.6.3 In exceptional cases, where a final written warning would have been appropriate and when there are extreme aggravating circumstances.

### **13. SUSPENSION PENDING INVESTIGATION**

- 13.1 Suspension without pay pending investigation will be up to a maximum of 14 working days which period may be extended with pay and benefits for a justifiable cause for a further period not exceeding 14 working days beyond which the matter falls away.
- 13.2 The SDA/C chairperson shall have the prerogative to suspend the employee if necessary.
- 13.3 An employee will be immediately suspended without pay and benefits, and removed from the school premises (by security personnel if need be) in any of the following:
  - 13.3.1 Where there is any threat of damage to school property, SDA/C property.
  - 13.3.2 Where there is a threat on the person of an employee, school child, parent or any other person on school premises.
  - 13.3.3 In any matter as indicated in 8.2.3.
  - 13.3.4 Conviction by the courts resulting in the imposition of a prison sentence without the option of a fine.

### **14. RESPONSIBILITIES OF PARTIES**

#### **14.1 The role of the SDA/C Chairperson**

The responsibility for taking of disciplinary action lies with the SDA/C Chairperson in consultation with the School Head.

#### **14.2 Role of the employee representative**

An employee representative may be present at every hearing of a disciplinary matter or grievance which relates to employees. It is the prerogative of the employee to determine who will represent him or her.

- 14.2.1 If a representative is present, he/she will be entitled to contribute to the hearing and will be required to comment on the matter under consideration, and the suitability of the discipline to be administered.

14.2.2 The choice of an employee representative to attend a disciplinary hearing is the prerogative of the accused employee. Refusing to participate will constitute misconduct on the part of the nominated representative.

14.2.3 The quorum shall consist of one member from the employees and one member from the employers.

#### **14.3 Role of the School Development Association/Committee**

The School Development Association/Committee or its representative will ensure that all disciplinary matters have been properly investigated, heard and settled. The Association/Committee will advise and make a ruling on relevant disciplinary matters where necessary.

**APPEAL / GRIEVANCE FORM**

[First /Second/Third Appeal (*delete whichever inapplicable*)]

Date:.....

EMPLOYER: .....

EMPLOYEE'S NAME: .....

DESIGNATION: .....

APPEAL/GRIEVANCE: .....

.....  
.....  
.....  
.....  
.....  
.....

(Please attach additional sheets of paper if necessary)

**SETTLEMENT DESIRED**

.....  
.....  
.....  
.....

SIGNATURE OF APPELLANT:..... DATE: .....

OUTCOME OF GRIEVANCE (if necessary, reasons for failure to reach a settlement):

.....  
.....  
.....  
.....  
.....

SIGNATURE OF CHAIRPERSON OF APPEAL COMMITTEE:

.....

DATE: .....

Labour (Employment Code of Conduct: National Employment  
Council for School Development Associations and Committees in  
Government and Council run Schools) Regulations, 2016

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Form: ZSDA 02

**MISCONDUCT DETERMINATION FORM**

Employer: .....

Province: .....

**FORMAL WARNING:** —First/Second written warning/Final written warning.  
(Delete whichever is inapplicable)

To: ..... Date: .....

In terms of the Zimbabwe Schools Development Association and Committees  
for Government and Council run Schools Industry Disciplinary Code of Conduct  
you are hereby advised that despite previous verbal or formal warning you have  
persisted in committing?

.....  
.....  
..... offence. You are  
therefore now being given your [First/Second/Third/Final Written Warning (*delete  
whichever is inapplicable*)]. A copy of this warning will go into your personal file.

If you persistently ignore such warning appropriate and severe disciplinary action  
will be taken against you. It is hoped that you will take heed and mend your ways.

Full Name: .....

Designation: .....

Date: .....

For the School Head

WARNING RECEIVED AND UNDERSTOOD

Full Name: .....

Designation: .....

Signed: .....

Employee

Witness: .....

Worker Representative

DISTRIBUTION: 1 Original to employee  
1 Copy to Chairman  
1 Copy to School Head  
1 Copy to Chairman, Workers Committee

Period of Validity of all warnings is set out in paragraph 11.3 of Disciplinary  
Code and Procedure.

**Note: it is your right to appeal against this decision if you feel that you have  
been unjustly treated within 5 days of receipt of this charge**

**NOTICE OF SUSPENSION**

Name of Employee: .....

Employer: .....

..... Date: .....

Position Held: .....

Nature of Offence: .....

We regret to inform you that we find it necessary to suspend you without pay as from today .....20...., while your offence is being investigated. If it is subsequently decided to dismiss you this will be effective from the date we inform you of our decision. If, however it is decided not to dismiss you and/or alternative action is taken against you this will be communicated to you likewise and your pay will be re-instated accordingly.

Please write a report of what took place within 24 hours.

Signature of Employee: .....

Signature of Employer: .....

DISTRIBUTION:           1 Original to employee  
                                  1 Copy to Human Resources Chairperson  
                                  1 Copy to School Head  
                                  1 Copy to Chairperson, Workers Committee

**\* Please note the hearing is supposed to be conducted within 14 days.**

Labour (Employment Code of Conduct: National Employment  
Council for School Development Associations and Committees in  
Government and Council run Schools) Regulations, 2016

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Form: ZSDA 04

**APPEAL AGAINST DETERMINATION FORM**

[First/Second/Third Appeal (*delete whichever inapplicable*)]

Date: .....

EMPLOYER: .....

EMPLOYEE'S NAME: .....

DESIGNATION: ..... SIGNATURE .....

DETERMINATION BEING APPEALED AGAINST: .....

.....

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.....

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APPEAL: .....

.....

.....

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.....

.....

(Please attach additional sheets of paper if necessary)

<b>ACKNOWLEDGEMENT OF APPEAL</b>
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NAME..... DESIGNATION.....

SIGNATURE..... DATE.....

**NOTICE TO ATTEND DISCIPLINARY HEARING**

Name of Employer:.....

To: ..... You are hereby notified of a  
(Employer's name)

Disciplinary Hearing that will be held on .....  
(Date of hearing)

at ..... at .....  
(Time) (Venue where hearing will be held)

**ALLEGED OFFENCE/COMPLAINT**

Please note that the following allegations have been laid against you:

Date: ..... Place: .....

Details: .....  
.....  
.....  
.....  
.....  
.....

You are further notified that you are entitled to be represented by a workers committee representative or a member of an appropriate trade union. Failure by yourself to attend the hearing, either in person, or through a representative, shall in no way invalidate the proceedings and the proceedings will commence in your absence. You are required to be present throughout the proceedings. You will have the right to put your case before the enquiry by presenting evidence yourself and by calling your own witnesses to testify at the enquiry. You and your representative will be given the opportunity to challenge the evidence brought against you at the enquiry. You may within 5 working days of the date of the notice of the chairperson's findings pursue the matter through the appropriate appeal procedures.

Should you voluntarily resign from the employer's service before being found guilty, further disciplinary measures against you shall be suspended and any moneys due up until the date of your resignation shall be paid to you. You are

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advised that the disciplinary enquiry could result in your dismissal. Should you admit to the charges before or during the disciplinary enquiry, it shall be deemed that you are guilty of the charge.

I hereby certify I have received a copy of this notification, and that I understand the allegations against me, and I understand that the allegations are of a serious nature and that I may be dismissed if found guilty.

Received by:.....

Signature: .....

Date: .....

Time: .....