

# **Employment and Dismissal of Staff Policy 2016**

## **Aims**

- A. To employ staff in the school who; support the school philosophy and aims, have good teaching and behaviour management skills (if a teacher), care about the students individually and the school as a whole, can work well as a member of the staff, and who have the specific skills we require.

## **Scope and Application**

This policy is available on the school website and applies to:

- A. Employees
- B. Students
- C. Parents
- D. Community members
- E. Visitors to the school

## **Definitions**

- A. **Permanent staff** - are those employed for an indefinite period of time, including teachers, aides and Coordinator.
- B. **Specialist staff** - are those employed for a specific period to carry out a specific educational program or management task.
- C. **Relief teachers** - are those employed on a casual basis to replace an absent teacher.
- D. **Administration Staff** – are those employed in positions in the office.

## **Conditions of Employment**

- A. Permanent teaching, aide and administrative staff and relief teachers are employed under the State Independent Award.
- B. All staff are employed with the understanding that if the number of enrolments reduce and cannot support the current level of staffing, conditions of employment may be altered by reducing staff hours.
- C. Trial teachers identified through the hiring procedure as potential employees who are in their 3<sup>rd</sup> year of the 5-year teacher registration period, will supply a new police clearance prior to appointment.

## **Responsibilities**

- A. **Council**

1. Writing and updating this policy in consultation with relevant parties
2. Oversees the process carried out by the coordinator in the event of possible dismissal of an employee.
3. Is responsible for appointing the Coordinator.

#### **B. Coordinator**

1. Appointing all admin teaching and ancillary staff
2. is responsible for convening sub-committees to appoint permanent members of staff.
3. Coordinator will advertise and maintain a file of curriculum vitae of potential employees.
4. Completes reference checks prior to engaging new staff.
5. Ensures all new staff complete induction.
6. Directs performance management and dismissal of an employee.

#### **C. Hiring Subcommittee**

1. Sub-committee members will conduct interviews and assist in making recommendations to council for the appointment of staff members.

#### **D. Teachers**

1. Maintain currency of teacher registration and WWC check.

### **Related Legislation**

- A. State legislation related to Western Australian College of Teaching
- B. [Working With Children \(Criminal Record Checking\) Act 2004](#)

### **Related Kerry Street Documentation**

- A. Policies including:
  1. Duty of Care
  2. Child Protection
- B. Staff Code of Conduct
- C. Job Descriptions
- D. Constitution
- E. Aims and Philosophy

### **Contact Person**

Enquires relating to this policy should be directed to the School Coordinator or Council President.

### **Breaches of this Policy**

Any breach of this policy may result in disciplinary action up to and including termination of contract.

## **Attachments**

- A. Conditions of Employment
- B. Appointment
- C. Dismissal
- D. Questions for Job Applicants
- E. A Guide for School Principals/Administrators
- F. Reference Check

## **Review and Authorisation**

- A. This policy was authorised by the Kerry Street Council on 14/3/05
- B. Policy reviewed by meeting of staff and council on 13/1/06
- C. Reviewed September 2012
- D. Attachment Added 2013
- E. Reviewed 27-06-2016
- F. To be reviewed April 2021

*Helen Sugars Duff*

**Employment and Dismissal of Staff Policy 2016 – Attachment A**

**Conditions of Employment**

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## **Employment and Dismissal of Staff Policy 2016 – Attachment B**

### **Appointment**

#### **Authority to Appoint**

1. The Coordinator is employed by and accountable to the council
2. Other staff are appointed by and accountable to the Coordinator

#### **Legal Requirements**

1. All teachers, responsible for a learning area or responsible for students, must be members of the Western Australian College of Teaching.

#### **Selection**

When Kerry Street Community School needs to hire a main Class Teacher, Teaching Assistant, Coordinator, or other person who will be maintaining a lot of presence at the school and with the children, the following process is applied.

- Selection of a new staff member may be approached by advertising the position in the newspaper, educational publications or on the internet OR by selecting from persons known to members of the school community OR a combination.
- There is no obligation to consider more than one candidate if a suitable person is found.

#### **PROCESS**

1. An advertisement is placed in relevant media.
2. A hiring committee is formed of approx. 4-7 people broken down into 2 subcommittees. The selection subcommittee, consisting of 2 or 3 people representing management (Coordinator) and council (Self Nominated). The Interview subcommittee, consisting of no more than 4 people and should consist of the Coordinator, a representative of Council, a staff member, and a parent (from the relevant grade pool). It is felt that this group is equally representative of Management, Governance, Peer Group and Class Parents.
3. In the case of hiring a new Coordinator, there should be at least 2 Council representatives on the interview committee.
4. All resumes and cover letters are forwarded to the selection subcommittee who discusses the applicants and decides on who will be interviewed.
5. The selection subcommittee may re-advertise the position if they feel the applicant pool is too limited.
6. Selected Applications are then forwarded to the interview subcommittee.
7. Applicants not shortlisted for interview will be notified by email or letter by the Coordinator.
8. The Coordinator schedules the interviews.
9. There is a list of questions in the school's hiring file, which can be used to question applicants, or the interview subcommittee can agree on the questions which are to be asked. During the interview, other questions can be asked if relevant.

- 10.** If the position to be filled is not urgent, a part of the interview process is to inform the applicant as to how our school runs day to day and to see them in the school environment.
- 11.** Once interviews have been completed, the interview subcommittee decide who the successful applicant is.
- 12.** The interview subcommittee can re-interview any or all applicants if they feel it is required.
- 13.** Applicants unsuccessful after the interview process will be notified by a phone call from the Coordinator.
- 14.** The successful applicant is phoned and a meeting organized with the Coordinator to finalise the hiring process.

**Dismissal**

- A. In the event of the possible requirement to dismiss a staff member, please refer to Kerry Street Constitution, Attachment B: A guide for school principals/administrators (Phillips/Fox) and/or consult with Ian Fraser of AISWA. Further direction may be obtained from the DET policy on dismissal of staff.
- B. The process of conflict resolution and possible dismissal will be the responsibility of the Coordinator and/or council president OR such persons as are appointed by council. The council is responsible for the process
- C. Compassion, fairness and strength will be required from the Coordinator and/or council president.
- D. **Dismissal will only be made after a fair process, unless the well-being of members of the community is considered to be at immediate and serious risk, where immediate dismissal or suspension will occur. A fair process may include:**
  - 1. Clear determination of issues, differences and/or incidents by the Coordinator and/or council president.
  - 2. Clear communication of these to the employee. Time and opportunity given to consider issues and respond and/or alter practices or resolve differences. This process may be repeated a number of times.
  - 3. Review of situation by Coordinator and/or council president. Clarification of school's legal position.
  - 4. Recommendation to council by Coordinator and/or council president to retain or dismiss employee.
  - 5. Opportunity for employee to appeal to council or whole school community if they feel the process has been unfair.

**Employment and Dismissal of Staff Policy 2016 – Attachment D**

**Questions for job applicants**

What do you see as the advantages and disadvantages of:

- Small schools
- Multiage groups
- Community and parental involvement

What do you value most in a school environment?

If you are having trouble with a child in your class, what would be your strategies?

What are the special qualities about you that you bring to your teaching? (incl subjects)

Are you available for teacher meetings, camps, other school meetings?

Why do you want this job? What would you like to happen in the future in regard to your teaching at this school, your teaching in general?

Are there any questions you have for us?

Is there anything else you would like to say, eg about your philosophy of teaching or life in general?



**Guide for School Principals/Administrators**

Termination of employment



**A guide for school principals/administrators**

In 2002/2003 financial year there were over 900 unfair dismissal claims lodged in Western Australia. As an employer, it is inevitable that a school at some stage will have to dismiss an employee and may then be subject to an unfair dismissal claim.

The following sets out some fundamental steps which Phillips Fox recommends that a school should follow when disciplining an employee particularly if it might result in dismissal of the employee. These guidelines must be read and applied in conjunction with any formal grievance procedure a school might already have in place or is otherwise applicable to the school.

- 1 Where there are allegations of misconduct or poor performance against an employee, an appropriate investigation must be conducted by the school concerning the allegations. (In certain situations it may be appropriate to suspend the employee on pay pending the outcome of the investigation).
- 2 The employee must be presented with details of the allegations against the employee. If time allows it is preferable that the details be provided in writing. Similarly, if poor conduct or work performance is the concern, clear details of these allegations must be presented to the employee.
- 3 The employee must be interviewed a reasonable time – say 24 hours – after having been given the complaint details and it has been made clear to the employee in advance that:
  - the employee is entitled to have a witness of their choosing present at the interview
  - the possible outcome of the meeting could be a warning or termination.
- 4 The interview should be conducted by 2 representatives of the school (generally the principal and one other senior staff member or if appropriate a member of the school board).
- 5 At the interview, the employee must be given full opportunity to respond to the details of the complaint.
- 6 An employee must generally be warned and counselled about the employee's poor conduct or performance and be given an opportunity to rectify the complaint. The number of 'warnings' that should be given depends on the particular circumstances including the nature and gravity of the problem and any process prescribed by award or agreement. Where there is serious misconduct, a warning may be inappropriate and the school may consider dismissing the employee.
- 7 If after having heard the employees response, warning and counselling is not an option and the school is considering dismissing the employee, then the employee must be given the opportunity to be heard about any issues the employee wishes the school to consider when deciding whether to dismiss the employee.

Termination of employment

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- 8 If the employee raises matters that were not previously known to the school, it may be necessary to adjourn the interview to conduct further investigations and then reconvene at a later date.
- 9 The school must carefully consider all matters raised by the employee at the interview, prior to making a decision to terminate the employment.
- 10 Detailed notes of each step in the process should be kept by those involved with the process.

### Summary

Unfair dismissal claims are a 'fact of life' and an issue that all schools are likely to face from time to time. Whilst, a school may not be able to entirely remove the risk of an unfair dismissal claim, implementation of these guidelines will minimise the risk and place the school in a better position to defend a claim if one is made. Dismissal should be an '*outcome*' after having gone through the proper processes, rather than an '*objective*'.

**Remember, the penalties facing an employer  
who unfairly dismisses an employee are substantial  
and  
there is no second chance.**

*This outline was prepared by Phillips Fox for the general information of its clients. While it directs attention to, and comments upon, aspects of law, it is not intended to provide legal advice in the area. Further professional advice should be sought prior to acting upon the information conveyed here.*

**Employment and Dismissal of Staff Policy 2016 – Attachment F**

**Reference Check**

**Candidate:**

**Name of Referee:**

**Position:**

**What were the dates of employment?**

**What would you say are the applicant's strengths:**

**What would you say are the applicant's areas in need of development?**

**Can you comment on the applicant's:**

**Reliability including punctuality and attendance**

**Professionalism**

**In this role, the relationship with parent's is really important. Can you comment on the applicant's experience and interaction with developing relationships with parents and across the community?**

**Significant collaboration with colleagues is encouraged at Kerry Street. Can you comment on your observations of the applicants skills in this area?**

**Did the applicant contribute to the wider community?**

**What was the reason the candidate left the position?**

**Would you rehire this candidate?**