

Insert company Logo



| Policy Name: | **Disciplinary Action Policy** |
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| Policy Number: |  |
| Version: | Effective Date: |

|  | **Name** | **Designation** | **Signature** | **Date** |
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| Prepared By: |  |  |  |  |
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| **Date** | **Version** | **Summary of Change** |
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# DEFINITION

1. **Disciplinary Action** is the action or actions taken as a result of an allegation meeting the required standard of proof, for which penalty is considered appropriate.
2. **Disciplinary Process** is the process undertaken by the Company’s management to inquire into and deal with allegations of unacceptable conduct or workplace behavior.
3. **Disciplinary Authority** refers to the person (Head- HR & HOD) who has been entrusted with the powers to take any disciplinary action against the delinquent member on account of misconduct.
4. **Appellate Authority** refers to the person (COO/CFO/CEO) higher in the organizational hierarchy than the Disciplinary Authority, who is entrusted with the powers to hear and act on any appeals against the disciplinary action.

1. **Misconduct** means improper conduct or wrongful behavior with reference to the rules and regulations applicable to the various categories of members working in the company.
2. **Company/ Organization** means all the businesses which are under the umbrella of ***“Company Name”*** group.
3. **Member/ Employee** means a person employed with ***“Company Name”*** at all levels for wages or salary.
4. **Management** means the group of individuals that operate at the higher level at ***“Company Name”*** and have day-to-day responsibility for managing all individuals and maintaining responsibility for all the key business functions.

# PURPOSE

* To set and maintain standards of conduct within the company, and in doing so, ensure that all members are treated fairly and consistently.
* To help and encourage all members to achieve and maintain satisfactory standards of conduct

# APPLICABILITY

The policy is applicable to all members of the ***“Company Name”*** across all the locations and branches.

# RESPONSIBILITY & ACCOUNTABILITY

Human Resources Department, Legal Department, Management

# POLICY

The disciplinary policy is aimed at ensuring that issues of misconduct are managed and dealt with in a fair and consistent manner. The Trust promotes high standards of behavior and conduct for all employees and takes appropriate corrective action where those standards are not met.

## **5.1 TYPES OF MISCONDUCT**

1. **MAJOR MISCONDUCT**

Acts and omissions on the part of the member amounting to misconduct include, but not limited to, the following:

* Willful insubordination or disobedience of any lawful or reasonable order of superior.
* To go on illegal strike or abetting, inciting, instigating or acting in furtherance thereof or stay in strike or Gherao or stoppage of work in any section of the department.
* Willful slowing down in performance of work, or abetment or instigating thereof.
* Taking or giving bribes or any illegal gratification.
* Habitual absence without leave or absenteeism without leave for more than Continuous 1 Week or over staying the sanctioned leave without intimation /approval and without sufficient grounds or proper or satisfactory explanation.
* Habitual breach of any law applicable to the establishment or any rules made there under.
* Engaging in any trade within the premises of the establishment.
* Drunkenness, riotous, disorderly or indecent behavior, use of abusive language, threatening, coercing other members, wrongfully interfering with the work of other member, assault or threat of assault either provoked or otherwise, within the premises of the establishment or outside.
* Commission of any act subversive of discipline or good behavior on the premises of the establishment, or outside, if such act adversely affects the discipline of the establishment.
* Habitual neglect of work or gross or habitual negligence.
* Habitual breach of any rules or instructions for the maintenance and running of any department or the maintenance of the cleanliness of any portion of the establishment.
* Willful damage to work in process or any property of the establishment.
* Disclosing to any unauthorized person any information in regard to the process of the establishment which may come into the possession of the member in the course of his work.
* Gambling within the premises of the establishment.
* Smoking, spitting or chewing pan in the premises of the establishment except in place where it is expressly permitted.
* Failure to observe safety instructions notified by the employer or interference with any safety device or equipment installed within the premises.
* Refusal to accept charge sheet, order or other communication.
* Unauthorized possession of any lethal weapon, dangerous drugs, intoxicants or narcotics in the premises of the establishment.
* Knowingly giving false declaration regarding age, name, qualification, record of previous service at the time of employment.
* Conviction by court of law for any criminal offence involving moral turpitude.
* Knowingly and wrongfully interfering with official records, falsification, defacement or destruction of personal records or records of any other member.
* Making any false or malicious statements against the establishment or any member or any member of the establishment if such statement is inconsistent with fulfillment of the express or implied conditions of service or directly linked with general relationship of employer contentment or effort of the men at work or has the material bearing on the smooth and efficient working of the establishment.
* Being in unauthorized possession or control of any substance or thing which may be hazardous to the establishment or member having regard to the nature of processes of the establishment.
* As mentioned in company’s Anti-harassment policy which includes unwelcome sexual determined behavior (whether directly or by implication ) such as physical contact and advances or demand or request for sexual favors sexually colored remark, or showing phonograph or any other unwelcome physical gestures, Messages written / verbal communication or physical / verbal conduct of sexual nature.
* Involved in any kind of theft, Fraud, Corruption. ( Bribery )
* Breach of any agreement , contract, employment bond and NDA signed by the employees
* Publishing, causing to be published, or publicizing any matter relating to the business or working or affairs of the establishment either inside or outside the premises of the establishment without any exclusive consent by the Management in writing thereto.
* Member referring his/her relative or Member serving at Client’s place referring him/her or Client’s relatives/friends to seek job opportunities in the Company directly or indirectly.
1. **MINOR MISCONDUCT:**

On the part of the member include, but are not limited to, the following:

* Absence without leave without sufficient cause for more than 3 days at a stretch
* Frequent Late attendance
* Negligence in performing duties
* Neglect of work
* Breach of any rule or instructions for the maintenance or running of any department
* Falsification of reports, time sheets, travel statements, expense statements, records or logs.
* Habitual late coming or going earlier than the stipulated time without approval and unauthorized absence.
* Disorderly or indecent conduct, while on duty towards clients, customers, suppliers, co-workers and the general public in the premises of the establishment.
* Failure or refusal to carry out any lawful and reasonable instruction of superiors or deviation from standard operating procedures.
* Inciting others to commit breach of law and/or Company's rules and regulations.
* Misrepresentation of health status for absence.
* Sending / receiving personal e-mails, downloading / playing computer games.
* Visiting obscene sites and downloading such information.
* Downloading any unauthorized software or anything that could cause offence or infringe data-protection or copyright law.
* Accessing, downloading inappropriate sites / information.
* Uploading any information pertaining to the Company, without prior written consent / approval from the Company.
* Non-compliance of Timesheet.

The above misconduct examples are neither exhaustive nor exclusive.

## **5.2 PRINCIPLES**

* Disciplinary proceeding against any member may be instituted only by an authority higher than the reporting authority of the member.
* Where appropriate, informal action shall be considered before recourse to the formal procedure.
* The procedure may be implemented at any stage if the member’s alleged misconduct warrants it.
* For a formal action, the member shall be told of the nature of the complaint and an investigation shall normally be undertaken before any decision to hold a domestic enquiry.
* Before a domestic enquiry, members shall be provided, if available, with written copies of evidence and relevant witness statements.
* A member may appeal against any formal disciplinary action.
* All information shall be retained on a confidential basis.
* Audio/visual recordings of the proceedings are not acceptable at any stage of the disciplinary procedure and are not admissible within this process, unless agreed as a reasonable adjustment for a member with a disability.

## **5.3 REPORT OF MISCONDUCT**

* Complaint is the starting point of any disciplinary action. For taking disciplinary action against any member for having committed an act of misconduct, the management should invariably get a specific written complaint. Complaint is a clear, sequential narration of the facts of incidence of indiscipline by the complainant, in the form of a report to member’s reporting manger or Disciplinary Authority.
* Since any disciplinary action may go unattainable if the complaint is not proper, every complainant should bear in mind the following:
	1. Do not rely on memory. Reduce to writing whatever has happened, immediately
	2. Submit the complaint in the shape of report of misconduct without any delay
	3. Avoid dictating the complaint to somebody else
	4. Do not add impressions or guesses but narrate the actual facts
	5. Take written statements of all whoever has any facts relating to the complaint or witnessed the incident
* A complaint should invariably give the following details :
	1. Full name of the person who committed the act of misconduct;
	2. Designation;
	3. Employment code/Designation;
	4. Section/Department/Branch;
	5. Date and time of incident;
	6. Place of occurrence;
	7. Facts of the case
	8. Evidences, if any
	9. Recorded Statements, if any

## **5.4 PROCESS**

* + 1. **Preliminary Enquiry**
* When an act of misconduct has been committed and the complaint is received, preliminary enquiry may be conducted. In all cases, preliminary enquiry is not essential. If the matter is obvious enough, the domestic enquiry can start with the issue of charge-sheet.
* The investigator in preliminary enquiry is normally the member’s reporting manager, unless it is deemed to be inappropriate in the opinion of the management. The investigating manager shall be accompanied by a Committee representative.
* If the member’s reporting manager does not carry out the investigation, it shall be carried out by another appropriate manager from any department, who, wherever practical, has no prior knowledge of the complaint.
* Following the investigation, consideration shall be given as to whether the matter is closed or:
	1. If further action is required, attempts should be made to resolve the matter informally without recourse to a formal hearing/domestic enquiry; or
	2. If a domestic enquiry needs to be arranged.
* Preliminary enquiry is done with a view to decide whether there is adequate material for proceeding with a domestic enquiry. Domestic enquiry starts the moment a charge-sheet is issued and preliminary enquiry ends with the issue of charge-sheet.
* Should the information obtained indicate that criminal misconduct has occurred; the Company may at its discretion take necessary action as deemed.
* If the matter is of sufficiently serious nature to warrant suspension, the concerned member may be suspended, as deemed appropriate.

B. **Charge Sheet**

* Charge-sheet is a memorandum of charges or allegations leveled against the member which are acts of misconduct
* If on the basis of preliminary enquiry or otherwise, the disciplinary authority is satisfied that a prima-facie case exists and decides to take disciplinary action against the member concerned, the first thing to be done is to issue a charge-sheet to delinquent member.
* Charge-sheet will be issued by the disciplinary authority. While framing a charge-sheet, the following items may be kept in mind so that nothing relevant would be missing from the charge-sheet :
	1. Date of charge sheet.
	2. Correct Name and Member No. of delinquent member.
	3. Specify date of incident.
	4. Description of incident.
	5. Reproduce the language in verbatim if there are words of abuse, defamation or threat.
	6. Give reference of relevant rules (Conduct, Discipline and Appeal Rules).
	7. Specify within how much time and to whom the reply should be submitted.
	8. Check the authority competent to issue the Charge-Sheet.
	9. Decide whether member is to be kept under suspension or not.
	10. Decide whom to send the copies of Charge-sheet.
* The Charge-Sheet may be handed over to the member and his/her signature must be obtained on the office copy.
* In case the concerned member refuses to accept the charge-sheet, an endorsement to the effect should be made on the office copy in the presence of at least two witnesses whose signatures should be obtained.
* In case the concerned member receives the Charge-sheet but refuses to sign on the office copy, an endorsement to the effect should be made on the office copy and signatures of at least two witnesses may be taken.
* The concerned shall be given at least 3 (three) business days’ time for submitting his/her explanation. Provided that such time may be extended for a maximum of 6 business days after the expiry of 3 business days, if the Disciplinary Authority is satisfied about the reasons advanced by the concerned member in this regard.
* In case the member fails to submit his/her explanation within the prescribed time or where the explanation submitted by him /her is found to be unsatisfactory, the Disciplinary Authority shall appoint a person, to hold an Enquiry.
* If the concerned member admits the charges leveled against him/her in writing and the charge-sheet issuer are satisfied that such an admission is voluntary, it shall be open to the Disciplinary Authority to award an appropriate punishment, without holding an Enquiry.
1. **Domestic Enquiry**
2. **Arranging the hearing**
3. Where the chosen course of action is a domestic enquiry, the Disciplinary Authority shall appoint an appropriate person to chair the Enquiry. The chair is normally at least the level equivalent to the investigating manager from any department, who has had no prior knowledge of the complaint, wherever practical.
4. The chair of the Enquiry shall arrange a formal hearing, ensuring the following:-
	* 1. The member is told in writing, no fewer than five working days in advance of the disciplinary hearing (unless an earlier date has been mutually agreed);
5. Written notification shall include:
	* 1. the charge-sheet
		2. the date, time and place of the formal hearing
		3. the names of any witnesses and those in attendance at the hearing
		4. a link to the disciplinary policy and procedure and any written statements, reports and other evidence to be considered
		5. that the member may provide evidence and/or call witnesses to the hearing, and the need to ensure that any witnesses are aware of the need for confidentiality
		6. All documentation relating to the disciplinary hearing must be reasonable and submitted at least 2 days after to the hearing to the chair. The number of witnesses and any supporting documentation must be in proportion to the level of misconduct itself and must be of a reasonable quantity. The chair reserves the right to refuse an unreasonable quantity of documentation or number of witnesses.
		7. If a new matter that the member is unaware of is raised at the disciplinary hearing, the member shall have 2 days after the hearing to submit any additional documentation to the chair for consideration as part of the decision making process.
		8. Appropriate arrangements shall be made to meet any special needs (e.g. interpreting in the case of language difficulties of the member).
		9. The concerned member is allowed to be accompanied by a co-worker to the domestic Enquiry
		10. The member, and any representative, should make every effort to attend the hearing. However, if it is not reasonable for the meeting to be held at the proposed date and time, the hearing may be deferred by up to five working days from the date originally proposed.
		11. If the member fails to attend the hearing without good cause, a decision may be taken in his/her absence based on the information available (Ex-Parte proceedings).
6. **Disciplinary hearing**
7. In addition to the Chairperson, those in attendance at the disciplinary hearing shall normally include the person who conducted the investigation, an assisting officer to facilitate and support the Chairperson, a note taker, a presenting officer to present the case facts on behalf of the management and witnesses, as appropriate.
8. The Chairperson shall explain the issue and go through the evidence gathered during the investigation, including any evidence given by witnesses appearing in person. The accused member shall be allowed to set out his/her case and answer any allegations that have been made. The member shall also have a reasonable opportunity to ask questions, present evidence, call relevant witnesses and be able to raise points about any information provided by witnesses.
9. The Chairperson should clearly bear in mind that his task is to hold an Enquiry into the charges and to record, in respect of each charge, whether it is established or not. The Chairperson should not recommend any punishment to be imposed on the accused member. Facts or documents which have been adduced or produced as evidence before the committee in the presence of the accused member only should be taken into consideration while recording the findings, unless the proceedings are ex-parte.
10. After conclusion of the Enquiry, a report shall be prepared by the Chairperson and it shall contain:
	* 1. the articles of charges and the statement of the allegations of misconduct or misbehavior;
		2. the defense of the member in respect of each article of charge;
		3. an assessment of the evidence in respect of each article of charge; and
		4. The findings on each article of charge and the reasons.
11. The Chairperson shall forward to the Disciplinary Authority the records of Enquiry which shall include:
12. The report prepared;
13. The written statement of defense submitted by the member;
14. The oral and documentary evidence produced in the course of the enquiry; and
15. Findings of each of the charges
16. The Disciplinary Authority before passing final orders should check up if the following aspects have been taken care of :
17. Whether definite and specific charges were framed;
18. Whether the charge-sheet was properly served;
19. Whether the accused member was given sufficient time to submit his explanation, as required under the rules. Whether the explanation, if any, submitted was duly considered;
20. Whether the person charged was allowed to cross examine the witness produced in support of the charges, to give evidence in person and to call witness on his behalf;
21. Whether the findings are based on evidence on record, and whether the penalty is proportionate to the gravity of the offence established;
22. The Disciplinary Authority shall consider the records of the Enquiry, record his/her conclusions on each charge and pass appropriate order.
23. The outcome of the hearing shall be communicated to the member at the earliest.

## **5.5 DISCIPLINARY ACTION**

After consideration of all factors, including any mitigating circumstances, the possible outcomes are as follows:

1. **Major Penalties**
2. Suspension
3. Demotion
4. Termination/Dismissal
5. **Minor Penalties**
6. Reprimand/Warning
7. Withholding of increments of pay with or without cumulative effect
8. Withholding of promotion Recovery from pay or any such other amount as may be due to him of the whole or part of any pecuniary loss caused to the company
9. Fine, in accordance with the provisions of the Payment of Wages Act, 1936
* A member against whom any action is proposed to be taken may be suspended-pending domestic enquiry or for the period, if any, allowed to him for giving his explanation. The order of suspension may take effect immediately on its communication to the member.
* Subject to the provisions of the Payment Of Wages Act 1936, a member who is placed under the suspension shall be paid subsistence allowance at the following rate:
* For the first 90 days of the suspension period, subsistence allowance to be paid per month shall be equal to half of the Basic wages and any other allowance.
* If the enquiry gets prolonged and the member continues to be under suspension for period exceeding 90 days, the subsistence allowance to be to be paid per month for further period of 90 days shall be equal to three fourth of basic wages as well as any other allowance if any.
* If the enquiry is not completed within period of 180 days, the member shall be paid full wages on monthly basis, till the enquiry is fully completed. In case the enquiry is prolonged for reasons directly attributable to the member, the subsistence allowance to be paid per month shall be reduced to one half of such basic wages, and other compensatory allowance.
* If as a result of enquiry held of explanation tendered, it is decided not to take any action against the member, the member shall be deemed to have been on duty and shall be entitled to full wages minus such subsistence allowance paid, as he may have already drawn and to all other privileges for the full period of suspension.
* The payment of subsistence allowance shall be subject to the member concerned and not taking up any employment during the period of suspension.

## **5.6 APPEAL**

A member can appeal to the Appellate Authority against the decision of the Disciplinary Authority. But, it should be done within 30 days from the date of communication of the final order of punishment by the Disciplinary Authority. The Appellate Authority should give a personal hearing to the member if so required by him/her in case of dismissal. At the stage of appeal, the punishment awarded by the Disciplinary Authority can only be retained or reduced, but not enhanced by the Appellate Authority. The Appellate Authority should address the appeal at the earliest.

# RESTRICTIVE CLAUSE

* + Any exceptions to the above would be at the sole discretion of the Management.
	+ Management reserves the right to change and or modify the policy without stating any reason.
* The organization reserves its right to withdraw this policy without assigning any reason by using its sole discretion which will be binding on all members. The Employees hereby unconditionally agree to all such changes/ amendments/ additions/ deletions/ modifications.
* The Company's reputation and credibility are based upon its total commitment to ethical business practices and also on ethical conduct of its Employees. To safeguard the Company's reputation, Employees must conduct themselves in accordance with the highest ethical standards and also be perceived to be acting ethically at all times. Compliance with all policies of the Company, relevant applicable laws and regulations is the minimum standard which should be adhered to by all the Employees all the times.



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