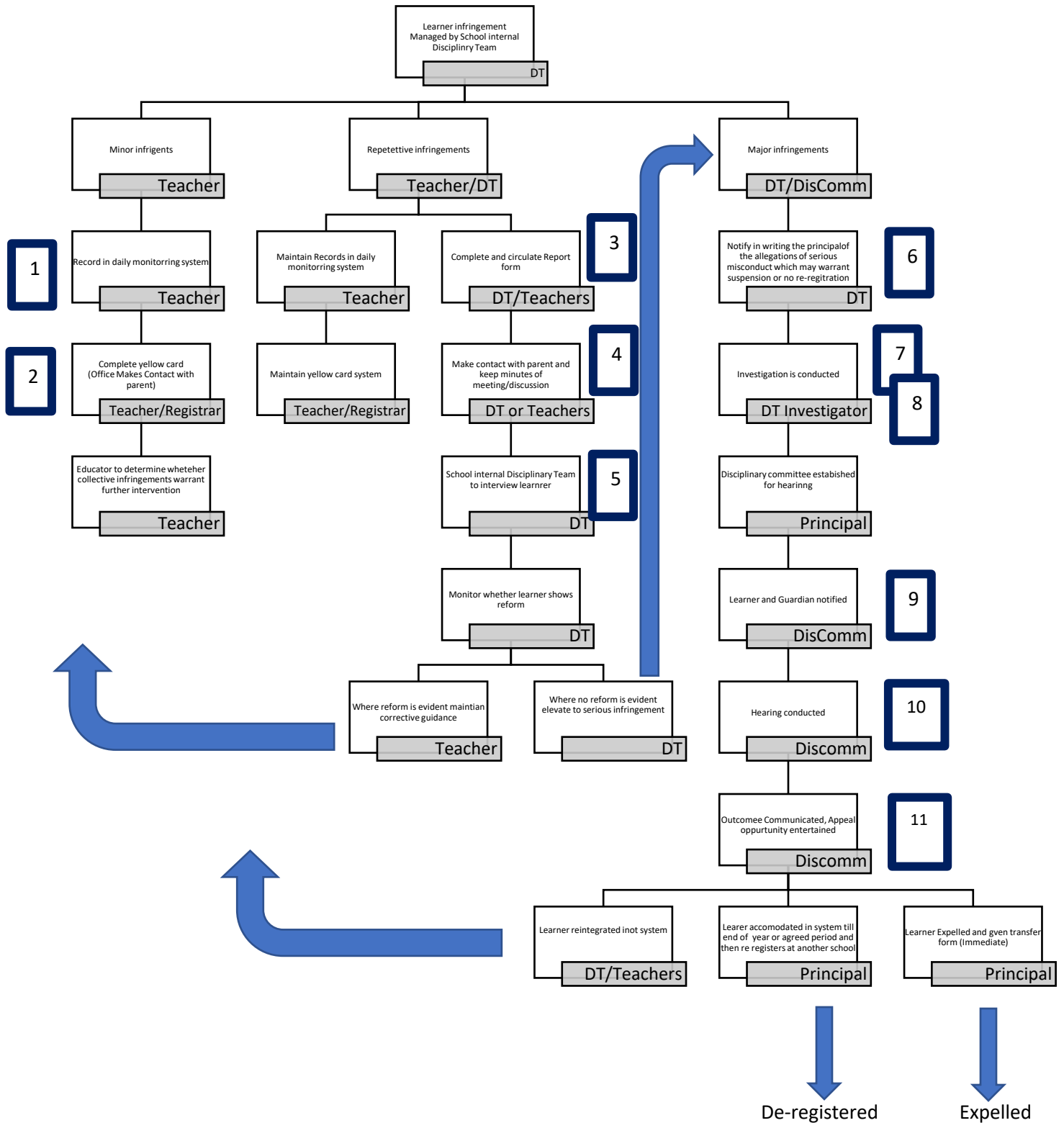


DUE PROCESS



The paper trail.

X	1	Monitoring report. Ensure this document is maintained for the learner concerned. Copy required at level of DT intervention
	2	Yellow Card system to be maintained. Yellow cards once acted upon should be kept by educator.
	3	Learner Report form to be circulated
	4	Standard form of written record of communication with parent/guardian. Including date, time and a synopsis
	5	Standard record form, recording important details of the discussion and outcomes. (attach any reports from learners, teachers or parties involved)
	6	Written notification of allegations of serious misconduct. (In a dossier including the forms, cards and reports from 1 to 4)
	7	Appointment of investigator (by principal)
	8	Standard Investigation report (attach any reports from learners, teachers or parties involved)
	9	Standard letter of notification to attend a formal hearing.
	10	Complete minutes of meeting.
	11	Formal letter of outcome for parents/guardian.

The Disciplinary Hearing

1. Prescribed procedure

The disciplinary hearing takes place according to the prescribed procedure, which is based on the fundamental principles of law. The individual's right to a fair and reasonable hearing is further endorsed in Section 33 of the Bill of Rights, as included in the Constitution. These principles do not only apply to the process to be followed, but also to the way in which arguments are presented.

The following steps should be followed in the execution of the prescribed procedure for a disciplinary hearing:

- Investigation into the alleged serious misconduct
 - An allegation of serious misconduct by a learner must be presented to the principal in writing for consideration. The allegation must then be investigated. The **internal disciplinary team** needs to submit the written allegation.
 - The principal needs to appoint the investigator from within the **internal disciplinary team**
 - The principle that a person is innocent until proven guilty must be maintained throughout by the investigator. The application of this principle is subject to the regulations of legislation and protocol as accepted by the The Board of

Governors of Holy Cross High School.

- Interviews with witnesses must be minuted in the interest of transparency and for the purposes of further enquiries. The maintenance of confidentiality is of the utmost importance.
- Witnesses may not be intimidated and/or influenced. Witnesses must also not be coached or prompted about what to say.
- Caution should be used where young children are involved. Aggressive confrontation or pressuring for a confession will not be tolerated.
- The alleged offender must be given the opportunity to request the support of his/her parents when it is expected of him/her to make a statement which could be incriminating.

- Notice of the hearing

- Justice means that the alleged offender must be given the opportunity to be heard and must also be given proper notice of the hearing.
- A notice about the hearing must be delivered in writing to the parents and learner five (5) workdays before the hearing.
- The notice must include information about the alleged offence, as well as information about the time, place and date of the hearing.
- The learner who has been accused must be given the opportunity to present his/her side of the matter and to call witnesses.
- In cases where a learner has, as a preventative measure, been suspended with immediate effect on the grounds of serious misconduct, the notice of the disciplinary hearing must be given seven (7) days before the hearing.

- Disciplinary committee

- A disciplinary committee, consisting of at least two educators and one SMT member, acts as an impartial tribunal in the hearing of the charge brought against a learner. Where possible a Board of Governors member may be present
- The person who conducted the investigation prior to the hearing may not form part of the tribunal.
- Decisions made by the tribunal must be made in good faith and without prejudice.
- The tribunal should
 - listen to both parties.
 - maintain an open mind and be unbiased.
 - only take the relevant information into consideration.

- make a reasonable decision, based on facts.
- not depend on hearsay.
- Conduct at the introduction of the hearing

- Determine whether the learner and his/her parents received the written charge, read it and understand it. Opportunity must also be given for questions and the clearing up of anything that is unclear.
- The parents and the learner should be offered access to the information in the school's possession, which could be used in defence of the learner. Copies of the statements must be given to them.
- The seriousness of the charge and the possible punishment that can be given should be explained to the learner and his/her parents. They must also be made to understand that all evidence can be tested through cross-examination.
- The parents and the learner should be given the opportunity to ask questions/make requests.

2. The Disciplinary Hearing

The following procedures should be followed:

- The person who handled the investigation into the charge of serious misconduct (principal or senior educator) acts as prosecutor and reads the charge aloud for record purposes. The chairperson then gives the learner the opportunity to plead "guilty" or "not guilty".
- Should the learner plead "guilty", the chairperson should still ask questions to obtain information in support of the appeal.
- Should the learner plead "not guilty", the following procedure must be followed:
 - The prosecutor presents the evidence from statements given by the witnesses and gives them the opportunity to confirm it.
 - Where the accused learner gives evidence, the prosecutor has the right to cross-examine the learner, or any other witness for the defense.
 - The chairperson and any other member of the disciplinary committee have, in the interest of justice, the right to question any witness in order to get more clarity about the evidence given. Learner Discipline and School Management
- It is important to keep in mind that the chairperson, on behalf of the disciplinary committee, in terms of Section 33(2) of the Constitution, must provide reasons for their findings. These reasons must be reasonable and fair, and be based on relevant information. The parents and learner must be informed in writing about the outcome of the hearing.
- In the case where the learner has been suspended pending the reaction of the Board of Governors to a verdict of expulsion of the learner, the minutes of the hearing and the findings must immediately be sent to the members of the Board of Governors

- A copy of the minutes must be filed by the school.
- All learners have the right to appeal.

Form 3: Learner report form:

Learner Name			
Class		Date	

Subject &Teacher			

Subject &Teacher			

Subject &Teacher			

Subject &Teacher			

Subject &Teacher	

Subject &Teacher	

Subject &Teacher	

Subject &Teacher	

Subject &Teacher	

FORM 4: Parent Communication or Meeting

Learners Name		Class	Misconduct	
Date	Telephone		Electronic media	Meeting
	<i>number</i>		<i>platform</i>	<i>venue</i>
Respondent/s (include relation)				
Educator/s Name and Signature				
Brief description of events (include dates) Attach learners report to this form. If description is to long also add as attachment				
Respondents response (and commitment if any) If description is to long also add as attachment				

FORM 5: Disciplinary Committee Interview form

Learners Name	Class	Misconduct
Date		
Educator/s Name and Signature		
Brief description of events (include dates) Attach learners report to this form. If description is to long also add as attachment		
Learners response (and commitment if any) If description is to long also add as attachment		
Result of interview process with learner. If description is to long also add as attachment		

FORM 6: Allegations of Serious Misconduct referred to Principal

Learners Name		Class	Misconduct
Date			
Referring Educators' Name and Signature			
Summary of events (include dates)			
Attachments (Tick all boxes)	Scan of daily monitoring report		
	Yellow Card scanned		
	Learner report form scanned		
	Communication form Scans		
	Disciplinary Committee Interview form.		
	Allegations of Serious Misconduct	(this form)	

Please scan all the above into a single folder Bearing the learners class and name.

FORM 7: Appointment of Investigator by Principal

Learners Name	Class	Misconduct
Date		
<p>I MF Fouche, the principal, hereby appoint: _____ To investigate the allegations of serious misconduct as described here in the attachments as indicated below. The investigation is to be completed by: _____ Based on the investigation the learner will be summoned to a full disciplinary hearing.</p>		
<p>Please fine the attachment here below as a background to the allegations. The documents here will also be made available to the guardian/parent of the learner concerned.</p>		
Attachments (Tick all boxes)	Scan of daily monitoring report	
	Yellow Card scanned	
	Learner report form scanned	
	Communication form Scans	
	Disciplinary Committee Interview form.	
	Allegations of Serious Misconduct	

Principal to scan additional forms into the folder of the learner concerned. A single hardcopy is kept by the Disciplinary Team.

FORM 8: Investigation report from

Learners Name	Class	Misconduct
Date		
Investigator		
I have perused fully the information given to me by the Principal and Disciplinary team		<i>(please sign here if you agree with block on left)</i>
Summary of corroborating evidence and testimony collected by investigator		
Recommendation by investigator		

Form 9

NB on a formal letterhead

NOTICE TO LEARNER AND PARENT OF DISCIPLINARY HEARING

Notice to learner and parent of the learner on the institution of disciplinary proceedings against the learner for an alleged serious misconduct in terms of Holy Cross High School code of conduct and disciplinary procedures. .

Date:.....

Dear Mr/ Mrs/ Ms

Address:

NOTICE OF DISCIPLINARY HEARING

You are hereby informed that the Board of Governors intends to institute disciplinary proceedings against your child on

Your child is alleged to have *(State the nature of the alleged serious misconduct to enable the learner to identify the incident and to respond thereto at the disciplinary hearing).*

You and your child have the right to

- 1 have and be accompanied at the hearing by a legal representative or any other person or representative to make oral or written representations on behalf of your child;
- 2 request access to documents and any other information to be produced in evidence; and
- 3 to ask questions, cross examine witnesses, lead evidence, call witnesses and produce documentary evidence to clarify issues relating to the allegation.

It is very important that you prepare yourself and attend the scheduled hearing.

You are advised to inform the governing body timeously if you and your child are unable to attend the date specified above so that a mutually convenient date and time can be arranged for the hearing.

In the absence of any communication from you, we will assume that you have agreed to attend the scheduled hearing and the necessary arrangements to proceed with the hearing will be made.

Yours faithfully Board of Governors

Attached find proof of posting and/or acknowledgment of receipt

Form 10

Minutes of Disciplinary hearing

Learners Name		Class	Misconduct
Date			
Chairperson			
Prosecutor			
Tribunal member			
Tribunal member			
Tribunal member			
Tribunal member			
Board specialist			
Learner			
Learner rep.			
Learner rep.			
Formal allegations with dates			
Tick	Chairperson read allegations to entire committee		
	The learner was asked to plead guilty or not guilty to the charges		
	Disciplinary hearing procedure followed as it appears in the section on Due process of the disciplinary policy		
	The investigator is not present		
<p>Minutes of the meeting. Please record detail of the entire proceedings. Starting with the plea of the learner.</p> <p>Separate sheets may be attached here and the back of this form may be used.</p> <p>record: <i>Plea of learner</i> <i>Evidence from Investigators report</i> <i>Implications by the prosecutor and any witnesses</i> <i>Evidence and testimony of learner and any witnesses</i> <i>Mitigating circumstances</i> <i>Finding of the committee</i> <i>Sanctions to be imposed.</i></p>			

Form 11

NB on a formal letterhead

NOTICE OF A SANCTION IMPOSED BY THE GOVERNING BODY

Notice of a sanction imposed by the Board of Governors, after finding the learner guilty of serious misconduct in terms of the code of conduct and disciplinary policy of Holy Cross High School.

Date:.....

Dear Mr/ Mrs/ Ms

Address:

NOTICE OF SANCTION IMPOSED BY THE GOVERNING BODY

Following the disciplinary hearing convened and held on [*Insert the date of the hearing*], and after deliberating on the evidence presented at the hearing, the governing body has found your child guilty of serious misconduct, and as a result, the governing has decided, as a sanction,

1 to suspend your child from attending school for a period of (*State number of school days not longer than seven school days*); and/or

2 to _____ (*Any other sanction contemplated in the school's code of conduct, where applicable*), for or based on the following reasons [*State reasons for imposing the sanction in 1 and 2*]

This sanction is effective from (*Insert date.*) until (*Insert date.*), and your child is expected not to attend school until after the expiry of the period in question

Yours faithfully Board of Governors

Attached find proof of posting and/or acknowledgment of receipt