

## DISCIPLINARY PROCEDURE FOR TEACHERS, INCLUDING PRINCIPALS AND VICE-PRINCIPALS, IN GRANT-AIDED SCHOOLS WITH FULLY DELEGATED BUDGETS.

### 1. PURPOSE AND PRINCIPLES

- 1.1 The procedure is concerned with supporting and maintaining high standards of conduct and discipline in the teaching profession. The primary purpose of the procedure is behaviour modification rather than the imposition of sanctions. Cases of minor misconduct are best dealt with informally without recourse to the Procedure. The Procedure has been drawn up to provide a fair and consistent way of dealing with alleged misconduct.

The procedure shall operate in line with the principles of natural justice;

- The teacher has the right to a fair hearing.
- The individual has the right to be made aware of the case made against him/her in advance of any meeting or hearing and given the opportunity to respond accordingly;
- The individual has the right to review any evidence made against him/her in advance of any formal hearing.

This procedure will not apply where a matter falls to be dealt with under "The Procedures Dealing with Teachers, including Principals and Vice Principals, whose work is Unsatisfactory."

- 1.2 The following principles apply to the Disciplinary Procedure:
- Each step and action should be taken without unreasonable delay;
  - Timing and location of meetings should be reasonable;
  - Meetings should be conducted in a manner that enables both employer and teacher to explain their cases.
- 1.3 The advice and guidance of the Employing Authority must be sought when any disciplinary action is being considered and at each stage of the operation of the disciplinary procedure.
- 1.4 The procedure may be invoked at any stage, after an investigation has been carried out, subject to paragraph 5.1, appropriate to the degree of seriousness of the alleged offence, bearing in mind that the informal approach is helpful in dealing with problems quickly and confidentially.
- 1.5 Where appropriate, this Procedure should be read in conjunction with the Department of Education guidance to schools "Pastoral Care in Schools: Child Protection" and the Labour Relations Agency Code of Practice Disciplinary and Grievance Procedures (2005).
- 1.6 The teacher is entitled to be accompanied at all formal stages of the procedure by a teaching colleague or a recognised trade union representative. The teacher will be expected to respond directly to the Disciplinary Authority and to answer the allegations. The teacher may confer with the teaching colleague or representative accompanying him/her and, in exceptional circumstances and with the agreement of Management, may be represented by this person. Legal representation is not permitted.

- 1.7 In considering the disciplinary action to be taken any mitigating circumstances and the previous record of service of the teacher concerned, shall be taken into account. The teacher shall be reminded of the provisions available under the employing authority's welfare arrangements.
- 1.8 When a teacher is an accredited trade union representative, no disciplinary action shall normally be taken until the circumstances of the case have been discussed with a full-time official of his/her recognised teachers' union.
- 1.9 The operation of the procedure shall comply with the provisions of the Equality of Opportunity statement for Teachers and Schedule 1 of the Employment (NI) Order 2003 relating to the Statutory Dispute Resolution Regulations and may not be construed as diminishing a teacher's rights in law.

## 2. DEFINITIONS

### **Teacher**

For the purpose of this procedure, "teacher" means a teacher employed in a grant-aided school and includes teachers appointed to posts of principal and vice-principal.

### **Teaching Colleague**

Means a teacher from the same school or, in the case of a Principal, a colleague from the same school, or peer from another school.

### **Trade Union Representative**

Means an accredited representative, lay or full time official of the organisation of which the teacher is a member.

### **Disciplinary Authority**

The Disciplinary Authority is the duly authorised level of management to which disciplinary powers have been delegated, as set out in Appendix 1.

### **Relevant Body**

Means the Board of Governors.

### **Employing Authority**

Means for controlled schools, the Board responsible for the management of the school and for Catholic maintained schools, the Council for Catholic Maintained Schools. In the case of voluntary grammar schools and grant maintained schools, the Board of Governors is the employing authority.

### **Relevant Officer**

Means, for controlled schools, the Chief Executive of the Board or another officer of the Board nominated by him/her and, for Catholic Maintained schools, the Chief Executive of the Council or another officer of the Council nominated by him.

### 3. PRELIMINARY STEPS

- 3.1 Before considering disciplinary action the Disciplinary Authority shall carry out a preliminary investigation into any allegation of misconduct; prepare a report of the investigation and seek the advice of the Employing Authority in relation to protocols on matters such as: safeguarding the rights of the teacher, non contamination of future process and rights and responsibilities of witnesses (see paragraph 3.2). A sub committee of the Board of Governors should be established to act as an appeals' panel, the membership of which shall play no part in the Disciplinary investigation.
- 3.2 As part of its investigation, the Disciplinary Authority may wish to meet with and/or consider relevant information from other persons, e.g. witnesses to the alleged incident/s. The panel will ensure that any information is objective, verifiable and relevant to the issues under investigation.

All those giving information to the investigatory panel should do so privately and not in the presence of any other person involved in or present during the alleged incident/s.

Witnesses will be advised at the outset of the meeting of the extent of the information that is being sought. They will also be advised that their anonymity cannot be guaranteed should the matter become the subject of appeal, further proceedings, or statutory discovery.

A written record of all meetings will be retained. Evidence provided to assist with the investigation will be treated as confidential by all parties to the investigation.

- 3.3 Where it is reasonable and practicable to do so, the Disciplinary Authority may delegate the preliminary investigation. In such cases the Disciplinary Authority should play no further part in the investigation. Due care must be given to the appropriateness of the level of management tasked with the investigation, which may include a member of SMT or one or two members of the Board of Governors.
- 3.4 As part of the investigation, the teacher shall be notified in writing of the allegations against him/her and the potential disciplinary consequences, inviting him/her to a Disciplinary Investigatory Interview to respond to the allegation. At the conclusion the Disciplinary Authority will advise the teacher of the timescale for reaching and communicating a decision.
- 3.5 In the case of an allegation of child abuse the Department of Education Guidance\* referred to at paragraph 1.5 must be followed. No disciplinary investigation shall commence and there must be no interference with evidence.
- 3.6 An investigation conducted under the Bullying and Harassment Procedure: "Promoting a Dignified Workplace 2005/2" shall substitute for a disciplinary investigation provided at Para 3.1 of the Disciplinary Procedure. Where the investigation establishes that there is a disciplinary case to answer, the Disciplinary Procedure shall be invoked at paragraph 4.1.
- 3.7 Where an employer considers a teacher may have committed an offence which could constitute gross misconduct, it is important to establish the facts through investigation before taking any disciplinary action. A period of precautionary

suspension with full pay may be necessary, although it should only be imposed after careful consideration and should be kept under regular review. In such cases the provisions of Paragraph 5 on Precautionary Suspensions shall apply.

- 3.8 If the decision of the Disciplinary Authority, or other person delegated to undertake the investigation, is that formal disciplinary action is not appropriate and that it is sufficient to talk the matter over informally with the teacher, the difference between informal discussion of this kind and a verbal warning issued as part of the formal procedure shall be made clear. The teacher shall be left in no doubt about which sort of action has been taken. The aim of such discussion is to review the issues involved and to seek ways of improving the situation, without recourse to the formal procedure. A brief record of the discussion shall be taken and held in the school and a copy given to the teacher.

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\* Disciplinary action in relation to Child Protection/allegations of child abuse should cross the "significant harm" threshold (Para 10 Pastoral Care in Schools).

#### 4. FORMAL DISCIPLINARY PROCEDURE

4.1 Where, following investigation, it is considered that there is a case to be answered the Disciplinary Authority shall invoke the formal procedure and shall obtain the advice and guidance of the Employing Authority.

Where the Board of Governors considers the case to be answered may make the teacher potentially liable for summary dismissal, the relevant officer of the Employing Authority is entitled to attend all proceedings for the purpose of giving advice. This advice must be considered before a decision to dismiss is made.

4.2 The teacher shall be:-

a. Informed clearly in writing of the nature of the allegations, provided with a copy of the Disciplinary Procedure and all documentary evidence to be considered by the Disciplinary Authority, advised of all rights under the procedure, including the right to be accompanied by a teaching colleague or a trade union representative, and invited to a meeting to discuss the matter.

b. Given reasonable time to prepare his/her case.

c. Given the opportunity at the disciplinary hearing to state his or her case fully before a decision is reached. Wherever practicable, such an interview shall be held within ten working days of the alleged offence. If more time is needed to consider the matter or further investigations are necessary, the interview shall be adjourned.

d. Where a police investigation is taking place into a directly related matter at the same time as an internal school-based investigation, the latter investigation shall be deferred pending the outcome of the police enquiry.

4.3 The Disciplinary Authority shall inform the teacher, in writing, of its decision as expeditiously as possible having given proper consideration to all the matters raised. A copy shall be provided to the Employing Authority. The teacher shall be informed of his/her right of appeal.

#### 4.4 Verbal Warning

In the case of a minor offence, where, following the disciplinary hearing, the Disciplinary Authority is not satisfied with the explanation given, a verbal warning will be issued, in writing, and the teacher informed of the consequences of a recurrence of the same or a similar offence or the occurrence of a further offence. A verbal warning will expire on completion of 6 months satisfactory conduct, and will not be used for future disciplinary purposes except as provided at paragraph 4.8 below.

#### 4.5 Written Warning

In the case of a recurrence of the same or a similar offence, the occurrence of a serious offence, or the occurrence of a further offence, where, following the disciplinary hearing, the Disciplinary Authority is not satisfied with the explanation given a written warning will be issued and the teacher informed, in writing, of the consequences of a recurrence of the same or a similar offence, or the occurrence of a further offence. A written warning will expire on completion of one year's satisfactory conduct, except as provided at paragraph 4.8 below.

**4.6 Final Written Warning**

In the case of a further recurrence of the same or a similar offence, the occurrence of a more serious offence, or the occurrence of a further offence where, following the disciplinary interview, the Disciplinary Authority is not satisfied with the explanation given a final written warning will be issued and the teacher informed, in writing, of the consequences of a recurrence of the same or a similar offence or the occurrence of a further offence.

A final written warning will normally expire on completion of one year's satisfactory conduct. However, in particularly serious cases, a final written warning may remain current for up to two years, except as provided at paragraph 4.8 below.

**4.7 Further Disciplinary Action**

In the case of a failure to respond, or to respond inappropriately, to a final written warning or should the same, a similar or further offence occurring, or in the case of gross misconduct, where, following the disciplinary hearing, the Disciplinary Authority is not satisfied with the explanation given, the teacher shall be subject to such further disciplinary action as the Disciplinary Authority may determine. Whilst not a complete list, such action may include withholding future pay progression, demotion, or a combination of measures or dismissal.

The decision of the Disciplinary Authority shall be notified to the teacher in writing and, where action short of dismissal is taken, the teacher shall be advised of the consequences of any further disciplinary offence occurring within the following period of two years, except as provided at paragraph 4.8 below.

- 4.8 Records of disciplinary investigation or action taken in the context of child protection shall be maintained on the teacher's file for a period of 5 years. Where a formal referral on a child protection related matter is made to Police or Social Services the record of the complaint and action taken shall be retained on the teacher's file indefinitely unless the teacher is totally exonerated in which case the record will be expunged.
- 4.9 Where the Disciplinary Authority decides to dismiss the teacher and this decision is upheld following the appeal process, the Employing Authority will issue the formal notice of dismissal terminating the contract of employment and stipulating the effective date of termination.
- 4.10 A criminal conviction outside employment shall not be treated as an automatic reason for dismissal regardless of whether the offence has any relevance to the duties of the individual as a teacher. The main consideration shall be whether the offence is one that makes the individual unable and/or unsuitable to discharge their contractual duties as a teacher. Teachers shall not be dismissed solely because a charge against them is pending or because they are absent through having been held in custody.

## 5. PRECAUTIONARY SUSPENSION

- 5.1 A teacher may be suspended from duty if, in the opinion of the Board of Governors, the Chairperson or Principal, that course of action is necessary pending the outcome of criminal investigations or proceedings or disciplinary investigations. A period of precautionary suspension on full pay should only be imposed after careful consideration and should be kept under regular review to ensure the precautionary suspension is not unduly protracted. In any case in which consideration is being given to the precautionary suspension of an individual teacher, the employing authority shall be consulted immediately.
- 5.2 The Board of Governors should consider alternative actions, which would be acceptable to the teacher, yet serve the same purpose as a precautionary suspension, such as a temporary transfer to other duties or alternative work without loss of pay. It should be made clear that any action taken is not disciplinary action.

Where the precautionary suspension is implemented by the Chair of Governors, the remaining members of the Board of Governors must be informed of such action as soon as possible thereafter. Where the precautionary suspension is implemented by the Principal, the Chair or in his/her absence, the Vice-Chair shall be informed of such action. The teacher shall be given written confirmation of the precautionary suspension at the time this occurs. The precautionary suspension shall be subject to regular review and can only be ended by the Board of Governors.

- 5.3 Precautionary suspension does not imply any decisions about the case.

## 6. SUMMARY DISMISSAL

- 6.1 Where, after investigation and a disciplinary hearing, a teacher is considered to have committed gross misconduct, the Board of Governors has the right to dismiss the teacher summarily. Summary dismissal means dismissal without notice and without payment in lieu of notice. Examples of gross misconduct include offences such as theft, physically violent behaviour, obscene behaviour and fraud.
- 6.2 The Employing Authority must be consulted before a decision is made to summarily dismiss a teacher
- 6.3 Payment of salary shall cease at the date of the determination to dismiss and the dismissal shall stand subject to the right of appeal. Where the appeal to the Independent Appeals Committee is upheld, salary, service and pension rights shall normally be reinstated from the date of the determination, subject to the nature and content of a lesser penalty substituted by the Appeals Committee.
- 6.4 The Employing Authority shall issue the formal notice of dismissal, terminating the contract of employment.

**7. REPRESENTATIONS IN RELATION TO A DETERMINATION TO DISMISS**

7.1 Schedule 2 of the Education (NI) Order 1998 provides that a Board of Governors shall afford the teacher, whom it proposes to dismiss, an opportunity of making representations either orally or in writing with respect to the proposal and have regard to any representations made. Such representations shall not constitute an appeal. The appeal in the case of dismissal is to the Independent Appeals Committee as detailed in paragraph 9.

**8. APPEALS**

- 8.1 Where the teacher is dissatisfied with the decision of the Disciplinary Authority he/she has the right of appeal against the disciplinary action. An appeal, setting out the grounds, must be made in writing to the appeals' body listed in Appendix 2 within 10 working days of the date of receipt of the disciplinary decision.
- 8.2 Appeal hearings shall be heard as soon as practicable and not later than twenty working days from the receipt of the written appeal request unless extended by mutual agreement.
- 8.3 The Chair, or other relevant person, shall arrange an appeal hearing and shall notify the parties as early as possible and not later than 5 working days before the date of the hearing. S/he shall invite the parties to make written submissions to be received not later than 3 working days before the date of the hearing and to be exchanged between the parties by the same date. Disputes of fact regarding these submissions shall be addressed at the Appeal Hearing.
- 8.4 The result of an appeal shall normally be notified to the teacher within 3 working days of the appeal hearing and followed in writing within 10 working days.
- 8.5 The body considering the appeal, as set out in Appendix 2, may:-
- a. Dismiss the appeal;
  - b. Uphold the appeal; or
  - c. Substitute a lesser penalty

**9. INDEPENDENT APPEALS COMMITTEE**

9.1 The Appeals Committee shall consist of an Independent Chairperson appointed by the Labour Relations Agency and two panel members, one nominated by the Teachers' Side and one nominated by the Management Side of the Teachers' Negotiating Committee. Neither member shall be an employee, representative or official of the employing authority or Teachers' Union involved in the case. In the event that the teacher is a non trade union member the Teachers' Side Secretary will nominate the teachers' side panel member.

Remedies for appeals are outlined in Section 7.5 above.

- 9.2 The Agency shall also appoint a Secretary to the Appeals Committee who shall be responsible for the setting up and operation of the Committee.
- 9.3 The Secretary, in conjunction with the Chair, shall make the arrangements for the appeal.

- 9.4 The Secretary shall also invite the parties to make written submissions to the Committee, such submissions to be received not later than 10 days before the date of the hearing. The Secretary shall distribute copies of the submissions to the Committee members and to the other party not later than 5 days before the date of the hearing.
- 9.5 The Committee shall as early as practicable meet the parties to hear the appeal.
- 9.6 Neither party in the independent appeal is entitled to have legal or industrial relations consultants representing the two parties at an appeal.
- 9.7 The work of the Appeals Committee shall not be invalidated by the absence of one or other of the parties. Provisions for "in absentia" proceedings, by way of written submissions, shall pertain.
- 9.8 The decision of the Appeals Committee shall be given in writing to both parties within 10 working days of the Hearing.
- 9.9 The involvement of Labour Relations Agency [LRA] in this procedure does not create a contractual relationship between the LRA and person or organisation. Such involvement is indicative of the LRA role in providing an independent administration for appeals on behalf of the Employing Authority.

**DISCIPLINARY AUTHORITY**

The responsibility for disciplinary action is as follows:-

	<b>DISCIPLINARY ACTION</b>	<b>DISCIPLINARY AUTHORITY</b>
	<b>ASSISTANT TEACHER</b>	
<b>Disciplinary Level</b>		
i.	Verbal Warning	Principal
ii.	Written Warning	Principal
iii.	Final Written Warning	sub-committee of Board of Governors
iv.	Further Disciplinary Action	sub-committee of Board of Governors
	<b>PRINCIPAL</b>	
<b>Disciplinary Level</b>		
i.	Verbal Warning	sub-committee of Board of Governors
ii.	Written Warning	sub-committee of Board of Governors
iii.	Final Written Warning	sub-committee of Board of Governors
iv.	Further Disciplinary Action	sub-committee of Board of Governors
<p>Note: The disciplinary action shown at each level is the maximum permitted to the Disciplinary Authority. It does not preclude the possibility of a lesser penalty being imposed.</p>		

Appendix 2APPEALS BODY

	<b>DISCIPLINARY ACTION</b>	<b>APPEALS BODY</b>
	<b>APPEALS BY ASSISTANT TEACHER</b>	
<b>Disciplinary Level</b>		
i.	Verbal Warning	sub-committee of Board of Governors
ii.	Written Warning	sub-committee of Board of Governors
iii.	Final Written Warning	Board of Governors
iv.	Further Disciplinary Action excluding dismissal	Board of Governors
v.	Dismissal STAGE 1: Representation to	Board of Governors
	STAGE 2: Appeal to	Independent Appeals Cttee
	<b>APPEALS BY PRINCIPAL</b>	
<b>Disciplinary Level</b>		
i.	Verbal Warning	Board of Governors
ii.	Written Warning	Board of Governors
iii.	Final Written Warning	Board of Governors
iv.	Further Disciplinary Action excluding Dismissal	Board of Governors
v.	Dismissal STAGE 1: Representation to	Board of Governors
	STAGE 2: Appeal to	Independent Appeals Cttee