

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 high standards of conduct and discipline in the teaching profession. It has been drawn up to provide a fair and consistent way of dealing with alleged misconduct.
- 1.2 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.
- 1.3 The procedure may be invoked at any stage appropriate to the degree of seriousness of the alleged offence.
- 1.4 The teacher is entitled to be accompanied at all stages of the formal procedure and assisted in presenting the case by a teaching colleague or recognised trade union representative. Legal representation is not permitted.
- 1.5 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. If appropriate, the teacher shall be reminded of the provisions available under the Employing Authority's welfare arrangements.
- 1.6 If the teacher is an accredited trade union representative, no disciplinary action beyond a verbal warning shall normally be taken until the circumstances of the case have been discussed with the full-time official.
- 1.7 This procedure will not apply where a matter fails to be dealt with under "The Procedures Dealing with Teachers, including Principals and Vice-Principals, whose work is Unsatisfactory".

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- 1.8 The operation of the procedure shall comply with the provisions of the Equality of Opportunity statement for Teachers 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 the posts of principal and vice-principal.

Teaching Colleague

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

Trade Union Representative

Means an accredited representative 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 integrated 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, for Catholic Maintained schools, the Director of the Council or another officer of the Council nominated by him.

3. PRELIMINARY STEPS

- 3.1 Before considering disciplinary action the principal or his / her nominee or a sub-committee of the Board of Governors shall carry out a preliminary investigation into any allegations of misconduct and seek advice and guidance from the Employing Authority.
- 3.2 In the case of alleged acts of harassment any investigation carried out under a harassment policy shall be accepted as the preliminary investigation at paragraph 3.1.

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- 3.3 The nature of the allegations of misconduct may be such that it is considered appropriate to impose a period of precautionary suspension pending the outcome of criminal or disciplinary investigations proceedings. In such cases the provisions of paragraph 5 “Precautionary Suspension” shall apply.
- 3.4 On completion of the investigations the Disciplinary Authority will decide on appropriate action.
- 3.5 If the decision 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 a copy given to the teacher.

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 nature of an offence is such that it may lead to the dismissal of the teacher, the relevant officer of the Employing Authority is entitled to attend all proceedings for the purpose of giving advice and such advice must be considered before a decision to dismiss is made.
- 4.2 The teacher shall be:
 - (a) told clearly in writing what is being alleged, provided with a copy of the Disciplinary Procedure and any documentary evidence to be considered by the Disciplinary Authority and advised of all rights under the procedure, including the right to be accompanied by a teaching colleague or a trade union representative;
 - (b) given reasonable time to prepare his or her case;
 - (c) given the opportunity at a disciplinary interview 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; and
 - (d) where a police investigation is taking place into either different or related matters at the same time as any internal school-based investigation, the latter investigation may be deferred pending the outcome of the police enquiry.

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- 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.

Verbal Warning

- 4.4 In the case of a minor offence, where, following the disciplinary interview the Disciplinary Authority is not satisfied with the explanation given a verbal 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 verbal warning will expire on completion of six months satisfactory conduct.

Written Warning

- 4.5 In the case of a further recurrence of the same or a similar offence, or the occurrence of a further offence, where, following the disciplinary interview, 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 similar offence or the occurrence of a further offence. A written warning will normally expire on completion of one year's satisfactory conduct.

Final Written Warning

- 4.6 In the case of a further recurrence of the same or a similar 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 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 two years.

Further Disciplinary Action

- 4.7 In the case of failure to respond, or to respond appropriately, to a final written warning, or should the same, a similar or a further offence occur, or in the case of gross misconduct, where, further to the disciplinary interview, the Disciplinary Authority is not satisfied with the explanation given, the teacher shall be subject to further disciplinary action as the Disciplinary Authority may determine. Whilst not a complete list, such action may include withholding further pay progression, demotion, suspension without pay normally not exceeding a maximum of four weeks, dismissal or a combination of measures. 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.
- 4.8 Where the Disciplinary Authority decides to dismiss the teacher and this decision is upheld following the appeal process, the Employing Authority will issue a formal notice of dismissal terminating the contract of employment.

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- 4.9 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 considerations shall be whether the offence is one that makes the individual unsuitable for his / her type of work. 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. In any case in which consideration is being given to the suspension of an individual teacher, the employing authority shall be consulted immediately. Where the suspension is implemented by the Chairperson of the Board of Governors then the remaining members of the Board of Governors must be informed of such action as soon as possible thereafter. Where the suspension is implemented by the Principal then the Chairperson or in her / his absence, the Vice-Chairperson shall be informed of such action. The teacher shall be given written confirmation of the suspension. The suspension can only be ended by the Board of Governors.
- 5.2 Precautionary suspension in these circumstances, as distinct from suspension as a disciplinary penalty (see paragraph 4.10) does not imply any decisions about the case. This important distinction shall be kept in mind whenever any record or report of the period of absence is necessary.
- 5.3 Such suspension shall be with full pay.

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 the teacher is summarily dismissed.
- 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.

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- 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 There is the right of appeal against any disciplinary action. An appeal, setting out the grounds, must be made in writing to the appropriate appeals body listed in Appendix 2 within five working days of the date of the disciplinary decision.
- 8.2 Appeal hearings shall be heard as soon as practicable and no later than twenty working days from the receipt of the appeal unless extended by mutual agreement.
- 8.3 The Chairperson or other relevant person shall fix a date for the hearing of an appeal and shall notify parties as early as possible and not later than five working days before the date of the hearing. He shall invite the parties to make written submissions to be received not later than three working days before the date of the hearing and to be exchanged between the parties by the same date.
- 8.4 The result of an appeal shall be notified in writing to the teacher within ten working days of appeal hearing.
- 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 Management Side of the Teachers' Salaries and Conditions of Service Committee (Schools). Neither member shall be an employee or official of the Employing Authority or the teachers union involved in the case.

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- 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 Chairperson, shall fix a date for the Committee's hearing of the appeal, inform the parties accordingly and invite nominations to the Committee.
- 9.4 The Secretary shall also invite the parties to make written submissions to the Committee, such submissions to be received not later than ten 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 five days before the date of the hearing.
- 9.5 The Committee shall where practicable meet the parties to hear the appeal within twenty working days of the matter being referred to the Labour Relations Agency.
- 9.6 Neither party in the independent appeal is entitled to have legal or professional 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.
- 9.8 The decision of the Appeals Committee shall be given in writing to both parties within ten working days of the hearing.
- 9.9 The involvement of the Labour Relations Agency in this procedure shall not be construed in any way as creating a contractual relationship between the Labour Relations Agency and any person or organisation. Such involvement is merely indicative of the Agency's role in providing an independent administration for appeals on behalf of the Employing Authority.

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APPENDIX 1

DISCIPLINARY AUTHORITY

The responsibility for disciplinary action is as follows:

	<i>Disciplinary Action</i>	<i>Disciplinary Authority</i>
Disciplinary Level	Assistant Teacher	
i.	Verbal Warning	Principal
ii.	Written Warning	Principal
iii.	Final Written Warning	Sub-Committee of BoGs
iv.	Further Disciplinary Action	Sub-Committee of BoGs
	Principal	
i.	Verbal Warning	Sub-Committee of BoGs
ii.	Written Warning	Sub-Committee of BoGs
iii.	Final Written Warning	Sub-Committee of BoGs
iv.	Further Disciplinary Action	Sub-Committee of BoGs

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.

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APPENDIX 2

APPEALS BODY

	<i>Disciplinary Action</i>	<i>Appeals Body</i>
Disciplinary Level	Appeals by Assistant Teachers	
i.	Verbal Warning	Sub-Committee of BoGs
ii.	Written Warning	Sub-Committee of BoGs
iii.	Final Written Warning	BoGs
iv.	Further Disciplinary Action (excluding dismissal)	BoGs
v.	Dismissal STAGE 1: Representation to:	BoGs
vi.	STAGE 2: Appeal to:	Independent Appeals Committee
	Appeals by Principal	
i.	Verbal Warning	BoGs
ii.	Written Warning	BoGs
iii.	Final Written Warning	BoGs
iv.	Further Disciplinary Action (excluding dismissal)	BoGs
v.	Dismissal STAGE 1: Representation to:	BoGs
vi.	STAGE 2: Appeal to:	Independent Appeals Committee