



Circular 0050/2018

To: The Chief Executives of Education and Training Boards

Procedures for Suspension and Dismissal of Principals of Community National Schools

Purpose of Circular:

The purpose of this Circular is to notify Education and Training Boards and Principals of Community National Schools of the procedures in relation to professional competence issues and general disciplinary matters for Principals of Community National Schools.

The procedures in respect of Principals of Community National Schools are at the Appendix to this Circular.

The procedures in this Circular supersede those set out in Circular 0060/2009 and Circular 0060/2009 is now withdrawn.

These procedures will apply to all professional competence issues and general disciplinary matters in respect of Principals of Community National Schools from the date of issue. Where a process regarding a professional competence or disciplinary issue has commenced under relevant Circulars prior to the date of issue of this Circular, that process should now continue using the revised procedures contained in this Circular, from the corresponding stage.

Circulation:

Please ensure that copies of this Circular are provided to all members of the Education and Training Board and its contents are brought to the attention of all Principals of Community National Schools in your employment including those on approved paid or unpaid leave of absence or on secondment.

This Circular can be accessed on the Department's website under <http://www.education.ie>.

Tara Carton

Procedures for Suspension and Dismissal of Principals of Community National Schools

1. Background – ETB Teachers and Principals

Under the terms of the *Towards 2016* pay agreement, the existing procedures for the suspension and dismissal of teachers and Principals in VEC schools were revised and issued in 2009.

Subsequently, following the commencement of the Education and Training Boards Act 2013 and the Education (Amendment) Act 2012, the parties aligned the procedures with the provisions of those Acts. Revised disciplinary procedures for teachers and Principals employed in ETBs were issued in that context in Circular 71/2014.

Principals of Community National Schools

Principals of Community National Schools were heretofore comprehended by the Revised Procedures for Suspension and Dismissal of Principals set out in Circular 60/2009, as agreed under the *Towards 2016* Agreement.

Arising from the transfer of patronage of the Community National Schools to Education and Training Boards, the parties undertook to review and revise the existing procedures and to agree new procedures to reflect the role of the Education and Training Board as the employer of staff in Community National Schools following the transfer.

While no procedures can be definitive about the range of circumstances which might give rise to the initiation of disciplinary procedures in general these are likely to be related to conduct, a threat to the health and safety of students and/or sustained failure to perform adequately the professional duties and responsibilities expected of a Principal.

The following agreed procedures provide for two separate and independent strands for Principals which should be utilised in appropriate circumstances:

- Procedures relating to professional competence issues in their role as teacher
- Procedures for Principals of Community National Schools relating to work and conduct issues in their role as Principal

The procedures are designed to deal solely with issues of employment and supersede all disciplinary procedures in existence prior to this agreement (including Circular 60/2009) in respect of Principals of Community National Schools.

Issues relating to registration are a matter for the Teaching Council.

It will be open to any of the parties to seek a review of these suspension and dismissal procedures.

2. General Principles underpinning these procedures

Apart from considerations of equity and justice, the maintenance of a good industrial relations atmosphere at workplace level requires that acceptable procedures be in place and be observed. Disciplinary procedures are necessary to ensure both that discipline is maintained in the workplace and that disciplinary measures can be applied in a fair and consistent manner.

Such procedures serve a dual purpose in that they provide a framework which enables management to maintain satisfactory standards and employees to have access to procedures whereby alleged failures to comply with these standards may be fairly and sensitively addressed.

The essential elements of any procedures for dealing with disciplinary issues are that they be rational and fair, that the basis for disciplinary action is clear, that the range of penalties that can be imposed is well-defined and that an internal appeal mechanism is available.

Every Principal is personally accountable for his/her own behaviour and work performance. Early intervention at the appropriate level to address perceived inappropriate behaviour is desirable for all parties so as to minimise the risk of having to escalate sanctions as provided for in these procedures.

Every effort will be made by the employer to address alleged or perceived shortcomings in work and conduct through informal means without invoking the formal disciplinary procedure.

Where circumstances warrant, a Principal may be placed on administrative leave with full pay pending an investigation, or pending the outcome of an investigation, a disciplinary hearing/meeting or the outcome of a disciplinary hearing/meeting.

The procedures are intended to comply with the general principles of natural justice and provide:

- that there will be a presumption of innocence. No decision regarding disciplinary action can be made until a formal disciplinary meeting has been convened and the employee has been afforded the opportunity to respond to the allegations raised
- that the employee will be advised in writing in advance of a disciplinary meeting of the precise nature of the matters concerned and will be given copies of all relevant documentation. In the case of a complaint, this detail will include the source and text of the complaint as received. A complaint should be in writing
- that details of the allegations, complaints or issues of professional competence be put to the Principal concerned
- that the right of a Principal concerned to have access to and to view his/her personnel file (to include all records in relation to the Principal in hardcopy or electronic format, held by the ETB) will be fully respected

- that the Principal concerned be given the opportunity to respond fully to any such allegations, complaints or issues of professional competence
- that the Principal concerned is given the opportunity to avail of representation, normally by a work colleague or trade union representative/s
- that the Principal concerned has the right to examine and challenge all evidence available and to call witnesses or persons providing such evidence for questioning
- that the Principal concerned has the right to a fair and impartial examination of the issues being investigated, taking into account the allegations or complaints themselves, the response of the Principal concerned to them, any representations made by or on behalf of the Principal concerned and any other relevant or appropriate evidence, factors or circumstances
- that the ETB, as employer, has a duty to act reasonably and fairly in all interactions with staff and to deal with issues relating to conduct or professional competence in a confidential manner which protects the dignity of the Principal
- that all matters relating to the disciplinary procedure are strictly confidential to the parties and their representatives
- that it will be considered a disciplinary offence for any person to intimidate or exert inappropriate pressure on any person who may be required to attend as a witness
- that where a decision is taken to impose a disciplinary sanction, the sanction imposed will be in proportion to the nature of the conduct/behaviour/performance that has resulted in the sanction being imposed
- that these procedures are without prejudice to the right of a Principal to have recourse to the law to protect his/her employment

In accordance with his/her executive authority provided in Section 16, Education and Training Boards Act 2013, the Chief Executive may in writing, subject to such terms and conditions as he or she considers appropriate and any directions that may be given by the Minister, delegate any of his or her functions to a specified member of staff of the board.

Reasonable and appropriate support, training and assistance will be provided. In this context, a major focus of the work of the Support Services at primary level will be the provision of appropriate advice and assistance to management and Principals in the formulation of improvement plans and, where relevant, in their implementation. Arrangements will also be put in place to provide for the timely accessing of those services as required.

In addition, school management may seek advice, where required, from the relevant management bodies on issues relevant to the operation of these agreed procedures.

Procedure for Principals of Community National Schools relating to professional competence issues in their role as teacher

Preamble

As is the norm with any profession it is a matter for the individual Principal in his/her role as teacher, in the first instance, to maintain appropriate standards of teaching and to personally address competence issues if and when they arise. Furthermore, it is a Principal's responsibility and obligation to ensure that he or she avails fully of all opportunities of assistance towards remediation of professional competence issues.

In this context, it is fully accepted that a significant majority of teaching principals discharge their duties in a competent and efficient way and provide a service in line with the best traditions of teaching. Accordingly, any process geared to address matters of professional competence is aimed at a minority of individuals within the profession. It is also the case that any such process must recognise the reality that professional competence issues are often of a transient nature and may have their origin in issues of a personal or professional nature which are of relatively short time duration.

There may be instances where concerns are raised regarding a Principal's professional competence through parental complaints. In such cases, the concerns will normally be addressed in the first instance in accordance with agreed complaint procedures.

The CE/nominee will consider the nature of the complaint before determining whether the issue falls to be considered under the procedures relating to work or conduct.

It follows that the approach to dealing with matters of professional competence should involve a number of stages moving from informal stages to formal stages which may at the end of the process have recourse to disciplinary action (up to and including dismissal). This must of course have regard to the right and duty of the Chief Executive to act immediately in matters of serious misconduct or where it considers that a threat exists to the health, safety and welfare of students and/or staff.

Stage 1

Informal Stage

1.1 The Education and Training Board, as employer, has overall responsibility for the management of the school, including the guidance and direction of staff and the creation of an environment which is supportive of learning among the students and which promotes the professional development of teachers.

1.2 It is intended that problems relating to teaching competence are resolved, where possible, through informal means. To this end where the Director of Schools has concerns that there may be issues relating to the standards of teaching of a Principal, the Director of Schools will discuss these issues with the Principal.

- 1.3 At this stage the Principal should be given a copy of the agreed procedures and be advised to familiarise himself/herself with the various stages of the procedures that may be invoked and the range of sanctions available to the CE in the event of sustained underperformance.
- 1.4 The Director of Schools will seek to explore with the Principal the underlying cause(s) and where possible agree the steps that need to be taken to address the matter.
- 1.5 In this context, the Director of Schools will advise the Principal of available internal and/or external supports and endeavour to assist the Principal in accessing those supports. These may include the Employee Assistance Service, the Professional Development Services for Teachers (PDST), the Centre for Leadership in Schools and/or and /or other external agencies that are relevant and/or appropriate in the circumstances having regard to the nature of the particular issues.
- 1.6 It is intended that through dialogue between the Director of Schools and the Principal, that the issues are resolved to the satisfaction of the Director of Schools and that both agree that no further action is necessary.
- 1.7 It is intended that professional competence issues of a transient nature should be resolved through informal mechanisms, normally within a three-month period excluding holiday periods.
- 1.8 Where a Principal has failed to engage positively with the processes and the Director of Schools continues to have concerns that there are professional competence issues of a sustained nature, the Director of Schools will notify the Principal of his/her intention to initiate the formal process.

Stage 2

Initiation of the formal process

- 2.1 The Director of Schools will advise another Director delegated by the CE for this purpose of his/her concerns and provide a written report to that Director. The Principal will be given a copy of the report simultaneously and will be afforded an opportunity to provide a written response as part of the process of consideration of the matter.
- 2.2 At this stage it is open to the Principal to invoke Stage 3 of these procedures within 10 school days of receipt of the report. Where the Principal adopts this course of action it is on the strict understanding that he/she cannot then seek to revert to any earlier stage of the process and that the delegated Director may proceed to the next stage as appropriate.
- 2.3 Alternatively, where the Principal does not take up this option, the delegated Director will consider the report of the Director of Schools and any written response provided by the Principal as soon as is practicable. At this stage, the Principal will

be provided with an opportunity to address delegated Director on the matter if he/she so wishes. The delegated Director will then make a decision on how to proceed. This decision may involve the delegated Director finding that:

- There are insufficient grounds to conclude that there is an issue of professional competence,
- There are sufficient grounds as to warrant the initiation of the formal process.

2.4 Where the delegated Director is of the view that there are sufficient grounds it will charge the Director of Schools with defining the required improvement plan for the Principal in question.

2.5 The Director of Schools will meet with the Principal concerned to discuss the improvement plan.

2.6 The plan will specify in writing the perceived deficiencies in the Principal's performance and the required improvement expected of that Principal. It will also set out the range of supports and training available to the Principal and suggestions as to which should be availed of by the Principal in the context of improving his or her performance. The improvement plan will also set out a timeframe within which the required improvement should be put into effect. Appropriate supports will be made available to the Director of Schools through the support services in drawing up the improvement plan.

2.7 While bringing about the improvement in his or her performance is the primary responsibility of the individual Principal, the Director of Schools will support and facilitate the individual Principal in bringing about the required improvement.

2.8 Normally, it would be expected that the required remediation of professional competence issues would take place within the timeframe set down in the improvement plan which should be no less than a three-month period excluding holiday periods. This period may be extended by the Director of Schools subject to the agreement of the CE, to allow the Principal further time to implement the improvement plan.

2.9 Following the conclusion of the time period provided for improvement, the Director of Schools will furnish a written report to the delegated Director and the Principal, setting out his/her views on the outcome.

2.10 Where the Director of Schools reports that the required improvement has been brought about, he/she will inform the Principal in writing confirming his/her intention to conclude the formal process.

2.11 Where the Director of Schools reports to the delegated Director that the required improvement in teaching performance has not been brought about following the conclusion of the period allowed for this process, the delegated Director will consider the matter further, as provided for below.

- 2.12 The Principal will be given an opportunity to provide an oral and written response to the delegated Director.
- 2.13 Following consideration of the Director of School's report and the Principal's response, the delegated Director may decide that:
- Sufficient progress has been made by the Principal and that the procedure is being brought to a conclusion.
 - The improvement plan should be modified.
 - The required improvement has not been brought about by the Principal.

Stage 3 External Review

- 3.1 Where the delegated Director decides that the required improvement has not been brought about, he/she will request the Chief Inspector to arrange for a review of the work of the Principal. The Principal will be so informed by the delegated Director in such instances. The request for a review should include details of the nature of the concerns, the supports offered to the Principal, the extent to which these supports were availed of by the Principal and the outcomes.
- 3.2 Before approving the review the Chief Inspector* will satisfy himself/herself that the appropriate support has been offered to the Principal and that, despite this, the Principal's work is still considered to be unsatisfactory. The Chief Inspector may seek further information as s/he deems necessary. Where a Principal has availed of the option at Stage 2 to invoke Stage 3 of the process, the Chief Inspector will satisfy himself/herself of this fact before initiating the review.
- 3.3 All documentation provided to the Chief Inspector shall also be furnished to the Principal.
- 3.4 The function of carrying out an external review which is vested in the Chief Inspector is in consequence of this procedure and is separate from and without prejudice to the statutory function of the Chief Inspector as set out in Section 13 of the Education Act 1998.
- 3.5 Where the Chief Inspector agrees to the request he/she may assign such and so many personnel to conduct the review as appears to him/her to be necessary. In assigning a person or persons to the conduct of this task the Chief Inspector will have regard to the requirement that any individual/s so assigned have a competence which is relevant to the review.
- 3.6 The review may involve a series of visits to the teaching and learning situation and will normally be carried out by a member/members of the Inspectorate. The person/persons assigned by the Chief Inspector will have whatever access to the teaching and learning situation as is necessary by them in order to provide a professional view on the competence of the Principal. There may be instances, having regard to the nature of a particular case where the member/members of

the Inspectorate may be accompanied by a person with particular expertise relevant to the issues of concern raised. In all instances, the review process will be led by a member of the Inspectorate.

3.7 The Principal, who is the subject of an external review, shall co-operate in full with the review process and any failure to so co-operate will, in itself, be a disciplinary matter. Any such lack of co-operation may also be taken into account when those conducting the review, on behalf of the Chief Inspector are formulating their conclusions.

3.8 The person/persons assigned by the Chief Inspector will present a report to the Chief Inspector who, in turn, will make this report available to the CE and to the Principal. The report will set out the conclusions reached in relation to the concerns raised.

3.9 The CE will provide the Principal with an opportunity to make a written response to the Chief Inspector's report within 15 school days of receipt of the report by the Principal.

3.10 The CE will consider the report of the Chief Inspector and the written response from the Principal within 10 school days of receipt of the written response from the Principal. The CE may decide:

- that no further action is warranted
- to proceed to a disciplinary hearing

Where it is decided that no action is warranted the Principal will be so informed in writing within five school days.

**The reference to the Chief Inspector includes members of the Inspectorate to whom this function is delegated by the Chief Inspector.*

Stage 4

Hearing

In accordance with the provisions of the Education and Training Boards Act, 2013, employment matters including the suspension and dismissal of staff are executive functions. Consequently, the following procedures will apply:

- 4.1 The Principal will be provided with an opportunity to attend at a meeting with the CE accompanied by his/her representative, normally a trade union representative/s or a colleague/s, subject to an overall maximum of two. The Directors previously involved in the process will also attend the meeting.
- 4.2 The Principal will be given at least 7 school days' notice of the meeting. The notice should state the purpose of the hearing and the fact that disciplinary action may be considered.
- 4.3 At the meeting the Principal will be given an opportunity to make his/her case in full and to challenge any evidence that is being relied upon for a decision.
- 4.4 Following the hearing, the CE shall make his/her judgement on the matter. In formulating his/her judgement, the CE will take account of the conclusions set out in the report of the Chief Inspector, any other evidence and the Principal's representations (if any) thereon.
- 4.5 Following the hearing, the CE will notify the Principal of his/her decision and any intended disciplinary action, if that be the outcome of his/her deliberations.
- 4.6 If it is decided to take disciplinary action, the CE may avail of any of the following range of sanctions:
- Final written censure
 - Deferral of an increment
 - Withdrawal of an increment or increments
 - Demotion (loss of Principal's allowance)
 - Suspension (for a limited period and/or specific purpose) with pay □
Suspension (for a limited period and/or specific purpose) without pay
 - Dismissal.

The CE will act reasonably in all cases when deciding on the appropriate disciplinary action. The nature of the disciplinary action should be proportionate to the nature of the issue of professional competence.

Where disciplinary action short of dismissal is proposed, the case will be reviewed by the CE within a specified time period to consider whether further disciplinary action, if any, is required.

Stage 5

Appeal

- 5.1 It will be open to the Principal to appeal against the proposed action of the CE. Such an appeal will be heard by an independent appeal panel appointed by the CE.

5.2 The procedures for appealing to the independent appeal panel are as set out in Appendix A.

Notification to Department of Education and Skills and the Teaching Council

The CE will inform the Department of Education and Skills of the nature of the disciplinary action and will comply with any requirements of the Teaching Council in accordance with the provisions of Section 37 of the Teaching Council Act 2001.

Procedure for Principals of Community National Schools relating to work and conduct issues in their role as Principal

Preamble

This disciplinary procedure for Principals employed in Community National Schools was developed and agreed following discussions between the Department of Education and Skills, ETBI and INTO. It takes account of employment legislation and the Workplace Relation Commission's Code of Practice on Disciplinary Procedures. This disciplinary procedure supersedes all existing local and national disciplinary procedures in respect of Principals of Community National Schools. Principals and management will be made aware of and be made fully conversant with this procedure and adhere to its terms.

Introduction

As is the norm with any profession it is a matter for the individual Principal, in the first instance, to maintain appropriate standards of work and conduct and to personally address such issues if and when they arise. Work in this context involves all aspects of the role of Principal (other than as teacher) as set out in the Education Act 1998 as amended. Furthermore, it is a Principal's responsibility and obligation to ensure that he or she avails fully of all opportunities of assistance towards remediation of such issues.

In that context, it is fully accepted that a significant majority of Principals discharge their duties in a competent and efficient way and provide a service in line with the best traditions of school leadership. Accordingly, any process geared to address matters of work and conduct is aimed at a minority of individuals within the profession. It is also the case that any such process must recognise the reality that such matters are often of a transient nature and may have their origin in issues of a personal or professional nature which are of relatively short time duration. Isolated issues or omissions of a minor nature will, where possible, be dealt with informally.

It follows that the approach to dealing with matters of work and conduct should involve a number of stages moving from informal stages to formal stages which may at the end of the process have recourse to disciplinary action (up to and including dismissal). Although disciplinary action will normally follow the progressive stages the procedure may be commenced by the school at any stage of the process if the alleged misconduct warrants such an approach.

Scope

The scope of these procedures includes all aspects of the role of Principal as set out in the Education Act 1998 (as amended by the Education Act 2012), the Education and Training Boards Act 2013 and other relevant Acts of the Oireachtas. The Education Act 1998 as amended provides, inter alia, that a Principal shall;

- have responsibility for the instruction provided to students in the school and shall contribute, generally, to the education and personal development of students in that school,
- encourage and foster learning in students, regularly evaluate students and periodically report the results of the evaluation to the students and their parents,
- promote co-operation between the school and the community which it serves, and subject to the terms of any applicable collective agreement and their contract of employment, carry out those duties that are assigned to him or her by the board of management,
- be responsible for the day-to-day management of the school, including guidance and direction of the teachers and other staff of the school, and be accountable for that management,
- provide leadership to the teachers and other staff and the students of the school,
- be responsible, together with the board, parents of students and the teachers, for the creation in the school of an environment which is supportive of learning among the students and which promotes the professional development of the teachers,
- under the direction of the board and, in consultation with the teachers, the parents and, to the extent appropriate to their age and experience, the students, set objectives for the school and monitor the achievement of those objectives, and
- encourage the involvement of parents of students in the school in the education of those students and in the achievement of the objectives of the school.

Issues of professional competence as a teacher are outside the scope of this strand of the procedures and should be addressed through the *Procedures for Principals of Community National Schools relating to professional competence issues in their role as teacher*.

Allegations in respect of child protection, as defined in the Child Protection Procedures for Primary and Post-Primary Schools 2017 and the relevant active Circular, are dealt with in the first instance under those procedures.

There may also be instances where concerns are raised regarding a Principal's work or conduct through parental complaints. In such cases the concerns will be addressed in the first instance in accordance with agreed complaint procedures.

The CE/nominee will consider the nature of the complaint before determining whether the issue falls to be considered under the procedures relating to work or conduct. If the procedures relating to work or conduct are subsequently invoked, the parent who made the complaint will be so advised and informed of the final outcome of the process.

Informal Stage

It is intended that problems relating to work and conduct are resolved, where possible, through informal means.

To this end, the Director of Schools will discuss any unsatisfactory conduct with the Principal concerned and inform him/her of the required improvements. The Principal will be given an opportunity to offer explanation and comment. Where an improvement might be effected without recourse to disciplinary action, guidance will be provided as appropriate and due attention will be given to whether the shortcoming is due to personal, health or domestic circumstances. The Director of Schools will advise the Principal of available internal and/or external supports and endeavour to assist the Principal in accessing those supports. These may include the Employee Assistance Service, the Professional Development Services for Teachers (PDST), and /or other external agencies that are relevant and/or appropriate in the circumstances having regard to the nature of the particular issues.

The Principal will also be informed that, unless the necessary improvement is made, the matter may proceed to the formal disciplinary procedure.

Where a Principal's work or conduct does not meet the required standards, despite informal intervention as set out above, the matter will be dealt with under the following disciplinary procedure.

Stage 1

Verbal Warning

A formal disciplinary meeting with the Principal will be convened by the Director of Schools. The Principal will be given at least five school days' written notice of the meeting. The notice should state the purpose of the meeting and the specific nature of the complaint together with any supporting documentation. The Principal concerned may be accompanied at any such meeting by a representative, normally his/her trade union representative or a work colleague.

At the meeting, the Principal will be given an opportunity to respond and state his/her case fully and to challenge any evidence that is being relied upon for a decision. Having considered the response, the Director of Schools will decide on the appropriate action to be taken. Where it is decided that no action is warranted, the Principal will be so informed in writing within five school days. Where it is decided that disciplinary action at this stage is warranted the Director of Schools will inform the Principal that he/she is being given a verbal warning. Where a verbal warning is given, it should state clearly the improvement required and the timescale for improvement. The warning should inform the Principal that further disciplinary action may be considered if there is no sustained satisfactory improvement. The Principal will be advised of his/her right to appeal against the disciplinary action being taken and of the appeal process.

A copy of the verbal warning will be retained on the personnel file by the Director of Schools and a copy will be given to the Principal. The verbal warning will be active for a period of 6 months and, subject to satisfactory service, will cease to have effect following the expiry of the 6 months' period. The record will be removed from the file after the six months' period subject to satisfactory improvement during the period.

There may however be occasions where an employee's work or conduct is satisfactory throughout the period the warning is in force only to lapse very soon thereafter. Where such a pattern emerges, and there is evidence of an undermining of the disciplinary process, the employee's previous conduct and pattern of behaviour may be considered as a whole in a future disciplinary procedure.

Stage 2

Written Warning

If, having received a verbal warning, the Principal's conduct is perceived by the Director of Schools to be less than satisfactory in relation to that required at Stage 1, a meeting will be arranged between the Principal, the Director of Schools and an ETB staff member delegated by the CE (e.g. HR Manager, another Director etc.).

The Principal will be given at least seven school days' written notice of the meeting. The notice should state the purpose of the meeting and the specific nature of the complaint together with any supporting documentation. The Principal concerned may be accompanied at any such meeting by a representative, normally his/her trade union representative/s or a colleague/s subject to an overall maximum of two.

At the meeting, the Principal should be given a clear statement of the areas/s where his or her conduct is perceived as unsatisfactory. The Principal will be given an opportunity to respond and state his/her case fully and to challenge any evidence that is being relied upon for a decision. Having considered the response, the Director of Schools and the ETB staff member delegated by the CE will decide on the appropriate action to be taken. Where it is decided that no action is warranted the Principal will be so informed in writing within five school days. Where it is decided that disciplinary action at this stage is warranted the Principal will be informed that he/she is being given a written warning. Where a written warning is given, it should state clearly the improvement required and the timescale for improvement. The written warning should inform the Principal that

further disciplinary action may be considered if there is no sustained satisfactory improvement. The Principal will be advised of his/her right to appeal against the disciplinary action being taken and of the appeal process.

A copy of the written warning will be retained on the personnel file and a copy will be given to the Principal. The written warning will be active for a period not exceeding 9 months and, subject to satisfactory service, will cease to have effect following the expiry of the 9-month period. The record will be removed from the file after the nine months' period subject to satisfactory improvement during the period.

There may however be occasions where an employee's work or conduct is satisfactory throughout the period the warning is in force only to lapse very soon thereafter. Where such a pattern emerges and there is evidence of an undermining of the disciplinary process, the employee's previous conduct and pattern of behaviour may be considered as a whole in a future disciplinary procedure.

Stage 3

Final Written Warning

If having received a written warning, the Director of Schools and the ETB staff member delegated by the CE perceive that the Principal's conduct remains less than satisfactory or there is an occurrence of a more serious offence, a meeting will be arranged between the Principal and the Director of Schools accompanied by the ETB staff member delegated by the CE. The Principal should be given at least seven school days' written notice of the meeting. The notice should state the purpose of the meeting and the specific nature of the complaint together with any supporting documentation. The Principal concerned may be accompanied at any such meeting by a representative, normally his/her trade union representative/s or a colleague/s subject to a maximum of two.

At the meeting the Principal should be given a clear statement of the areas/s where his or her conduct is perceived as unsatisfactory. The Principal will be given an opportunity to respond and state his/her case fully and to challenge any evidence that is being relied upon for a decision. Having considered the response, Director of Schools and the ETB staff member delegated by the CE will decide on the appropriate action to be taken. Where it is decided that no action is warranted, the Principal will be so informed in writing within five school days. Where it is decided that disciplinary action at this stage is warranted the Principal will be informed that he/she is being given a final written warning. Where a final written warning is given, it should state clearly the improvement required and the timescale for improvement. The final written warning should inform the Principal that further disciplinary action may be considered if there is no sustained satisfactory improvement. The Principal will be advised of his/her right to appeal against the disciplinary action being taken and of the appeal process.

A copy of the final written warning will be retained on the personnel file and a copy will be given to the Principal. The final written warning will be active for a period not exceeding 12 months and, subject to satisfactory service, will cease to have effect following the expiry of the 12-month period. The record will be removed from the file after the twelve-month period subject to satisfactory improvement during the period.

Stage 4

If it is perceived that the poor work or conduct has continued after the final written warning has issued or the work or conduct issue is of a serious nature, a comprehensive report on the facts of the case will be prepared by the Director of Schools and forwarded to the CE. A copy will be given to the Principal.

In accordance with the provisions of the Education and Training Boards Act 2013, employment matters including the suspension and dismissal of staff are executive functions. Consequently, the following procedures will apply.

4.1 The Principal will be provided with an opportunity to attend at a meeting with the CE accompanied by a representative/s, normally his/her trade union representative/s or a colleague/s subject to an overall maximum of two. The Director of Schools and the ETB staff member delegated by the CE previously involved in the process will also attend the meeting.

The Principal will be given at least 7 school days' notice of the meeting. The notice should state the purpose of the hearing and that disciplinary action may be considered.

At the meeting, the Principal will be given an opportunity to make his/her case in full and to challenge any evidence that is being relied upon for a decision.

Following the hearing, the CE will make his/her judgement on the matter. In formulating his/her judgement, the CE will take account of the report from the Director of Schools and any other evidence and the Principal's representation (if any) thereon.

The CE shall notify the Principal of his/her decision and any intended disciplinary action, if that be the outcome of his/her deliberations. If it is decided to take disciplinary action, the CE may avail of any of the following range of sanctions.

- Final written censure
- Deferral of an increment
- Withdrawal of an increment or increments
- Demotion (loss of Principals' allowance)
- Other disciplinary action short of suspension or dismissal
- Suspension (for a limited period and/or specific purpose) with pay
- Suspension (for a limited period and/or specific purpose) without pay
- Dismissal

Where disciplinary action short of dismissal is proposed, the case will be reviewed by the CE within a specified time period to consider whether further disciplinary action, if any, is required.

The CE will act reasonably in all cases when deciding on the appropriate disciplinary action. The nature of the disciplinary action should be proportionate to the work or conduct issue that has resulted in the sanction being imposed.

Gross Misconduct

In the cases of serious misconduct at work or a threat to health and safety to children or other personnel in the school the stages outlined above do not normally apply and a Principal may be dismissed without recourse to the previous stages.

The following are some examples of gross misconduct offences for which any or each of stages 1 to 3 of the disciplinary procedure may not apply depending on the gravity of the alleged offence:

- Theft
- Deliberate damage to school property
- Fraud or deliberate falsification of documents
- Gross negligence or dereliction of duties
- Refusal to comply with legitimate instructions resulting in serious consequences
- Serious or persistent incapacity to perform duties due to being under the influence of alcohol, unprescribed drugs or misuse of prescribed medication
- Serious breach of health & safety rules
- Serious abuse/misuse of the schools property/equipment
- Serious breaches of confidentiality
- Serious bullying, sexual harassment or harassment against an employee, student or other members of the school community
- Violent/disruptive behaviour
- Downloading/disseminating pornographic material from the internet
- Circulation of offensive, obscene or indecent emails or text messages.

Note: the above list is not exhaustive.

For the purposes of this section gross misconduct may also relate to an act which took place or allegedly took place outside the school, where such act, or alleged act, gives rise to a serious concern on the part of the CE in relation to the health and safety of students and/or staff of the school.

If there is an allegation of serious misconduct, the Principal may be suspended on full pay pending an investigation and the conclusion of any appeal process.

In the course of investigation, the Principal concerned has the right to have the allegations brought to his/her attention and he/she has the right to respond to all allegations. If the investigation upholds a case of serious misconduct the normal consequence will be dismissal.

Stage 5

Appeal

It will be open to the Principal to appeal against the proposed disciplinary action.

In the case of sanctions being imposed at Stages 1, 2 and 3 the appeal will be to the CE or an ETB staff member delegated by the CE who has not had a previous involvement with the matter and who is of an equal or higher grade to the ETB staff member who imposed the sanction.

In the case of a sanction being imposed under stage 4 of the procedure an appeal will be to a disciplinary appeal panel appointed by the CE as set out in Appendix A.

The procedures for appealing are as set out in Appendix A.

Notification to Department of Education and Skills and the Teaching Council

The CE will inform the Department of Education and Skills of the nature of the disciplinary action and will comply with any requirements of the Teaching Council in accordance with the provisions of Section 37 of the Teaching Council Act 2001.

Appendix A

Principal Teachers' Disciplinary Appeal Panel

1. The CE shall appoint a Principal Teachers' Disciplinary Appeal Panel which shall comprise the following.
 - An independent Chairperson from a panel nominated by the Minister for Education and Skills.
 - A representative of the recognised management body.
 - A nominee of the relevant teacher union.
2. No member shall be appointed to the Panel to consider a case referred to the Panel who has had any prior interest in or dealings with that particular case.

Appeal Process

3. A Principal may seek a review of disciplinary proceedings by the Panel on one or more of the following grounds.
 - i. The provisions of the procedures were not adhered to.
 - ii. All the relevant facts were not ascertained.
 - iii. All the relevant facts were not considered or not considered in a reasonable manner.
 - iv. The Principal concerned was not afforded a reasonable opportunity to answer the allegation.
 - v. The Principal concerned could not be reasonably be expected to have understood that the behaviour alleged would attract disciplinary action.
 - vi. The sanction recommended is disproportionate to the underperformance or misconduct alleged.
4. A Principal, who has been notified that it has been decided to take disciplinary action against him or her, may, within 10 school days of receiving the notification of the decision, request in writing that the disciplinary proceedings be reviewed by the Panel.
5. If no such request is received from the Principal concerned within the period of ten school days, the CE may proceed to implement the disciplinary action proposed.
6. Where a Principal requests that disciplinary proceedings be reviewed by the Panel, the following submissions shall be made.

- i. A written statement by the Principal concerned of the grounds on which the review is being sought, to be furnished to the Panel and the employer within 10 school days of the submission of the request for an appeal referred to above
 - ii. A written counter statement by the employer to be submitted to the Panel and the Principal concerned within 10 school days of the receipt by the employer of the Principal's statement referred to above.
 - iii. Any other submission which the Panel may request from the Principal concerned or the CE, to be furnished in such form and within such time as the Panel may specify in its request.
- 7. The Panel may reject a request for a review of disciplinary proceedings where:
 - i. the Principal concerned fails to make a submission required under paragraph 6.i above within the prescribed time limit, or
 - ii. the Panel, having considered any submissions made under paragraph 6.i. above, is of the opinion that the case made by the Principal concerned is frivolous, vexatious, or without substance or foundation.
- 8. Where a request (for an appeal hearing) is rejected by the Panel, the employer may proceed in accordance with the terms of this procedure as though the request had not been made.
- 9. Where the Panel has decided to review the disciplinary procedures, having considered the submissions, it shall set a date for a hearing within 20 school days of receipt by the Panel of completed submissions from the Principal and the employer.
- 10. The Panel may, at its sole discretion, invite any person to give evidence orally or in writing. The Panel shall consider and decide on any request from a party to the procedure to give evidence orally or in writing.
- 11. The Principal making the appeal is entitled, if he or she wishes, to make oral submissions to the Panel either in person or through a representative, normally a serving teacher, a wholetime official of the union holding recognition for his or her grade or other such person as the Panel agrees may be present for that purpose.
- 12. Where the Panel meets for the purpose of taking oral evidence or hearing oral submissions the following are entitled to be present.
 - i The Principal concerned.
 - ii Any person in accordance with paragraph 11 above who is entitled to make submissions on behalf of the Principal concerned.
 - iii The CE of the ETB and such other person as may be nominated by the CE to attend.
 - iv Any other person whom the Panel agrees may be present.
- 13. Proceedings before the Panel shall be informal.
- 14. Having made such enquiries as it considers necessary and having considered any submissions made or evidence given, the Panel shall form an opinion as to

whether or not grounds for a review of the case have been established and shall issue its opinion within ten school days of the hearing to the CE, the Principal concerned and his/her representative.

15. Where that opinion is to the effect that such a case has been established by the Principal concerned, the Panel may, at its sole discretion, recommend to the CE that:
 - i. no further action should be taken in the matter, or ii the disciplinary action decided by the CE should be amended in a specified manner, or
 - iii the case should be re-considered by the CE to remedy a specified deficiency in the disciplinary procedures (in which event the provisions of this Code shall continue to apply).
16. Where that opinion is to the effect that such a case has not been established the CE will proceed with the disciplinary action.
17. A decision to take disciplinary action should be notified in writing to the Principal concerned and his/her representative. Where no further action is to be taken, the allegation will be deemed to have been withdrawn.
18. The final decision in respect of an appeal panel recommendation rests with the CE which shall set out in writing the basis for the decision.