

An Roinn Oideachais agus Scileanna  
Sráid Maoilbhríde  
Baile Átha Cliath 1



Department of Education and Skills  
Marlborough Street  
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AN ROINN | DEPARTMENT  
OIDEACHAIS | OF EDUCATION  
AGUS SCILEANNA | AND SKILLS

## **Circular 0072/2011**

**To: The Managerial Authorities and Special Needs Assistants of recognised  
Primary, Secondary, Community and Comprehensive Schools**

### **GRIEVANCE AND DISCIPLINARY PROCEDURES FOR SPECIAL NEEDS ASSISTANTS IN RECOGNISED PRIMARY AND POST-PRIMARY SCHOOLS**

The Minister for Education and Skills directs you to implement the attached grievance and disciplinary procedures for special needs assistants whose posts are funded by monies provided by the Oireachtas. The procedures are to be implemented by each employer with immediate effect and all special needs assistants must adhere to the terms of this circular.

The new procedures in relation to discipline will apply where a disciplinary procedure is invoked after the date of this circular regardless of when the issue which is the subject of the disciplinary procedures occurred. Where a disciplinary procedure has commenced prior to the date of the circular the disciplinary procedure already invoked shall continue to apply.

Please ensure that copies of this circular are provided to all members of the Board of Management and its contents are brought to the attention of all special needs assistants in your employment including those on leave of absence.

This circular can be accessed on the Department's website [www.education.ie](http://www.education.ie)

Philip Crosby  
Principal Officer  
External Staff Relations  
15 December 2011

## **GRIEVANCE AND DISCIPLINARY PROCEDURES RELATING TO SPECIAL NEEDS ASSISTANTS (SNAs)**

### **DISCIPLINARY PROCEDURES**

#### **INTRODUCTION:**

1. Procedures are necessary to ensure that discipline is maintained in schools and that disciplinary measures can be applied in a fair and consistent manner. Apart from considerations of equity and natural justice, the maintenance of a good industrial relations atmosphere requires that acceptable procedures be in place and be observed.
2. Such procedures serve a dual purpose in that they provide a framework, which enables management to maintain satisfactory standards, and SNAs to have access to procedures whereby alleged failures to comply with these standards may be fairly addressed.
3. 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 appeal mechanism is available.
4. Procedures should be reviewed and updated periodically so that they are consistent with changed circumstances, development in employment legislation and case law and good industrial relations practice generally.
5. The employer reserves the right to amend timescales by mutual written agreement between the parties.
6. The new procedures in relation to discipline will apply where a disciplinary procedure is invoked after the date of this circular regardless of when the issue which is the subject of the disciplinary procedures occurred. Where a disciplinary procedure has commenced prior to the date of the circular the disciplinary procedure already invoked shall continue to apply.

#### **GENERAL PRINCIPLES:**

7. The main purpose of this circular is to set out for the guidance of the boards of management and SNAs, the general principles which shall apply in the operation of disciplinary procedures.
8. The right to representation is recognised. This does not include the informal stage. For the purposes of these procedures, the reference to 'employee representative' shall be understood to mean a colleague of the SNAs choice (who consents to be present) who is serving in the same school or an authorised trade union representative but not any other person or body unconnected with the school.

9. It is essential that staff be managed appropriately, fairly, and consistently in all aspects of their work. Many problems relating to work, conduct, performance, attendance and/or other such issues can be dealt with before reaching the point at which formal disciplinary action is contemplated by management.
10. Where disciplinary action is warranted, management must ensure that SNAs, against whom disciplinary measures are proposed, are dealt with in a fair and equitable manner.
11. The following principles apply:  
**Natural Justice and Fair Procedures:**
  - details of any issues are put to the SNA concerned;
  - the SNA concerned is given the opportunity to respond fully to any such issues;
  - the SNA concerned is given the opportunity to avail of the right to be represented during the procedure;
  - the SNA concerned has the right to a fair and impartial determination of the issues concerned, taking into account any representations made by, or on behalf of, the SNA and any other relevant or appropriate evidence, factors, or circumstances.
12. The employer expects and demands adequate standards of work, conduct, performance and attendance from SNAs. Every SNA is personally accountable for his/her own work, conduct, performance and attendance. Early intervention at the appropriate level to address perceived inappropriate behaviour is desirable for all parties.
13. Nothing in this procedure however, shall prevent the employer from holding a disciplinary meeting and imposing a disciplinary sanction(s) at a more advanced stage of this procedure appropriate to the nature of the alleged offence. Furthermore, the employer reserves the right to discipline any SNA up to and including immediate dismissal in the case of serious misconduct.
14. Whilst it is anticipated that SNAs will co-operate fully with this disciplinary procedure, any failure to co-operate will not prevent the processing of an issue under this procedure to conclusion. An SNA who fails to co-operate in a disciplinary procedure will also be in breach of his or her terms of employment and will be subject to disciplinary action.
15. The provisions of this circular apply to all SNAs other than SNAs serving in a probationary capacity.

## **STAGES:**

### **STAGE 1 - INFORMAL STAGE:**

16. If not already provided the SNA concerned should be given a copy of the Disciplinary Procedures and be advised to familiarise him/herself with the various stages of the procedures that may be invoked and the range of sanctions available.
17. The objective of this stage is to inform the SNA of any issue relating to work, conduct, performance, attendance or other such issue at the earliest opportunity and give him/her the opportunity to offer an explanation.
18. The school principal will discuss with the SNA the nature of the issue and whether there is substance to the issue. This discussion may cover if appropriate:
  - Why work, conduct, performance, attendance or other such issue appears to be unsatisfactory;
  - Possible methods of correction and an indication of an acceptable timescale for such correction;
  - The seriousness of the issue and possible consequences if there is no improvement or if repeated;
  - The school principal will advise that the situation will be monitored and will advise that a review period of three months will apply excluding holiday periods and authorised leave.
19. Details of this meeting and any follow-up action shall be documented by the school principal and communicated in writing to the SNA.
20. If, in the opinion of the school principal, following the conclusion of the three month review period, there has been a sustained improvement, then the school principal will deem the issue concluded and will inform the SNA accordingly, in writing.
21. There may be occasions where an SNAs work, conduct, performance, attendance or other such issue is satisfactory throughout the review period only to lapse soon thereafter. Where such a pattern emerges the SNAs previous conduct and pattern of behaviour may be considered as a whole in a future disciplinary procedure.
22. Where the SNA has failed to engage positively with the informal process and/or where an SNAs work, conduct, performance, attendance or other such issue does not subsequently meet the required standards, the issue will be dealt with under the following disciplinary procedure set out below:-

## **STAGE 2 - FORMAL DISCIPLINARY PROCEDURE**

23. If not already provided the SNA concerned should be given a copy of the Disciplinary Procedures and be advised to familiarise him/herself with the various stages of the procedures that may be invoked and the range of sanctions available.
24. **Failure by a Special Needs Assistant to Attend a Disciplinary Meeting:** Whilst it is anticipated that the SNA concerned will co-operate fully with this disciplinary procedure, any failure to co-operate will not prevent the processing of an issue under this procedure to conclusion.

### **VERBAL WARNING:**

25. A formal disciplinary meeting with the SNA should be conducted by the school principal. The SNA should be given at least three working days notice of the meeting. The notice should state the purpose of the meeting and a precise statement of the area(s) where his or her work, conduct, performance, attendance or other such issue is unsatisfactory. Copies of all relevant documentation should be furnished to the SNA in advance of this meeting. The SNA concerned may be accompanied at any such meeting by an employee representative. The school principal may also be accompanied by one person at any such meeting.
26. The meeting will deal with the following:
- Why work/conduct/performance/attendance or other such issue appears to be unsatisfactory;
  - The SNA will be given an opportunity to respond, and will also have the right to place on the record any comments and/or observations he or she may wish to make in relation to the issue;
  - Possible methods of correction and an indication of an acceptable timescale for such correction;
  - Appropriate support which might be provided by the employer;
  - The seriousness of the issue and possible consequences if there is no improvement or if repeated;
  - The school principal will advise that the situation will be monitored and will advise that a review period of six months will apply excluding holiday periods and authorised leave.
27. A formal record of the meeting will be prepared by the school principal. A copy should be given to the SNA concerned within five working days of the meeting. The SNA concerned will have the right to place on record any observations he or she may wish in regard to the formal record of the meeting, within five working days of receipt of the formal record of the meeting.
28. Having considered all matters the school principal will decide on whether or not a verbal warning is warranted. Where a verbal warning is given, at this meeting or subsequent to the meeting, then the SNA should be given a record of this verbal warning, in writing, within five working days of the meeting. This verbal warning should state the improvement required, the timescale for

improvement and the consequences of failure to improve. The verbal warning should inform the SNA that a written warning may be considered if there is no sustained, satisfactory improvement and that failure to improve and sustain improvement will result in the progression of the disciplinary procedure. A copy of the record of this verbal warning will be held by the school principal or the board of management of the school.

29. **This verbal warning will be recorded in writing on the SNAs personnel file and will remain in effect for a period of six months excluding holiday periods and authorised leave. Following a further period of six months the record of this warning will be removed from the SNAs personnel file provided the SNA's work, conduct, performance, attendance or other such issue is satisfactory throughout this period and/or provided a more serious issue does not occur.**
30. There may be occasions where an SNAs work, conduct, performance, attendance or other such issue is satisfactory throughout the period the warning is in force only to lapse soon thereafter. Where such a pattern emerges the SNAs previous conduct and pattern of behaviour may be considered as a whole in a future disciplinary procedure.
31. If in the opinion of the school principal that following the holding of the disciplinary meeting there is no basis for the issue of a verbal warning, then he/she may decide that no further action should be taken in relation to the issue. The SNA should be informed in writing, within five working days of the meeting, of any such decision taken in this regard.

**WRITTEN WARNING:**

32. If having received a verbal warning an SNA fails to make or sustain the necessary improvement within the agreed review period, or in the event that a more serious issue occurs, a formal disciplinary meeting with the SNA should be conducted by the school principal and a nominee of the board of management of the school. The SNA should be given at least three working days notice of any meeting. The notice should state the purpose of the meeting and a precise statement of the area(s) where his or her work, conduct, performance, attendance or other such issue is unsatisfactory. Copies of all relevant documentation should be furnished to the SNA in advance of this meeting. The SNA concerned may be accompanied at any such meeting by an employee representative.
33. The meeting will deal with the following:
- Why work/conduct/performance/attendance or other such issue appears to be unsatisfactory;
  - The SNA will be given an opportunity to respond, and will also have the right to place on the record any comments and/or observations he or she may wish to make in relation to the issue;
  - Possible methods of correction and an indication of an acceptable timescale for such correction;
  - Appropriate support which might be provided by the employer;
  - The seriousness of the issue and possible consequences if there is no improvement or if repeated;
  - The school principal will advise that the situation will be monitored and will advise that a review period of six months will apply excluding holiday periods and authorised leave.
34. A formal record of the meeting will be prepared by the school principal or the nominee of the board of management. A copy should be given to the SNA concerned within five working days of the meeting. The SNA concerned will have the right to place on record any observations he or she may wish in regard to the formal record of the meeting, within five working days of receipt of the formal record of the meeting.
35. Having considered all matters the school principal and the nominee of the board of management will decide on whether or not a written warning is warranted. Where a written warning is given, at this meeting or subsequent to the meeting, then the SNA should be given this written warning, in writing, within five working days of the meeting. This written warning should state the improvement required, the timescale for improvement and the consequences of failure to improve. The written warning should inform the SNA that a final written warning may be considered if there is no sustained, satisfactory improvement and that failure to improve will result in the progression of the disciplinary procedure. A copy of this written warning will be held by the school principal or the board of management of the school.
36. **This written warning will be recorded in writing on the SNAs personnel file and will remain in effect for a period of six months excluding holiday periods and authorised leave. Following a further period of six months**

**the record of this warning will be removed from the SNAs personnel file provided the SNA's work, conduct, performance, attendance or other such issue is satisfactory throughout this period and/or provided a more serious issue does not occur.**

37. There may be occasions where an SNAs work, conduct, performance, attendance or other such issue is satisfactory throughout the period the warning is in force only to lapse soon thereafter. Where such a pattern emerges the SNAs previous conduct and pattern of behaviour may be considered as a whole in a future disciplinary procedure.
38. If in the opinion of the school principal and the nominee of the board of management that following the holding of the disciplinary meeting there is no basis for the issue of a written warning, then they may decide that no further action should be taken in relation to the issue or that the warnings previously issued should be marked expired. The SNA should be informed in writing, within five working days of the meeting, of any such decision taken in this regard.



**FINAL WRITTEN WARNING:**

39. In the event that the SNA fails to make or sustain the required improvement within the agreed review period or in the event that a more serious issue occurs a formal disciplinary meeting with the SNA will be conducted. The disciplinary meeting with the SNA will be conducted by the school principal and a nominee of the board of management. The SNA should be given at least three working days notice of any meeting. The notice should state the purpose of the meeting and a precise statement of the area(s) where his or her work, conduct, performance, attendance or other such issue is unsatisfactory. Copies of all relevant documentation should be furnished to the SNA in advance of this meeting. The SNA concerned may be accompanied at any such meeting by an employee representative.
40. The meeting will deal with the following:
- Why work/conduct/performance/attendance or other such issue appears to be unsatisfactory;
  - The gravity of the situation;
  - The SNA will be given an opportunity to respond, and will also have the right to place on the record any comments and/or observations he or she may wish to make in relation to the issue;
  - Possible methods of correction and an indication of an acceptable timescale for such correction;
  - Appropriate support which might be provided by the employer;
  - The SNA will be made aware that if there is no acceptable improvement within this review period, it may lead to dismissal or some other appropriate disciplinary sanction (e.g. Administrative leave or withholding/deferral of increments) will be taken;
  - The school principal will advise that the situation will be monitored and will advise that a review period of twelve months will apply excluding holiday periods and authorised leave.
41. A formal record of the meeting will be prepared by the school principal or the nominee of the board of management. A copy should be given to the SNA concerned within five working days of the meeting. The SNA concerned will have the right to place on record any observations he or she may wish in regard to the formal record of the meeting, within five working days of receipt of the formal record of the meeting.
42. Having considered all matters the school principal and the nominee of the board of management will decide on whether or not a final written warning is warranted. Where a final written warning is given, at this meeting or subsequent to the meeting, then the SNA should be given this final written warning, in writing, within five working days of the meeting. This final written warning should state the improvement required, the timescale for improvement and the consequences of failure to improve. This final written warning should inform the SNA that failure to modify his/her work, conduct, performance, attendance or other such issue will lead to further disciplinary action up to and including dismissal in accordance with the procedure set out herein. A copy of this final written warning will be held by the school principal or the board of management of the school.

43. **This final written warning will be recorded in writing on the SNAs personnel file and will remain in effect for a period of twelve month excluding holiday periods and authorised leave. Following a further period of twelve months the record of this warning will be removed from the SNAs personnel file provided the SNA's work, conduct, performance, attendance or other such issue is satisfactory throughout this period and/or provided a more serious issue does not occur.**
44. There may be occasions where an SNAs work, conduct, performance, attendance or other such issue is satisfactory throughout the period the warning is in force only to lapse soon thereafter. Where such a pattern emerges the SNAs previous conduct and pattern of behaviour may be considered as a whole in a future disciplinary procedure.
45. If in the opinion of the school principal and the nominee of the board of management that following the holding of the disciplinary meeting there is no basis for the issue of a final written warning, then they may decide that no further action should be taken in relation to the issue or that the warnings previously issued should be marked expired. The SNA should be informed in writing, within five working days of the meeting, of any such decision taken in this regard.
46. Notwithstanding the above procedure, the employer reserves the right to discipline any SNA up to and including immediate dismissal in the case of serious misconduct.

### **STAGE 3 – ADMINISTRATIVE LEAVE, DISMISSAL OR OTHER APPROPRIATE DISCIPLINARY MEASURE(S)**

47. If not already provided the SNA concerned should be given a copy of the Disciplinary Procedures and be advised to familiarise him/herself with the various stages of the procedures that may be invoked and the range of sanctions available.
48. **Failure by a Special Needs Assistant to Attend a Disciplinary Meeting:** Whilst it is anticipated that the SNA concerned will co-operate fully with this disciplinary procedure, any failure to co-operate will not prevent the processing of an issue under this procedure to conclusion.
49. If the work, conduct, performance, attendance or other such issue of the SNA does not improve to a satisfactory level during the agreed review period set out in the final written warning, or in the event that a more serious issue occurs he/she will be requested to attend a disciplinary meeting with the board of management. The SNA should be given at least five working days notice of any meeting. The notice should state the purpose of the meeting and a precise statement of the area(s) where his or her work, conduct, performance, attendance or other such issue is unsatisfactory. Copies of all relevant documentation should be furnished to the SNA in advance of this meeting.
50. At this disciplinary meeting the SNA may be assisted by an employee representative.
51. At this disciplinary meeting the SNA will be given an opportunity to respond to the issue and explain why he/she considers the board of management should not impose a disciplinary sanction or dismiss him/her. The SNA will also have the right to place on the record any comments and/or observations he or she may wish to make in relation to the issue.
52. A formal record of the meeting will be prepared by the board of management. A copy should be given to the SNA concerned within five working days of the meeting. The SNA concerned will have the right to place on record any observations he or she may wish in regard to the formal record of the meeting, within five working days of receipt of the formal record of the meeting.
53. The board of management having considered the matter at the Disciplinary meeting will then decide whether or not a disciplinary sanction is warranted which may include the following:-
  - Withholding of an increment;
  - Deferral of an increment;
  - Administrative Leave without pay;
  - Dismissal.
54. Where it is decided to impose a disciplinary sanction, at this disciplinary meeting or subsequent to the meeting, then the SNA will be given a statement in writing detailing the disciplinary sanction within five working days of the meeting. This statement should detail fully the disciplinary sanction being

imposed, and the reason for the imposition of the disciplinary sanction. A copy of this statement will be held by the board of management of the school.

55. Where a disciplinary sanction short of dismissal is imposed this statement should state that the board of management will review the matter within a specified time period to consider whether further disciplinary action is required. Accordingly, this statement should detail the improvement required, the timescale for improvement and the consequences of failure to improve. This statement should inform the SNA that failure to modify his/her work, conduct, performance, attendance or other such issue will lead to further disciplinary action up to and including dismissal in accordance with the procedure set out herein. A copy of this statement will be held by the board of management of the school.
56. **This disciplinary sanction will be recorded in writing on the SNAs personnel file and will remain there permanently.**
57. If in the opinion of the board of management that following the holding of the disciplinary meeting there is no basis for the issuance of a disciplinary sanction, then they may decide that no further action should be taken in relation to the issue or that the warnings previously issued should be marked expired. The SNA should be informed in writing, within five working days of the meeting, of any such decision taken in this regard.
58. No disciplinary action shall be confirmed pending the outcome of any appeal in accordance with the appeal procedures set out in this document except for alleged serious misconduct as outlined in the section relating to serious misconduct.
59. If no appeal is received from the SNA concerned within the period of seven working days from the notification of the proposed disciplinary sanction or dismissal then the appropriate authority may proceed to implement the disciplinary sanction proposed.
60. **Where one of the following disciplinary sanctions is imposed on a SNA, the Department of Education and Skills must be notified within 15 working days of the expiry of the period during which an SNA can appeal against the proposed disciplinary sanction. This notification must contain full details of the disciplinary sanction being imposed, and the reason for the imposition of the disciplinary sanction. A copy of this notification will be held by the Department of Education and Skills permanently. Such notification should be sent to the SNA Payroll Division, Department of Education and Skills, Cornamaddy, Athlone, Co. Westmeath.**
  - **Withholding of an increment;**
  - **Deferral of an increment;**
  - **Administrative Leave without pay;**
  - **Dismissal.**

## **SERIOUS MISCONDUCT:**

61. In cases of alleged serious misconduct at work or a threat to health and safety to pupils or other personnel in the school, Stages 1 and 2 of the disciplinary procedure outlined above do not normally apply, and an employer may proceed directly to Stage 3 of the disciplinary procedure. An SNA may be dismissed without recourse to stages 1 and 2 of the disciplinary procedure.

The following are some examples of serious misconduct offences (not an exhaustive list) for which any or each of stages 1 and 2 of the disciplinary procedure may not apply depending on the gravity of the alleged offence:

- Any offence that breaches the terms of the Child Protection Procedures for schools;
  - Incapacity through alcohol or being under the influence of illegal drugs or misuse of prescribed medication. Possession and/or sale of illegal drugs;
  - Theft, fraud, embezzlement, misappropriation of funds, bribery or corruption;
  - Disruptive and/or violent behaviour;
  - Assault of employees or other third parties during the course of employment and/or other violence in the workplace;
  - Discrimination, bullying, serious inappropriate behaviour, harassment, sexual harassment against a staff member, pupil/learner or parent/guardian;
  - Deliberate falsification of records, violation or misuse of confidential information or organisational property, material or equipment;
  - Unauthorised entry/access to computer and/or other records/files;
  - Serious breaches of e-mail, internet, IT or phone policies;
  - Manual or automated posting or circulating of offensive, obscene or indecent messages whether by e-mail, text, social networking sites or any other form of communication device;
  - Downloading/disseminating pornographic material;
  - Serious breaches of health and safety rules;
  - Negligence or dereliction of duties which causes, or has the potential to cause, unacceptable loss, damage or injury;
  - Persistent unauthorised absences;
  - Misrepresentation or misuse of authority;
  - Improper influence to make personal/family gain or acceptance of improper gifts/hospitality e.g. from commercial organisations;
  - Refusal to comply with legitimate instructions resulting in serious consequences;
  - Any serious breach of trust by the SNA.
62. For the purposes of this section serious 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 board of management in relation to the health and safety of pupils and/or staff of the school.

63. In all cases of alleged serious misconduct, a full investigation will be carried out by the school principal to establish the facts. The following principles apply:
- The principles of natural justice and fair procedures;
  - The SNA may be placed on administrative leave with pay pending the outcome of such an investigation. Administrative Leave with pay is a precautionary measure and not a disciplinary sanction;
  - On completion of the investigation, the school principal will submit a written report of the investigation to the board of management.
64. It is envisaged that administrative leave with pay would normally be limited to the existence of child protection issues. In such circumstances the appointment of a substitute is subject to approval from the Department of Education and Skills and this approval is contingent on all necessary procedures being conducted in a timely manner. In the event of administrative leave with pay the Department of Education and Skills must be notified within 15 working days of administrative leave with pay occurring. This notification must contain full details of the reason for the administrative leave with pay occurring. A copy of this notification will be held by the Department of Education and Skills. Such notification should be sent to the SNA Payroll Division, Department of Education and Skills, Cornamaddy, Athlone, Co. Westmeath.
65. Following receipt of the written report the board of management will decide whether or not to hold a disciplinary meeting in line with section 3 of these disciplinary procedures.
66. The board of management having considered the matter at the Disciplinary meeting in line with section 3 of these disciplinary procedures will then decide whether or not a disciplinary sanction is warranted which may include the following:-
- Withholding of an increment;
  - Deferral of an increment;
  - Administrative Leave without pay;
  - Dismissal.
67. In the event of the termination of the SNAs employment by reason of serious misconduct, the SNA will not be entitled to receive notice or payment in lieu thereof.
- 68. Where one of the following disciplinary sanctions is imposed on a SNA, the Department of Education and Skills must be notified within 15 working days of the expiry of the period during which an SNA can appeal against the proposed disciplinary sanction. This notification must contain full details of the disciplinary sanction being imposed, and the reason for the imposition of the disciplinary sanction. A copy of this notification will be held by the Department of Education and Skills permanently. Such notification should be sent to the SNA Payroll Division, Department of Education and Skills, Cornamaddy, Athlone, Co. Westmeath.**

- **Withholding of an increment;**
- **Deferral of an increment;**
- **Administrative Leave without pay;**
- **Dismissal.**

### **APPEALS PROCEDURE:**

69. It will be open to the SNA to appeal against the proposed disciplinary sanction. The appeal by the SNA must be lodged with the chairperson of the board of management within seven working days of the notification of the proposed disciplinary sanction or dismissal. The appeal must be in writing and state the ground(s) on which the appeal is being made.
70. If an appeal is lodged by an SNA then it must normally be heard within 30 working days of the appeal being lodged with the chair of the board of management.
71. If no appeal is received from the SNA concerned within the period of seven working days from the notification of the proposed disciplinary sanction or dismissal then the appropriate authority may proceed to implement the disciplinary sanction proposed.
72. An appeal hearing is not intended to repeat the investigation/disciplinary process but to address specific issues which the SNA feels have received insufficient consideration, such as:
  - Breach of procedure which results in a fundamental flaw in the outcome;
  - The SNA concerned was not afforded a reasonable opportunity to respond to the issue;
  - The SNA concerned could not reasonably be expected to have understood that the alleged behaviour would attract disciplinary action;
  - Severity of the sanction imposed.
73. In the case of a proposed sanction under Stage 2 of these disciplinary procedures the appeal will be heard by the board of management. The format for this appeal will entail the attendance of the SNA and his/her employee representative and the school principal and the nominee of the board of management (where applicable) before the board of management of the school. The board of management of the school will be authorised to adjudicate and to issue a decision on the appeal.
74. In the case of a proposed dismissal or a proposed disciplinary sanction being imposed in line with stage 3 of these disciplinary procedures the appeal will be to an independent person(s) nominated by the board of management of the school who has not previously been involved in the disciplinary procedure.
75. The format for this appeal will entail the attendance of the SNA and his/her employee representative and a representative(s) of the board of management before the independent person(s) nominated by the board of management of the school. This independent person(s) nominated by the board of management for the purpose of the appeal will be authorised to make a recommendation regarding the appeal to the board of management. The final decision in respect of the appeal rests with the board of management which shall issue a decision on the appeal and the basis for this decision, in writing within 10 working days of receipt of the recommendation from the independent person nominated by the board of management.



76. Where a decision to dismiss an SNA is appealed and the original decision is upheld, the date of termination of employment will be the original date of dismissal and not the date of the outcome of the appeal.
77. Where an appeal against a dismissal fails and the SNA feels that he/she has been unfairly dismissed they may refer a case under the Unfair Dismissals Acts, 1977-2007 subject to the time-limits contained in that legislation.

**NOTICE OF TERMINATION:**

78. Except in circumstances justifying immediate termination of an SNAs employment by an employer, the SNA will be entitled to receive the appropriate period of notice set down in the Minimum Notice and Terms of Employment Act, 1973 to 2001.

## **GRIEVANCE PROCEDURES**

### **INTRODUCTION:**

1. It is the policy of the school to:
  - Encourage staff at all levels to develop channels of communication and working relationships that will prevent or minimise the incidents of grievances;
  - Endeavour to create a climate where the informal resolution of differences is the norm;
  - Provide effective facilities by which staff can seek redress of an employee grievance;
  - Resolve the grievance fairly and expeditiously in order to pre-empt the development of a major dispute.
  
2. The Grievance Procedure shall generally relate to breaches of school rules, policies, procedures or practices. For the purpose of this grievance procedure, the reference to “employee representative” shall be understood to include a colleague of the SNAs choice who is serving in the same school, and/or an authorised trade union representative but not any other person or body unconnected with the school. Furthermore, if a grievance which concerns an issue covered by the Employment Equality Act 1998-2004, or other relevant legislation, is referred to the Labour Court, this procedure shall not be used. Such a referral would serve to terminate the Grievance Procedure.
  
3. The Grievance Procedure shall not deal with:-
  - Curricular matters;
  - Improvements in pay or existing terms and conditions of employment which are matters of contractual agreement;
  - Anonymous allegations;
  - Matters which are the subject of legal proceedings;
  - Matters unrelated to employment;
  - Matters arising from the implementation of the disciplinary procedures.

**(Note: This is not an exhaustive list)**

### **INFORMAL DISCUSSIONS:**

4. Most grievances can be resolved on an informal basis without using the formal grievance procedures. Before invoking the formal grievance procedure the SNA shall discuss the grievance informally with the other party and/or raise the grievance informally with the school principal. The parties shall try to achieve a mutually acceptable solution. If the grievance relates to the school principal, the SNA may discuss the grievance informally with a member of the board of management nominated for this purpose.

## **FORMAL GRIEVANCE PROCEDURES:**

5. If the grievance remains unresolved following the informal discussions, the SNA may raise a formal grievance under the grievance procedures. The stages of the grievance procedures are as follows:

### **STAGE 1 – GRIEVANCE REFERRED TO SCHOOL PRINCIPAL<sup>1</sup>:**

6. The SNA should refer the grievance to the school principal in the first instance. The SNA shall set out the grievance in writing stating that the formal grievance procedure is being invoked. A meeting will be arranged within seven working days following receipt of written notice that Stage 1 of the grievance procedure is being invoked. The SNA will be advised of his/her right to be accompanied by an employee representative. At this meeting the SNA will discuss the grievance with the school principal with a view to resolving the grievance. The school principal shall take such steps as s/he considers appropriate to have the grievance resolved informally.
7. The school principal having investigated the grievance will convey his/her decision in writing together with a formal record of this meeting to the SNA within five working days of this meeting. The SNA concerned will have the right to place on record any observations he or she may wish in regard to the formal record of the meeting, within five working days of receipt of the formal record of the meeting.
8. If the grievance is not resolved the SNA shall be entitled to invoke Stage 2 of these procedures within 7 working days of receipt of the decision.

### **STAGE 2 – GRIEVANCE REFERRED TO NOMINEE OF THE BOARD OF MANAGEMENT<sup>2</sup>:**

9. If the grievance remains unresolved the SNA can move to Stage 2 of the grievance procedure by giving notice in writing that Stage 2 of the grievance procedure is now being invoked. The grievance should now be referred to the nominee of the board of management of the school.
10. A meeting will be arranged with a nominee of the board of management within seven working days following receipt of written notice that Stage 2 of the grievance procedure is being invoked. The SNA will be advised of his/her right to be accompanied by an employee representative. At this meeting the SNA will discuss the grievance with the nominee of the board of management with a view to resolving the grievance. The nominee of the board of management shall take such steps as s/he considers appropriate to have the grievance resolved informally.

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<sup>1</sup> If the grievance relates to the school principal, the grievance should be referred to a nominee of the board of management nominated for this purpose who will follow the same procedure.

<sup>2</sup> If the grievance relates to the school principal, the grievance should be referred to a nominee of the board of management nominated for this purpose who will follow the same procedure (such nominee cannot be the same party to whom stage 1 of the procedure was referred).

11. The nominee of the board of management having investigated the grievance will convey his/her decision in writing together with a formal record of this meeting to the SNA within five working days of this meeting. The SNA concerned will have the right to place on record any observations he or she may wish in regard to the formal record of the meeting, within five working days of receipt of the formal record of the meeting.

**STAGE 3 – FURTHER REFERRAL OF GRIEVANCE:**

12. If the grievance remains unresolved after stage 2 of the grievance procedure, the SNA may refer the grievance to:
  - Labour Relations Commission;
  - Labour Court;
  - Employment Appeals Tribunal;
  - Equality Tribunal.
13. No strikes or other forms of industrial action will be initiated or threatened until all stages of the grievance procedure including referrals under Stage 3 of this grievance procedure have been fully exhausted.