

Title	<b>LWETB Procedure for Principals relating to Work and Competence</b>
Date	25 <sup>th</sup> September, 2018
Approved By	LWETB Meeting 25 <sup>th</sup> September, 2019
For review by	LWETB Board

# LWETB Procedures for Principals relating to work and competence

## Appendix 2 – Principals

Procedure for Principals relating to their work, conduct and matters of professional competence in their role as Principal

### Background

Under the terms of Towards 2016 the parties undertook to review and revise existing procedures for the suspension and dismissal of teachers comprehended by Section 24(3) of the Education Act 1998.

Since the parties noted that the provisions of Section 24 of the Education Act 1998 did not apply to teachers in schools operated by vocational education committees (VECs) further discussions ensued involving the DES, the IVEA, the TUI and the ASTI in order to adapt the provisions agreed in relation to other teachers to accommodate the specific management structures and processes operating in VEC schools. These discussions concluded in procedures for the suspension and dismissal of teachers and Principals in VEC schools being agreed between the parties.

Subsequently, following the commencement of the Education and Training Boards Act 2013 and the Education (Amendment) Act 2012, the parties met again to align the procedures with the provisions of these Acts.

The following disciplinary procedure for Principals employed in LWETBs has now been issued in that context.

The procedure takes account of employment legislation and the Workplace Relations Commission's Code of Practice on Disciplinary Procedures. This disciplinary procedure supersedes all existing local and national disciplinary procedures. Principals and LWETBs 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. 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 procedure.

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 be instances where concerns are raised regarding a Principal's work, conduct or competence in their role as a Principal 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.

## Informal Stage

It is intended that problems relating to work and conduct are resolved, where possible, through informal means. To this end, the relevant Director/LWETB Staff member delegated by the CE 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 relevant Director/ LWETB Staff member delegated by the CE 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 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 relevant Director/LWETB Staff member delegated by the CE. 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 relevant Director/ LWETB 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 relevant Director/ LWETB Staff member delegated by the CE 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 relevant Director/ LWETB Staff member delegated by the CE 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 6 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 relevant Director/ LWETB Staff member delegated by the CE to be less than satisfactory in relation to that required at Stage 1, a meeting will be arranged between the Principal, the relevant Director/ LWETB Staff member delegated by the CE and another LWETB staff member delegated by the CE. 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/s, 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 relevant Director/ LWETB Staff member delegated by the CE and the other LWETB 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 relevant Director/ LWETB Staff member delegated by the CE and the other LWETB 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 relevant Director/ LWETB Staff member delegated by the CE and the other LWETB 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/s, 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, the relevant Director/ LWETB Staff member delegated by the CE and the other LWETB 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 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 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 relevant Director/ LWETB Staff member delegated by the CE and the other LWETB staff member delegated by the CE 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 case 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 for which any or each of Stage 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 school's property/equipment
- Serious breaches of confidentiality.
- Serious bullying, inappropriate behaviour, sexual harassment or harassment against an employee or customer, including students.
- Violent/disruptive behaviour.
- Downloading/disseminating pornographic material from the internet.
- Circulation of offensive, obscene or indecent e-mails 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 an LWETB 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 officer 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 2 A.

The procedures for appealing are as set out in Appendix 2 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 2 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 LWETB 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.