



St. Mary's Grammar School, Belfast

DISCIPLINE POLICY AND
PROCEDURES POLICY

APRIL 2017



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

1. PURPOSE AND PRINCIPLES

1.1 This procedure has been drawn up to provide a fair and consistent way of dealing with alleged misconduct. The procedure is concerned with supporting and maintaining high standards of conduct and discipline in the teaching profession. The primary purpose of the procedure is behaviour modification rather than the imposition of sanctions. It is recognised that in cases of alleged minor misconduct it may, on a case by case basis, be more appropriate to resolve matters informally, without recourse to the formal procedure e.g. an informal discussion and/or letter outlining what is expected from the teacher going forward.

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

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

1.2 The following overriding principles apply to all stages of the Disciplinary Procedure:

- Each step and action should be taken without unreasonable delay;
- Timing and location of meetings should be reasonable;
- Meetings should be conducted in a manner that enables both employer and teacher to explain their cases;
- When considering the disciplinary action (if any) to be taken in accordance with this procedure the previous record of the teacher and any mitigation circumstances will be taken into consideration by the Disciplinary Authority.

1.3 If appropriate, the advice and guidance of the Employing Authority should be sought when disciplinary action is being considered. In cases of alleged serious or gross misconduct the advice and guidance of the Employing Authority must be sought.

1.4 Where appropriate, this Procedure should also be read in conjunction with the Department of Education guidance to schools 'Pastoral Care in Schools: Child Protection'; the Department of Education Circular (DE 2015/13) Dealing with Allegations of Abuse Against Staff; the Labour Relations Agency Code of Practice Disciplinary and Grievance Procedures and any further statutory or other relevant guidance that may be issued from time to time by the Department of Education or the Labour Relations Agency.

1.5 The teacher is entitled to be accompanied¹ at all formal stages of the procedure by a teaching colleague or a recognised trade union representative. The teacher will be expected to respond directly to the Disciplinary Authority and to answer the allegations. The teacher may confer with the teaching colleague or representative accompanying him/her and, in exceptional circumstances and with the agreement of management, may be represented by this person. The teacher will not be permitted to be accompanied at any stage of the procedure by a legal representative.

1.6 A teacher, who is an accredited trade union representative, shall normally not have disciplinary action taken against him or her until the circumstances of the case have been discussed with a full-time official of his/her recognised teachers' union.

- 1.7 The operation of the procedure shall at all times (subject to statutory repeal) comply with the provisions of the Equality of Opportunity Statement for Teachers and Schedule 1 of the Employment (NI) Order 2003 relating to the Statutory Dispute Resolution Regulations and Schedule 2 of the Education (Northern Ireland) Order 1998 and may not be construed as diminishing a teacher's rights in law.

2. DEFINITIONS

Teacher

For the purpose of this procedure, 'teacher' means a teacher employed in a grant-aided school and includes teachers appointed to posts of Principal and Vice-Principal.

Teaching Colleague

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

Trade Union Representative

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

Disciplinary Authority

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

Appeals Body

The Appeals Body is the duly authorised level of management to consider the appeal, as set out in Appendix 2.

Disciplinary Rules

The Disciplinary Rules are detailed in Appendix 3.

Relevant Body

Means the Board of Governors.

Employing Authority

Means for controlled schools, the Education Authority and for Catholic maintained schools, the Council for Catholic Maintained Schools. In the case of voluntary grammar schools, Integrated, Irish Medium and grant maintained schools, the Board of Governors is the employing authority.

Relevant Officer

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

3. Precautionary Suspension

- 3.1 A teacher may be suspended from duty by the Board of Governors, the Chair of Governors or the Principal if they deem that course of action necessary or appropriate pending the outcome of a criminal investigation or proceedings or disciplinary investigations; or where the allegation being investigated could be regarded as gross misconduct and might result in dismissal; or where circumstances mean that the teacher's presence at work could seriously hinder the investigation.

- 3.2 A teacher on the Northern Ireland Substitute Teacher Register (NISTR) and teachers on temporary contracts who are subject of an allegation of misconduct may be placed on precautionary suspension if the same is deemed to be the appropriate course of action. The period of paid suspension will not exceed the duration of the engagement/contract. Advice should be sought from the relevant Employing Authority.
- 3.3 The Board of Governors should consider alternative actions, which would be acceptable to the teacher, yet serve the same purpose as a precautionary suspension, such as a temporary transfer to other duties or alternative work without loss of pay.
- It should be made clear that any action taken is not disciplinary action.
- 3.4 A period of precautionary suspension will be on full pay and should be kept under regular review. The Employing Authority will be consulted immediately in any case in which consideration is being given to the precautionary suspension of a teacher and shall be kept informed throughout this process and its advice and guidance sought.
- 3.5 Where the precautionary suspension is implemented by the Chair of the Board of Governors, the remaining members of the Board of Governors and the Employing Authority shall be informed of such action as soon as possible thereafter. Where the precautionary suspension is implemented by the Principal, the Chair (or in his absence) the Vice Chair and the Employing Authority shall be informed of such action. Consideration should be given to alternatives to precautionary suspension.
- 3.6 The precautionary suspension can only be ended by the Board of Governors. The Board of Governors shall, on ending such a suspension, immediately inform the Employing Authority and the Principal.
- 3.7 The teacher will be given written confirmation of the precautionary suspension at the time this occurs and advised that a precautionary suspension is not a disciplinary penalty and its imposition does not imply any decision about the outcome of the disciplinary process.

4. PRELIMINARY STEPS

Investigation

- 4.1 Before considering disciplinary action, an investigation into any allegations of misconduct shall be carried out and a report of the investigation shall be prepared. A sub-committee of the Board of Governors should be established to act as an Appeals Body, the membership of which will play no part in the disciplinary investigation. Where a police investigation is taking place into a directly related matter at the time as an internal school-based investigation, the latter investigation shall normally be deferred pending the outcome of the police enquiries. In such circumstances the advice of the Employing Authority must be sought in the first instance.
- 4.2 As part of the investigation, there may be a need to meet with and/or consider relevant information from other persons, e.g. witnesses to the alleged incident/s. All those giving information to the investigatory panel should do so privately and not in the presence of any other person involved in or present during the alleged incident/s. Witnesses will be advised at the outset of the meeting of the extent of the information that is being sought. They will also be advised that their anonymity cannot be guaranteed should the matter become the subject of disciplinary action, appeal, further proceedings, or statutory discovery. A written record of all meetings will be retained. Evidence provided to assist with the investigation will be treated as confidential by all parties to the investigation.

- 4.3 Where it is reasonable and practicable to do so the Disciplinary Authority may delegate the investigation to an investigatory panel. In the case of allegations of serious or gross misconduct the Disciplinary Authority should delegate the investigation to an investigatory panel. In such cases the members of the Disciplinary Authority should play no further part in the investigation. The investigatory panel, with delegated authority to carry out the investigation, may consist of governors, the Principal, or an external third party/parties, or any combination. In circumstances where Governors are intending to engage an external third party/parties the rationale for this course of action and the identity of the third party/parties will be communicated to the teacher and/or Trade Union in advance of the commencement of the engagement. At the conclusion of the investigation, the investigatory panel will report the findings to the Disciplinary Authority which will decide whether or not disciplinary action should proceed. The remaining Governors will take no further part in the investigation, but will remain available to participate in any subsequent disciplinary action and, if necessary, appeal process.
- 4.4 A teacher subject to an investigation shall be notified in writing and advised of the allegations against him/her and will be invited to an Investigatory Interview to respond to the allegation/s. At the conclusion of the Investigatory Interview the teacher will be advised of the expected timescale for concluding the investigation.
- 4.5 In the case involving an allegation of a child protection nature the Department of Education Guidance referred to at paragraph 1.4 must be followed or other relevant guidance that may be issued from time to time by the Department of Education. No disciplinary investigation shall commence until this Guidance is considered and there must be no interference with evidence.
- 4.6 An investigation conducted under the Bullying and Harassment Procedure: ‘Promoting a Dignified Workplace - TNC 2005/2’ (and if appropriate an investigation conducted under the Grievance Procedure for Teachers, including Principals and Vice-Principals in Grant-Aided Schools, TNC 2014 /6) shall substitute for a disciplinary investigation provided at Para 4.1 of the Disciplinary Procedure. Where such an investigation establishes that there is a disciplinary case to answer, the Disciplinary Procedure shall be invoked at paragraph 5.1.
- 4.7 If following an investigation it is decided that formal disciplinary action is not appropriate and that it is sufficient to talk the matter over informally with the teacher, the difference between informal discussion of this kind and a verbal warning issued as part of the formal procedure shall be made clear. The teacher shall be left in no doubt about which sort of action has been taken. The aim of such discussion is to review the issues involved and to seek ways of improving the situation, without recourse to the formal procedure. A brief record of the discussion shall be taken and held in the school and a copy given to the teacher.

5. FORMAL DISCIPLINARY PROCEDURE

- 5.1 The Disciplinary Rules are detailed in Appendix 3.
- 5.2 Where, following investigation, it is considered that there is a case to be answered the Disciplinary Authority shall invoke the formal procedure and if appropriate obtain the advice and guidance of the Employing Authority.

Where the Disciplinary Authority considers the case to be answered, if proven, may lead to the teacher potentially being dismissed, the relevant officer of the Employing Authority is entitled to attend all proceedings for the purpose of giving advice. This advice must be

considered by the Disciplinary Authority before a proposal to make a determination to dismiss the teacher is made.

- 5.3 A teacher who is subject to the formal disciplinary procedure shall be:
- a) Advised in writing about the nature of the allegation that they are facing and invited to attend a disciplinary hearing.
 - b) Provided with all documentary evidence to be considered by the Disciplinary Authority to include the record/outcome of any investigation
 - c) Advised of their right to be accompanied by a teaching colleague or a trade union representative;
 - d) Afforded reasonable time to prepare his/her case;
 - e) Afforded the opportunity at the disciplinary hearing to state his or her case fully before any decision is made.
- 5.4 Wherever practicable, the disciplinary hearing shall be held within ten working days of the conclusion of the investigation. If more time is needed to consider the matter or further investigations are necessary, the hearing shall be adjourned.
- 5.5 The Disciplinary Authority shall inform the teacher, in writing, of its decision and findings as expeditiously as possible having given proper consideration to all the matters raised. A copy shall be provided to the Employing Authority. The teacher shall be informed of his/her right of appeal.

Disciplinary Sanctions (short of dismissal)

5.6 **Verbal Warning**

In the case of a minor offence, where, following the disciplinary hearing, the Disciplinary Authority is not satisfied with the explanation given, a verbal warning will be issued, in writing, and the teacher informed of the consequences of a recurrence of the same or a similar offence or the occurrence of a further offence. A verbal warning will expire on completion of 6 months satisfactory conduct, and will not be used for future disciplinary purposes except as provided at paragraph 5.9 below.

5.7 **Written Warning**

In the case of a recurrence of the same or a similar offence, the occurrence of a serious offence, or the occurrence of a further offence, where, following the disciplinary hearing, the Disciplinary Authority is not satisfied with the explanation given a written warning will be issued and the teacher informed, in writing, of the consequences of a recurrence of the same or a similar offence, or the occurrence of a further offence. A written warning will expire on completion of one year's satisfactory conduct, except as provided at paragraph 5.9 below.

5.8 **Final Written Warning**

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

A final written warning will normally expire on completion of one year's satisfactory conduct. However, in particularly serious cases, a final written warning may remain current for up to two years, except as provided at paragraph 5.9 below.

5.9 **Further Disciplinary Action**

In the case of a failure to respond, or to respond inappropriately, to a final written warning or should the same, a similar or further offence occurring, or in the case of gross misconduct, where, following the disciplinary hearing, the Disciplinary Authority is not satisfied with the explanation given, the teacher shall be subject to such further disciplinary action as the Disciplinary Authority may determine. Whilst not a complete list, such action may include withholding future pay progression, demotion, or a combination of measures or a proposal to dismiss with or without notice.

5.10 Records of the disciplinary investigation or action taken in the context of child protection shall be retained on the teacher's file for a period of five years. Where a formal referral on a child protection related matter is made to the police or social services the record of the complaint and the action taken shall be retained on the teacher's file indefinitely unless the teacher is totally exonerated in which case the record will be expunged.

5.11 A criminal conviction outside employment shall not be treated as an automatic reason for dismissal regardless of whether the offence has any relevance to the duties of the individual as a teacher. The main consideration shall be whether the offence is one that makes the individual unable and/or unsuitable to discharge their contractual duties as a teacher. Teachers shall not be dismissed solely because a charge against them is pending or because they are absent through having been held in custody.

6. DISMISSAL – PROPOSAL TO MAKE A DETERMINATION TO DISMISS AND THE RIGHT TO MAKE REPRESENTATIONS

6.1 Where, the Disciplinary Authority proposes that the Board of Governors make a determination under Schedule 2 paragraph 5 (1) of the Education (NI) Order 1998 that the teacher should be dismissed with or without notice it shall inform the teacher in writing.

6.2 In such circumstances the Disciplinary Authority shall make arrangements for affording to the teacher an opportunity of making representations with respect to the action it proposes that the Board of Governors take, including (if he or she so wishes) oral representations to such person or persons as the Board of Governors may appoint for the purpose, and shall have regard to any representation made by him or her.

Those appointed to consider any representations shall not have been members of the Disciplinary Authority or the investigatory panel referred in 4.3 and 6.1 above. The meeting to receive representations should normally take place not more than 10 working days from receipt of the written notification referred to in 6.1. The Board of Governors shall have regard to those representations before making a determination to dismiss.

Any determination to dismiss by the Board of Governors may be with such notice as is required under the teacher's contract or without notice if the circumstances are such that the Board of Governors is entitled to do so by reason of the teacher's conduct.

6.3 In accordance with Schedule 2 paragraph 5 (8) of the Education (NI) Order 1998 a relevant officer of the Employing Authority is entitled to attend all proceedings of the Board of Governors relating to any determination by the Board of Governors that any person employed at the school should cease to work there and such advice must be considered by the Board of Governors before making any such determination.

7. APPEALS

Sanctions Short of Dismissal

- 7.1 Where the teacher is dissatisfied with the decision of the Disciplinary Authority the teacher shall be advised in writing that he/she has the right to appeal against the disciplinary decision. An appeal, setting out the grounds, must be made in writing to the appeals' body listed in Appendix 2 within 10 working days of the date of receipt of the disciplinary decision.
- 7.2 Appeal hearings shall be heard as soon as practicable and not later than twenty working days from the receipt of the written appeal request unless extended by mutual agreement.
- 7.3 The body considering the appeal, as set out in Appendix 2, may:
- a. Dismiss the appeal;
 - b. Uphold the appeal; or
 - c. Substitute a lesser penalty.

Dismissal

- 7.4 Where, following consideration of any representations made under 6.2 above, or where the teacher chooses not to make representations, the Board of Governors makes a determination to dismiss it shall write to the teacher normally within 10 working days and advise of the right to appeal against the determination to the Independent Appeals Committee at the Labour Relations Agency.
- 7.5 If the teacher wishes to appeal against the determination, s/he shall write to the Secretary of the Independent Appeals Committee at the Labour Relations Agency within 10 working days of the date of receipt of the Board of Governors decision setting out the grounds of appeal. A copy of this letter should also be sent to the Chairperson of the Board of Governors and to the Employing Authority.

8. INDEPENDENT APPEALS COMMITTEE

- 8.1 The Appeals Committee shall consist of an Independent Chairperson appointed by the Labour Relations Agency and two panel members, one nominated by the Teachers' Side and one nominated by the Management Side of the Teachers' Negotiating Committee. Nominees from Teachers' Side shall not be employees, representatives or officials of the Teachers' Union involved in the case. Where the teacher is a non-trade union member the Teachers' Side Secretary will nominate the teachers' side panel member.
- In order to take account of recent organisational change arising from the establishment of the Education Authority on 1 April 2015, nominees from Management Side, shall not be employees, representatives or officials from the employing authority or Region of the Education Authority involved in the case.

All panel members, to include Chairmen, will be required to participate in one day's initial training in Child Protection. Chairs who nominate to preside over Child Protection cases will be required to attend a further day's training in addition to participation in annual refresher training.

- 8.2 The Independent Appeal Committee may:
- i. Dismiss the appeal; or
 - ii. Uphold the appeal;
 - iii. Substitute a lesser penalty.

- 8.3 The Agency shall also appoint a Secretary to the Appeals Committee who shall be responsible for the setting up and operation of the Committee.
- 8.4 The Secretary, in conjunction with the Chair, shall make the arrangements for the appeal.
- 8.5 The Secretary shall also invite the parties to make written submissions to the Committee, such submissions to be received not later than 10 days before the date of the hearing. The Secretary shall distribute copies of the submissions to the Committee members and to the other party not later than 5 days before the date of the hearing.
- 8.6 The Committee shall as early as practicable meet the parties to hear the appeal.
- 8.7 Neither party in the independent appeal is entitled to have legal or industrial relations consultants representing the two parties at an appeal.
- 8.8 The work of the Appeals Committee shall not be invalidated by the absence of one or other of the parties. Provisions for 'in absentia' proceedings, by way of written submissions, shall pertain.
- 8.9 The decision of the Appeals Committee shall be given in writing to both parties within 10 working days of the Hearing.
- 8.10 The decision of the Appeals Committee shall be final and binding on both parties.
- 8.11 The involvement of Labour Relations Agency [LRA] in this procedure does not create a contractual relationship between the LRA and any person or organisation. Such involvement is indicative of the LRA role in providing an independent administration for appeals against determinations to dismiss on behalf of the Employing Authority. The LRA and its Appeals Committee have no role in effecting a dismissal of a teacher - see 9.1 -9.2 below.

9. PROCEEDING TO DISMISSAL

- 9.1 Where the teacher has not exercised his/her right of appeal or following the appeal hearing where the Appeals Committee has decided to uphold the determination by the Board of Governors, the Employing Authority shall be notified. TNC 2016/2 10 Notification to dismiss the teacher shall be in accordance with Schedule 2 paragraph 5 (1) of the Education (NI) Order 1998 and the Board of Governors shall notify the Employing Authority, in writing, of the determination and the reasons for it and advise the Employing Authority to proceed to terminate the teacher's employment.
- 9.2 Within one month of receipt of the notification at 9.1, the Employing Authority shall issue the teacher with the formal notice of dismissal terminating his or her contract of employment with notice as is required under that contract or terminate the contract without notice if the circumstances are such that it is entitled to so do by reason of the teacher's conduct
- 9.3 A teacher whose employment has been terminated in accordance with this procedure may also seek advice and support from one or more of the following;
 - Recognised Trade Union
 - Carecall – Confidential Welfare Services 0808 800 0002TNC 2016/2 11

DISCIPLINARY AUTHORITY

The responsibility for disciplinary action is as follows:- **DISCIPLINARY ACTION**

DISCIPLINARY AUTHORITY

TEACHER

Disciplinary Level

i.	Verbal Warning	Principal
ii.	Written Warning	Principal
iii.	Final Written Warning	sub-committee of Board of Governors
iv.	Further Disciplinary Action (excluding dismissal)	sub-committee of Board of Governors
v.	Further Disciplinary Action (Dismissal)	Board of Governors

PRINCIPAL

Disciplinary Level

i.	Verbal Warning	sub-committee of Board of Governors
ii.	Written Warning	sub-committee of Board of Governors
iii.	Final Written Warning	sub-committee of Board of Governors
iv.	Further Disciplinary Action (excluding dismissal)	sub-committee of Board of Governors
v.	Further Disciplinary Action (Dismissal)	Board of Governors

Note: The disciplinary action shown at each level is the maximum permitted to the Disciplinary Authority. It does not preclude the possibility of a lesser penalty being imposed.

