

Brief Guidance for Parents who wish to make a Complaint about a Teacher or other staff members of a School

INTRODUCTION

This guidance note aims to generally inform parents about who they should contact to make a complaint against a teacher or other staff member of their child's school; as well as providing guidance on options they may choose to follow, likely timeframes involved and how they can appeal a decision of a school in relation to their child's education.

The guidance provided on this page does **not** apply to complaints in relation to actions or decisions by schools on allegations of child protection, suspensions, permanent exclusions, refusals to enrol and those decisions which may discriminate against a child. Guidance to parents on these issues is set out overleaf.

MAKING A COMPLAINT

The 1998 Education Act provides the legal framework for the delivery of education to children through recognised schools. All recognised schools are legally owned by the school patrons or trustees and managed by a school's Boards of Management. The Board of Management is also the employer of teachers, principals and all other staff in a school.

Accordingly, parents wishing to make a complaint against a school or individual staff member of a school should contact the relevant school authorities. The complaint procedures adopted by most schools are those that have been agreed between the teacher unions and school management bodies. The details of these procedures for primary schools are attached in Appendix 1; and for post primary schools are attached in Appendix 2. These procedures lay out the stages to be followed in progressing a complaint and the specific timescale to be followed at each stage.

Under the 1998 Education Act, the Minister for Education and Skills provides funding and policy direction for schools. Neither the Minister nor the Department have legal powers to either:

- instruct schools to follow a particular course of direction with regards to individual complaint cases, or
- to investigate individual complaints.

While the Department does not pass judgment on individual complaints it can clarify for parents and pupils how their grievances and complaints against schools can be progressed. If you require any further clarification please visit www.education.ie and click on the 'Parents' tab. If you require further information you can contact Parents' and Learners' Section, Schools' Division, Department of Education and Skills, Cornamaddy, Athlone, at (090) 648 4264, (090) 648 4267 or (090) 648 4268.

APPEALING TO THE OMBUDSMAN FOR CHILDREN

The Office of the Ombudsman for Children may independently investigate complaints about schools recognised with the Department of Education and Skills, **provided the parent has firstly and fully followed the school's complaints procedures**. The key criterion for any intervention by the Ombudsman for Children is that a child has or may have been negatively affected by the action of a school.

The Ombudsman for Children's Office is situated at Millennium House, 52-56 Great Strand Street, Dublin 1 and can be contacted by telephoning 1800 20 20 40 or (01) 865 6800 or by emailing oco@oco.ie.

COMPLAINTS RELATING TO CHILD PROTECTION OR REPORTS OF CHILD PROTECTION CONCERNS

The Department of Education and Skills (including staff of the Inspectorate and National Educational Psychological Service) does not investigate child protection concerns. Statutory responsibility for child protection rests with the Health Service Executive. Accordingly, the most expedient way of reporting a child protection concern is to contact the Child Care Manager or Duty Social Worker of your local Health Service Executive Office.

Any child protection concern received by staff in the Department of Education and Skills is dealt with in accordance with the Department's *Procedures for responding to allegations of child abuse brought to the attention of staff employed by the Department of Education and Skills*. Under these procedures the Department does not pass judgment on the allegations brought to its attention and ensures that the details of the allegation available to the Department are immediately passed on to the relevant investigatory authorities, including the relevant school authorities, the Health Service Executive and/or An Garda Síochána. The Department cannot guarantee confidentiality to complainants reporting child protection concerns as the information it receives must be passed on to the relevant authorities for investigation, including any details of the person making the allegation.

Parents who are dissatisfied with how a school investigated a child protection concern should report this to the Health Service Executive and/or the Ombudsman for Children.

If you wish to report a child protection concern to the Department of Education and Skills rather than contacting the HSE directly, you should contact: Parents' and Learners' Section, Schools' Division, Department of Education and Skills, Cornamaddy, Athlone, tel. (090) 648 4099 or email childprotection@education.gov.ie.

SUSPENSION, PERMANENT EXCLUSION OR REFUSAL TO ENROL

Parents can appeal a decision by a school's Board of Management to permanently exclude their child from its school, to suspend their child from attendance at its school for a total of 20 days in any school year, or to refuse to enrol their child. Under Section 29 of the 1998 Education Act parents may appeal these decisions by school authorities to the Secretary-General of the Department of Education and Skills. The appeal may be heard by a committee appointed by the Minister for Education and Skills for that purpose. Further information about Section 29 appeals, including the process and application forms can be obtained from the Department's website www.education.ie.

If you wish to make an appeal under Section 29 please contact Section 29 Appeals Administration Unit, Schools' Division, Department of Education and Skills, Friars Mill Road, Mullingar, Co. Westmeath by telephone at (044) 933 7008 or by email section29@education.gov.ie.

DISCRIMINATION

Under the Equal Status Acts 2000 to 2008 discrimination is unlawful on nine grounds: gender, marital status, family status, sexual orientation, religion, age, disability, membership of the Traveller community and race (including colour, nationality, ethnic or national origin). If you feel that your child has been discriminated against in their education and you have previously raised this matter with your school and remain unhappy with their response, you may refer the matter to The Equality Authority, Birchgrove House, Roscrea, Co. Tipperary; email info@equality.ie or freephone 1890 245 545.

Further information about the complaints procedure and complaint forms can be obtained at www.equality.ie.

APPENDIX 1

INTO/CPMSA COMPLAINTS PROCEDURE GUIDELINES FOR PRIMARY SCHOOLS.

INTO / CPSMA COMPLAINTS PROCEDURE

The Irish National Teachers' Organisation and the Catholic Primary School Managers' Association reached agreement in 1993 on a procedure for dealing with complaints by parents against teachers. The purpose of the procedure is to facilitate the resolution of difficulties where they may arise in an agreed and fair manner. The agreement lays out in five stages the process to be followed in progressing a complaint and the specific timescale to be followed at each stage.

Introduction

Only those complaints about teachers which are written and signed by parents/guardians of pupils may be investigated formally by the Board of Management, except where those complaints are deemed by the Board to be:

- (i) on matters of professional competence and which are to be referred to the Department of Education;
- (ii) frivolous or vexations complaints and complaints which do not impinge on the work of a teacher in a school; or
- (iii) complaints in which either party has recourse to law or to another existing procedure.

Unwritten complaints not in the above categories may be processed informally as set out in Stage 1 of this procedure.

Stage 1

- 1.1** A parent/guardian who wishes to make a complaint should, unless there are local arrangements to the contrary, approach the class teacher with a view to resolving the complaint.
- 1.2** Where the parent/guardian is unable to resolve the complaint with the class teacher she/he should approach the Principal with a view to resolving it.
- 1.3** If the complaint is still unresolved the parent/guardian should raise the matter with the Chairperson of the Board of Management with a view to resolving it.

Stage 2

- 2.1** If the complaint is still unresolved and the parent/guardian wishes to pursue the matter further she/he should lodge the complaint in writing with the Chairperson of the Board of Management.
- 2.2** The Chairperson should bring the precise nature of the written complaint to the notice of the teacher and seek to resolve the matter between the parties within 5 days of receipt of the written complaint.

Stage 3

- 3.1** If the complaint is not resolved informally, the Chairperson should, subject to the general authorisation of the Board and except in those cases where the Chairperson deems the particular authorisation of the Board to be required:
- (a) supply the teacher with a copy of the written complaint; *and*
 - (b) arrange a meeting with the teacher and, where applicable, the Principal Teacher with a view to resolving the complaint. Such a meeting should take place within 10 days of receipt of the written complaint.

Stage 4

- 4.1** If the complaint is still not resolved the Chairperson should make a formal report to the Board within 10 days of the meeting referred to in 3.1(b).
- 4.2** If the Board considers that the complaint is not substantiated the teacher and the complaint should be so informed within three days of the Board meeting.
- 4.3** If the Board considers that the complaint is substantiated or that it warrants further investigation it proceeds as follows:
- (a) the teacher should be informed that the investigation is proceeding to the next stage; (b) the teacher should be supplied with a copy of any written evidence in support of the complaint;
 - (c) the teacher should be requested to supply a written statement to the Board in response to the complaint;
 - (d) the teacher should be afforded an opportunity to make a presentation of case to the Board. The teacher would be entitled to be accompanied and assisted by a friend at any such meeting;
 - (e) the board may arrange a meeting with the complainant if it considers such to be required. The complainant would be entitled to be accompanied and assisted by a friend at any such meeting; and
 - (f) the meeting of the Board of Management referred to in (d) and (e) will take place within 10 days of the meeting referred to in 3.1(b).

Stage 5

- 5.1** When the Board has completed its investigation, the Chairperson should convey the decision of the Board in writing to the teacher and the complainant within five days of the meeting of the Board.
- 5.2** The decision of the Board shall be final.
- 5.3** This Complaints Procedure shall be reviewed after three years.
- 5.4** CPSMA or INTO may withdraw from this agreement having given the other party three months' notice of intention to do so.

In this agreement 'days' means schools days.

APPENDIX 2

ACCS, ASTI AND TUI CODE OF PRACTICE FOR PROCESSING COMPLAINTS MADE BY PARENTS / GUARDIANS OR STUDENTS (WHO HAVE REACHED THE AGE OF 18 YEARS) AGAINST A TEACHER IN COMMUNITY AND COMPREHENSIVE SCHOOLS

MARCH 2005

This Code of Practice has also been agreed between PACCS and ACCS

Introduction

Procedures are necessary to ensure fair treatment for all in the school and acceptable procedures should be known, agreed, and observed in the interest of good relationships with Parents/Guardians/Students, good industrial relations with Teaching Staff and harmony in the school environment. Throughout the procedures outlined below all communication between the Teacher, Parent/Guardian and or Student (who has reached the age of 18 years) must take place in an atmosphere that is calm, dignified and in a climate that respects the viewpoint of either party involved in the Complaints Procedure.

It is to the advantage of the parties to the complaint that a speedy resolution be secured by the complaints process.

Periodic review of all procedures should take place to ensure practices are good and adhere to any developments in employment legislation or other legislation or case law.

Purpose of Complaints Procedure

To provide a fair, consistent and equitable mechanism for processing complaints by Parents/Guardians or Students (who have reached the age of 18 years) against Teachers.

To do so in a manner that affords all concerned full rights in accordance with natural justice. To outline the procedures, which should be followed by all, Board of Management, Teachers, Parents/Guardians and or Students over 18 years of age and or their representatives, in the event of complaints being made against Teachers.

Exclusions

When complaints are deemed by the Principal//Board of Management to be:

- (i) On matters of professional competence which cannot be dealt with at school level and which may be referred to the Department of Education and Science for investigation. The Complainant to be informed of any such decision;
- (ii) Frivolous, vexatious or anonymous complaints and complaints which do not impinge on the work of a Teacher in a school;
- (iii) Complaints in which either party has had recourse to law or to another standard procedure, may be excluded from the scope of this procedure.

Introduction

- (i) Verbal complaints may be processed informally through Stage 1 of the procedure. Where the complaint is made in writing initially, the complaint should be processed through Stage 1 but a copy of the complaint should be given to the Teacher at Stage 1.
- (ii) Only those complaints which are written and signed by the Complainants may be investigated through stage three and or stage four of these procedures.
- (iii) The Complainant to be informed if the complaint is amenable to resolution within the terms of these procedures, and if not the reasons for this decision.

Stage 1

- 1.1** Parent/Guardian who wishes to make a complaint should, unless there is good and sufficient reason, in the first instance make an appointment to discuss the matter with the Teacher concerned, with a view to resolving the complaint. A Student attending the school who is over 18 years of age who wishes to make a complaint should in the first instance lodge the complaint through the existing agreed pastoral care structures in the school.
- 1.2** If the Parent/Guardian or a Student (who has reached the age of 18 years) is unable to resolve the complaint with the Teacher, she/he should approach the Principal with a view to resolving it.

It is envisaged that most complaints received under Stage 1 would be resolved to the satisfaction of both parties to the complaint.

Stage 2

- 2.1** A Parent/Guardian or a Student (who has reached the age of 18 years) who is unable to resolve the complaint at Stage 1 may seek an appointment to report and discuss the matter with the school Principal with a view to resolving the complaint. The Principal will arrange a meeting with a view to resolving the complaint. In some instances and where deemed appropriate by the Parent/Guardian and the Teacher it may be necessary for the Parent/Guardian, Teacher and school Principal to meet with a view to resolving the complaint. Such a meeting will take place within a maximum of seven days. Both parties to the complaint may be accompanied at such a meeting by a Trade Union representative or a friend/colleague.
- 2.2** Following the consultation process with both parties to the complaint, the Principal will communicate the outcome verbally to both parties.
- 2.3** If after Stages 2.1 and 2.2 the complaint is still unresolved, the Parent/Guardian or a Student (who has reached the age of 18 years) should be advised that they may raise the matter formally with the Board of Management as set out at Stage 3 with a view to resolving it.
- 2.4** In the case of a complaint against a Principal, the Parent/Guardian or a Student (who has reached the age of 18 years) should discuss the complaint with the Principal, who may be accompanied by a Union Representative or colleague in the first instance. If the Parent/Guardian/Student is unable to resolve the complaint with the Principal, the complaint may be processed as provided for at Stages 3 and 4 of this procedure.

It is envisaged that the overwhelming majority of complaints will be resolved at either stages 1 and 2.

Stage 3

- 3.1** If the issue is not resolved at Stage 1 or 2 then the Parent/Guardian/Student should lodge the complaint in writing with the Secretary of the Board of Management.
- 3.2** The Board of Management should formally acknowledge receipt of the complaint, note it formally and appoint a member of the Board of Management and the school Principal to deal with the matter. Any member of the Board of Management to whom a complaint refers shall be excluded from discussion/decision of the Board of Management on the matter. If the Secretary to the Board of Management is the subject of the complaint, then correspondence in this instance should be addressed to the Chairperson, Board of Management.
- 3.3** The appointed representatives (if Principal is the subject of the complaint then 2 Board of Management Representatives) must, subject to the general authorisation of the Board of Management:
 - a) supply the Teacher with a copy of the written complaint, and a copy of all other written evidence submitted by the Parent/Guardian or a Student (who has reached the age of 18 years).
 - b) supply the Parent/Guardian or a Student (who has reached the age of 18 years) with copy of all written documentation concerning the complaint received by the Principal from the Teacher or report written by the school Principal following his/her investigation at Stage 2.2.
- 3.4** The duly authorised representatives of the Board of Management should convey the outcome of any discussions / investigation, in writing, to the Teacher, Complainant and the Board of Management and indicate whether or not the matter has been resolved to the satisfaction of all parties.
- 3.5** If the complaint has not been resolved at this stage and the Complainant wishes to proceed to Stage 4 she/he shall indicate this in writing to the Board of Management within a maximum of 10 school days of receipt of the letter referred to in 3.4.

Stage 4

- 4.1** If the Board of Management considers the complaint is not substantiated, the Teacher and the Complainant should be so informed within 3 days of the Board of Management meeting.
- 4.2** If the Board of Management considers that the complaint warrants further investigation, it shall proceed as follows:
 - a) both parties to the complaint shall be informed that the investigation is proceeding to the next stage;
 - b) both parties to the complaint shall be supplied with a copy of all written evidence relevant to the complaint;
 - c) the Teacher shall be requested to supply a written statement to the Board of Management in response to the complaint;
 - d) both parties to the complaint shall be afforded an opportunity to make formal presentations of their case/position to the Board of Management. Both parties to the complaint would be entitled to be accompanied and assisted by a friend/colleague (non-legal) or Trade Union representative at any such meeting, and
 - e) the meeting/hearing of the Board of Management referred to in 4.2(d) will take place within a maximum of 11 school days of the meeting referred to in 2.2.

- 4.3** When the Board of Management has completed its investigation, the decision of the Board of Management shall be conveyed in writing to the Teacher and the Complainant within 5 school days of the decision being taken. The Board will also outline how its decision is to impact on the student.

A member(s) of the Board of Management who has acted as an authorized representative(s) of the Board of Management in the investigation of the complaint should not participate in the decisions of the Board of Management relating to the application of any disciplinary action.

- 4.4** The decision of the Board of Management shall be final subject to section 4.5.
- 4.5** In the event of the complaint being upheld the Teacher will have recourse to Trade Union and Management agreements, where they exist, but all disciplinary procedures undertaken by the Board of Management will proceed in accordance with the principles of natural justice.
- 4.6** If disciplinary action is to be initiated against a Teacher after stage 4.4 it will be effected in accordance with procedures agreed between ACCS, ASTI, TUI and the DES.
- 4.7** Where the complaint lodged is proved to be groundless then all correspondence relating to complaint should be removed from the Teachers file except for a statement of the complaints and outcome of the investigation.

If the complaint is upheld then the relevant file may be removed from the school records following agreement between all the parties involved.

Notes

- (i) In this procedure a school day means a day on which the school is in operation.
- (ii) At all stages of the Complaints Procedure a written record should be kept of
 - a) the investigation undertaken;
 - b) communications to Board of Management/Parent/Guardian or a Student (who has reached the age of 18 years) and Teacher, and
 - c) the steps and /or decision taken.
- Copies of this written record may be made available for inspection to the Complainant and to the Teacher concerned.
- (iii) This Code of Practice for processing Complaints made by Parents/Guardians of Students or Students (who have reached the age of 18 years) against the Teacher shall be reviewed by the ACCS, ASTI and TUI every five years or earlier at the request of any one of the parties.
- (iv) The Complaints procedure will be reviewed by ACCS and PACCS every five years or earlier at the request of either one of the parties.