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# ACCS, ASTI and TUI Grievance Procedure for teaching staff employed in Community and Comprehensive Schools.

## INTRODUCTION

This Grievance Procedure for teaching staff employed in Community and Comprehensive Schools was developed and agreed following discussions between ACCS, ASTI and TUI.

The procedure was prepared in accordance with the Labour Relations Commission's Code of Practice on Grievance Procedures and was formally agreed between the parties in May 2013. This Grievance Procedure supersedes all existing local procedures.

There is a statutory obligation on employers to provide all new employees with written details of disciplinary and grievance procedures within 28 days of taking up employment. The school will provide a copy of this Grievance Procedure to staff on appointment within this timeframe and will include the procedure in employee's induction.

## POLICY

It is the policy of the school to:

- Encourage management and staff at all levels to develop channels of communications and working relationships that will prevent or minimise the incidence of grievances.
- Endeavour to foster a working environment and working relationships in which the informal resolution of differences is the norm.
- Provide effective and fair facilities by which staff can seek redress of grievances.
- Resolve grievances fairly within the timeframes specified in the stages and at the earliest stage when a grievance/s arises.

In each school management and unions should agree structures for consultations through which any proposals for changes in working conditions or work practices affecting the terms of employment of the staff may be discussed prior to their proposed implementation. In the absence of agreement about such proposals, both parties should maintain the status quo ante which refers to and describes the position that obtained immediately prior to the decision/action/change that gave rise to the grievance. In the event of a dispute about such proposals, the staff member or staff

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members concerned may process and determine the issue through this Grievance Procedure which has been agreed between management and trade unions representing teaching staff.

## **PRINCIPLES**

The agreed Grievance Procedure provides a comprehensive method for the resolution of grievances in the interests of the avoidance of conflict. Issues raised under it will be processed in accordance with the principles of full consultation and agreement during the process and in accordance with the general principles of natural justice and fair procedures which include:

- That the employee/s concerned has/have the right to a fair and impartial determination of the issues concerned, taking into account any representations made by, or on behalf of, the employee/s and any other relevant or appropriate evidence, factors, circumstances.
- That the employee/s concerned is/are given the opportunity to avail of the right to be represented during the procedure [includes a colleague of the employee's choice and a registered trade union member but not any other person/body unconnected with the school]
- That an employee/s will not be penalised in any way for making a complaint in good faith regardless of whether or not the complaint is upheld.
- Pending the outcome to the processing of a grievance under the Formal Procedure, both parties will maintain the status quo ante which refers to and describes the position that obtained immediately prior to the decision/action/change that gave rise to (1) the collective grievance involving the majority of staff affected by the proposed change (2) the individual grievance of one employee, in which case the status quo ante refers to this employee only.
- That every effort be made to adhere to the time limits prescribed in the procedure. The time limits laid down for Stages 2, 3 and 4 under the Formal Procedure may be extended only by mutual agreement of the parties concerned.
- That all relevant documentation concerning the grievance be made available at each of the meetings at each of the stages of the procedure.
- That an employee/s may withdraw a complaint at any stage of the procedure.
- In the event that a grievance is referred to a third party (e.g. an Independent Officer nominated by the Labour Relations Commission), both sides will co-operate fully with the proceedings in accordance with the Industrial Relations Acts, 1946 – 2001.

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## **DEFINITION OF GRIEVANCE**

A grievance may be defined as a complaint which an employee/s has concerning any aspect of his/her/their employment, working environment or professional working relationships.

The process is for the purpose of discussing and resolving matters which are not subject to the Teachers' Conciliation Council or national industrial relations fora. This procedure covers individual and collective grievances, i.e. complaints raised by an individual employee or on behalf of a group of employees.

## **EXCLUSIONS**

The grievance procedure does not cover:

- Matters relating to improvements in pay or existing terms and conditions of employment which are of general application, i.e. matters appropriate to the collective bargaining process or;
- Matters which will develop into a claim covered within the scope of the Teachers' Conciliation and Arbitration Scheme or;
- Matters which will form a claim for statutory entitlement where provisions already exist within the State's Industrial Relations machinery for the hearing and/or adjudication of such issues.
- Complaints of bullying/harassment or sexual harassment shall be dealt with under the agreed codes for dealing with such complaints.
- Any matter which comes within the ambit of the Department of Education and Skills CL 60/2009.
- Anonymous allegations.
- Matters which are the subject of legal proceedings.
- Matters unrelated to employment.

## **INFORMAL RESOLUTION OF GRIEVANCES**

Management and employee opinions may be at variance on occasion but most routine complaints are capable of being resolved on an informal basis without recourse to the formal grievance procedure.

Where a complaint arises, the parties concerned (staff member/s and management

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representative/s) are encouraged to strive to understand the other party's position and should seek, as far as possible, a mutually acceptable solution through informal means.

Without prejudice to his/her right to invoke immediately the Formal Grievance Procedure, a staff member who believes s/he has been treated unjustly or unfairly is encouraged to raise his/her grievance with his/her Principal as a matter of first instance, or to raise his/her grievance through an informal approach by his/her union representative.

With the agreement of all parties, the informal stage may be reverted to at any stage throughout the formal procedure, without prejudice to whatever stage the parties are at within the formal procedure. However, it is important that this action is recorded in a Statement signed by the parties to the grievance, recording the exit at the relevant stage.

## **MEDIATION**

Mediation, if appropriate and subject to the agreement of the parties to the grievance, is not excluded by way of a mechanism to resolving grievances at informal or formal stages.

Mediation can be at the request of either party to the grievance but has to be with the mutual agreement of both parties.

An external professional mediator may be drawn from a list approved by ACCS and the union head office/s of the member/s concerned. The Mediator appointed must be agreed between ACCS and the union head office/s of the member/s concerned.

Where the parties to the grievance agree to engage in mediation, a written Agreement to mediate between the parties must be agreed and signed before the start of mediation.

Information discussed and disclosed in the course of mediation must remain confidential to the mediation process.

Where a mutually acceptable agreement is reached following mediation, a written statement detailing the terms of the settlement, must be signed by the parties to the grievance.

In the event that mediation is unsuccessful, the grievance procedure can be re-invoked at the same stage without prejudice to the parties having engaged in the mediation process.

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## FORMAL PROCEDURE

The formal procedure activates only when the grievance is set out in writing.

### Stage 1

- The staff member or his/her union representative should refer the grievance to the school Principal in the first instance. The grievance should be set out in writing stating that the formal grievance procedure is being invoked and the details of the grievance. A meeting will be arranged within **5 working days** following receipt of the written notice.
- The staff member may attend accompanied by an employee representative [includes a colleague of the employee's choice or a registered trade union member but not any other person/body unconnected with the school]

Or

- Two colleagues [two representatives of school committee for TUI; the school steward and another colleague for ASTI] acting on behalf of the staff member.
- The Principal may be accompanied at this meeting by a Deputy Principal/Senior Colleague.
- At this meeting both sides shall seek a mutually acceptable resolution of the grievance.
- A statement of the outcome of the meeting shall be prepared by the Principal for signing off by both parties as soon as possible after the conclusion of the first meeting and before the start of Stage 2 of the procedure. If the matter is not resolved, it will be referred by the staff member to a Stage 2. A meeting must be held within a further **10 working days**.

### Stage 2

- A stage 2 meeting shall be arranged by the Principal and attended by union representatives from outside the school, either Branch/Area representatives, or representatives from Head Office where requested by the school steward/school committee. The Principal may be accompanied at this meeting by the Deputy Principal/ Senior Colleague.
- At this meeting both sides shall seek a mutually acceptable resolution of the grievance. A statement of the outcome of the meeting shall be prepared by the Principal as soon as possible for signing off by both parties.
- If the matter is not resolved, it will be referred by the staff member to a Stage 3 meeting to be held within a further **10 working days**.

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### Stage 3

- The relevant trade union/Branch/Area/Head Office representative shall seek a meeting with the Board of Management of the school. The Board of Management may be accompanied at this meeting by representatives of the Association of Community and Comprehensive Schools.
- This meeting shall take place within **10 working days** of receipt of the request by the trade union to move to Stage 3.
- If the grievance is resolved by conciliation, the matter is concluded.
- If the grievance is not resolved by conciliation, the Board of Management shall adjudicate on the grievance and shall convey a decision, in writing, to the aggrieved employee and to any other party/parties concerned, within **10 working days of the hearing**.

### Stage 4

- It is open to an aggrieved party to appeal the decision from Formal Procedure Stage 3 to Formal Procedure Stage 4 which will be heard by an Independent Officer nominated by the Labour Relations Commission and agreed between the respective signatories of this Grievance Procedure.
- In activating this stage of the procedure, written submissions (and supporting documentation) should be made directly to the Independent Officer within **10 working days** of the date of the issuing of the decision by the Board of Management at Stage 3.
- The written submission and supporting documentation should be simultaneously copied to the Board of Management by the aggrieved party.
- It should be clearly understood that by invoking Stage 4 of this procedure, that the emphasis involves conciliation with a view to resolution between the parties of the grievance at hand. However, in the event that this is not achieved, the parties will be subject to a decision adjudicated upon which will be binding on the parties.
- The Independent Officer will be responsible for inviting the parties to the grievance to attend an oral hearing on a date so determined by him/her but which **ideally** would not exceed **20 working days** from the date of referral by the party invoking stage 4. All documentation submitted to the Independent Officer by either party should simultaneously be copied by that party to the other party no later than **5 working days** in advance of the date of the oral hearing.

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- At the oral hearing each party shall be invited to speak to their written statements (which will have been submitted no later than **5 working days prior to the oral hearing date**) following which the Independent Officer will seek to conciliate a resolution of the grievance between the parties concerned.
  - Only in the event that the parties fail to reach agreement through this conciliation process, will the Independent Officer adjudicate an outcome on the grievance/s which shall be understood to be binding on the parties.
  - The Independent Officer will have recourse, as s/he may require/determine, to technical advisory assistance only, concerning the specific nature of the grievance at issue. This may be undertaken by contacting both a management and union nominee understood to have particular expertise in the nature of the grievance concerned who would assist in providing advice as determined appropriate and on request only from the Independent Officer.
  - A statement of the outcome of the conciliated agreement or, in the event of a binding decision having been necessitated, a statement detailing this determination, will issue **as soon as possible** to the Board of Management for implementation and copied to the party concerned to the grievance. This shall conclude the Grievance Procedure.

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# Notes