

An Roinn Oideachais agus Scileanna  
Sráid Maoilbhríde  
Baile Átha Cliath 1



Department of Education and Skills  
Marlborough Street  
Dublin 1

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

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.

## **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

**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**

#### **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.

### **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

## **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.

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



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.

## **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).