

**PPTA**

NEW ZEALAND POST PRIMARY  
TEACHERS' ASSOCIATION  
TE WEHENGARUA

[www.ppta.org.nz](http://www.ppta.org.nz)

# TEACHER CONDUCT AND DISCIPLINE

February 2009

GUIDE SERIES  
TO THE STCA  
& ASTCA  
2007 - 2010



## Introduction

Procedures to deal with serious complaints are set out in the Secondary Teachers Collective Agreement (STCA) 3.4 and the Area School Teachers' Collective Agreement (ASTCA) 2.4.

STCA 3.4.5 and ASTCA 2.4.7 list matters which may warrant disciplinary action. It is important to assess each case on its own merits. The collective agreements give examples of matters which may warrant disciplinary action. The list of examples is indicative only, and is based on those formerly defined in section 158 of the Education Act 1964 and are as follows.

- (a) Disobedience of lawful orders or instructions.
- (b) Negligence, carelessness or indolence in carrying out her/his duties as a teacher.
- (c) Gross inefficiency or incompetence as a teacher.
- (d) Misuse or failure to take proper care of school property or equipment in her/his custody or charge.
- (e) Absence from duty without valid excuse.
- (f) Conduct in her/his capacity as a teacher or otherwise which is unbecoming to a member of the teaching service.

The following summary is a guide to the procedures. Questions of professional competence are not disciplinary matters and are dealt with in separate parts of both agreements. There is also an alternative process for resolving conflict in a Māori context (STCA 3.5 and ASTCA 2.5). See further explanation at the end of this booklet.

Boards should handle matters of teacher conduct and discipline in a way which protects the mana and dignity of the teacher concerned. In most cases the principal will make the judgement about whether or not the allegations are serious enough to warrant further action. Minor matters will be dealt with by the principal.



If the welfare of any student or employee so requires, the board may suspend the teacher (on full pay unless there are exceptional circumstances), or transfer him/her to other duties at any time in the process before the matter has been concluded. The teacher has the right to make a submission to the board on the matter of suspension prior to the decision to suspend being made.

Where a teacher has been suspended and the board finds that there has been no breach of discipline, the teacher has the absolute right to return to his/her position, unless s/he has already resigned.

## **Step one – Initial enquiry**

[STCA 3.4.1 and 3.4.2, ASTCA 2.4.1 and 2.4.2]

When the employer considers it appropriate, it shall make an initial enquiry to determine whether disciplinary procedures should be initiated. The purpose of these enquiries is solely to determine whether or not there are sufficient grounds to proceed to the formal stage as set out in STCA 3.4.3, and ASTCA 2.4.3.

In the letter to the teacher, the employer must provide copies of all complaints and other evidence. The teacher must be invited to respond within a reasonable period of time.

The employer must advise the teacher of his/her right to request union representation. The teacher must be informed by the employer that these enquiries are to take place. The teacher should contact his/her field officer for advice.

Where the principal is the complainant or is likely to provide evidence to the enquiry, s/he should not be part of the group conducting the enquiries.

The person/s conducting the enquiries should examine the evidence and may interview those involved.

The teacher concerned may or may not wish to make a statement. When a teacher decides to do so, s/he should consult the field officer before making any written or spoken



statement and should be accompanied by the field officer to any meeting about the disciplinary matter.

At the enquiries, information relevant to the specific, alleged breach of discipline is considered.

Resolution may be achieved informally in discussion between the parties (the teacher and employer representatives) where there is agreement about the facts and there is no need to proceed to formal disciplinary procedures. So that the possibility of such an agreement can be explored, all information in support of the complaint must have been made available to the teacher so that s/he is able to respond.

After considering the teacher's reply, if the employer chooses to proceed further, it must write to the teacher, setting a time and place for a formal investigation which the teacher must be invited to attend.

If the teacher requires further information, in terms of both the Privacy Act 1993 and the rules of natural justice, the teacher is entitled to a full disclosure of all relevant material, including the names of the complainants.

If the initial enquiry determines that there is a case to answer, a written statement should be passed on to the board which will conduct its own independent investigation.

## **Step two – The formal investigation**

[STCA 3.4.3(a)(b), ASTCA 2.4.3(a)(b)]

During the formal investigation, all relevant information to support the alleged breach(es) of discipline is examined and all that information is provided to the teacher and his/her representative for their response.

The board considers any contrary evidence. Witnesses may be called and may be questioned. The teacher may make a statement personally or through a representative.

The board must conduct the investigation fairly and reasonably and may sometimes employ an independent investigator.



The complainant, witnesses and any person who could be said to have prejudged the case, or who could be seen as biased against the teacher, must take no part in the decision-making process.

## Step three – Penalty

[STCA 3.4.3(d)(e), ASTCA 2.4.3(d)(e)]

If the board finds that there is substance to the complaint, it will invite the teacher to respond on the question of penalty. There should be a break in proceedings at this point. After considering the response, the board will decide whether or not to impose a penalty, and the nature of the penalty. Any period of suspension must be taken into account.

Penalties which have been regarded as appropriate include:

- (a) a caution, reprimand, or censure
- (b) restitution of funds/property in case of theft
- (c) a salary deduction in the case of having been absent without leave
- (d) dismissal from his/her position in the school.

When the employer finds a teacher guilty of serious misconduct, it may instantly dismiss the teacher without having to give two months' notice.

## Appeal rights

The teacher can take a dispute or personal grievance at any time during the procedures, if circumstances warrant. The field officer should be consulted for advice.

## Teachers Council ([www.teacherscouncil.govt.nz](http://www.teacherscouncil.govt.nz))

The employer of a teacher must immediately report to the Teachers Council if it has reason to believe that the teacher has engaged in serious misconduct. Offences the Teachers



Council defines as serious misconduct are listed in New Zealand Teachers Council Rules.

The Education Act 1989 requires that the Teachers Council be informed immediately when an employee is dismissed from a teaching position.

The act also requires that the Teachers Council be informed where an employee resigns from a teaching position and during the previous 12 months the employer had given written notice that it was dissatisfied with or intended to examine or investigate or was in the process of examining or investigating an aspect of the employee's behaviour or performance.

A copy of any such letter or report to the Teachers Council from the employer must be provided to the teacher by the employer at the time of writing.

If a teacher is deregistered following a dismissal, s/he may appeal the action of the Teachers Council in the District Court (The Education Act, 1989 Section 126 applies).

If further information is needed, please contact your local PPTA field officer.

## **Ineligibility for refreshment leave**

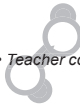
A teacher who is subject to disciplinary procedures may not during that period of time apply for refreshment leave (STCA 6.7.2(c) and ASTCA 5.7.2(c)).

## **Resolving conflict in a Māori context**

[STCA 3.5, ASTCA 2.5]

This is an alternative process. It allows disputes relating to disciplinary complaints to be resolved in a Māori context and manner.

If a teacher is considering this option, or it is being suggested

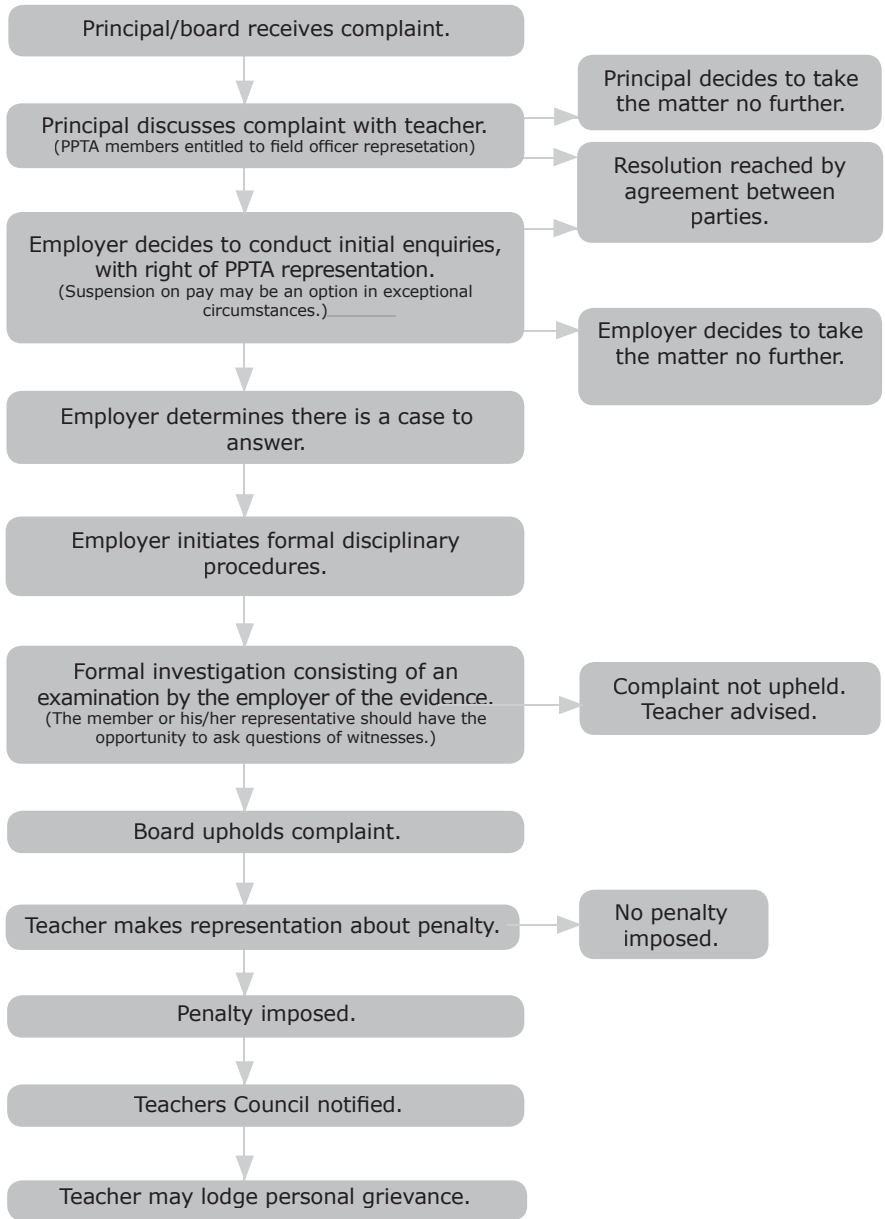


by his or her employer, then the teacher should note that:

- the process is voluntary
- both parties must agree to it
- either party may seek to withdraw at any time during this process, in which case the normal procedures for discipline will apply
- advice of such a withdrawal shall be in writing to the other party. Teachers contemplating the use of this process should seek the advice of a PPTA field officer.



## How the process works





For further advice consult your local PPTA office.

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This pamphlet has been produced by NZPPTA / Te Wehengarua and provides the association's contractual interpretation. Nevertheless, it is not a substitute for the collective agreement and should be read in conjunction with the relevant clauses of the appropriate collective agreement.

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- Guidance for teachers working with Pacific students in secondary schools
- Guidance for teachers working with Māori students
- Introducing Te Huarahi Māori Motuhake
- Making schools safe for people of every sexuality
- Meeting procedure
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