



**PPTA**

NEW ZEALAND POST PRIMARY  
TEACHERS' ASSOCIATION  
TE WEHENGARUA

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# TEACHER COMPETENCE

**GUIDE SERIES  
TO THE STCA  
& ASTCA  
2007 - 2010**

**February 2009**



## Introduction

This pamphlet is a guide to the operation of the procedures outlined under 3.3 of the Secondary Teachers' Collective Agreement [STCA] and 2.3 of the Area School Teachers' Collective Agreement [ASTCA].

The clause applies both to base scale teachers and to holders of units.

Part 10A of the Education Act 1999, and such criteria for teacher registration as may be issued from time to time by the Teachers Council, also apply. The Teachers Council (Competence) Rules 2004 may be downloaded from [www.teacherscouncil.govt.nz](http://www.teacherscouncil.govt.nz).

There is also an alternative process "Resolving conflict in a Māori context" [3.5 STCA, 2.5 ASTCA]. See further explanation at the end of this pamphlet.

## Obligations of boards of trustees & principals

The board of trustees, as the employer, is obliged to comply with the provisions of the respective Agreements. It must therefore ensure that STCA 3.3 [2.3 – ASTCA] of the Agreement is adhered to, should it be invoked.

Within the industrial and legislative framework:

- 1) the board has complete discretion to control the management of the school (s 75 of the Education Act 1989 applies); and
- 2) the principal has complete discretion to control the day-to-day administration of the school (s 76 of the Education Act 1989 applies), which includes teacher competence issues. It is the principal, as professional leader of the school, who advises the board that there are matters of competence causing concern and who recommends invoking competence procedures when necessary. The principal then oversees the process and makes recommendations to the board when necessary.



Any review of a teacher's competence will inevitably raise questions about the effectiveness of the school's programmes for teacher development and appraisal. Boards of trustees have a statutory obligation under the school's charter to provide an effective professional development programme for every teacher. This obligation is reinforced by s 79 2(e) of the State Sector Act 1988 which requires boards to provide "opportunities for the enhancement of the abilities of individual employees".

Particular note should also be taken of STCA 3.3.1 [2.3.1 – ASTCA]. The expectation of this clause is that before a school contemplates using the competence provisions it must ensure that the teacher concerned has had reasonable access to targeted professional development as part of the school's normal professional development and appraisal processes.

Where there are concerns about a teacher's performance the teacher should be advised of their right to seek PPTA field officer assistance.

When a teacher has had his or her increments deferred because he or she has not met the appropriate professional standards then 4.2.4 of the STCA or 3.8 of the ASTCA applies.

4.2.4(a) of the STCA requires that a programme of support and development will be put in place *to assist the teacher in meeting the standards within a timeframe agreed between the employer and the teacher*. There is no similar requirement in 3.8 of the ASTCA, but the need to offer such assistance is clearly implied under 2.3.1 and 3.7 of the ASTCA.

As 4.2.4 (b) (ii) of the STCA makes clear, such advice and guidance is separate from the advice envisaged under the competence procedures. The competence procedures may be invoked thereafter if there are still significant areas of concern.

Teacher competence should not be confused with teacher conduct, which is covered by separate provisions in the Agreements. Only when a board believes that a teacher's alleged incompetence is wilful or deliberate should it invoke STCA 3.4 [2.4 – ASTCA].



## Application of teacher competence process

When the employer believes that a teacher's standard of work is consistently falling below an acceptable professional standard, and targeted assistance in terms of STCA 3.3.1 [2.3.1 ASTCA] has been given it may seek to remedy this by invoking the procedures outlined under STCA 3.3 [2.3 ASTCA].

These procedures have two distinct phases:

- a) **Stage one** - an initial period of in-school collegial support and advice, designed to assist the teacher to regain an acceptable standard of work. [STCA 3.3.2 initial paragraph or ASTCA 2.3.2]
- b) **Stage two** - where the initial period of advice and guidance fails to remedy the matters causing concern, the board may invoke the formal procedures outlined in STCA 3.3.2 (a)-(e) or 2.3.3(a)-(e) [ASTCA]. Stage two provides for a period of advice and guidance, usually for 10 school weeks. At the end of this period the expectation is that the teacher will have remedied the concerns. If s/he has not, then the board may dismiss or demote him/her.

## Criteria

In any dispute over the alleged incompetence of an individual teacher, the board must be able to demonstrate that it has used the criteria of the relevant Agreement and objective methods in its assessment and evaluation of that teacher's work.

The criteria to be used for assessing teacher competence are the Classroom Teachers Criteria of the Professional Standards in Supplement 1 of the STCA and ASTCA. There are separate criteria for unit holders if the concerns relate to the performance of a teacher's management responsibilities.

When an employer wishes to review the performance of a teacher holding a senior management position in a school, the criteria for unit holders apply as described in Supplement 1 of the STCA and ASTCA.



## Procedure - stage one

When the board believes a teacher's standard of work is consistently falling below an acceptable standard and the reasonable opportunities for professional development open to all teachers have not remedied the situation, the terms of the agreements place an obligation and responsibility on the employer to help the teacher by providing an appropriate individual programme of in-school professional and collegial assistance.

It is important, even at this early stage, that the teacher is made aware of the employer's concerns. To avoid later confusion, it is essential that the teacher be advised that the programme s/he is being offered is being given in terms of the first stage of the competence procedures in the agreement. The association recommends that advice relating to the employer's concerns and the status of the programme of advice and guidance be given to the teacher in writing. The programme as finally offered should be developed in conjunction with the teacher.

It is important that the provisions relating to mana and dignity, and the requirement to advise the teacher of the right to seek PPTA representation and other assistance at any stage of the process (STCA 3.3.2 and ASTCA 2.3.2), are observed from the outset.

The programme of advice and guidance must be in place for a "reasonable period" of time. A "reasonable period" should be not less than a school term, although it may well be longer.

It is recommended that the teacher affected should be advised to contact an association field officer as soon as possible.

The majority of teachers requiring this type of assistance are experienced and have performed at an acceptable professional level in the past. Accordingly, the main object of the assistance is to assist the teacher to regain his/her former level of effectiveness. In many cases this assistance will be successful and the procedures will stop here.



The employer may not proceed to stage two of the procedures, ie STCA 3.3.2 (a)-(e) and ASTCA 2.3.3 (a)-(e), without being able to demonstrate that an appropriate guidance and assistance programme has been completed.

## **Procedure - stage two**

The procedure here is as outlined in STCA 3.3.2 (a)-(e) and ASTCA 2.3.3(a)-(e).

STCA 3.3.2(a) or ASTCA 2.3.3(a): The employer is required to put its concerns in writing, and to advise the teacher of his/her right to request PPTA assistance or representation at any stage of the process. Such PPTA representation or assistance will be by a PPTA field officer.

STCA 3.3.2(b) or ASTCA 2.3.3(b): The programme of advice and guidance specified will be a continuation of the programme begun at stage one. Ten school weeks is specified as the usual time for this programme, but the agreements provide that in certain circumstances a longer or shorter time will be appropriate.

STCA 3.3.2(c) or ASTCA 2.3.3(c): At the end of the time, the employer is required to assess formally whether the teacher has corrected the matters causing concern.

It is important that the process of assessment and evaluation is carried out by professional staff, and not by the Board of Trustees itself.

The employer must provide the teacher with a written statement which details the process and result of any evaluation. This evaluation must be both sighted and signed by the teacher.

The teacher's signature is merely acknowledgement that s/he has read the report; it does not imply acceptance of the conclusions.

STCA 3.3.2(d) or ASTCA 2.3.3(d): Before any further action is taken the employer must give the teacher reasonable opportunity and time both to consider the report and make a written and/or oral submission.



Such a submission may be made either by the teacher, by his/her representative, or by both.

STCA 3.3.2(e) or ASTCA 2.3.3(e). The employer has the power of dismissal where it can demonstrate that a teacher has failed to re-establish and maintain his/her work performance at a satisfactory level. Such dismissal may be immediate and the teacher will then be paid one month's salary in lieu of notice.

Where the concerns have related to the performance of the duties of a unit holder, as defined under Supplement 1 of the STCA and ASTCA, and where the circumstances warrant, it may be more appropriate to reduce the teacher's salary and status, without there being a dismissal.

Where a teacher is dismissed for incompetence, or resigns within a year of competence procedures being invoked, the employer is obliged under the Education Standards Act 2001 to advise the Teachers Council that the teacher has either resigned or has been dismissed.

Under the terms of STCA 3.3.3 or ASTCA 2.3.3(f), a copy of the report to the Teachers Council arising out of competence proceedings shall be made available to the teacher at the time of writing.

## **Appeal rights**

A teacher who is aggrieved by an action taken against him or her arising out of competence procedures has the right to take personal grievance action against the board. A grievance may be taken at any point of the proceedings if circumstances warrant.

The grievance procedures are laid down in STCA 9.2; and ASTCA 8.2 and in Part 9 of the Employment Relations Act 2000.

A teacher may also take a dispute against a board if procedures are not followed properly. Dispute procedures



are laid down under STCA 9.2 and ASTCA 8.2 and in Part 9 and 10 of the Employment Relations Act 2000.

If a teacher is deregistered following a dismissal for incompetence, s/he may appeal the action of the Teachers Council in the District Court. [The Education Standards Act 2001 and Education Act 1989 apply.]

If you have any queries please contact your local PPTA field officer.

## **Ineligibility for refreshment leave**

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

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

[STCA 3.5, ASTCA 2.5]

This is an alternative process. It allows disputes relating to competence 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 competence will apply;
- advice of such a withdrawal shall be in writing to the other party.

Teachers contemplating the use of this process should seek advice from a PPTA field officer.



## The competence process

All teachers must receive reasonable and appropriate professional development.

- This is the normal professional development cycle of a school.
- A problem with an individual may be identified and specific courses, visits etc may be undertaken to provide improvement.

Teacher is advised of matters of competence causing concern.

- Where matters do not improve Stage One under the collective agreement begins.
- Letter sent outlining concerns.

Teacher is advised of entitlement to field officer representation and whanau, family and professional support.

An appropriate assistance and personal guidance programme for the teacher is put in place.

- For a reasonable period, eg school term.
- Programme negotiated with teacher.

Concerns addressed satisfactorily.  
Return to normal appraisal cycle.

Where concerns remain, Stage Two under the collective agreement begins. Teacher advised in writing of any remaining specific matters causing concern. Guidance provided for, normally, 10 school weeks.

- Board consultation.
- Formal letter sent, advice about union representation reiterated.
- Suppl. 1 referred to.

Board provides written evaluation.  
Teacher to sight.

Teacher may comment on evaluation in oral/written submission to board.

Concerns addressed satisfactorily.  
Return to normal appraisal cycle.

Employer may dismiss teacher. No notice; one month's salary paid in lieu. Unit holders' positions may be reduced in status and salary.

Board sends report to Teachers' Council. Teacher to sight.

NB: A teacher may lodge a personal grievance if warranted at any stage in the process.



## Advice and guidance

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
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