

Chapter 8

The Appeal Procedure

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8.1 The Appeal Procedure

Appeals in respect of competitions for posts of Assistant Principals I, Assistant Principal II and Programme Co-ordinator posts shall be completed **electronically** on the agreed PDF Appeal Form. Only appeals completed and submitted using the electronic form will be processed. Appeals submitted after the *Appeal Date* will not be processed.

The Appeal Procedure is not a re-examination of the interview itself.

8.2 Scope: The Appeal Procedure is used in respect of appeals to the following posts: Assistant Principal I, Assistant Principal II, Programme Co-ordinator posts (at AP I and AP II level) and Assistant Director of Adult Education (at AP I and AP II).

It does not apply to Principal and Deputy Principal posts or the post of Director of Adult Education at Deputy Principal level.

8.3 Appeal Date

This is 4.00 p.m. on the **seventh school day**, with day one commencing on the day after the outcome of the process is issued.

8.4 To whom does the procedure make reference?

Essentially **five parties** are referenced:

- (a) The appellant teacher.
- (b) The person administering the appeal on behalf of management, usually the Principal, who responds to the appeal by way of the management's response.
- (c) The Appeal Board Secretariat – in the Community and Comprehensive sector this is operated by ACCS.
- (d) The Appeal Board - which comprises 3 people:
 - An independent chairperson (drawn from an agreed national panel).
The Appeal Board Secretariat nominates from the agreed national panel of independent chairpersons.
 - A management nominee (nominated by ACCS).
 - A union nominee (nominated by the head office of the relevant trade union to which the appellant party/parties belong).

NOTE: Where an appellant is not a member of a teacher union, the union nominee will, in the case of the Community & Comprehensive sector be nominated by agreement between ASTI and TUI.

- (e) The “recommended candidate” is the person who was recommended for the post in the first instance by the Interview Board and who would be appointed were no appeal lodged or where the Appeal Board determined that appeals lodged were rejected.

The parties are required to maintain confidentiality throughout this process and subsequent to the process.

8.5 Sample letters are provided in the Appeal Procedure (CL 0003/2018) See Appendix 18. A sample letter to the recommended candidate is also included in this Guide (Appendix 19).

8.6 Definition of “school days” in the appeal procedure

School days are defined as days in which the school is in operation for students.

Where the outcome of the competition is notified to applicants in the week immediately prior to the June State examinations, the Appeal Date shall occur within the first 12 official examination days of the State examination period.

If an appeal is received by this Appeal Date, no appeal hearings shall be convened before the next school year.

8.7 The role of the Appeal Board Secretariat

The Appeal Board Secretariat is responsible for establishing the Appeal Board and acts as a conduit for forwarding documentation received from appellant/s and the school by way of management response onto members of the Appeal Board.

The Appeal Board Secretariat retains documentation supplied to it for a period of 18 months following the conclusion of the appeal.

8.8 The role of the Appeal Board

The Appeal Board is a three-person board. It is charged with the responsibility to make a determination with respect to the appeal i.e. to determine if the appeal is rejected or upheld on the basis of the evidence presented whether submitted as part of the appeal, management response or examined at an oral hearing.

Where more than one appeal is lodged with respect to the appointment process to the same post (e.g. 2 or more appeals to the same post) the Appeal Board member can hear more than one appeal with respect to that post.

8.9 Grounds for appeal and responding to appeal grounds

The grounds for appeal may be on one or more of the following in relation to an alleged breach of procedure:

(a) Pre-interview:

1. Failure to consult staff on the roles and responsibilities as set out in circular letter 0003/2018.
2. Breach of advertising rules.
3. Non-notification about the vacancy to teachers on leave of absence/secondment.

- (b) Composition of the Interview Board:
4. Lack of gender mix on Interview Board.
 5. Incorrect/incomplete composition of the Interview Board.
- (c) Marking/Selection Criteria:
6. A computational error in the Interview Board Marking Sheet which makes a material difference to the outcome.
 7. A departure from the agreed selection criteria or Marking Scheme.

Appeal grounds must be substantiated (i.e. supporting evidence must be supplied).

Appellants are required to substantiate **each** appeal ground selected on the **electronic appeal form** with a supporting rationale/defence. The supporting rationale must be relevant to the specific appeal ground selected.

Where nothing is provided by way of a rationale/defence of the appeal ground selected, the appeal ground will be discounted by the Appeal Board and reference to this effect will be included in the Appeal Board determination.

Only documents specifically referenced in the statement of appeal or management response to the appeal are admissible. Any additional and/or unsolicited documentation will not be considered by the Appeal Board and will be returned to the sender. The Appeal Board may seek copies of certain documents relevant to its consideration of the appeal from either party to appeal.

Upon receipt of documentation from the Appeal Board Secretariat, the Appeal Board undertakes a preliminary review of each appeal submitted, the corresponding management response submitted, supporting documentation, relevant Department of Education & Skills circulars/forms appropriate to such competitions.

The Appeal Board will examine each appeal ground selected and supporting rationale/defence. The Appeal Board will examine the management response to the appeal ground selected and management's rationale/defence. Each appeal ground will be considered and adjudicated upon.

Appeals shall not include observations or disparaging remarks of a personal nature including personalised comments about individuals. Where this transpires, it may lead to an appeal being disqualified by the appeal board or an oral hearing being terminated by the Appeal Board.

Where the Appeal Board, having considered the appeal and response, deems it **unnecessary** to conduct a hearing, it shall notify the appellant and the Secretary of the

Board of Management of the outcome of the appeal within **fifteen school days** of the *Appeal Date*.

Where the Appeal Board, having considered the appeal and management response, decides that a hearing is **necessary**, it shall set a date for a hearing within **fifteen school days** of the *Appeal Date*.

Where additional documentation is sought prior to an appeal hearing by the Appeal Board, the parties should co-operate in furnishing same as soon as possible to the Appeal Board to facilitate the exchange of such documentation to the other party not later than three school days prior to the hearing. No documentation shall be admissible at the hearing which has not been supplied in accordance with the timeline.

The Appeal Board may draw any inference/conclusion it desires in respect of the failure of either party to provide documentation requested by the Appeal Board.

8.10 How the appeal process operates

- A candidate who wishes to appeal must complete the **agreed PDF Appeal Form electronically. Only appeals completed and submitted using the electronic form will be processed.**
- **The Appeal Form should be uploaded to the school website.**
- **Appeals submitted after the *Appeal Date* will not be processed.**
- Both appeals and response to appeals are each limited to a total submission of **1,000** words.
- Documentation (if any) which is relied on to support an appeal and referenced in the appeal form must be submitted **by email or in hard copy** to the Secretary of the Board of Management by 4p.m. on the *Appeal Date*. Any documentation received after this time will not be processed and will be returned to the appellant.
- If no appeal is received within this timeframe, the Board of Management will proceed with the appointment of the recommended candidate.
- Where an appeal/s is/are submitted:
 - *To the recommended candidate:* The recommended candidate for the post is advised (on receipt of an appeal/s) that an appeal/s has been lodged and that the appointment to the post is postponed pending the outcome of the appeal/s lodged and s/he will be notified of the outcome in due course – *see Appendix 19*. This letter can issue directly on receipt of an appeal.
 - The Secretary of the Board of Management emails the Appeal Board Secretariat advising of the *Appeal Date*. porappeals@accs.ie
 - If there is an appeal/s made, the Secretary to the Board of Management sends a letter to the appellant acknowledging receipt of the appeal. This letter should issue within 3 school days of the *Appeal Date* - *see Appendix 18*.
 - Secretary to the BOM will complete the Management Response to Appeal Form.

- The Secretary to the BOM returns the completed PDF Management Response Form and supporting documentation, including documentation received in hard copy from the Appellant(s) – either scanned as PDF or in hard-copy, marked ‘Private and Confidential’ within **five school days** of the *Appeal Date* and will simultaneously send a copy of the management response to the appellant.
- The Secretary to the Board of Management and the appellant will be notified by the Appeal Board Secretariat as to the composition of the Appeal Board within seven school days of the Appeal Date.

8.11 Purpose and Protocol for the conduct of the Appeal Board Hearing

The purpose and protocol are outlined in Paragraphs 19.1 to 19.7 of CL 0003/2018. See *Appendix 21*.

Purpose of the hearing

Protocol for the conduct of the hearing

- The Appeal Board will base the hearing on the following documents: the appeal form, the management response form, accompanying documentation, relevant Department of Education and Skills circular letters and any documentation requested by the Appeal Board. The appeal hearing will be confined to an exploration of the ground/s of appeal and response to appeal ground/s. It is not a re-run of the competition interview process.

Who can attend?

For the Appellant: The Appellant may be accompanied by a work colleague or friend. The nature of appeal hearings is such that legal representation is not appropriate.

For Management: The Board of Management may be represented by the Principal or a member of the Board and may be accompanied by a management colleague.

8.12 Possible final outcomes to the Appeal

The Appeal Board Determination will issue to the parties to the appeal and a copy provided to the Appeal Board Secretariat with 5 school days of the hearing. The Appeal Board determination will conclude all matters with respect to the appeal.

- a. If an appeal is rejected, the Board of Management shall proceed with the appointment of the original recommended candidate in the post.
- b. Where an appeal is upheld, the Appeal Board will advise the Board of Management to recommence the appointment process at the appropriate stage, e.g. re-advertise the post or re-interview all the applicants.
- c. In circumstances where the Appeal Board determines that an error was made in the computation of marks awarded that materially changes the outcome, the Appeal Board will specify the fact and advise the Secretary to the Board of

Management that the highest ranked candidate by reference to the correct application of the marks should be recommended for appointment in such circumstances.

As a matter of best practice, where recommencement of the selection process is required following an appeal, membership of the selection board should change except where there is a specific requirement in the current arrangements for the participation of a specific office holder.

During the course of an appeal or after the conclusion of the appeal, no communication may be made with the Appeal Board or any member thereof except in accordance with the Appeal Procedure or at the request of the Appeal Board.

However, in the event that the Appeal Board reviews an appeal or management response and a matter emerges which materially affects the outcome of the competition which was not cited in the appeal, the Appeal Board will adjudicate in respect of this particular matter and provide a comment on the matter in its determination. In such circumstances, schools can seek the permission of the Appeal Board to recommence the competition at a previous stage to that of re-interviewing.

All matters relating to the appeal are strictly confidential to the parties to the appeal, the Appeal Board Secretariat and the Appeal Board including all aspects of the appeal process (including documentation that arises thereto).

The Appeal Board Determination will issue to both parties to the appeal and the Appeal Board Secretariat at the conclusion of the process.

8.13 Data Protection, Administrative Matters and Review

For Appeal Boards: All documentation held by the Appeal Board members will be returned by the Appeal Board Chairperson to the Appeal Board Secretariat which will retain same on file for a period of eighteen months following the appeal determination and thereafter, be responsible for confidentially destroying the documentation.

In circumstances where issues of clarification may arise, the Appeal Boards have recourse to the relevant parties to this appeal procedure through the Appeal Board Secretariat.

Nothing shall preclude the parties at national level, being management bodies and unions post-primary, from collectively seeking feedback at intervals from the Appeal Board Chairpersons to inform continuing best practice and assist in seeking to clarify issues which may fall for review from time to time.

The operation of the Appeal Procedure will be subject to review as agreed at the Teachers' Conciliation Council.

Points to Remember

- Process appeals in accordance with Appeal Procedure timelines.
- **The PDF Appeal Form should be placed on the school website and a link established for ease of download for the appellant.**
- Ensure the Appeal Secretariat is notified promptly that an appeal/s has been lodged and indicate the *Appeal Date*.
- Ensure Management Response addresses all grounds of appeal stated by the appellant/s.
- **All documentation to be submitted to the Appeal Secretariat within deadline.**
- Maintain confidentiality throughout the appeals process.
- If an appeal is upheld, follow Appeal Board's recommendation on recommencement stage of the recruitment process BUT first review earlier stages, if any. Consider if it might be appropriate, because of concern about an earlier aspect of the competition, to request from the Chairperson of the Appeal Board permission to recommence at an earlier stage. Discuss this with ACCS.