

Appeal Procedure for the appointment of Assistant Principal I, Assistant Principal II, Programme Co-ordinator (at Level I or II) and Assistant Director of Adult Education (at Level I or II) posts applicable to all competitions advertised from 16 January 2018

Sections 15 – 20 of Circular Letter 0003/2018 applies

15. Appeal Procedure

This Appeal Procedure has been established to ensure that the correct procedures are followed in the appointment of Assistant Principal I, Assistant Principal II and Programme Co-ordinator posts. The appeal will not be a re-examination of the interview itself.

All application forms for posts of responsibility shall include reference to a candidate being able to access, **upon written request** all items listed (i) to (iv) below after s/he is notified of the outcome of the post of responsibility appointment process:

- i. His/her marks under each selection criterion
- ii. The notes of the interview board pertaining specifically to the candidate alone
- iii. The marks of the recommended candidate(s) under each criterion
- iv. For the 2017/2018 and 2018/2019 school years, service in the school/scheme of the most senior applicant.

16. Grounds for Appeal

16.1 Initiating the Process of Appeal

An applicant may appeal on one or more of the following grounds 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 4.1
 2. Breach of the 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 sheets which makes a material difference to the outcome
 7. A departure from the agreed selection criteria or marking scheme.

16.2 Supporting evidence must be supplied in respect of the grounds for appeal. *(Section 18 refers)*

17. Appeal Board

17.1 The Appeal Board will consist of a nominee of the relevant union, a nominee of the relevant management body and an independent chairperson from a panel agreed by the unions and management bodies.

17.2 No member shall be appointed to the Appeal Board to consider a case referred to it who has had prior interest in or dealings with that particular case. However, in circumstances where there is more than one appeal lodged in relation to the appointment process to the same post, an Appeal Board member may hear more than one appeal.

Appeal Procedure for the appointment of Assistant Principal I, Assistant Principal II, Programme Co-ordinator (at Level I or II) and Assistant Director of Adult Education (at Level I or II) posts applicable to all competitions advertised from 16 January 2018

18. Process of Appeal

18.1 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.

18.2 Both appeals and response to appeals are each limited to a total submission of 1,000 words.

18.3 Any costs incurred by appellants or the school/ ETB as the management respondent shall be their respective responsibility as a party to the appeal.

18.4 A candidate who wishes to appeal must lodge a completed PDF appeal form using the notified email address with the Secretary to the Board of Management/Manager/CE (*or designated officer*) within 7 school days of issue of the notification of the outcome of the post of responsibility appointment process. (*When sent by email, the completed PDF appeal form attached will automatically be forwarded to the Appeal Board Secretariat for the relevant sector also*).

18.5 The final date and time (4.00 p.m.) for notification of appeals to the Secretary to the Board of Management/Manager/CE shall be stated in the letter outlining the outcome of the appointment process. The date will become known as the ***Appeal Date*** and will be at 4.00 p.m. on the seventh school day, with day one commencing on the day after the outcome of the process is issued. If no appeal is received within this timeframe, the Board of Management/Manager/CE shall proceed with the appointment of the recommended candidate.

18.6 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 to the Board of Management/Manager/CE by 4.00 p.m. on the *Appeal Date*. Any such documentation received after this time will not be processed and will be returned to the appellant.

18.7 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 hearing shall be convened before the next school year.

18.8 The Secretary to the Board of Management/Manager/CE will issue an acknowledgement of receipt of the appeal within 3 school days of the *Appeal Date*.

18.9 The recommended candidate for the post will be advised by the Secretary to the Board of Management/Manager/CE that an appeal(s) has been lodged and that the appointment process is postponed pending the outcome of the appeal(s).

18.10 On receipt of an appeal, the Secretary to the Board of Management/Manager/CE will also notify the Appeal Board Secretariat by email of the *Appeal Date*. The Appeal Board Secretariat will request nominees from the General Secretary of the relevant teachers' union and the General Secretary of the relevant management body and will identify the independent chairperson from the agreed national panel having regard to the agreement reached with respect to the selection of such chairpersons.

Appeal Procedure for the appointment of Assistant Principal I, Assistant Principal II, Programme Co-ordinator (at Level I or II) and Assistant Director of Adult Education (at Level I or II) posts applicable to all competitions advertised from 16 January 2018

18.11 The Secretary to the Board of Management/Manager/CE will forward the completed PDF management response form and supporting documentation to the Appeal Board Secretariat within 5 school days of the *Appeal Date* and will simultaneously send a copy of the management response to the appellant.

18.12 The Secretary to the Board of Management/Manager/CE and the appellant will be notified by the Appeal Board Secretariat as to the composition of the Appeal Board within 7 school days of the *Appeal Date*.

18.13 The Appeal Board will undertake a preliminary review of each appeal submitted, the corresponding management response submitted, supporting documentation and relevant Department of Education circulars/forms appropriate to such competitions.

18.14 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 sender. The Appeal Board may seek copies of certain documents relevant to its consideration of the appeal from either party to appeal. (See 19.2 below)

18.15 Appellants are required to substantiate **each** appeal ground selected on the online 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.

18.16 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.

18.17 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.

18.18 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 to the Board of Management/Manager/CE of the outcome of the appeal within 15 school days of the *Appeal Date*.

18.19 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*. In the case of ETBs, the venue will be organised by the ETB and any meetings/hearings that arise thereto.

18.20 During the course of an 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 Board.

19. Appeal Board Hearing

19.1 Purpose of the hearing:

- a) To allow the parties to the appeal to present their respective positions on the appeal
- b) To allow each party to respond to the other party's position
- c) To allow the Appeal Board the opportunity to seek clarifications on various relevant matters.

Appeal Procedure for the appointment of Assistant Principal I, Assistant Principal II, Programme Co-ordinator (at Level I or II) and Assistant Director of Adult Education (at Level I or II) posts applicable to all competitions advertised from 16 January 2018

19.2 Where additional documentation is sought prior to an appeal hearing by the Appeal Board, the parties shall 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 3 school days prior to the hearing. No documentation shall be admissible at the hearing which has not been supplied in accordance with this 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.

19.3 The parties are bound by the terms of reference and protocol for the conduct of oral hearings. The parties are required to maintain confidentiality throughout this process and subsequent to the process.

19.4 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.

19.5 The appellant may be accompanied by a work colleague or friend. The nature of appeal hearing is such that legal representation is not appropriate.

19.6 The Board of Management/Manager/CE may be represented by the Principal or a member of the Board and this person may be accompanied by a management colleague.

19.7 Protocol for the Conduct of a Hearing

- i. The Chairperson of the Appeal Board will clarify at the outset the process to be followed in accordance with this protocol. The appeal hearing will **not** constitute a re-run of the competition interview process, but will confine itself to an exploration of the ground/s of appeal and response to appeal ground/s.
- ii. Proceedings before the Appeal Board shall be informal. It is not a legal process.
- iii. The normal rules of due process and fair procedures apply.
- iv. The hearing will be conducted in plenary session with both parties and those accompanying them present. Side bar meetings and/or adjournments are facilitated at the discretion of the Appeal Board. The hearing will be conducted in a reasonable, calm and professional manner.
- v. Discourse will be conducted through the Appeal Chairperson.
- vi. The appellant is provided with an opportunity to speak to his/her appeal submission. Matters of clarification can be sought by the Appeal Board.
- vii. The school/ETB is provided with an opportunity to speak to its appeal response submission. Clarification can be sought by the Appeal Board.
- viii. Both parties are provided with an opportunity to comment on, ask questions on, address or rebut statements or commentary made or submitted by the other party to the appeal.
- ix. Members of the Appeal Board may ask questions of one or both parties.

Appeal Procedure for the appointment of Assistant Principal I, Assistant Principal II, Programme Co-ordinator (at Level I or II) and Assistant Director of Adult Education (at Level I or II) posts applicable to all competitions advertised from 16 January 2018

- x. Prior to the conclusion of the hearing, each party will be invited to provide concluding remarks.
- xi. The Appeal Chairperson will then close the hearing and remind the parties of their obligations under confidentiality.

20. Outcome of Appeal Procedure

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

20.2 If an appeal is rejected, the Board of Management/Manager/CE shall proceed with the appointment of the original recommended candidate in the post.

20.3 Where an appeal is upheld, the Appeal Board will advise the Board of Management/Manager/CE to recommence the appointment process at the appropriate stage, e.g. re-advertise the post **or** re-interview all the applicants.

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

20.5 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.

20.6 Following 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.

20.7 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/ETBs can seek the permission of the Appeal Board to recommence the competition at a previous stage to that of re-interviewing.

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