Managing Unsatisfactory Performance -

# State school teachers

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**Managing Unsatisfactory Performance**

# This procedural policy applies to State School Teachers employed under the *Teachers’ Award - State 2012.*

**Overview**

This procedural policy provides processes and procedures for the identification and management of unsatisfactory performance of State school teachers and a framework within which State school teachers will have an opportunity to address concerns about unsatisfactory performance in such a way that:

* recognises the key role of State school teachers in student achievement and student outcomes;
* acknowledges their key role in putting Education Queensland’s values into practice and in realising the vision of Education Queensland; and
* ensures efficiency, equity, dignity and confidentiality in dealing with a classroom teacher’s unsatisfactory performance.

**Statement of Intent**

The objective of the Managing Unsatisfactory Performance (MUP) policy is to ensure State school teachers are meeting or exceeding performance expectations.

State school teachers are responsible and accountable for:

* effective and efficient teaching and learning practices in their classroom/s or other work

areas;

* student outcomes;
* their own performance, including performance development and responding to and addressing performance concerns;
* maintenance of relevant documentation including but not limited to that related to lesson planning and preparation, curricula, testing/assessment, policy/procedure and professional development;
* their own professional development through their positive engagement with the Developing Performance Framework;
* seeking assistance from their colleagues, Heads of Program and School Leaders if they are experiencing difficulties;
* compliance with relevant legislation; and
* maintaining current teacher registration.

The State school teacher’s Principal is responsible and accountable for:

* regularly monitoring State school teachers’ performance and providing appropriate feedback and, where necessary, assistance in a timely manner;
* managing unsatisfactory performance when unsatisfactory performance is identified;
* ensuring that State school teachers who are not performing to a satisfactory standard receive clear, accurate and constructive feedback;
* ensuring that the MUP process focuses on improving teaching performance to a satisfactory standard;
* providing guidance, and facilitating assistance, through the MUP process;
* properly informing the State school teacher of MUP processes and procedures, including timeframes for improvement and other stages of the process;
* ensuring that natural justice is afforded to the State school teacher throughout the MUP process, including the opportunity for the State school teacher to properly consider and respond to statements, written reports and decisions; and
* complying with, and effectively documenting, formal MUP processes and procedures.

The Principal is responsible for all final decisions and recommendations made during stages

1 and 2, however, a Principal may choose to delegate their supervisory duties to another School Leader (e.g. a Deputy Principal or Head of School). A reference to “Principal” within this document also includes a Principal’s delegate (excluding where a Principal is required to make a decision/recommendation).

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* recognises the key role of State school teachers in student achievement and student outcomes;
* acknowledges the role of State school teachers in putting Education Queensland’s values into practice and in realising the vision of Education Queensland and
* ensures efficiency, equity, dignity and confidentiality in dealing with a State school teacher’s unsatisfactory performance.

**Performance Culture**

This procedural policy forms part of the Valuing Performance Policy Statement.

Prior to implementing a MUP process, it is assumed that the State school teacher is aware of expectations of their performance and performance development as conveyed through:

* recruitment, selection and induction programs for State school teachers;
* the State school teacher role description;
* the Developing Performance Framework; and
* performance feedback from the Principal and the State school teacher’s supervisor/s with respect to the State school teacher’s performance.

**Induction programs**

It is essential that State school teachers receive a proper induction according to their needs and the needs of the school and the Department. A State school teacher’s particular induction needs must be addressed whether they are a beginning teacher, transferring to a new school, transferred/promoted to a new role or returning to teaching after leave of more than 18 months’ duration.

The Principal must ensure that a planned induction:

* provides a brief and smooth assimilation to the new job;
* outlines the State school teacher’s role, responsibilities, performance expectations and reporting relationships;
* explains Education Queensland’s vision and the State school teacher’s role in realising that vision;
* provides necessary work unit or job-specific information;
* includes appropriate workplace health and safety information; and
* is based on principles of best practice for teaching and learning.

**Developing Performance Framework**

The Developing Performance Framework is separate from procedures for the management of unsatisfactory performance. It is assumed, however, that expectations of performance and performance development will form part of a written performance management tool, such as the Developing Performance Framework, between the employee and their Principal. The absence of such a written performance management tool does not preclude the application of this policy in the event of a State school teacher’s unsatisfactory performance.

The MUP process is not the appropriate process for identification and delivery of performance development needs – which remains the function of the Developing Performance Framework.

Nevertheless previously agreed participation in, and scheduled attendance at, performance development opportunities identified through the Developing Performance Framework will continue throughout the MUP process. Resources and assistance rather than professional development opportunities will be made available to State school teachers through the MUP process.

**Performance feedback**

Unsatisfactory performance will be the subject of ongoing informal performance feedback between the State school teacher and the Principal. The ongoing informal communication of performance expectations and performance concerns to State school teachers will enable emergent performance concerns to be identified and addressed as they arise.

This informal feedback will also assist the Principal in:

* identifying and clearly communicating performance concerns at the earliest opportunity; and ascertaining any legitimate mitigating factors, including medical conditions and/or personal reasons, that may assist in explaining performance concerns and/or need to be taken into consideration in applying MUP processes; and
* informally developing and implementing strategies to address identified issues.

State school teachers may have a support person accompany them in these informal performance feedback discussions.

It is intended that issues that may lead to a formal MUP process will usually be identified informally in the first instance and formal MUP processes will usually be applied in the event of unaddressed, ongoing and/or significant performance concerns.

**MUP Process**

MUP processes provide employees with an opportunity to address performance concerns.

Employees who refuse or fail to participate in the MUP process may be liable for disciplinary action under the *Public Service Act 2008*.

The State school teacher is responsible for:

* actively participating in the process; and
* responding to and addressing performance concerns; and identifying resources and assistance in consultation with the Principal for the purpose of the State school teacher addressing performance concerns and meeting performance goals.

The Principal is responsible for:

* clearly communicating performance concerns and performance goals;
* identifying resources and assistance in consultation with the State school teacher for the purpose of the State school teacher addressing performance concerns and meeting performance goals;
* monitoring the State school teacher’s performance;
* ensuring the State school teacher is afforded natural justice throughout the MUP process;
* notifying Payroll Services should an State school teacher proceed to Stage 2 of the MUP process and providing further notification when the process has been finalised; and
* advising the State school teacher of their right to be accompanied by a support person.

While injury or illness may be a cause of, or contribute to, unsatisfactory performance, each case should be assessed on a case by case basis to determine whether or not it is appropriate to be managed under the MUP process. In these instances, appropriate consultation with a trained workplace rehabilitation or organisational health officer should be undertaken.

It is **not** appropriate that the MUP process be implemented or continued where unsatisfactory performance is associated with a pre-existing illness or injury. Where an State school teacher accesses sick leave during a MUP process, they may be referred for an Independent Medical Examination where deemed appropriate (see Part 7 of the *Public* *Service Act 2008*). For further information, please contact the Organisational Health Unit.

Where any party directly involved in a MUP process submits during the course of a MUP process a formal complaint associated with the MUP process or against individuals involved in the MUP process, the Principal will notify the relevant Regional Director who will put in place appropriate arrangements for the MUP process to continue according to documented timelines, wherever possible, or with minimal delay in the process.

These arrangements may include but are not limited to:

* investigation and finalisation of the formal complaint within twenty-one days; or
* assignment of responsibility for progressing the MUP process to another School Leader or Head of Program within the school (who previously has not been involved in the MUP process) or a School Leader from another school until such time as the formal complaint has been investigated and finalised, at which time responsibility will revert to the Principal.

Performance issues of a sufficiently serious and pressing nature or involving serious risk to student or staff health and safety should be dealt with under the *Public Service Act 2008* or *Code of Conduct for the Queensland Public Service*.

State school teachers will be advised of the intention to implement a formal MUP process and be provided with an opportunity to seek the advice and support of a union representative and/or colleague in all meetings during which matters pertaining to the MUP process are discussed.

State school teachers will be afforded the opportunity to respond to all performance concerns, including raising possible reasons for unsatisfactory performance.

Where concerns relate to the performance of a State school teacher engaged on a temporary contract, the Principal is obliged to consult with the Regional Human Resources Manager.

The Principal and Regional Human Resources Manager will determine an appropriate means of applying the below MUP process in such a way that takes into consideration the duration of the temporary contract at the Principal’s school and any confirmed future temporary contracts at other schools.

The formal MUP process will be implemented as follows:

**Stage 1 – Identification and Improvement Plan**

*Concern*

The Principal and the employee (and their nominated support person if requested by the employee) will meet to discuss any ongoing performance concerns. The Principal and State school teacher will document ongoing performance concerns in a formal Identification and Improvement Plan. Performance concerns must be communicated – both verbally and in writing – clearly and with sufficient detail to afford the State school teacher every reasonable opportunity to address the performance concern/s.

*Expectations*

Expectations of the State school teacher’s performance will be recorded in the Identification and Improvement Plan. These expectations will be expressed as performance goals, the achievement of which will indicate satisfactory performance. Wherever possible, performance goals will be measurable to enable objective assessment of the State school teacher’s performance.

*Resources*

The Identification and Improvement Plan will identify material and human resources and other forms of assistance available to the State school teacher to assist the State school teacher achieve the prescribed performance goals. For example, lesson plan proforma documents or assistance in subject planning from the Head of Curriculum/Department may be identified.

The Identification and Improvement Plan will indicate how, and if necessary when, these resources and assistance are able to be accessed.

*Timeframe*

A timeframe for improvement against each performance goal will be recorded on the Identification and Improvement Plan. Wherever possible, improvement timeframes will be scheduled in such a sequence so as to build capabilities within the State school teacher and to assist the Principal in the identification of any incremental improvement in the State school teacher’s performance.

Stage 1 – Identification and Improvement Plan of the MUP process will take no more than five school days including the day on which the Principal notifies the State school teacher either verbally or in writing that a formal MUP process is to be initiated. This stage may be extended beyond five days by mutual agreement between the Principal and the State school teacher.

As part of Stage 1 – Identification and Improvement Plan, the Principal will advise the State school teacher of the intended process consistent with this policy including MUP stages, timeframes and possible disciplinary outcomes. The State school teacher should also be given a copy of this policy.

In documenting the Stage 1 – Identification and Improvement Plan process, the Principal may choose to the use the provided forms or an equivalent.

**Stage 2 – Improvement**

The State school teacher will be provided with four weeks (20 days) to address performance concerns and meet performance goals as recorded in the Identification and Improvement Plan.

The State school teacher's performance will be progressively assessed by the Principal through observation of the State school teacher’s classroom practice and examination of the State school teacher's materials and student work. Four to six lesson observations should be undertaken, each for a minimum of thirty minutes. The State school teacher will not receive prior notice of two of these observations. Relevant non-classroom duties may also be assessed.

It is essential that the State school teacher receives progressive feedback on their performance and copies of documented observations and assessments. The State school teacher must be given the opportunity to respond in writing to each observation and assessment and the State school teacher’s written response should be attached to the Principal’s record of the MUP process.

The Principal may terminate Stage 2 – Improvement at any time in the event that the Principal determines that:

* the State school teacher has addressed the performance concerns and met or exceeded the performance goals as recorded in the Identification and Improvement Plan so that the State school teacher’s performance is now satisfactory; or
* on the basis of medical evidence, the State school teacher is not fit for duties and no other remedial action is available.

Where the Principal terminates Stage 2 – Improvement because the State school teacher’s performance meets or exceeds documented performance goals, no further remedial action will be taken and the MUP process will cease.

The Principal may revisit the MUP process and immediately re-apply the Identification and

Improvement Plan to the extent that the same performance concerns are identified within a

12-month period after the MUP process ceases. Principals will only reinstitute the MUP process at the Identification and Improvement Plan stage following consultation with, and the approval of, the relevant Regional Director or their delegate.

Where the State school teacher demonstrates improved performance but their performance is still not entirely satisfactory, the Principal may extend Stage 2 – Improvement for a further period up to four weeks (20 days). The duration of Stage 2 – Improvement will not extend beyond eight teaching weeks for any State school teacher, including for part-time employees.

On completion of Stage 2 – Improvement, the Principal must assess whether the State school teacher’s performance is satisfactory or unsatisfactory. If unsatisfactory, the Principal must refer the State school teacher's performance to the relevant Regional Director or their delegate, recommending that the process be continued to Stage 3 – External Review. The Principal should immediately provide a copy of this recommendation to the State school teacher, who may choose to make a separate submission to the Regional Director or their delegate.

NB: State school teachers who are subject to a Managing Unsatisfactory Performance (Stage

2 or beyond) process at the time of their annual increment will not be entitled to progress to

the higher increment under the *Department of Education, Training and Employment State*

*School Teachers’ Certified Agreement 2012.* The State school teacher will become eligible to progress to a higher increment only when theirperformance has been assessed as satisfactory. Future increments will occur annually fromthe date that their performance has been assessed as satisfactory.

**Stage 3 – External Review**

In deciding whether or not to implement an external review of the State school teacher's performance, the Regional Director or their delegate will review the MUP process to date to ensure its compliance with this policy and that the State school teacher has been provided with reasonable opportunities to formally respond through the MUP process.

If the recommendation that the process be continued to Stage 3 – External Review is accepted, the Regional Director or their delegate will nominate two external officers, classified as either School Leader/s or Head/s of Program, to further assess the State school teacher’s performance.

The Regional Director or their delegate will inform the State school teacher in writing that the

MUP process will now proceed to Stage 3 – External Review and provide information on the process and the external officers' names. The external officers will initially meet with the

State school teacher and explain the proposed review process.

The external officers will undertake four to six lesson observations for a minimum of thirty minutes each within one week (5 days) where possible and no more than two weeks (10 days). Half of the observations (i.e. either two or three teaching periods) may be undertaken without the State school teacher receiving prior notice. The external officers should assess all facets of the State school teacher’s competency and provide the State school teacher with progressive feedback. The assessment document should be discussed with, and signed by, the employee.

The external officers must prepare a comprehensive report on the State school teacher's performance and suitability for continued employment, recommending an appropriate outcome of the MUP process. The external officers’ report must be provided to the Regional Director and the employee.

The Regional Director will consider the Stage 3 – External Review report and may:

dismiss the matter providing reasons for doing so to the State school teacher and

Principal; or

submit to the Board of Review a letter recommending that the Board of Review consider a particular form of disciplinary action pursuant to *Section 187* of the *Public Service Act*

*2008* and attaching a summary of the MUP process and relevant documentation; or

take any other appropriate action, including recommencement of the process at either Stage 1, 2 or 3

Where the Regional Director dismisses the matter providing reasons for doing so, the MUP process will cease and no further remedial action will be taken. However, the Principal may revisit the MUP process and immediately re-apply the Identification and Improvement Plan to the extent that the same performance concerns are identified within a 12-month period after the MUP process ceases. Principals will only reinstitute the MUP process at the Identification and Improvement Plan stage following consultation with, and the approval of, the Regional Director.

**Stage 4 – Board of Review**

The Board of Review will meet, as required, to:

consider the State school teacher’s performance; and

ensure that the MUP process has been fair and observed tenets of natural justice; and

consider whether to accept the Regional Director’s recommendation of disciplinary action pursuant to Section 187 of the *Public Service Act 2008*

The Board of Review will examine all submissions and independently recommend appropriate administrative action to the Assistant Director-General, Human Resources, who then determines the final administrative action to be taken (e.g. termination of employment).

The Board of Review assists in minimising possible industrial conflict associated with performance-related matters, and helps ensure that allegations of unfair practices do not undermine performance management processes.

The Board of Review will consist of:

Executive Director, Workforce Management and Support;

aState School Principal;

a State High School Principal; and

a representative of the Queensland Teachers’ Union

Where disciplinary action is proposed pursuant to the *Public Service Act 2008*, the State school teacher will be given at least 14 days to respond to all matters of concern before a determination is made.

All responses will be fully considered by the Board of Review prior to recommending final administrative action for approval by the Assistant Director-General, Human Resources.

Immediately after the Assistant Director-General, Human Resources determines the final administrative action on an unsatisfactory performance report, the Principal and the Regional

Director will receive a copy of the determination.

When the employment of a State school teacher is terminated for unsatisfactory performance following a MUP process, a Notice of Further Consideration Required will be placed against the State school teacher’s employment record. Any future applications for employment with the Department of Education, Training and Employment will be referred directly to the Executive Director, Workforce Management and Support for consideration.