



# Procedure

## Managing Unsatisfactory Performance - State School Teachers Procedure

**Version:** 1.1 | **Version effective:** 15/02/2013

### Audience

All state schools

### Purpose

Provides processes and procedures for the identification and management of unsatisfactory performance of State School Teachers.

This procedural policy provides 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 employees 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 an employee's unsatisfactory performance.

### Overview

The objective of this Managing Unsatisfactory Performance (MUP) procedural policy is to ensure employees are meeting or exceeding performance expectations.

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

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

- recruitment, selection and induction programs;
- the employee's role description;
- The Developing Performance Framework; and
- Performance feedback from the principal and the employee's supervisor/s with respect to their performance.

It is essential that employees 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.

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 an employee'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 the employee through the MUP process.

Unsatisfactory performance will be the subject of ongoing informal performance feedback between the employee and their Principal. The ongoing informal communication of performance expectations and performance concerns to employees 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.

Employees 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.

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

While injury or illness may be a cause of, or contribute to, unsatisfactory performance, each matter 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. When an employee accesses sick leave during a MUP process, that officer may be referred for an Independent Medical Examination where deemed appropriate.

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 employee's Principal will notify the Regional Director or their delegate 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 seven 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 grievance has been investigated and finalised, at which time responsibility will revert to the employee's 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*, the *Code of Conduct for the Queensland Public Service* and/or the Department of Education, Training and Employment *Standard of Practice*.

Employees 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.

Employees 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.

## Responsibilities

**Employees** 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;
- 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; and
- maintaining current teacher registration.

**The Principal** (or delegate) 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;
- complying with, and effectively documenting, formal MUP processes and procedures;
- 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;
- 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.

The Principal is responsible for all final decisions and recommendations under stages 1 and 2 of the process.

However, a Principal may choose to delegate their supervisory duties to another School Leader (e.g. a Deputy Principal or Head of School).

**The Regional Director** or their delegate is responsible and accountable for:

- informing the employee in writing that the MUP process will proceed to Stage 3
- nominating two external review officers

**The Regional Director** is responsible and accountable for:

- considering the Stage 3 – External Review report, and may:
  - dismiss the matter providing reasons for doing so to the employee and employee’s Principal; or
  - submit to the Board of Review a letter recommending that the Board of Review consider a particular form of disciplinary action, including termination of employment, 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.

The **Board of Review** is responsible and accountable to:

- Meet and take action as per Stage 4 of the MUP process.

The **Assistant Director-General, Human Resources** is responsible and accountable for:

- Determining the final administrative action on an unsatisfactory performance report as per Stage 4 of the MUP process.

## Process

### MUP Process

MUP processes provide the employee with an opportunity to address concerns about their performance.

For further information on the stages in a MUP process, refer to the [Performance Process Flowchart](#) and the [State School Teacher Process](#).

## Definitions

Term	Definition
<b>Board of Review</b>	The Board of Review consists of: <ul style="list-style-type: none"> <li>• the Executive Director, Workforce Management and Support;</li> </ul>

Term	Definition
	<ul style="list-style-type: none"> <li>• a State School Principal;</li> <li>• a State High School Principal; and</li> <li>• a representative of the Queensland Teachers' Union.</li> </ul>
<b>Disciplinary Action</b>	<p>Under section 187 of the <i>Public Service Act 2008</i> a public service officer chief executive may discipline the officer if the chief executive is reasonably satisfied the officer has:</p> <ul style="list-style-type: none"> <li>• Performed the officer duties carelessly, incompetently or inefficiently; or</li> <li>• Been guilty of misconduct; or</li> <li>• Been absent from duty without approved leave and without reasonable excuse; or</li> <li>• Contravened, without reasonable excuse, a direction given to the officer as a public service officer by a responsible person; or</li> <li>• Used, without reasonable excuse, a substance to an extent that has adversely affected the competent performance of the officer's duties; or</li> <li>• Contravened, without reasonable excuse, a provision of this Act or an obligation imposed on the person under a Code Of Conduct: <ul style="list-style-type: none"> <li>○ Approved under the <i>Public Sector Ethics Act 1994</i>; or</li> <li>○ Prescribed under a directive of the commission chief executive.</li> </ul> </li> </ul> <p>Examples of disciplinary action that may be taken under section 188 of the <i>Public Service Act 2008</i> include:</p> <ul style="list-style-type: none"> <li>• reduction of classification level and a consequential change of duties; and/or</li> <li>• transfer or redeployment to other public service employment; and/or</li> <li>• reduction of remuneration level; and/or</li> <li>• a reprimand.</li> </ul> <p>Disciplinary action can only be instigated by the appropriate delegate.</p>
<b>Employee</b>	<p>An 'employee' is defined as a person who is employed under the <i>Teachers' Award – State 2012</i> (excluding employees engaged in promotional positions) who is undergoing a Managing Unsatisfactory Performance process.</p>
<b>Managing Unsatisfactory Performance (MUP) – State School Teachers</b>	<p>The process that incorporates the Identification and Improvement plan and the review periods to improve the performance of an employee covered by this procedural policy to a satisfactory standard for their role.</p>
<b>MUP</b>	<p>See Managing Unsatisfactory Performance – State School Teachers.</p>

Term	Definition
<b>Principal</b>	A reference to “Principal” within the procedural policy includes a Principal’s delegate (excluding where the Principal is required to make a decision/recommendation).
<b>Unsatisfactory Performance</b>	Work performance by an employee that is below the satisfactory standard for the role in which they are engaged.

## Legislation

- [Industrial Relations Act 1999 \(Qld\)](#)
- [Public Service Act 2008 \(Qld\)](#)
- [Public Service Regulation 2008 \(Qld\)](#)
- [Public Sector Ethics Act 1994](#)
- [Employee Performance Management Directive](#)
- [Teachers’ Award – State 2012](#)
- [Department of Education, Training and Employment State School Teachers’ Certified Agreement 2012](#)

## Delegations/Authorisations

- Nil

## Policies and procedures in this group

- [Employee performance, professional development and recognition policy](#)
- [Employee professional development including Study and Research Assistance Scheme \(SARAS\) procedure](#)
- [Management and completion of mandatory all-staff training program procedure](#)
- [Managing unsatisfactory performance - heads of program, heads of school, assistant principals and deputy principals procedure](#)
- [Managing unsatisfactory performance - principals procedure](#)
- [Managing unsatisfactory performance \(excluding school based teachers and principals\) procedure](#)
- [Probation - state school teachers procedure](#)

## Supporting information for this procedure

- [Managing Unsatisfactory Performance Stages](#)
- [State School Teacher Process](#)

## Other resources

- [Valuing Performance Policy](#)
- [Code of Conduct for the Queensland Public Service](#)
- [Standard of Practice to support the Code of Conduct for the Queensland Public Service](#)

## Forms

- [Identification and Improvement Plan](#)

## Supporting documents

- [Performance Process Flowchart](#)
- [Increment Deferment Form](#)
- [Notification of Stage One – Template Letter](#)
- [Stages One and Two Checklist](#)
- [Stage Two Template Letter](#)
- [Stage Three – Lesson Observation Template](#)

## Contact

For further information, please contact:

Workforce Relations

Human Resources

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## Review date

30/09/2014

## Superseded versions

*Previous seven years shown. Minor version updates not included.*

Nil

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