

**TEACHING SERVICES ACT 1980—REGULATION**

(Teaching Services (Education Teaching Service) Regulation 1994)

NEW SOUTH WALES



*[Published in Gazette No. 108 of 26 August 1994]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Teaching Services Act 1980, has been pleased to approve the Regulation made by the Director-General of the Department of School Education and set forth hereunder.

VIRGINIA CHADWICK  
Minister for Education, Training and Youth Affairs.

---

**PART 1—PRELIMINARY**

**Citation**

1. This Regulation may be cited as the Teaching Services (Education Teaching Service) Regulation 1994.

**Commencement**

2. This Regulation commences on 1 September 1994.

**Definitions**

3. In this Regulation:

“**authorised officer**” means an officer authorised in writing by the Director-General for the purposes of the provision in which the expression is used;

“**Department**” means the Department of School Education;

“**Director-General**” means the Director-General of the Department;

**“disciplinary authority”** means the Director-General or the holder of a position referred to in clause 13;

**“member of staff”** means an officer or temporary employee of the Education Teaching Service, whether a member of the teaching staff, administrative staff or any other staff of the Service;

**“school”** means a government school under the Education Reform Act 1990;

**“statutory conditions of service”** means such of the provisions of:

(a) the Act; or

(b) this Regulation; or

(c) any determination under section 25 of the Act,

as impose duties on members of staff;

**“the Act”** means the Teaching Services Act 1980.

## **Repeal**

4. (1) The Education Teaching Service Regulation 1982 is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the Education Teaching Service Regulation 1982, had effect under that Regulation is taken to have effect under this Regulation.

## **PART 2—DUTIES OF MEMBERS OF STAFF**

### **Compliance with statutory conditions of service**

5. (1) All members of staff must acquaint themselves with the statutory conditions of service.

(2) The person in charge of a school, school department or establishment must ensure that copies of:

(a) the Act; and

(b) this Regulation; and

(c) all determinations under section 25 of the Act in relation to members of staff,

are kept in the school, school department or establishment for the use of members of staff.

(3) The person in charge of a school, school department or establishment must report to the Director-General any breach of the statutory conditions of service that comes to the person’s knowledge.

**Compliance with directions**

**6. (1)** A member of staff must immediately comply with all lawful directions given by the person under whose control or supervision the member is placed.

**(2)** A request for the review of a direction may be made by or on behalf of one or more members of staff by means of a notice in writing given to the person by whom the direction was given.

**(3)** The person with whom the request is lodged must immediately send it to the Director-General or to an authorised officer.

**(4)** The making of a request for the review of a direction does not relieve a member of staff of his or her obligation to comply with it as far as is reasonably practicable.

**Scope of duties**

**7.** In addition to performing the specific duties attached to the position to which the member is appointed, a member of staff:

- (a)** must participate actively in all of the corporate interests of the school, school department or establishment in which the member is employed; and
- (b)** must undertake such other duties as may be assigned to the member by the person in charge of that school, school department or establishment.

**Responsibility for property**

**8. (1)** A member of staff must carefully use and preserve all Government property in the custody or care of the member.

**(2)** A member of staff in charge of a building must give timely notice in writing to the Director-General or an authorised officer of any repairs which the building may require.

**Disclosure of information**

**9. (1)** A member of staff must not, except in the discharge of official duties, use any information gained by or conveyed to the member in the course of those duties.

**(2)** A member of staff must not, without the express direction or permission of the Minister or the Director-General, disclose (whether directly or indirectly) any such information.

**Holding of local government office**

**10.** A member of staff may accept and hold the office of mayor of a council or chairperson of a county council, but must resign that office if, in the opinion of the Director-General, the holding of that office is incompatible with the proper discharge of his or her duties as a member of staff.

**Management of schools**

**11. (1)** A member of staff who is in charge of a school, school department or establishment must manage the school, school department or establishment in a proper, efficient and economic manner.

**(2)** The obligations imposed by subclause (1) include the following:

- (a) having well-stated policies and plans of action, clearly defined goals, a balanced, sequential and appropriate curriculum and suitable mechanisms for supervision, evaluation and documentation that ensure co-ordination of all school activities, continuity of policy and good communication;
- (b) encouraging and assisting the professional development of members of staff without discrimination, as required by the Anti-Discrimination Act 1977;
- (c) making effective and economic use of resources;
- (d) ensuring discipline;
- (e) encouraging members of staff to submit suggestions for increasing the efficiency of staff;
- (f) training members of staff and providing opportunities and facilities for them to improve themselves in matters connected with their official duties:
  - (i) by attendance at courses organised by or for the school, school department or establishment; and
  - (ii) by attendance at suitable lectures and courses at tertiary institutions.

**Medical examination**

**12. (1)** For the purpose of ascertaining the fitness of a member of staff to perform his or her duties, the Director-General may direct the member to submit to a medical examination by a qualified medical practitioner selected by the Director-General.

**(2)** The member of staff must comply with the direction.

**PART 3—BREACHES OF DISCIPLINE BY MEMBERS OF STAFF****Officers who may deal with breaches of discipline: sec. 82**

**13.** In accordance with paragraph (a) of the definition of “prescribed officer” in section 82 of the Act, the following positions in the Public Service (being positions within the Department) are prescribed as positions for the purposes of Division 6 of Part 4 of the Act in its application to the Education Teaching Service:

Deputy Director-General  
Assistant Director-General  
Director

**Laying of charges**

**14. (1)** If it appears to a disciplinary authority that a member of staff may have committed a breach of discipline, the member may be charged by the authority with the breach.

**(2)** The charge may be laid orally or in writing but, if laid orally, the member of staff must be furnished with a written copy of the charge within a reasonable time.

**(3)** At the time the member of staff is charged by a disciplinary authority in writing or furnished with a written copy of the charge, the member must be directed to send a written reply to the authority within such time (being at least 14 days) as is specified in the direction.

**(4)** The reply:

- (a)** must admit or deny the truth of the charge; and
- (b)** may give any explanation that the person wishes to make in regard to the charge.

**(5)** If a reply is not received by the disciplinary authority within the time specified in the direction, the member of staff is to be taken to have denied the truth of the charge.

**Dealing with charges**

**15. (1)** If a member of staff denies the truth of a charge, the Director-General (or some other disciplinary authority appointed by the Director-General) is to deal with the charge.

**(2)** A disciplinary authority may deal with the charge:

- (a) by directing the member of staff to furnish an explanation in writing within such time (being at least 14 days) as is specified in the direction; or
  - (b) by conducting an inquiry.
- (3) If a disciplinary authority takes action under subclause (2) (a):
- (a) the authority may make a finding after considering any reports relating to the breach of discipline and any replies or explanations of the member of staff, or
  - (b) the authority may decide to deal with the charge by conducting an inquiry under subclause (2) (b).
- (4) If 2 or more charges are laid against a member of staff at the one time and the member admits to the truth of one or more but not all of the charges, all of the charges may be dealt with in the manner prescribed by subclause (2).

### **Conduct of inquiries**

**16. (1)** If it is decided to conduct an inquiry, the disciplinary authority must give written notice to the member of staff charged of the time, date and place at which the inquiry is to be conducted.

(2) If the member of staff does not, without reasonable cause, appear at the time, date and place notified, the charge may be inquired into and dealt with in the member's absence.

(3) For the purposes of an inquiry, a disciplinary authority may call on any person to appear and to give such evidence, and produce such documents, as appear to the authority to be relevant to the inquiry.

(4) A member of staff must not, without reasonable cause:

- (a) fail to appear, give evidence or produce documents at an inquiry when called on to do so; or
- (b) knowingly give false or misleading evidence at an inquiry.

(5) A member of staff may be represented at an inquiry by a barrister, solicitor or agent employed at the member's expense.

(6) A disciplinary authority may conduct an inquiry without regard to legal formality, and is not bound by any law or practice as to evidence, but may inform himself or herself of any matter in such manner as he or she thinks fit.

(7) However, a disciplinary authority must not inform himself or herself of, or take into consideration, any matter that has not been disclosed in evidence at a sitting of the inquiry if the matter is one that

ought, in the interests of justice, to be available for challenge or testing by the persons entitled to be present at the inquiry.

- (8) Nothing in subclause (7) prevents a disciplinary authority:
- (a) from informing himself or herself of, or taking into consideration, any matter of which a court would be entitled to take judicial notice; or
  - (b) when deciding whether or how to punish a member of staff found to have committed a breach of discipline, from taking into consideration any previous breach of discipline that has been found by a disciplinary authority to have been committed by the person charged.

#### **Witnesses' expenses**

17. A disciplinary authority may grant to a witness summoned to attend and give evidence at an inquiry conducted by the authority expenses for attendance in accordance with the scale of allowances to witnesses prescribed by the rules of the District Court.

#### **Amount of fine**

18. A fine imposed on a member of staff by a disciplinary authority under section 85 of the Act must not exceed 5 penalty units.

#### **Charge not proved**

19. If a charge of breach of discipline against a member of staff is found not to be proved:

- (a) any suspension of the member must immediately be removed; and
- (b) the charge must not be recorded in (or, if already recorded, must be removed from) the member's personal record.

#### **Director-General to be notified of offences committed by members of Staff**

20. (1) A member of staff who is found guilty of an offence referred to in section 86 of the Act must immediately report that fact to the Director-General.

(2) On becoming aware of the fact that a member of staff has been found guilty of such an offence, the person in charge of the school, school department or establishment in which the member is employed must also immediately report that fact to the Director-General.

---

**NOTES**  
**TABLE OF PROVISIONS**

PART 1—PRELIMINARY

1. Citation
2. Commencement
3. Definitions
4. Repeal

PART 2—DUTIES OF MEMBERS OF STAFF

5. Compliance with the statutory conditions of service
6. Compliance with directions
7. Scope of duties
8. Responsibility for property
9. Disclosure of information
10. Holding of local government office
11. Management of schools
12. Medical examination

PART 3—BREACHES OF DISCIPLINE BY MEMBERS OF STAFF

13. Officers who may deal with breaches of discipline: sec. 82
14. Laying of charges
15. Dealing with charges
16. Conduct of inquiries
17. Witnesses' expenses
18. Amount of fine
19. Charge not proved
20. Director-General to be notified of offences committed by members of staff

---

**EXPLANATORY NOTE**

The object of this Regulation is to repeal the Education Teaching Service Regulation 1982 (made under the Teaching Services Act 1980) and to remake, with modifications, the provisions of that Regulation which are still required. The new Regulation makes provision in respect of the following matters:

- (a) the duties and responsibilities of members of staff of the Education Teaching Service (clauses 5–11);
- (b) the medical examination of members of staff to ascertain their fitness to perform their duties (clause 12);
- (c) the manner of dealing with breaches of discipline under Part 4 of the Act (clauses 13–17);
- (d) the maximum fine that may be imposed on a member of staff under section 85 of the Act (clause 18);



**1994—No. 446**

---

- (e) the action to be taken where a charge of breach of discipline is found not to be proved (clause 19);
- (f) the requiring of members of staff who have been found guilty of offences punishable by imprisonment (and the persons in charge of them) to report the fact to the Director-General (clause 20);
- (g) other matters of a minor, consequential or ancillary nature (clauses 14).

This Regulation is made under the Teaching Services Act 1980, including section 100 (general regulation making power) and sections 82 and 84.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.

---