Freedom of Information Schedule

[redacted] – DISCIPLINARY ACTION TAKEN AGAINST PRINCIPALS AND TEACHERS – CASE 3

DATE OF REQUEST: 6 JULY 2018 FILE REFERENCE: [redacted]

Document Number	Description	Document Date	Decision (Full release, Partial release, Non-release)	Reason for Partial or Non-release
1	Incident report statements by [redacted] and [redacted]	[redacted]	Non-release	Schedule 2.2(a)(ii)
2	Email - L Harman to [redacted] re [redacted] incident update	[redacted]	Partial	Schedule 2.2(a)(ii)
3	Email – L Harman to S Tarrant FW: File note: [redacted] Attachments: File note.docx	[redacted]	Partial	Schedule 2.2(a)(ii) Attachment not released under Schedule 2.2(a)(ii)

This document is not released in accordance with
Section 17 of the *Freedom of Information Act*
Schedule 2.2(a)(ii)

From: Harman, Lauren
To: [redacted]
Cc: Tarrant, Sarah
Subject: RE: [redacted] - incident update
Date: [redacted]
Attachments: image001.jpg

[redacted]

Could you make a record of the counselling you have provided.

We consider this matter has been dealt with in accordance with clause H4.4 of the ACTPS Education and Training Directorate (Teaching Staff) Enterprise Agreement) 2011-2014.

H4.4 If, after conducting the evidence gathering process, the head of service is of the opinion that the alleged misconduct has occurred but the matter is likely to be resolved informally, the manager/supervisor will discuss the particular behaviour with the employee as soon as possible. The discussion will set out clear expectations of future behaviour and that a recurrence could lead to discipline action. A record of this discussion will be retained. The head of service may also choose to organise mediation between relevant persons.

Therefore Employee Relations will not take any further action.

Cheers
Lauren

Lauren Harman
Assistant Manager
Employee Relations
Human Resources
Education and Training Directorate
ACT Government
62058271
FAX 620 59418

From: [redacted]
Sent: [redacted]
To: [redacted]
Cc: Harman, Lauren
Subject: [redacted] - incident update

Hi [redacted]
To update you on the incident involving [redacted] (teacher) [redacted]

1. [redacted] is no longer upset about what happened and wants to put the incident behind [redacted] and move on. [redacted] has accepted [redacted] apology given when the incident occurred.
2. [redacted] is happy to remain in [redacted] class.
3. I have had two conversations with [redacted], and [redacted] is accepts that what happened was a regrettable and unfortunate incident.
4. I have indicated [redacted] wishes to give [redacted] a formal apology. [redacted] doesn't want to meet with [redacted] and is happy for [redacted] to call [redacted] early next week.
5. [redacted] is very appreciative of the way the situation has been handled and does not wish to

take the matter any further. The apology over the phone will be enough.

6. I have counselled [redacted] and I am very confident [redacted] understands the gravity of what happened and has made a commitment to never do anything like this again.

Overall, I think we have achieved the best outcome for all concerned.

Cheers

[redacted]

[redacted]

[redacted]

[redacted]

EmailSignatureImage_Standard

From: Harman, Lauren
To: Tarrant, Sarah
Subject: FW: File note: [redacted]
Date: [redacted]
Attachments: File note.docx

Lauren Harman
Assistant Manager
Employee Relations
Human Resources
Education and Training Directorate
ACT Government
62058271
FAX 620 59418

From: [redacted]
Sent: [redacted]
To: Harman, Lauren
Cc: [redacted]
Subject: File note: [redacted]

Hi Lauren,
Thank you for support with this matter.
Attached is the file note from the counselling I have provided to [redacted].
Cheers
[redacted]

Freedom of Information Schedule

[redacted] – DISCIPLINARY ACTION TAKEN AGAINST PRINCIPALS AND TEACHERS – CASE 4

DATE OF REQUEST: 6 JULY 2018 FILE REFERENCE: [redacted]

Document Number	Description	Document Date	Decision (Full release, Partial release, Non-release)	Reason for Partial or Non-release
1	Letter – D Whitton to [redacted] re: Allegation of misconduct Attachments: A Enterprise Agreement, section H B Public Sector Management Act, section 9	[redacted]	Partial	Schedule 2.2(a)(ii) Attachments are not provided with this document. They are included in the reference documents.
2	Letter – D Whitton to [redacted] re: Notification of workplace investigation Attachments: A Enterprise Agreement, section H B Public Sector Management Act, section 9	[redacted]	Partial	Schedule 2.2(a)(ii) Attachments are not provided with this document. They are included in the reference documents.
3	Investigation Report	[redacted]	Non-release	Schedule 2.2(a)(ii)

4	Letter – D Whitton to [redacted] re: Outcome of investigation and proposed action Attachments: A Investigation report B Reasons for determining proposed action C TQI Act, section 67	[redacted]	Partial	Schedule 2.2(a)(ii) Attachments A and B are not released under Schedule 2.2(a)(ii) Attachment C is not provided with this document. It is included in the reference documents.
5	Letter – D Whitton to [redacted]	[redacted]	Partial	Schedule 2.2(a)(ii)
6	Notification to Teacher Quality Institute Attachments: A Investigation report B Reasons for determining proposed action C Letter – final decision and outcome	[redacted]	Partial	Schedule 2.2(a)(ii) Attachments A and B are not provided as they are duplicates of Documents 3 and 4. Attachment C is not provided as it is a duplicate of Document 5.

ACT Government
Education and Training

File ref: [redacted]

[redacted]

ALLEGATION OF MISCONDUCT

Dear [redacted]

I am writing to advise you that I have received a report of incidence at [redacted] involving you and students on [redacted]

The alleged incidence are:

[redacted]

I am providing an opportunity for you to respond to the allegations in writing within seven days of the date of this letter. I am also available to meet with you to discuss your response. If you wish to meet as well as providing a written response you should contact Sally Green on 62058271.

At this stage no judgement has been made as to the truth or otherwise of the allegations. If you choose not to provide a response, a determination will be made based on the information available.

Due to the nature of the allegations I do not believe it is in your interests or the interests of the Directorate for you to be available for Casual Teaching until this matter is resolved. In the circumstances, I direct that you not accept any other bookings for casual teaching with Directorate schools until this matter is resolved.

I am dealing with this matter in accordance with Section H –Workplace Behaviours of the *ACT Public Service Education and Training Directorate (Teaching Staff) Enterprise Agreement 2011-2014* (Attached).

If the allegations are found proven, your actions may constitute a breach of the General Obligations of Public Employees as set out in Section 9 of the *Public Sector Management ACT 1994* (Attached) discipline action may be taken up to and including termination of your casual employment.

Should discipline action be taken the information will be provided to the Teacher Quality Institute in accordance with Part 6, Section 67(b) of the ACT Teacher Quality Institute Act 2010.

I am asking that you not discuss the details of this matter with any other staff member or students from [redacted] without my prior permission. I am providing this direction to ensure the confidentiality and integrity of this process being followed. Failure to comply with this direction may constitute misconduct under Section 9 of the *Public Sector Management ACT 1994*.

Should you require support in relation to this matter, the EAP provides employees and their family members with confidential and professional counselling and related services to assist in resolving work related or personal issues. The EAP provider, Davidson Trahaire Corpsych can be contacted on 1300 360 364.

If you require any additional information in relation to this matter, please contact Sally Green on sally.green@act.gov.au or 62058271.

Yours sincerely

[redacted]

Dougal Whitton
Manager
Employee Relations

[redacted]

ACT Government
Education and Training

[redacted]

[redacted]

Dear [redacted]

NOTIFICATION OF WORKPLACE INVESTIGATION

On [redacted] I wrote to you outlining allegations of misconduct that had been made against you. On [redacted] you emailed your response to the allegations and provided further details on [redacted] After consideration of your response I have decided to refer the matter to Shared Services Employee Relations (SSER) for independent investigation. You should be clear that in referring the matter to SSER no judgement has been made as to the truth or otherwise of the allegations.

The allegations that will be referred for investigation are:

[redacted]

The investigation will be conducted in accordance with *H6 Investigating allegations of misconduct*, of the *ACT Public Service Education and Training Directorate (Teaching Staff) Enterprise Agreement 2011-2014* (Agreement), which has been attached for your information. The investigator appointed by SSER will contact you prior to the commencement of the investigation to discuss the investigation process with you.

The investigation must be conducted with regard to the principles of natural justice and procedural fairness. This may include seeking further information and interviewing witnesses. You will then be provided with the full details of the allegations and given the opportunity to fully and completely respond as well as nominating any witnesses to support your version of events.

Once the investigation is completed the delegate will be provided with the investigation report. After considering the report the delegate will make a finding on the balance of probabilities as to whether any misconduct has occurred.

If the allegations are substantiated, they may constitute a breach of the General Obligations of Public Employees as set out in Section 9 of the *Public Sector Management Act 1994* (Attachment B) and disciplinary action up to and including termination of employment may be taken.

Should disciplinary action be taken, the information will be provided to the ACT Teacher Quality Institute (TQI) in accordance with Part 6, section 67 (b) of the *ACT Teacher Quality Institute Act 2010*.

I am directing that you do not discuss this matter further with any staff in the Directorate without my prior permission to ensure the integrity of the investigation is maintained. Failure to follow these directions may constitute misconduct and result in discipline action.

You have currently been directed not to take future casual relief bookings on SiMs and your availability has been blocked. This action has been taken in the interests of all parties, including you to avert the opportunity for further allegations. It is the intention that this remains in place until the matter has been resolved. If you wish to apply to be able to work prior to a finding being made please contact Sarah Tarrant on the number below.

Should you require support in relation to this matter, the Employee Assistance Program (EAP) provides employees and their family members with confidential and professional counselling and related services to assist in resolving work related or personal issues. The EAP provider is Davidson Trahaire Corpsych and they can be contacted on 1300 360 364.

Sarah Tarrant will maintain regular contact with you on the matter's progress. Please do not hesitate to contact her on 62054419 if you have any further questions.

Yours sincerely

[redacted]

Dougal Whitton
Manager Employee Relations

[redacted]

This document is not released in accordance with
Section 17 of the *Freedom of Information Act*
Schedule 2.2(a)(ii)

ACT Government
Education and Training

File ref: [redacted]

[redacted]

Dear [redacted]

Outcome of investigation and proposed action

As you are aware, an investigation was conducted in relation to allegations made against you while you were employed as a relief teacher at [redacted] That investigation has now concluded, finding three of the allegations substantiated and four partially substantiated. As a result I propose to make you inactive on SiMS, the casual relief availability system, meaning that you will not be available for relief in ACT public schools.

On [redacted] I wrote to you outlining allegations of misconduct that had been made against you. On [redacted] I wrote to you and advised you that I had decided to refer the matter to Shared Services Employee Relations (SSER) for investigation. On [redacted] Sarah Tarrant, Executive Officer Employee Relations, emailed you to advise you that, as you are a casual employee SSER were unable to conduct the investigation. You were also advised that Corrina Howarth, an appropriately qualified officer in Employee Relations was to be the investigating officer.

I have carefully considered and accepted the report and its findings. A copy of a redacted investigation report is at Attachment A. I have determined that the misconduct that was substantiated and partially substantiated constitutes a breach of Section 9 of the *Public Sector Management Act 1994*, specifically:

(a) exercise reasonable care and skill;

(c) act with probity;

(d) treat members of the public and other public employees with courtesy and sensitivity to their rights, duties and aspirations (this includes students); and

(f) not harass a member of the public or another public employee, whether sexually or otherwise (this includes students).

The reasons for determining the proposed action in making you inactive on SiMS and unavailable for relief are at Attachment B.

Before proceeding with the proposed action, I am providing you the opportunity to respond. You may provide a written response within 14 days from the date of this letter. Should you choose not to respond, the proposed action will proceed.

In accordance with section 67 of the *ACT Teacher Quality Institute Act 2010* (TQI Act), the ACT Teacher Quality Institute (TQI) must be notified where the employer has reasonable grounds for believing that you:

- have contravened a condition of your registration or permit to teach; and/or
- if disciplinary action is taken.

A copy of section 67 of the TQI Act is attached for your information (Attachment C).

My direction that you are not to discuss this matter further with any staff in the Directorate without my prior permission remains in force. Failure to comply with this direction may in it itself constitute a breach of the general obligation of public employees outlined in Section 9 of the *Public Sector Management Act 1994*.

Should you require support in relation to this matter, the Employee Assistance Program (EAP) provides employees and their family members with confidential and professional counselling and related services to assist in resolving work related and personal issues. Please call one of the providers to arrange an appointment:

- **Converge International:**
  Phone: 1300 687 327 and website: Converge International website
- **Davidson Trahaire Corpsych:**
  Phone: 1300 360 364 and website: Davidson Trahaire Corpsych website
- **OPTUM:**
  Phone: 1300 361 008 and website: Optum website

If you have any questions in relation to the information contained in this letter you should contact me on 620 59152 or at dougal.whitton@act.gov.au.

Yours sincerely

[redacted]

Dougal Whitton
Manager
Employee Relations

[redacted]

ACT Government
Education

File ref: [redacted]

[redacted]

Dear [redacted]

I am writing to advise you of my decision to proceed in making your casual relief registration inactive on SiMs, the casual relief availability system for the ACT Education Directorate (Directorate), effective from the date of this letter. In making this decision I understand that I am in effect terminating your employment with the Directorate.

On [redacted] I wrote to you advising you that the investigation had concluded and of the above proposed action. I also attached a copy of the investigation report and my reasons for determining the proposed action.

On [redacted] an attempt was made to deliver the letter to you at the above address. The courier making the delivery was advised by the occupants that you did not live at that address. On [redacted] Corrina Howarth, Executive Officer Employee Relations, emailed you the letter and attachments and requested your correct address. In a return email you stated that the address on the letter was your correct address.

In an email dated [redacted] you provided an interim response. You stated that *'the 'evidence' is inaccurate, full of amazing spin and misrepresentation of what happened, and mostly coming from students'*. You also assert that I *'clearly'* did not take *'any notice'* of your responses to the allegations. The investigation report includes and considers the responses you provided in relation to each of the allegations.

In the same email you stated that you *'would provide a comprehensive response to the other allegations in due course'*. In my letter dated [redacted] you had 14 days from the date of the letter to provide your response, meaning that it was due by no later than [redacted] I made the decision to extend the response date. In an email dated [redacted] Ms Howarth advised you that you had until close of business [redacted] to provide your response.

On [redacted] you sent Ms Howarth an email advising that you have been hospitalised for many days and unable to access a computer. In the email, you provided some further points. You state that Ms Howarth *'and others have uncritically accepted the claims made by the school'* and ignored your *'rebuttels (sic) of these claims'*. The evidence considered in the investigation report was provided by staff and students at the school as well as by you.

Ms Howarth, as the investigating officer considered all the evidence in relation each allegation and made a determination on the balance of probabilities. As mentioned in my letter dated [redacted] in making my determination 'I have carefully considered the report and its findings'. Nothing you have said in your two email responses of [redacted] and [redacted] has altered my view on the appropriate outcome.

The allegation regarding [redacted] is serious and not *'absurd'* as you state in your email dated [redacted] The investigation report found allegation 2a to be substantiated on the balance of probabilities, i.e. it was determined that the alleged incident was more likely than not to have occurred as reported.

The allegation regarding [redacted] was found partially substantiated on the balance of probabilities. As stated in the investigation report and your own admission, [redacted] In your email response of [redacted] you state that you [redacted] As part of the investigation, Ms Howarth did question the teacher concerned [redacted] This is included in the investigation report.

With regards to the [redacted] matter on [redacted] an evidence gathering process was initiated and found that your behaviour was inappropriate. It was determined that an investigation was not warranted and that the matter could be resolved informally. A meeting was held on [redacted] where the outcome of the process was discussed and you were advised of your responsibilities and professional boundaries as a teacher. I do not intend to further consider this matter other than to note that your behaviour was found to be inappropriate.

Three allegations against you were found to be substantiated and four allegations partially substantiated. I am satisfied that you engaged in misconduct and that you breached the general obligations of public employees as outlined in Section 9 (a), (c), (d) and (f) of the *Public Sector Management Act 1994*. I am also satisfied that your conduct had the potential to bring the reputation of the Directorate and public education in general into disrepute. Each of the incidents found to be substantiated (including those partially substantiated) are extremely serious for a teacher and relate directly to [redacted] Your actions are totally inconsistent with continuation of your employment as a casual teacher and had the potential to cause [redacted] When considered collectively, I am in no doubt that your conduct constitutes serious misconduct as defined in Regulation 1.07 of the Fair Work Regulations.

You may have an entitlement to bring an action under the *Fair Work Act 2009* in relation to this decision. The link to the Fair Work Commission website is https://www.fwc.gov.au/resolving-issues-disputes-and-dismissals/dismissal-termination-redundancy/eligibility-remedies-0.

In accordance with section 67 of the *ACT Teacher Quality Institute Act 2010* (TQI Act) the ACT Teacher Quality Institute (TQI) must be notified that disciplinary action has been taken against you.

Should you require support in relation to this matter, the Employee Assistance Program (EAP) provides employees and their family members with confidential and professional counselling and related services to assist in resolving work related and personal issues. Please call one of the providers to arrange an appointment:

- **Converge International**
  Phone: 1300 687 327 and website: Converge International website
- **Davidson Trahaire Corpsych**
  Phone: 1300 360 364 and website: Davidson Trahaire Corpsych website
- **OPTUM**
  Phone: 1300 361 008 and website: Optum website

Please contact me on 6205 9152 or email to dougal.whitton@act.gov.au if you have any questions in relation to the information contained in this letter.

Yours sincerely

[redacted]

Dougal Whitton
Manager
Employee Relations

[redacted]

ACT Government
Education and Training

IN-CONFIDENCE

Notification of Action against a Teacher

This form should be used to notify the Teacher Quality Institute (TQI) of relevant actions in relation to a Teacher in accordance with section 67, Employer's obligation to notify institute about teacher of the *ACT Teacher Quality Institute Act 2010*.

Section 1 - Notification:	
In accordance with Part 6, section 67 of the ACT Teacher Quality Institute Act 2010, it is advised that:	
(a) The employer has reasonable grounds for believing the teacher has—	
(i) contravened a condition of the person's registration or permit to teach; or	☒
(ii) has become mentally or physically incapacitated and the incapacity prevents the person from performing an inherent requirement of their job as a teacher; or	☐
(b) Disciplinary action is being taken against the teacher under the terms of the teacher's employment	☐

Section 2 - Details of Teacher:	
First Name: [redacted]	Second Name: [redacted]
Family Name: [redacted]	Date of Birth: [redacted]
Classification: Casual Teacher	School/Section:
Telephone: [redacted]	Email: [redacted]

Section 3 - Detail of Matter:	
Reason for Notification:	
Substantiated underperformance:	
Provision/s of s9 (or misconduct as defined in Teaching EA) determined to have been breached:	(a) exercise reasonable care and skill; (c) act with probity; (d) treat members of the public and other public employees with courtesy and sensitivity to their rights, duties and aspirations; and (f) not harass a member of the public or another public employee, whether sexually or otherwise. *1.1.2 Demonstrate high standards of professional practice* *Teachers demonstrate a high standard in teaching and learning by:* • engaging students in their learning • working to achieve high levels outcomes for all students • working cooperatively and collaboratively with others to achieve school and system goals *1.1.3 Protect students from harm* *Teachers protect students from harm by:*

	• recognising that students have a right to a safe and secure teaching and learning environment • refraining from conduct that could assault or harm a student • refraining from conduct that could cause psychological damage to a student *1.1.6 Discourage any form of discrimination or harassment in the workplace* *Teachers act to help remove discrimination and harassment in the workplace by:* • Promoting an environment that is accepting of and tolerant of diversity, and is free from intimidation, threat, humiliation and harassment • Refraining from harassing behaviour including sexual harassment.
Date of determination of misconduct and proposed discipline action:	[redacted]
Date of notice of discipline action:	[redacted]
Discipline action taken by the employer:	Casual relief registration inactive on SiMS, in effect terminating [redacted] employment with ACT Education.
Attachments: Investigation report Final discipline action letter Record of formal counselling	[redacted] Investigation report- signed Reasons for determining proposed action Letter- Final decision and outcome- Signed

Section 4 - Details of Employing Authority	
Employer: ACT Education	Delegate: Ms Coralie McAlister, Director People and Performance
Telephone: 620 59202	Email: coralie.mcalister@act.gov.au
Signature: [redacted]	Date: [redacted]

Freedom of Information Schedule

[redacted] – DISCIPLINARY ACTION TAKEN AGAINST PRINCIPALS AND TEACHERS – CASE 5

DATE OF REQUEST: 6 JULY 2018 FILE REFERENCE: [redacted]

Document Number	Description	Document Date	Decision (Full release, Partial release, Non-release)	Reason for Partial or Non-release
1	Letter – D Whitton to [redacted] Attachments: A Enterprise Agreement, section H B Public Sector Management Act, section 9	[redacted]	Partial	Schedule 2.2(a)(ii) Attachments are not provided with this document. They are included in the reference documents.
2	Meeting record – [redacted]	[redacted]	Non-release	Schedule 2.2(a)(ii)
3	Letter – D Whitton to [redacted] Attachments: A Enterprise Agreement, section H B Public Sector Management Act, section 9	[redacted]	Partial	Schedule 2.2(a)(ii) Attachments are not provided with this document. They are included in the reference documents.

4	Letter – D Whitton to [redacted] Attachments: A Considerations in Determining the Appropriate Disciplinary Action B Teacher Quality Institute Act (TQI), section 67 C Enterprise Agreement, section J	[redacted]	Partial	Schedule 2.2(a)(ii) Attachment A is not released under Schedule 2.2(a)(ii) Attachments B and C are not provided with this document. They are included in the reference documents.
5	Letter – D Whitton to [redacted] re: Written warning and admonishment Attachments: A TQI Act, section 67 B Enterprise Agreement, section J	[redacted]	Partial	Schedule 2.2(a)(ii) Attachments are not provided with this document. They are included in the reference documents.
6	TQI Notification Attachments: A Letter - outcome of preliminary assessment B Letter – proposed disciplinary action C Letter – written warning and admonishment	[redacted]	Partial	Schedule 2.2(a)(ii) Attachments are not provided with this document. They are duplicates of Documents 3, 4 and 5.

ACT Government
Education and Training

[redacted]

[redacted]

I have been provided with information that alleges you were aware of [redacted] As you would appreciate, the Directorate is required to follow up on all reports of this nature.

In accordance with *Section H – Workplace values and behaviours* of the *ACTPS Education and Training (Teaching Staff) Enterprise Agreement 2014-2018* (Agreement) I am conducting a preliminary assessment (clause H2) to determine whether any further action, if any is required. A copy of section H of the Agreement is attached.

Prior to determining how to proceed I am requesting that you attend a meeting with me to discuss the matter at 3:00pm on [redacted] at the Hedley Beare Centre for Teaching and Learning, 51 Freemantle Drive, Stirling ACT. You are welcome to bring a support person with you to this meeting and I would recommend that you do this. Should this time be unsuitable please phone Sally Green, Assistant Manager Employee Relations, on 620 59438 to arrange another more suitable time. Ms Green will also attend the meeting.

I am directing you not to discuss this matter with [redacted] students past or present, or the school community. If you wish to discuss this matter with anyone other than your intended support person I ask that you contact me in the first instance. Failure to following this direction may constitute a breach of section 9 (i) of the *Public Sector Management Act 1994*, *General Obligations of Public Sector Employees* (attached) and may result in discipline action.

Should you require support in relation to this matter, the Employee Assistance Program (EAP) provides employees and their family members with confidential and professional counselling and related services to assist in resolving work related and personal issues. Please call one of the providers to arrange an appointment:

- **Converge International**

  Phone: 1300 687 327 and website: Converge International website
- **Davidson Trahaire Corpsych**

  Phone: 1300 360 364 and website: Davidson Trahaire Corpsych website
- **OPTUM**

  Phone: 1300 361 008 and website: Optum website

Please contact Sally Green on her number above from the foyer of HBCTL upon your arrival for the meeting.

Yours sincerely

[redacted]

Dougal Whitton
Manager
Employee Relations
[redacted]

This document is not released in accordance with
Section 17 of the *Freedom of Information Act*
Schedule 2.2(a)(ii)

ACT Government
Education

[redacted]

Dear [redacted]

On Thursday [redacted] Sally Green and I met with you and your support person [redacted] as part of a preliminary assessment process into potential misconduct by you. This meeting was to discuss information that I had received alleging you had [redacted]

I have determined from the information you provided during this meeting that [redacted] may constitute misconduct.

The allegation of misconduct against you is:

[redacted]

In accordance with clause H7.4 of the Enterprise Agreement, no investigation may be necessary where the employee fully admits to the alleged misconduct and the employee agrees that there is no need for an investigation.

I am of the view that during our meeting of [redacted] you fully admitted to [redacted] The agreed record of the meeting states:

- [redacted]
-
-

From the information you provided during our meeting it appears that [redacted] may have been inconsistent with your obligations as outlined in the *Teachers' Code of Professional Practice*, specifically:

[redacted]

If the allegation is found proven on the balance of probabilities, the allegation may constitute a breach of Section 9 of the *Public Sector Management* (PSM) *Act 1994,* specifically*:*

(a) exercise reasonable care and skill

(c) act with probity;

In accordance with clause H6.5 of the *ACT Public Sector Education and Training Directorate (Teaching Staff) Enterprise Agreement 2014-2018* (Enterprise Agreement), misconduct includes instances where the employee fails to meet the obligations set out in section 9 of the PSM Act 1994 (both attached).

I am requesting that you consider the information contained in this letter and advise me of whether or not you agree that no further investigation is necessary. Should you agree that no further investigation is necessary, I will propose issuing you with a written warning and admonishment in relation to the alleged misconduct in accordance with clause *H10 Disciplinary Action and Sanctions* of the Enterprise Agreement. You will have a further opportunity to respond should this disciplinary action be proposed. At our meeting on [redacted] I advised you that I would consider counselling as an appropriate outcome for this matter. However, based on the information currently available I am of the view that a written warning and admonishment is the appropriate outcome.

In the event that you do not agree to no further investigation being necessary, I will commence an investigation into the matter. Please also be aware if any further information becomes available that indicates you have not been totally honest in response so far, an investigation will proceed.

In accordance with section 67 of the *ACT Teacher Quality Institute Act 2010* (TQI Act) the Directorate must notify the ACT Teacher Quality Institute (TQI) where disciplinary action has been taken.

If you have further information that you wish to be considered you may provide this to me as part of your response. You should provide your response to me by email no later than 7 days from the date of this letter.

Should you require support in relation to this matter, the Employee Assistance Program (EAP) provides employees and their family members with confidential and professional counselling and related services to assist in resolving work related and personal issues. Please call one of the providers to arrange an appointment:

- **Converge International**

  Phone: 1300 687 327 and website: Converge International website
- **Davidson Trahaire Corpsych**

  Phone: 1300 360 364 and website: Davidson Trahaire Corpsych website
- **OPTUM**

  Phone: 1300 361 008 and website: Optum website

Please contact Sally Green on 920 59438 or email: Sally.Green@act.gov.au if you have any questions in relation to this matter.

Yours sincerely

[redacted]

Dougal Whitton
Manager
Employee Relations
[redacted]

Email: Dougal.Whitton@act.gov.au

ACT Government
Education and Training

[redacted]

Dear [redacted]

I wrote to you on [redacted] advising the outcome of the preliminary assessment into potential misconduct by you. I advised you of the alleged misconduct and of my view that you had fully admitted to the misconduct in our meeting in [redacted] On [redacted] you provided a response to my letter agreeing, in accordance with clause H7.4 of the *ACTPS Education and Training Directorate (Teaching Staff) Enterprise Agreement 2014-2018* (Enterprise Agreement) that you had fully admitted to the allegation and that no investigation was necessary. Having considered all of the information available I have determined that misconduct has occurred and propose to issue you with a written warning and admonishment in accordance with section H10 Disciplinary Action and Sanctions of the Enterprise Agreement.

In determining the appropriate disciplinary action I have considered the factors outlined at subclause H10.3 of the Enterprise Agreement (Attachment A). After considering your reasons regarding your [redacted] I have determined that [redacted] still constitutes misconduct and a failure to comply with the General Obligations of Public Employees as set out in Section 9 of the *Public Sector Management Act 1994*, specifically:

(a) exercise reasonable care and skill; and

(c) act with probity;

I have determined that you failed to exercise reasonable care and skill by [redacted] you also failed to act with probity, specifically, you failed to act in accordance with the professional standards expected of a teacher in the ACT Education Directorate.

Before proceeding with discipline action, I am providing you the opportunity to respond. You may provide a written response regarding the proposed action within 14 calendar days from the date of this letter. Should you choose not to provide a response the proposed discipline action will proceed. You may also indicate your intention not to respond at an earlier time.

In accordance with Part 6, section 67 (b) of the *ACT Teacher Quality Institute Act 2010*, the ACT Teacher Quality Institute (TQI) must be notified of any disciplinary action taken in accordance with clause H10 of the Enterprise Agreement. Should the proposed discipline action proceed the TQI will be advised in accordance with this requirement.

Should you require support in relation to this matter, the Employee Assistance Program (EAP) provides employees and their family members with confidential and professional counselling and related services to assist in resolving work related and personal issues.

Please call one of the providers to arrange an appointment:

- **Converge International**

  Phone: 1300 687 327 and website: Converge International website
- **Davidson Trahaire Corpsych**

  Phone: 1300 360 364 and website: Davidson Trahaire Corpsych website
- **OPTUM**

  Phone: 1300 361 008 and website: Optum website

Please contact Sally Green on 920 59438 or email: Sally.Green@act.gov.au if you have any questions in relation to this matter.

Yours sincerely

[redacted]

Dougal Whitton
Manager
Employee Relations
[redacted]

ACT Government
Education and Training

[redacted]

File ref: [redacted]

Dear [redacted]

Written warning and admonishment

This letter constitutes a written warning and admonishment in accordance with subclause H10.1 (a) of the *ACT Public Sector Education and Training Directorate (Teaching Staff) Enterprise Agreement* (Agreement).

On [redacted] I wrote to you proposing discipline action following my determination that [redacted] constituted misconduct. You had fully admitted to the alleged misconduct and agreed that no investigation was necessary.

I provided you with an opportunity to respond to my proposed discipline action. As no response was received I am now proceeding with the discipline action.

[redacted] was a breach of section 9 of the General Obligations of Public Employees of the *Public Sector Management Act 1994* (PSM Act), specifically:

(a) exercise reasonable care and skill; and

(c) act with probity

[redacted]

I am directing that in future you comply with your obligations under Section 9 of the PSM Act and that you take particular care to ensure your actions are in accordance with your obligations as outlined in the *Teachers' Code of Professional Practice.*

Failure to comply with this direction, resulting in proven misconduct of a similar nature, may result in disciplinary action up to and including termination of your employment.

The Directorate must notify the Teacher Quality Institute (TQI) of this matter in accordance with Part 6, section 67 (b) of the *ACT Teacher Quality Institute Act 2010* (TQI Act). A copy of Part 6, section 67 is provided for your information.

If you wish to appeal the discipline action you have 14 days from the date of this letter to lodge a written application in accordance with Section J- Appeal Mechanism of the Agreement, also provided for your information. Applications for an appeal should be sent to:

The Convenor of Appeal Panels
ACT Government
Professional Standards Unit
GPO Box 158
CANBERRA CITY ACT 2601
Email: professionalstandardsunit@act.gov.au
Fax: (02) 6207 8317

Should you require support in relation to this matter, the Employee Assistance Program (EAP) provides employees and their family members with confidential and professional counselling and related services to assist in resolving work related and personal issues. Please call one of the providers to arrange an appointment:

- **Converge International**
  Phone: 1300 687 327 and website: Converge International website
- **Davidson Trahaire Corpsych**
  Phone: 1300 360 364 and website: Davidson Trahaire Corpsych website
- **OPTUM**
  Phone: 1300 361 008 and website: Optum website

If you have any questions in relation to the information contained in this letter please contact Ms Green on 6205 9438 or email to sally.green@act.gov.au.

Yours sincerely

[redacted]

Dougal Whitton
Manager

[redacted]

ACT Government
Education

IN-CONFIDENCE

Notification of Action against a Teacher

This form should be used to notify the Teacher Quality Institute (TQI) of relevant actions in relation to a Teacher in accordance with section 67, Employer's obligation to notify institute about teacher of the *ACT Teacher Quality Institute Act 2010.*

Section 1 - Notification:	
In accordance with Part 6, section 67 of the ACT Teacher Quality Institute Act 2010, it is advised that:	
(a) The employer has reasonable grounds for believing the teacher has—	
(i) contravened a condition of the person's registration or permit to teach; or	☐
(ii) has become mentally or physically incapacitated and the incapacity prevents the person from performing an inherent requirement of their job as a teacher; or	☐
(b) Disciplinary action is being taken against the teacher under the terms of the teacher's employment	☒

Section 2 - Details of Teacher:	
First Name: [redacted]	Second Name:
Family Name: [redacted]	Date of Birth: [redacted]
Classification: [redacted]	School/Section: [redacted]
Telephone:	Email: [redacted]

Section 3 - Detail of Matter:	
Reason for Notification:	
Substantiated underperformance:	
Provision/s of s9 (or misconduct as defined in Teaching EA) determined to have been breached:	[redacted] to the alleged misconduct and agreed no investigation was necessary. [redacted] was determined to constitute misconduct and a failure to comply with the General Obligations of Public Employees as set out in Section 9 of the *Public Sector Management Act 1994*, specifically: *(a) exercise reasonable care and skill; and* *(c) act with probity*
Date of determination of misconduct and proposed discipline action:	[redacted]
Date of notice of	[redacted]

discipline action:	
Discipline action taken by the employer:	Written warning and admonishment
Attachments: Investigation report Final discipline action letter Record of formal counselling	• Letter - Outcome of preliminary assessment • Letter - Proposed Discipline action • Letter - Written warning and admonishment
Section 4 - Details of Employing Authority	
Employer: ACT Education Directorate	Delegate: Ms Christine Lucas, Director People and Performance
Telephone: 620 59202 [redacted]	Email: Christine.lucas@act.gov.au
Signature: [redacted]	Date: [redacted]