



Department of  
**Education**

EMPLOYEE PERFORMANCE POLICY

EMPLOYEE PERFORMANCE PROCEDURES

SUBSTANDARD PERFORMANCE PROCEDURES

This PDF contains the following documents:

**Document 1:**

*Employee Performance Policy v2.1*

Effective: 15 March 2016

Last updated: 25 May 2020

**Document 2:**

*Employee Performance Procedures v2.5*

Effective: 15 March 2016

Last updated: 25 May 2020

**Document 2:**

*Substandard Performance Procedures v2.4*

Effective: 15 March 2016

Last updated: 25 May 2020



**Department of  
Education**

## **EMPLOYEE PERFORMANCE POLICY**

**EFFECTIVE: 15 MARCH 2016**

**VERSION: 2.1 FINAL**

*Last updated: 25 May 2020*

## 1 POLICY STATEMENT

The performance of all Department employees is managed and developed in accordance with the requirements of governing legislation, intended outcomes of the Department's strategic directions and the specific role of each employee.

## 2 POLICY RULES

Line managers and principals will conduct performance management and development in accordance with the requirements of:

- section 29(1)(i) and (ja) of the Public Sector Management Act 1994;
- Commissioner's Instruction: Performance Management Standard; and
- any relevant requirements in industrial instruments or job description forms.

All employees will participate in a performance management process consistent with the Performance Management Standard and the *Employee Performance Procedures*.

Line managers and principals will manage substandard performance in accordance with section 79 of the Public Sector Management Act 1994 for staff subject to that section of the Act, the common law for wages employees, and the *Substandard Performance Procedures*.

## 3 RESPONSIBILITY FOR IMPLEMENTATION AND COMPLIANCE

Line managers and principals are responsible for implementation of the policy.

The Executive Director Workforce is responsible for compliance monitoring.

## 4 SCOPE

This policy applies to all employees.

## 5 SUPPORTING PROCEDURES

*Employee Performance Procedures*

*Substandard Performance Procedures*

## 6 DEFINITIONS

### **PERFORMANCE MANAGEMENT**

The formal and informal continuous process of evaluating and supporting an employee's performance in the workplace.

### **PERFORMANCE MANAGEMENT STANDARD**

As defined by the Public Sector Commission:

*“Outcome: The performance of all employees is fairly assessed to achieve the work-related requirements of the public sector body while paying proper regard to employee interests.*

*Standard: The minimum standard of merit, equity and probity is met for performance management if:*

- *an employee is informed about how their performance will be managed and the results of their performance assessment;*
- *a proper assessment of the employee’s performance takes into account both the work-related requirements of the job and identified employee interests; and*
- *processes, decisions and actions are impartial, transparent and capable of review.”*

## 7 RELATED DOCUMENTS

### RELEVANT LEGISLATION OR AUTHORITY

*Commissioner’s Instruction: Code of Ethics*

*Commissioner’s Instruction: Performance Management Standard*

*Equal Opportunity Act 1984*

*Freedom of Information Act 1992*

*Public Sector Management Act 1994*

*State Records Act 2000*

### RELATED DEPARTMENT POLICIES

*Records Management*

*Staff Conduct and Discipline*

### OTHER DOCUMENTS

*Department of Education Information Statement 2019*

## 8 CONTACT INFORMATION

Policy manager: Director, Workforce Policy and Coordination

Policy contact officer: Manager, Workforce Policy  
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## 9 REVIEW DATE

15 March 2019

## 10 HISTORY OF CHANGES

Effective Date	Last Update Date	Policy version no	Ref no	Notes
21 July 2010	5 July 2012	1.2		Guidelines in section 4.2 amended to reflect changes to <i>School Education Act Employees' (Teachers and Administrators) General Agreement</i> as per D12/0372966, nomenclature throughout policy updated, definition of performance management updated.
28 September 2012		1.3		Changes to reflect the <i>National Professional Standards for Teachers</i> . Changes endorsed by Corporate Executive at meeting 7 September 2012.
28 September 2012	11 July 2013	1.3	D13/0357914	Amendment of references to <i>National Professional Standards for Teachers</i> to <i>Australian Professional Standards for Teachers</i> . D13/0098087 Amendment to references to documents as per D13/0222254.
28 September 2012	23 August 2013	1.3	D13/0447369	Updated link to <i>Australian Professional Standard for Teachers</i> in Appendix A. D13/0394461
17 December 2013		1.4	D13/0660766	Addition of procedure at section 4.2 and Appendix C. Changes endorsed by Corporate Executive 2 December 2013.
17 December 2013	19 December 2013	1.4	D13/0679517	Addition of point about leave management to Appendix A, Section 3. D13/0666788
17 December 2013	27 February 2014	1.5	D14/0100442	Minor change to formatting in Appendix C. D14/0061908
28 July 2014		1.6	D14/0369937	Numerous changes throughout policy D14/0259580, D14/0323911 and D14/0369019.
28 July 2014		1.7	D14/0375178	Appendix B updated to reflect v1.6 changes prior to policy taking effect.
28 July 2014	12 September 2014	1.8	D14/0434239	Update to guidance re: professional development and career guidance in section 4.2. D14/0434228.

28 July 2014	1 December 2014	1.9	D14/0527051	Minor changes to guidance and appendix C. D14/0527043.
15 March 2016		2.0	D15/0505516	Major review undertaken and policy reformatted into policy and procedures. Endorsed by the Director General at Corporate Executive on 12 February 2016.
15 March 2016	25 May 2020	2.1	D20/0260939	Minor changes to update broken links. D20/0260934



**Department of  
Education**

## **EMPLOYEE PERFORMANCE PROCEDURES**

**EFFECTIVE: 15 MARCH 2016**

**VERSION: 2.5 FINAL**

*Last updated: 25 May 2020*

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## 1 POLICY SUPPORTED

*Employee Performance Policy*

## 2 SCOPE

These procedures apply to all employees.

## 3 PROCEDURES

All employees are required to carry out duties and responsibilities with due competence and care, in accordance with the requirements of their respective roles.

All employees will participate in a performance management process consistent with the Performance Management Standard where:

- they regularly demonstrate accountability for their performance;
- they have access to growth and development opportunities that allow for employee interests; and
- the process links to the intended outcomes of the Department's strategic directions.

### **Guidance**

*See Appendix A: Good Practice in Performance Management.*

*Professional learning is available for all line managers and should be accessed through the Institute for Professional Learning.*

*Templates can be found on Ikon.*

*Performance management is a process conducted between an employee and their line manager. If there is a breakdown in this relationship, an employee may request an alternative performance manager.*

*Should there be concerns relating to an employee's performance, line managers should contact Labour Relations Branch on 9264 4921 for assistance as early as possible.*

### **Grievances and breach claims**

*If an employee is concerned about the evaluation of their performance, or the performance management process followed, they should discuss their concerns with their line manager or, in the case that the concern is with their line manager, with the line manager's superordinate.*

*Where informal resolution fails, an employee may use the grievance procedures contained in the Department's Grievance Framework or lodge a breach of Standard claim under the Public Sector Management (Breaches of Public Sector Standards) Regulations 2005 at: [WorkforcepolicyandcoordinationBOSC@education.wa.edu.au](mailto:WorkforcepolicyandcoordinationBOSC@education.wa.edu.au)*

### 3.1 TEACHERS AND SCHOOL ADMINISTRATORS

Principals, or their nominees, will conduct performance management with teachers and school administrators who have a teaching role, using the Australian Professional Standards for Teachers (the Standards) and the Australian Teacher Performance and Development Framework.

Principals, or their nominees, will:

- identify and document performance and development goals linked to the Standards, directed at developing each teacher's performance through building capacity, growing professional knowledge, and developing skills;
- provide access to high quality professional learning that is discussed in the context of the Standards, on-going registration requirements, and each teacher's development and career aspirations;
- provide regular and timely formal and informal feedback against performance and development goals, including a formal documented annual review;
- use a variety of evidence in providing performance feedback that includes, as a minimum: data showing impact on student outcomes; information based on direct observation of teaching; and evidence of collaboration with colleagues; and
- observe confidentiality, keep documentation secure as part of official Department records and provide employees with copies of documentation.

Principals, or their nominees, will reference job description forms for school administrators who do not teach, or who undertake partial administration duties.

Where a teacher's performance is identified as not meeting the applicable stage of the Standards, or a school administrator is not meeting the expectations of their role statement, principals, or their nominees, will:

- refer to the *Substandard Performance Procedures*;
- provide support for teachers to improve;
- advise affected teachers in writing of the aspects of their performance not meeting expected standards; and
- advise affected teachers of the potential consequences, which may include a range of sanctions, including termination of their employment, should their performance be found substandard.

#### **Guidance**

*Previous performance management documentation from other schools may be sought and referenced by line managers.*

*The Standards provide expected levels of performance for teachers at the Graduate and Proficient career stages, as applicable.*

*Where video recordings of classroom practice are used as evidence in performance management discussions:*

- *a teacher and their line manager should discuss and agree how the process may be conducted; and*
- *once those discussions are finalised, and no further reference to the video recording is required, there is no need to keep the recording.*

*The AITSL website Teachers Landing Page provides a range of support material for teachers and line managers, including *Illustrations of Practice*, *Teacher Toolkit*, *Classroom Practice Continuum*, and the *My Standards App Self-Assessment Tool*.*

*Sample templates for documenting a performance process with teachers and for recording classroom observations can be found on Ikön. Support is available for line managers from Workforce Policy and Coordination on 9264 5081.*

### 3.2 PRINCIPALS

Line managers will undertake the performance management of principals in accordance with *Appendix B - Principals' Professional Review*.

Principals will comply with the requirements of *Appendix B - Principals' Professional Review* and *Appendix C - Statement of Expectations* when undertaking performance management, as applicable.

Where performance is identified as not meeting the expected standard, line managers will refer to the *Substandard Performance Procedures*.

#### **Guidance**

*The Institute for Professional Learning provides a range of activities to support principals.*

*The [AITSL website](#) provides information for principals.*

### 3.3 PUBLIC SERVICE OFFICERS, OTHER OFFICERS AND SCHOOL SUPPORT STAFF

Line managers will:

- conduct and document performance management based on the position's job description form;
- identify and document performance and development goals linked to the job description form and directed at developing performance through building capacity, growing professional knowledge, and developing skills;
- provide access to high quality professional learning;
- provide formal and informal feedback, including a formal documented review, against performance and development goals;
- use a variety of evidence in providing performance feedback; and
- observe confidentiality, keep documentation secure as part of official Department records and provide employees with copies of documentation.

Where performance is identified as not meeting the expected standard, line managers will:

- refer to the *Substandard Performance Procedures*;
- provide support for employees to improve;
- advise affected employees in writing of the aspects of their performance not meeting expected standards; and
- advise affected employees of the potential consequences, which may include a range of sanctions, including termination of their employment, should their performance be found substandard.

#### **Guidance**

*A range of templates can be found on [Ikon](#).*

*For school psychologists, the professional manager in consultation with the respective principal(s) use the job description and [Competency Framework for School Psychologists](#).*

*[The Competency Framework for School Corporate Services Staff](#) is a useful reference.*

## 4 DEFINITIONS

### **ACCOUNTABILITY**

The demonstration of an employee's due competence and care in performing functions, responsibilities and obligations as they relate to the intended outcomes of the workplace and thus to the Department's purpose.

### **EMPLOYEE INTERESTS**

Refer to the employee's career and professional development needs and personal circumstances that need to be considered when negotiating work arrangements, discussing career aspirations and development opportunities, and when making an informed assessment of employee performance.

### **PERFORMANCE MANAGEMENT**

The formal and informal continuous process of evaluating and supporting an employee's performance in the workplace.

### **PERFORMANCE MANAGEMENT STANDARD**

As defined by the Public Sector Commission:

*“Outcome: The performance of all employees is fairly assessed to achieve the work-related requirements of the public sector body while paying proper regard to employee interests.*

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- *processes, decisions and actions are impartial, transparent and capable of review.”*

### **PROCEDURAL FAIRNESS**

A process that demonstrates procedural fairness is one in which:

- decision makers act fairly and provide reasons for decisions;
- the person affected is given a fair hearing;
- all parties to a matter have an opportunity to put their case where an adverse decision or finding is made; and
- all relevant arguments are considered and irrelevant arguments are excluded.

### **SUPERORDINATE**

The person to whom an individual's line manager reports or a more senior manager.

## 5 RELATED DOCUMENTS

### RELEVANT LEGISLATION OR AUTHORITY

Commissioner's Instruction: Code of Ethics

Commissioner's Instruction: Performance Management Standard

Equal Opportunity Act 1984

Freedom of Information Act 1992

Industrial Relations Act 1979

Public Sector Management Act 1994

### RELATED DEPARTMENT POLICIES

Records Management

Staff Conduct and Discipline

### OTHER DOCUMENTS

Australian Professional Standards for Teachers

Australian Teacher Performance and Development Framework

Australian Professional Standard for Principals

Grievance Framework

Managing a Breach of Public Sector Standard Claim

Industrial instruments applicable to Department of Education employees

Department of Education Information Statement 2019

## 6 CONTACT INFORMATION

Policy manager: Director, Workforce Policy and Coordination

Policy contact officer: Manager, Workforce Policy  
T: (08) 9264 5040

Other: Labour Relations  
T: (08) 9264 4921

Workforce Policy and Co-ordination  
T: (08) 9264 5081

## 7 REVIEW DATE

15 March 2019

## 8 HISTORY OF CHANGES

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28 September 2012	11 July 2013	1.3	D13/0357914	Amendment of references to <i>National Professional Standards for Teachers</i> to <i>Australian Professional Standards for Teachers</i> . D13/0098087 Amendment to references to documents as per D13/0222254.
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28 July 2014	1 December 2014	1.9	D14/0527051	Minor changes to guidance and appendix C. D14/0527043.
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15 March 2016	28 April 2016	2.1	D16/0260622	Corrected link for <i>Australian Professional Standards for Teachers</i> . D16/0260595
15 March 2016	10 June 2016	2.2	D16/0211300	Minor amendments in response to Corporate Executive decision on 12 February 2016. Endorsed by the Director General at Corporate Executive on 29 April 2016. Minor amendments to Appendix C, Employee Performance Procedures and Appendix A, Substandard Performance Procedures confirmed by Policy Subcommittee on 1 June 2016.
15 March 2016	1 July 2016	2.3	D16/0419314	Addition to Guidance under section 3.3 to include information for school psychologists. D16/0419291
15 March 2016	20 July 2016	2.4	D16/0460554	Deletion of text in Guidance under s3.1. D16/0460534
15 March 2016	25 May 2020	2.5	D20/0260940	Minor changes to update broken links. D20/0260934

## APPENDIX A. GOOD PRACTICE IN PERFORMANCE MANAGEMENT

A performance management process should include:

- clarity and focus on the expectations of employees;
- a demonstration of accountability;
- constructive and timely feedback;
- access to professional growth and development opportunities; and
- decisions and actions that are impartial, transparent and capable of review.

### 1. PERFORMANCE MANAGEMENT PLANNING

The line manager and employee should develop a performance management plan (PMP) that contains goals, performance indicators, timeframes and agreed support that links to school or Departmental priorities.

The line manager should:

- know and clearly outline the skills, knowledge, and expectations required of the employee in performing the role;
- develop goals within the PMP that are specific, measurable, realistic and achievable within the timeframe;
- inform new employees of the Department's performance management practices as part of their induction into the work area;
- use formal and informal performance management strategies;
- consider the frequency of performance management meetings;
- review any previous PMPs to inform the performance management process;
- identify and address any issues that impact on the employee undertaking their role and responsibilities;
- identify and provide access to professional learning that may assist the employee to achieve goals and outcomes outlined in the PMP;
- assist the employee in accessing resources in the Department or those available from external providers;
- where possible, identify ways the employee's role might be enhanced for greater job satisfaction or support of professional growth;
- provide the employee constructive and timely feedback on their performance; and
- actively address performance concerns as they arise.

The employee should:

- understand their role and responsibilities;
- reflect on and self-assess their performance in the delivery of the position's requirements;
- provide evidence of their performance in relation to their job requirements and to workplace operational priorities;
- strive to attain and sustain performance to a satisfactory level; and
- consider professional learning relevant to their current role and career aspirations.

### 2. SUPPORT

As part of implementing the PMP, the line manager should:

- schedule meeting/s to monitor the employee's progress against the PMP; and
- provide support and regular and timely feedback on an employee's performance.

As part of teachers' performance management feedback, principals (or their nominees) are required to conduct classroom observations.

Observation and feedback provided to teachers from peers is highly recommended.

### **3. PERFORMANCE MANAGEMENT REVIEW**

The purpose of the review is to enable constructive, open and honest discussion on the achievement of outcomes in an employee's PMP. The review information can form the basis for career development and future performance management discussions.

An employee should provide evidence of their performance in the achievement of outcomes and goals contained in the PMP.

The line manager should:

- provide feedback and an evaluation of the employee's performance against the PMP; and
- be responsible and accountable for identifying and addressing any areas of serious concern.

Performance feedback should be capable of identifying a range of performance from excellent to unsatisfactory.

## APPENDIX B. PRINCIPALS' PROFESSIONAL REVIEW

	INDEPENDENT PUBLIC SCHOOLS	OTHER SCHOOLS
<b>Line Relationship</b>	Director General	Regional Executive Directors
<b>Cycle</b>	<p>Three years</p> <p>Principals will reflect on feedback from various sources and develop a <i>Leadership Action Plan</i> that is updated over the three-year cycle and available to the Director General on request.</p>	<p>Annual</p> <p>Principals will prepare a <i>Performance Statement</i> aligned to the Statement of Expectations (Appendix C) summarising feedback secured from various sources and outlining any major issues, accompanied by proposed action to address them.</p> <p>Principals will submit their <i>Performance Statement</i> to their Regional Executive Director by mid-November.</p> <p>Regional Executive Directors will:</p> <ul style="list-style-type: none"> <li>• endorse <i>Performance Statements</i></li> <li>• meet with principals, if required, providing assistance in interpreting feedback and determining strategies to address issues</li> <li>• provide a status report to the Deputy Director General, Schools by the end of the school year.</li> </ul>
<b>Performance Expectations</b>	<ul style="list-style-type: none"> <li>• <i>Delivery and Performance Agreement</i></li> <li>• <u>Australian Professional Standard for Principals</u></li> <li>• <u>Funding Agreement for Schools</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Australian Professional Standard for Principals</u></li> <li>• <u>Funding Agreement for Schools</u></li> </ul>

<b>Mandated Feedback sources</b>	Principals will reflect against the following feedback: <ul style="list-style-type: none"> <li>• School Performance Monitoring System</li> <li>• 360 degree survey</li> <li>• staff and community surveys</li> <li>• School Board feedback</li> <li>• Department of Education Services' review</li> <li>• advice from the Director General.</li> </ul>	Principals will reflect against the following feedback: <ul style="list-style-type: none"> <li>• School Performance Monitoring System</li> <li>• staff and community surveys</li> <li>• School Council feedback</li> <li>• advice from the Regional Executive Director.</li> </ul>
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## APPENDIX C. PRINCIPALS' STATEMENT OF EXPECTATIONS

### **1. Students achieve appropriate standards of academic and non-academic performance**

The principal:

- delivers school education programs that enable the students to achieve appropriate standards, taking into account the school's context;
- provides a safe and orderly learning environment;
- sets out in a school plan the school's objectives, priorities and achievement targets, and the major strategies that will be used to improve the school's performance; and
- reports on the school's performance through the Annual School Report.

### **2. All staff are led and managed effectively and ethically**

The principal:

- monitors the levels of staff satisfaction with the leadership and responds where needed;
- operates as an effective instructional leader;
- manages change effectively including conflict management;
- encourages an appropriate level of staff engagement in decision-making;
- encourages and supports innovation in educational practice; and
- provides staff with access to appropriate professional development and performance management.

### **3. Financial, human and physical resources are managed effectively and efficiently**

The principal:

- deploys the school's resources to maximise the educational performance of the school in accordance with Public Sector legislative requirements (for example, the *Financial Management Act 2006*, and *Public Sector Management Act 1994*);
- manages the school's resources in accordance with the Funding Agreement for Schools; and
- closely monitors the utilisation of leave entitlements to ensure employees clear leave within a reasonable time of it falling due.

### **4. The local community is appropriately engaged in the school**

The principal:

- monitors community satisfaction with the school and responds to the findings as appropriate;
- enables the School Council to fulfil its function effectively; and
- encourages and enables parents to be engaged with their children's education.

### **5. The school meets all compliance requirements of a public school**

The principal:

- confirms that the school operates within all relevant legislation, industrial agreements and awards;
- complies with Government and Departmental policies and initiatives;
- complies with the Department's School Audit process;

- provides data the Department requires to meet its state-wide reporting obligations; and
- complies with all agreements between the Australian and Western Australian Governments.

**6. Effective delivery of Departmental programs located at the school and meeting requirements of the Director General specific to the school**

The principal:

- meets the requirements associated with the delivery of any special program hosted by the school on behalf of the system (e.g. Gifted and Talented programs); and
- addresses any school improvement recommendations stemming from a review by the Expert Review Group or directions from the Regional Executive Director.



Department of  
**Education**

## SUBSTANDARD PERFORMANCE PROCEDURES

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# 1 POLICY SUPPORTED

## *Employee Performance*

# 2 SCOPE

These procedures apply to all employees.

# 3 PROCEDURES

## 3.1 SUBSTANDARD PERFORMANCE

Superordinates and line managers will:

- base their opinion that an employee's performance is substandard on evidence and the reasonable expectations of the role; and
- not commence substandard performance management unless an employee has been:
  - previously formally advised what aspects of their performance are considered unsatisfactory;
  - formally advised of the possible consequences, which may include a range of sanctions, including termination of employment, should their performance be found to be substandard; and
  - given a reasonable opportunity and assistance to improve to a satisfactory standard.

In managing substandard performance, line managers will:

- employ and demonstrate a proper and fair process;
- communicate clearly and openly with the employee throughout the process; and
- treat employees with courtesy, sensitivity and consideration.

### **Guidance**

*For a flowchart, see Appendix A – Substandard Performance Process – Section 79.*

*Section 79 of the Public Sector Management Act 1994 provides:*

*“the performance of an employee is substandard if and only if the employee does not, in the performance of the functions that he or she is required to perform, attain or sustain a standard that a person may reasonably be expected to attain or sustain in the performance of those functions.”*

*Section 239 of the School Education Act 1999 imports section 79 of the Public Sector Management Act 1994 for members of the teaching staff and other officers.*

*Wages employees are subject to the common law. Principles of procedural fairness apply to any substandard performance management process.*

*An employee may be accompanied by a support person at any meeting regarding substandard performance.*

*The functions of principals and teachers are described in sections 63 and 64 of the School Education Act 1999 and further elaborated under the School Education Act Employees' (Teachers and Administrators) General Agreement 2014 and the Teachers (Public Sector Primary and Secondary Education) Award 1993.*

*Expectations for teachers at the Proficient level are described in the Australian Professional Standards for Teachers.*

### 3.2 EMPLOYEES COVERED BY SECTION 79 OF THE PUBLIC SECTOR MANAGEMENT ACT 1994

#### 3.2.1 PUTTING THE ALLEGATION TO THE EMPLOYEE

Line managers will:

- comprehensively document and conduct substandard performance processes in accordance with section 79 of the *Public Sector Management Act 1994* and the principles of procedural fairness; and
- formally brief their superordinate in writing when an employee's performance may be considered substandard during the performance management process and following provision of appropriate support.

If the superordinate considers that there is reasonable evidence that the employee's performance may be substandard, the superordinate will make a written recommendation to the Director General or delegate requesting that the allegation of substandard performance is put to the employee.

The Director General or delegate:

- provides the employee with written notification of the areas in which their performance is considered substandard;
- invites the employee to admit or deny the allegations in writing within ten (10) working days; and
- informs the employee that a support person may be present as an observer at any meetings.

#### 3.2.2 RECEIVING AND CONSIDERING THE RESPONSE

The Director General or delegate:

- considers the employee's response before taking further action;
- where the employee provides an adequate explanation, informs the employee that no further action will be taken; or
- where the employee does not provide an adequate explanation, informs the employee that the alleged substandard performance will be investigated.

##### **Guidance**

*Where an allegation of substandard performance is proven, there are sanctions available to employers in accordance with section 79 (3) of the Public Sector Management Act 1994 or any applicable industrial instrument.*

*Where an employee agrees with the allegation that their performance is substandard, the employer may apply one of the following sanctions:*

- *withhold for a period as the employer thinks fit an increment of remuneration otherwise payable to the employee;*
- *reduce the level of classification of that employee; or*

- *terminate the employment in the public sector of that employee.*

### 3.2.3 INVESTIGATION

The Director General or delegate authorises an investigation and provides the employee with an opportunity to attain and sustain performance at the satisfactory standard.

### 3.2.4 PUTTING THE REPORT TO THE EMPLOYEE AND CONSIDERING THEIR RESPONSE

The Director General or delegate provides the employee with:

- a copy of the report, the findings, and any proposed sanctions(s); and
- the opportunity to respond in writing within ten (10) working days.

### 3.2.5 NOTIFICATION OF DECISION

After considering the finding and the employee's response, the Director General or delegate notifies the employee of the decision.

### 3.2.6 APPEAL PROCESS

Line managers will inform the employee that they may appeal to the WA Industrial Relations Commission against:

- a finding that their performance is substandard; and /or
- any sanction that has been imposed, except where that sanction is to withhold a salary increment in accordance with section 78(1) (b) of the PSM Act.

## 3.3 EMPLOYEES NOT COVERED BY SECTION 79 OF THE PUBLIC SECTOR MANAGEMENT ACT 1994

Line managers will document and conduct substandard performance processes in accordance with relevant industrial instruments and the principles of procedural fairness. This requires that the allegation of sub-standard performance be put to the employee, they be given a right of response and an opportunity to address the matter.

#### **Guidance**

*Advice should be sought from Labour Relations regarding the management of substandard performance for wages staff as some industrial instruments may impose certain requirements.*

*Affording the affected employee procedural fairness and a consideration of the prevailing circumstances is required. An investigation authorised by the Director General or delegate is not required for wages employees, as they are not covered by section 79 of the Public Sector Management Act 1994.*

*However, there is still a requirement to keep comprehensive documentation and records as an independent review of the process will be undertaken to assist the Director General or delegate to make a decision.*

*For non-section 79 employees, the only sanctions available for substandard performance are a reprimand, or termination of employment. Only the Director General or delegate can apply a sanction.*

*If a non-section 79 employee is a union member, the union may take a dispute about the sanction to the WA Industrial Relations Commission. If the sanction is termination of employment, the employee may make an unfair dismissal application to the WA Industrial Relations Commission.*

### 3.3.1 ALLEGATION OF SUBSTANDARD PERFORMANCE NOT UPHELD

Where an allegation of substandard performance is not upheld, but concerns regarding some aspects of the employee's performance remain, the line manager will consider and address any work-related issues within the context of performance management.

## 4 DEFINITIONS

### PROCEDURAL FAIRNESS

A process that demonstrates procedural fairness is one in which:

- decision makers act fairly and provide reasons for decisions;
- the person affected is given a fair hearing;
- all parties to a matter have an opportunity to put their case where an adverse decision or finding is made; and
- all relevant arguments are considered and irrelevant arguments are excluded.

### SUBSTANDARD PERFORMANCE

The performance of an employee is substandard if and only if the employee does not, in the performance of the functions that he or she is required to perform, attain or sustain a standard that a person may reasonably be expected to attain or sustain in the performance of those functions.

### SUPERORDINATE

The person to whom an individual's line manager reports or a more senior manager.

## 5 RELATED DOCUMENTS

### Relevant legislation or authority

*Commissioner's Instruction: Code of Ethics*

*Commissioner's Instruction: Performance Management Standard*

*Equal Opportunity Act 1984*

*Freedom of Information Act 1992*

*Industrial Relations Act 1979*

*Public Sector Management Act 1994*

**Related Department policies**Records ManagementStaff Conduct and Discipline**Other documents**Australian Professional Standards for TeachersAustralian Professional Standard for PrincipalsGrievance FrameworkIndustrial instruments applicable to Department of Education employeesPerformance Management Standard**6 CONTACT INFORMATION**

Policy manager: Director, Workforce Policy and Coordination  
T: (08) 9264 4135

Policy contact officer: Manager, Workforce Policy  
T: (08) 9264 5040

Other: Labour Relations  
T: (08) 9264 4921

**7 REVIEW DATE**

15 March 2019

**8 HISTORY OF CHANGES**

Effective Date	Last Update Date	Policy version no	Ref no	Notes
21 July 2010	5 July 2012	1.2		Guidelines in section 4.2 amended to reflect changes to <i>School Education Act Employees' (Teachers and Administrators) General Agreement</i> as per D12/0372966, nomenclature throughout policy updated, definition of performance management updated.
28 September 2012		1.3		Changes to reflect the <i>National Professional Standards for Teachers</i> . Changes endorsed by Corporate Executive at meeting 7 September 2012.

28 September 2012	11 July 2013	1.3	D13/0357914	Amendment of references to <i>National Professional Standards for Teachers</i> to <i>Australian Professional Standards for Teachers</i> . D13/0098087 Amendment to references to documents as per D13/0222254.
28 September 2012	23 August 2013	1.3	D13/0447369	Updated link to <i>Australian Professional Standard for Teachers</i> in Appendix A. D13/0394461
17 December 2013		1.4	D13/0660766	Addition of procedure at section 4.2 and Appendix C. Changes endorsed by Corporate Executive 2 December 2013.
17 December 2013	19 December 2013	1.4	D13/0679517	Addition of point about leave management to Appendix A, Section 3. D13/0666788
17 December 2013	27 February 2014	1.5	D14/0100442	Minor change to formatting in Appendix C. D14/0061908
28 July 2014		1.6	D14/0369937	Numerous changes throughout policy D14/0259580, D14/0323911 and D14/0369019.
28 July 2014		1.7	D14/0375178	Appendix B updated to reflect v1.6 changes prior to policy taking effect.
28 July 2014	12 September 2014	1.8	D14/0434239	Update to guidance re: professional development and career guidance in section 4.2. D14/0434228.
28 July 2014	1 December 2014	1.9	D14/0527051	Minor changes to guidance and appendix C. D14/0527043.
15 March 2016		2.0	D15/0505519	Major review undertaken and policy reformatted into policy and procedures. Endorsed by the Director General at Corporate Executive on 12 February 2016.
15 March 2016	28 April 2016	2.1	D16/0260622	Corrected link for <i>Australian Professional Standards for Teachers</i> . D16/0260595

15 March 2016	10 June 2016	2.2	D16/0211345	Minor amendments in response to Corporate Executive decision on 12 February 2016. Endorsed by the Director General at Corporate Executive on 29 April 2016. Minor amendments to Appendix C, Employee Performance Procedures and Appendix A, Substandard Performance Procedures confirmed by Policy Subcommittee on 1 June 2016.
15 March 2016	21 June 2017	2.3	D17/0263546	Minor typo change to guidance under section 3.3 D17/0263489
15 March 2016	25 May 2020	2.4	D20/0260942	Minor changes to update broken links. D20/0260934

## APPENDIX A. SUBSTANDARD PERFORMANCE PROCESS – SECTION 79

