

Merit Instruction 8a

Internal review and external appeal—Education Act (promotion vacancies in the teaching service, seconded teacher vacancies and Section 101B vacancies), School Services Officer, Children’s Services Act and GSE vacancies

Internal reviews

Existing DECD’ employees who are applicants for vacancies of greater than 12 months’ duration may lodge a request for an internal review of the selection process.

Requests for review are limited to claims of serious irregularities in the selection process that may have affected the outcome of that process. The right of review does not include a review of the respective merits of applicants.

Lodging a request for an internal review

The process for lodging a request for an internal review is as follows:

- Applicants are notified of the name of the applicant provisionally recommended by the panel. (Applicants are responsible for ensuring their contact details for notification are correct and up to date.)
- When notified, applicants may request a copy of the section of the panel report that relates to them, including the names of any referees contacted, the questions asked of the referees and a summary of the comments taken. This must be provided to applicants prior to the closure of the request for internal review period.
- Applicants must lodge a review application within seven (7) calendar days of notification of the outcome of a selection process.
- Applications for a review must be lodged on the approved form in accordance with the processes outlined in this Instruction.
- Reviews are conducted using DECD internal review processes.
- Applications for review should be submitted to the Executive Director People and Culture by email directed to dec.d.ecu@sa.gov.au
- Applications for a review must be received by 5 p.m. on the last nominated day for receipt of review applications.
- The application for a review must contain a clear description of any alleged procedural irregularity, the manner in which it is alleged any irregularity influenced the panel recommendation, and any evidence supporting the allegations.

Applicants will be provided with an opportunity to provide further relevant information and make submissions in writing.

Outcome of an internal review

Promotional vacancies

In relation to promotional vacancies under the *Education Act 1972 (SA)*, where it is established that there has been a significant procedural irregularity, or irregularities, that may have affected the outcome of a selection process, the Chief Executive or delegate may decline to appoint the provisionally recommended applicant and determine that a new selection process should be undertaken.

All applicants for the vacancy will be notified of a decision to undertake a new process. There is a limited right of external appeal, as outlined later in this Instruction.

Where no breach that may have affected the outcome is established, the Chief Executive or delegate will normally make an offer of employment to the recommended applicant.

Other vacancies

In relation to vacancies other than promotional vacancies within the teaching service, where it is established that there has been a serious procedural irregularity, or irregularities, the Chief Executive or delegate may determine to undertake one of the following actions:

- not to appoint the provisionally recommended applicant, and to require a new selection process be undertaken;
- require the selection panel to reconvene to reconsider certain matters;
- appoint an alternative applicant.

Where no application for an internal review is lodged

Where there is no application for an internal review, the Chief Executive or delegate will normally approve the panel recommendation and make an offer of employment to the recommended applicant.

It should be noted, however, that the Chief Executive or delegate has the right to decline to appoint a recommended applicant.

External appeal

External appeals to the Teachers Appeal Board (TAB) are limited to the following grounds.

Where a teacher, employed under Section 15 of the Education Act, is the provisionally recommended applicant for a promotional vacancy in the teaching service, and the Chief Executive or delegate declines to make an appointment in accordance with that recommendation, the recommended applicant may appeal to the TAB pursuant to Section 53(6) of the Education Act.

The applicant must file a notice of appeal not later than 14 days from the date on which notice of the provisional recommendation was posted to the contact address provided by the applicant. The TAB may, for sufficient and reasonable cause, extend that time by not more than a further seven days.

The TAB may confirm the decision of the Chief Executive, or may reject the decision and direct that the original successful applicant be appointed.

Ethical Conduct Unit

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