



**TO:    Second Level Workplace Representatives / Branch Secretaries / Branch Chairs  
         Executive Committee**

21<sup>st</sup> October 2016

**Re: ASTI Dispute Action**

Dear Colleague,

Attached is a letter issued by the ASTI to its school stewards advising of the details of its strike action. The Executive Committee of the TUI has considered the issues that arise and offers the following information and guidance.

**Responsibility of School Management**

In the context of strike action and/or of the circumstances that may arise in a school following withdrawal by members of the ASTI from Supervision and Substitution, it is a matter for the employer (the Board of Management in the case of a C&C or voluntary secondary school; the ETB in the case of an ETB school) to determine whether or not the school should or should not be open to receive students. In this respect it is expected that the employer will have due regard to the health, safety and welfare of staff and students.

**Normal Trade union practice in regard to industrial disputes**

In accordance with normal trade union practice in regard to industrial disputes, no member of the Teachers' Union of Ireland, including principal teachers, deputy principal teachers and/or other post holders, may undertake work that is normally done by colleagues who are members of the ASTI.

**Strike Days**

In respect of the strike days, one of the following situations will apply, depending on the union affiliation of staff in your school:

- Where there are no ASTI members on the staff of the school, the school will operate as normal and members of the TUI will undertake their normal duties.
- Where there are members both of the TUI and of ASTI on the staff of the school, but pickets are not placed, the school will operate as normal and members of TUI should attend for work. If, however, the absence of ASTI colleagues compromises the safety of students, the TUI Workplace Committee/Workplace Representative should approach the school authority and request that closure of the school, in the interests of health and safety, be considered.

- Where there are members both of the TUI and of ASTI on the staff of the school and pickets are placed, members should be fully aware of the constraints that apply. In this regard, it is very important to note the following:
  - Under the 1990 Industrial Relations Act, it is illegal for a union to sanction any form of industrial action other than following a ballot of the members and sanction by the Executive Committee. This legal requirement is reflected in Rule 142 of the TUI Rule Book. Therefore, the TUI is not in a position to issue an instruction to members not to attend for work on the 27<sup>th</sup> October 2016 or any other day of strike action by ASTI.
  - A TUI member who does not pass a picket placed by another union is engaged in unofficial action and, therefore, is not covered by the immunities that are afforded by legislation for an official strike. In addition, s/he is liable to a deduction in salary for the day in question.
  - The union does, however, understand the reluctance of members to pass the pickets placed by colleagues and will support any member of the union who does not pass a picket should disciplinary action be threatened or taken against her/him.
  - Where the employer decides that the school should not open, arrangements will be put in place to enable those not engaged in the industrial action to indicate their availability for work in order that they can be paid.

### **Withdrawal from Supervision and Substitution**

The ASTI has also advised that, with effect from Monday, 7<sup>th</sup> November, 2016, its members are directed to withdraw from supervision and substitution. TUI members are contractually obliged (unless they have availed of the opt-out) to discharge their normal duties in relation to supervision and substitution. Payment to reflect these duties is being restored to salary in two moieties. Payment of the first moiety had effect from 1<sup>st</sup> September, 2016.

The following should be carefully noted by members:

Supervision (i.e. rostered supervision at break times and for short periods before and after the school tuition day)

- Where ASTI members withdraw from supervision no TUI member may undertake their work.
- TUI members should undertake their normal supervision duties. These duties are those set out in the roster devised in accordance with Circular Letter 42/2014.
- Redesign of the roster with a view to having TUI members cover supervision slots normally undertaken by ASTI colleagues is not acceptable. Any attempt by management to re-roster in this fashion should be reported immediately to the Branch and Area Representative and management should be advised by the Workplace Committee/Workplace Representative that while TUI members are available to undertake their normal, rostered supervision duties they will not undertake duties normally discharged by their ASTI colleagues.

- If, due to the absence of ASTI colleagues, a health and safety concern or issue arises, the TUI Workplace Committee/Workplace Representative should bring the matter to the attention of local management and request that closure of the school in the interests of health and safety be considered.

#### Substitution on days of strike action

- Substitution is organised in accordance with Circular Letter 42/2014. In the event of withdrawal from substitution duties (i.e. taking the class of an absent colleague) by members of the ASTI, no TUI member may substitute for an ASTI colleague - in respect of any or all of that colleague's timetabled classes - where that colleague's absence is in consequence of engagement in strike action

#### **DES Contingency measures**

- The TUI regards the recruitment and assignment of such external personnel as fraught with difficulty. Members should note that the recruitment/selection, training and/or induction of any such personnel, should they be recruited, is not an agreed duty of any member of the TUI. The union has, over recent months, been involved in intensive negotiation to secure measures that reduce the existing, excessive administrative and bureaucratic workload that has been imposed on members, including principal and deputy principal teachers. It is not acceptable that additional workload that may arise from the recruitment and assignment of external personnel would be imposed on members of the union. The union will protect members against any such imposition.
- In a letter of 17<sup>th</sup> October, 2016, to the Department of Education and Skills regarding contingency measures involving the recruitment and assignment of external personnel for supervisory duties, the ASTI stated that it has "no intention of hindering the activities of any external personnel recruited".

#### **Timetable**

No alternative timetable or temporary arrangement should be worked during a strike day, or to accommodate the ASTI's withdrawal from Supervision and Substitution duties. Therefore, in the event of any suggestion or proposal for an alternative timetable, the TUI Workplace Committee/Workplace Representative should inform management that, while TUI members are available to work to the existing timetable, the imposition of an alternative timetable is unacceptable.

#### **Further information and advice.**

A list of Frequently Asked Questions in relation to Supervision and Substitution and strike days will be posted on the TUI website and will be sent to the TUI email addresses of Branch Officers and Workplace Representatives.

The Union recognises that particular issues may arise in schools that are not covered by the advice in this letter or the FAQ and that further advice and assistance will be required.

Therefore, in order to ensure that such advice is made available promptly, we would ask you to direct queries as soon as they arise to your Branch, your Area Representative and to the relevant TUI Official.

Yours sincerely,

A handwritten signature in black ink that reads "Joanne Irwin". The script is cursive and fluid.

Joanne Irwin  
President

A handwritten signature in black ink that reads "John MacGabhann". The script is cursive and fluid.

John MacGabhann  
General Secretary

Encl.