

DIPLOMA CENTRE

Diploma in Education Law



MODULE 1 & 2 EMPLOYMENT LAW IN THE SCHOOL CONTEXT

SESSION 01	TIME	DELIVERY
Friday 04 November 2022	10:00am – 4:30pm	Onsite & Online
1 Course introduction Part 1: Aims & objective of the diploma; the history of education law in Ireland; sources of education law; a focus on relevant Constitutional provisions including Arts 42 and 44. <i>Ian O’Herlihy, Partner, Mason Hayes & Curran</i>		
2 Course introduction Part 2 – An overview of key issues arising: Understanding the distinct role of the various decision makers – the Minister; the patron; the Board of Management; the principal. Types of issues - refusal of admission; student expulsion/suspension; admissions policy; codes of behaviour; bullying; staff recruitment and promotions; complaints against staff, staff misconduct/underperformance; fitness to teach; Section 29/Workplace Relations Commission. <i>David Ruddy BL, Consultant, Mason Hayes Curran</i>		
3 The contract of employment: Identification of the employer in the school context. Express terms - the Terms of Employment (Information) Acts 1994 – 2001; pre-conditions; commencement; job function; exclusive service; probationary period; policies and procedures. Implied terms – sources; duty of care; trust and confidence; good faith & loyalty; mutual duty of respect; duty to provide a reference; terms implied by statute; collective agreements; pay and conditions; Department circulars. <i>Ian O’Herlihy, Partner, Mason Hayes & Curran</i>		
4 Termination of employment & unfair dismissals: Unfair Dismissals Act 1977-2015; Circular 0060/2009; Circular 0071/2014; identification of the employer; capacity – long term absence; consistent short-term absences; possible equality claims; managing competence based issues; managing conduct based issues; teachers’ use of social media; constructive dismissal; end of fixed term contracts; constructive dismissals; redress; redundancy; reference to higher and further education setting; managing an unfair dismissals claim: Workplace Relations Act 2015; new structure; jurisdiction issues; time limits. <i>Johanne Duignan, Employment Lawyer, Ledwith Solicitors</i>		
5 Termination of employment & unfair dismissals – case study on absence & sick leave management: Independent medical examinations; challenging the validity of the absence; sick pay; termination of employment; service requirement; potential equality claims on the disability ground; reasonable accommodation; frustration of contract; potential personal injury claim; reporting structure. <i>Johanne Duignan, Employment Lawyer, Ledwith Solicitors</i>		

6hrs. Gen. CPD

SESSION 02	TIME	DELIVERY
Saturday 05 November 2022	10:00am – 1.30pm	Online
1 Managing employee bullying & harassment within schools: Increase in cases; existing personal injuries framework; Sutherland v Hatton: foreseeability; risk assessments - preventative measures and acting when on notice of bullying; internal policies; one-off incident; formal or informal process? Recognisable psychiatric injury; reasonable foreseeability; overlapping claims. <i>Nicola MacCarthy, Associate, Anne O’Connell Solicitors</i>		
2 Ancillary Staff: Employment law issues relevant to ancillary staff such as secretaries, cleaners and caretakers. A focus on how recruitment, contractual, equality law and dismissal provisions apply to such staff. The lecture will also provide a basic introduction to the application of the Transfer of Undertaking Regulations in the school context. <i>Nicola MacCarthy, Associate, Anne O’Connell Solicitors</i>		

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- 3 Application of grievance & disciplinary procedures:** Grievance procedures – as they apply to different schools and personnel; when and how the procedures are to be utilised; fair procedures. Disciplinary procedures - the Education Act and Circulars stages of the procedures; fair procedures; case law.

Catherine Kelly, Partner, Mason Hayes & Curran

- 4 Recruitment of teachers:** Overview of the employment relationship; equality provisions relevant to recruitment; the recruitment process; the advertisement; application forms; the interview; selection criteria; taking notes; giving reasons; pre-contract issues; references; medical information; background checks; non-permanent teachers. Promotion of staff & appointment procedures for principals. (1.5 hours)

Liam Riordan, Partner, Mason Hayes & Curran - [ONLINE RELEASE](#)

4hrs. CPD

SESSION 03	TIME	DELIVERY
Tuesday 08 November 2022	18:00pm – 20:30pm	Online

- 1 Equality in the school workplace Part 1:** The Employment Equality Acts 1998–2015; the nine grounds of discrimination; prohibited discriminatory conduct; disability; age discrimination; victimisation; harassment and sexual harassment; gender and pregnancy; scope of s.37 with regards to “*undermining the religious ethos*” of the school.

Ciaran Doherty BL

- 2 Equality in the school workplace Part 2 –** A focus on disability discrimination: Definition of disability; alcoholism as a disability; hypertension; disability and sickness; medical opinion; reasonable accommodation; *Humphrey’s v Westwood*; prospective employees; ‘disproportionate burden’; size of employer and financial assistance.

Ciaran Doherty BL

2hrs. Gen. CPD

MODULE 3: ADMISSIONS POLICIES & STUDENT CONDUCT

SESSION 04	TIME	DELIVERY
Saturday 14 January 2023	10:00am – 4:30pm	Online Only

- 1 The Education (Admission to Schools) Act 2018:** Purpose of the Bill; accountability of principal; regulatory framework; admission statement; admission policy; approval by patron; characteristic spirit of the school; religious instruction; grounds for not enrolling students; selection criteria; appealing a decision; prohibition on charging and enrolment fees; Regulations.

David Ruddy BL, Consultant, Mason Hayes Curran

- 2 Admissions Policies:** Position prior to 1998; admission and participation policy; admission of child to recognised school; prohibition on discrimination by educational establishments; SEN – an inclusive education policy; contents of admission policies; possible criteria; indirect discrimination (*Stokes v Christian Brothers High School*).

David Ruddy BL, Consultant, Mason Hayes Curran

- 3 Codes of behaviour & school disciplinary procedures Part 1:** The Education (Welfare) Act, 2000; s.23 code of behaviour; Guidelines; status of the Guidelines; structure of the Guidelines; auditing and reviewing of the Code; foundations of an effective Code; developing a School Code to manage behaviour effectively (setting standards of behaviour responding to inappropriate behaviour, promoting good behaviour).

David Ruddy BL, Consultant, Mason Hayes Curran

- 4 Codes of behaviour & school disciplinary procedures Part 2: Suspension & Expulsions:** Three statutory requirements and related case law including the O’Donovan decision

Julie Doyle, Solicitor, West Lex Solicitors LLP

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5 **Codes of behaviour & school disciplinary procedures Part 3:** Section 29 appeals – what the State can and cannot do.

Liam Riordan, Partner, Mason Hayes & Curran

6 **Student use of social media** – The concept ‘in school behaviour’; peer-to-peer bullying on social media; liability; commenting on teachers; parental use of social media; subjecting teachers to comments on social media. etc.

Wendy Doyle, Principal, Wendy Doyle Solicitors - [ONLINE RELEASE](#)

6hrs. Gen. CPD*

MODULE 4: SCHOOL STRUCTURES & GOVERNANCE

SESSION 05	TIME	DELIVERY
Saturday 28 January 2023	10:00am – 4:30pm	Online
1 Legislative framework and structure and role of the Boards of Management: Historical context; separation of church & State; the Education Act 1998 (as amended); position prior to the 1998 Act; context of the Act; function of Minister; recognition of schools; annual funding; the patron; the Inspectorate; the Board of Management; default provisions; keeping of accounts and records; report and information; the School Plan. David Ruddy BL, Consultant, Mason Hayes Curran		
2 Key stakeholders & misc. provisions: Functions of the principal and teachers; provisions relating to staff; parents association; information to students and Student Council; grievance and other procedures; s. 28 proposals; appeal to Secretary General. David Ruddy BL, Consultant, Mason Hayes Curran		
2hrs. Gen. CPD		
3 Workshop 1: Practical application through case studies and drafting exercises of issues encountered in lectures relating to employment and equality law issues relevant in the school context. Wendy Doyle, Principal, Wendy Doyle Solicitors		
2.5hrs M&PD		

MODULE 5 & 6: NEGLIGENCE & LITIGATION MANAGEMENT/PROVIDING FOR SPECIAL EDUCATIONAL NEEDS

SESSION 06	TIME	DELIVERY
Friday 17 February 2023	10:00am – 4:30pm	Online
1 Data protection in schools – Part 1 - An introduction: Origins of; personal data; sensitive personal data; data controller; legitimate processing and retention of data; data subject rights & notification requirements; Government data & public sector bodies; sharing between public bodies; data protection vs freedom of information; Data Protection Officer; data breaches. Paul McDonald, Principal, AJP McDonald Solicitors		
2 Data protection in schools - Part 2 – Case Studies Paul McDonald, Principal, AJP McDonald Solicitors		
3 Managing safety and health in schools: Key provisions of the 2005 Act; risk assessments; Safety Statements; employer and employee obligations; penalties; personal liability; guidelines on managing safety and health in schools; school profile; roles & responsibilities; planning documents; risk assessment templates. Michael Cahill, Senior Associate, Philip Lee		

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4 **Providing for special educational needs Part 1:** Constitutional considerations and legislative provisions - historical development; Education for Persons with Special Educational Needs Act 2004; seminal case law.
Sarah Jane Judge, Barrister

5 **Providing for special educational needs Part 2:** School policies and procedures for special educational needs - identification of special educational needs; special education plans; special education appeals board.
Sarah Jane Judge, Barrister

5 hrs. Gen. CPD

SESSION 07	TIME	DELIVERY
Saturday 18 February 2022	10:00am to 1.00pm	Online

1 **Introduction to Family Law and Schools:** Guardianship, Parental dispute regarding educational matters and the impact of family law proceedings on schools. *Ken Sarah Jane Judge, Barrister*

1 CPD

2 **Workshop 2:** Practical application through case studies and drafting exercises of issues encountered in relation to issues for codes of behaviour & school disciplinary procedures: Suspension & Expulsions
TBC

2.5M&PD CPD

MODULE 7&8: HIGHER, FURTHER & ADULT EDUCATION/COMPLIANCE MATTERS & MISC. PROVISIONS

SESSION 08	TIME	DELIVERY
Friday 03 March 2022		ONLINE RELEASE

1 **Child protection obligations Part 1:** [ONLINE RELEASE](#)
TBC

2 **Employment issues in the higher, further and adult education,** including a background to such institutions and the governance structures that apply [ONLINE RELEASE](#)
Ian O'Herlihy, Partner, Mason Hayes & Curran

SESSION 09	TIME	DELIVERY
Saturday 11 March 2023	10.00am – 4.00pm	Online

1 **Negligence and litigation management Part 1:** The duty of care to include the standard of care expected of school staff; negligence in schools- vicarious liability/contributory negligence; supervision-degree of care-student maturity; physical education-School tours-Extracurricular activities.
David Ruddy BL, Consultant, Mason Hayes Curran

2 **Negligence and litigation management Part 2:** When does a school start and finish? Occupiers Liability; the Safety & Health at Work Act 2005; insurance.
David Ruddy BL, Consultant, Mason Hayes Curran

3 **Child protection obligations Part 2**
Madeline Thornton, Solicitor

4 **Employment law issues in the higher, further and adult education sector.**
Ian O Herlihy, Partner, Mason Hayes , Curran

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- 5 **Issues relevant to international students in the higher, further and adult education sector**
Lorcan Maule, Associate, Mason Hayes Curran

5hrs. Gen. CPD

SESSION 10	TIME	DELIVERY
Saturday 01 April 2023	10:00am to 1:30pm	Onsite & Online*

- 1 **Student conduct issues in higher, further and adult education.**
Edel Kennedy, University Solicitor, University College Cork

1 hrs. Gen. CPD

- 2 **Workshop 3:** Interactive session problem based scenarios based on previous exam paper.
David Ruddy BL, Consultant, Mason Hayes Curran

2.5hrs. Gen. CPD

Please note that topics & dates may be subject to change. Draft timetable as of October 2022.

All lectures are available to join live online and will be recorded and available to watch in your own time.

* Gen = General, M&PD = Management and Professional Development, Reg = Regulatory and eLearning = eLearning CPD credits. **CPD Note:** The number of hours of CPD that you may claim in relation to your diploma/certificate course will depend on the way in which you access each of the individual sessions. For further information please visit the course homepage on our website: www.lawsociety.ie/diplomacentre