

EDUCATION ACT

R-024-2009

Registered with the Registrar of Regulations

2009-06-30

TRANSITION REGULATIONS

The Commissioner in Executive Council, under section 203 of the *Education Act*, S.Nu. 2008, c. 15, and every enabling power, makes the attached *Transition Regulations*.

Interpretation

1. In these regulations,

“first school year” means the school year that begins on July 1, 2009 and that ends on June 30, 2010;

“former Act” means the *Education Act*, S.N.W.T. 1995, c. 28, as duplicated for Nunavut by section 29 of the *Nunavut Act* (Canada);

“new Act” means the *Education Act*, S.Nu. 2008, c. 15.

2. Where these regulations provide that a provision of the former Act or of the regulations made under the former Act is deemed to form part of these regulations, the provision applies with all necessary modifications and to the extent that it is not inconsistent with the new Act.

Application

3. These regulations apply only in the first school year and cease to have effect on June 30, 2010.

4. These regulations apply despite any provision of the new Act or any other Act.

Agreements under Subsection 4(4)

5. Despite subsection 4(4) of the new Act, an agreement under that subsection between an adult student and a parent of the student may, in the first school year, be in any form that the student and the parent choose so long as it is acceptable to the principal of the school.

Teaching Standards and Directions

6. Teaching standards established, and directions given to education staff, under the former Act with respect to the delivery of the education program, are continued for the first school year and are deemed to have been established or given under subsection 8(5) of the new Act.

Local Programs

7. (1) Subject to subsections (2) and (3), local programs established under the former Act are deemed to have been approved for the first school year by the Minister under section 9 of the new Act.

(2) The Minister may request in writing that a district education authority make a submission under subsection 9(4) of the new Act in respect of any local program deemed to have been approved under subsection (1).

(3) The deemed approval of a local program ends on such day as the Minister may specify in his or her request under subsection (2).

Teaching and Learning Materials

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8. (1) Teaching and learning materials referred to in subsection 10(1) of the new Act are deemed to have been approved by the Minister under that subsection for the first school year unless the Minister, in writing, indicates otherwise.

(2) Subsection (1) does not apply to teaching and learning materials referred to in a local program established under the new Act.

(3) For the purposes of the curriculum for education provided by the *Commission scolaire francophone* in the first school year, the references to the Minister in subsection (1) shall be read as references to the *Commission*.

Reports on Effectiveness of School Program

9. In the first school year, a principal shall make the reports referred to in section 14 of the new Act even though regulations have not been made in respect of that section.

Directions Related to Promotion

10. Directions given with respect to the promotion of students under the former Act are continued for the first school year and are deemed to have been given under section 15 of the new Act.

School Program Plans

11. School program plans developed under the former Act for the first school year are continued and are deemed to have been developed under section 20 of the new Act.

Home Schooling

12. (1) Subject to subsections (2), (3), (4) and (5), the *Home Schooling Regulations* made under the former Act are deemed to form part of these regulations and apply in the first school year to home schooling under the new Act.

(2) Subsections 5(2), 5(3) and 7(1) of the *Home Schooling Regulations* made under the former Act do not apply in the first school year.

(3) A reference to a Superintendent in the *Home Schooling Regulations* made under the former Act shall be read as a reference to a district education authority.

(4) If in the first school year a principal recommends the termination of a home schooling program, the district education authority shall investigate the recommendation by interviewing the parents providing the home schooling program and by reviewing all relevant material and it shall determine whether the home schooling program

- (a) may continue;
- (b) may continue with the changes the district education authority considers appropriate, or
- (c) shall be terminated as of a specified date.

(5) The district education authority shall give written notice of its determination under subsection (4) to the principal and to the parent providing the home schooling program.

Bilingual Education

13. (1) A decision of a district education authority made under section 24 of the new Act does not apply with respect to the first school year.

(2) A district education authority is deemed to have chosen the language of instruction that was used in the previous school year as the language of instruction that will be used with the Inuit Language as a language of instruction in the first school year.

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Registration

14. For the first school year, the reference in subsection 30(1) of the new Act to 18 years of age shall be read as a reference to 17 years of age.

Registration and Attendance Policies

15. (1) Despite subsection 37(1) of the new Act, a district education authority may develop and adopt a registration and attendance policy for the first school year but it is not required to do so.

(2) The policy of a district education authority made under section 5 of the *Academic and School Attendance Regulations* made under the former Act continues for the first school year until the district education authority develops and adopts a registration and attendance policy under section 37 of the new Act.

(3) A policy continued by subsection (2) is deemed to have been developed and adopted under section 37 of the new Act.

(4) Subsection 37(7) of the new Act does not apply to a policy continued by subsection (2).

Attendance Reports

16. (1) In the first school year, a principal shall provide the monthly report on attendance as provided in subsection 39(1) of the new Act even though regulations have not been made in respect of that subsection.

(2) A principal's first report in the first school year under subsection 39(1) of the new Act shall relate to the first month in which students attend the principal's school.

(3) In the first school year, a district education authority shall regularly provide the community with information on attendance at schools in the community as provided in subsection 39(2) of the new Act even though regulations have not been made in respect of that subsection.

Individual Student Support Plans

17. (1) Individual education plans established under the former Act are continued for the first school year and are deemed to be individual student support plans developed and accepted under the new Act.

(2) Paragraph 48(1)(a) of the new Act does not apply to the development of an individual education plan continued by subsection (1).

(3) An assessment, as provided for in section 46 of the new Act, shall be conducted in the first school year in respect of each student who has an individual education plan continued by subsection (1).

(4) The continuation of the individual education plan of a student by subsection (1) does not prevent the development of a new individual student support plan for the student under Part 6 of the new Act or limit the making of adjustments to the plan under section 46 of the new Act.

Exclusion from Regular Instructional Setting

18. (1) A decision to exclude a student from the regular instructional setting under paragraph 7(3)(f) of the former Act is continued for the first school year and is deemed to be a decision made under subsection 45(1) of the new Act.

(2) Subsection 45(4) and paragraph 48(1)(c) of the new Act do not apply to a decision continued by subsection (1).

Review Boards: Remuneration

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- 19.** In the first school year, the members of a review board appointed by a district education authority under section 51 of the new Act are entitled to remuneration and expenses as follows:
- (a) the chairperson is entitled to remuneration equal to the remuneration of the chairperson of the district education authority;
 - (b) the other members are entitled to remuneration equal to the remuneration of a member of the district education authority who is not its chairperson;
 - (c) the chairperson and other members of a review board are entitled to be paid for their expenses on the same basis as a member of the district education authority.

Inuuqatigiitsiarniq Policies

- 20.** (1) Despite subsection 58(1) of the new Act, a district education authority may develop and adopt an Inuuqatigiitsiarniq policy in the first school year but it is not required to do so.
- (2) The discipline policy established under subsection 34(1) of the former Act and the code of conduct developed under paragraph 69(2)(h) of the former Act continue for the first school year until the district education authority develops and adopts an Inuuqatigiitsiarniq policy under section 58 of the new Act.
- (3) Policies and codes of conduct continued by subsection (2) are deemed to have been developed and adopted under section 58 of the new Act.
- (4) Subsection 58(13.1) of the new Act does not apply to a policy or code of conduct continued by subsection (2).

Programs in Support of Inuuqatigiitsiarniq policy

- 21.** Despite subsection 59(1) of the new Act, a district education authority may develop programs under that subsection in the first school year but it is not required to do so.

Reports on Student Behaviour

- 22.** In the first school year, a principal shall make the reports referred to in section 60 of the new Act even though regulations have not been made in respect of that section.

School Rules

- 23.** School rules established under subsection 34(2) of the former Act are continued for the first school year and are deemed to have been made under subsection 61(1) of the new Act.

Appeals related to Suspensions and Expulsions

- 24.** Sections 38, 39, 40, 41 and 43 of the former Act and sections 1 to 11 and 20 to 23 of the *Education Appeal Regulations* made under the former Act are deemed to form part of these regulations and apply in the first school year to an appeal of a decision to suspend or expel a student.

Student Records

- 25.** Sections 1 to 6 and 8 to 16 of the *Student Record Regulations* made under the former Act are deemed to form part of these regulations and apply in the first school year to the student records required under section 79 of the new Act.

Correction of Student Records: Resolution of Disagreements

- 26.** Subsections 39(2), 40(1) and 40(3) and section 41 of the former Act and sections 1 to 11 of the *Education Appeal Regulations* made under the former Act are deemed to form part of these regulations and apply in the first school year to the resolution of a disagreement under subsection 81(2) of the new Act.

School Calendar

27. (1) The calendar for the 2009-2010 academic year prepared under section 3 of the *Academic Year and School Attendance Regulations* made under the former Act is the school calendar for the first school year and is deemed to have been established under section 84 of the new Act.

(2) Subsection 84(7) of the new Act does not apply to a calendar to which subsection (1) applies.

Instructional Hours

28. The minimum and maximum hours of instruction established under subsection 126(4) of the former Act and section 2 of the *Academic Year and School Attendance Regulations* made under the former Act are continued for the first school year and are deemed to be minimum and maximum instructional hours prescribed under paragraphs 87(1)(a), (b) and (c) of the new Act.

Ilinniarvimmi Inuusilirijiit

29. (1) Despite subsection 89(2) of the new Act, a school may have but is not required to have an Ilinniarvimmi Inuusiliriji in the first school year.

(2) In the first school year, the Minister shall take steps to ensure that every school has at least one Ilinniarvimmi Inuusiliriji for the school year that begins on July 1, 2010.

(3) Despite subsection 90(1) of the new Act, a school team is not required to have an Ilinniarvimmi Inuusiliriji until the school has an Ilinniarvimmi Inuusiliriji.

Orientation and Mentoring Programs

30. In the first school year, the Minister shall begin the development of the orientation and mentoring programs referred to in subsection 96(1) of the new Act but is not required to establish those programs for the first school year.

Innait Inuksiutilirijiit

31. (1) An Elder shall not be employed in the first school year as an Innaq Inuksiutiliriji unless

- (a) the Elder has received, either orally or in writing, from the district education authority or from a member of the education staff
 - (i) an explanation of his or her duties and what is expected of him or her, and
 - (ii) an explanation of the school rules and procedures that are relevant to the carrying out of his or her role in the school;
- (b) the Elder has been given an opportunity to discuss the explanations with the district education authority or with a member of the education staff;
- (c) the Elder has attended a meeting arranged by the district education authority or by a member of the education staff for the purpose of meeting the school staff with whom the Elder will be working;
- (d) the Elder has had a criminal reference check completed by the Royal Canadian Mounted Police within the last three years and a copy of the criminal reference check has been provided to the district education authority; and
- (e) the district education authority has considered the criminal reference check in consultation with the principal and has determined that it is appropriate to employ the Elder.

(2) The criminal reference check referred to in paragraph (1)(d) must include a verification under subsection 6.3(3) of the *Criminal Records Act* (Canada).

Certification, etc

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32. Sections 50, 51 and 52 of the former Act, sections 1 to 59 of the *Education Staff Regulations* made under the former Act and the *Principal Certification Regulations* made under the former Act are deemed to form part of these regulations and apply in the first school year in respect of the certification of teachers, principals and vice-principals and in respect of any other matters set out in those provisions.

Principals and Vice-Principals

33. (1) In the first school year, the time periods referred to in subsections 108(1) and (2) of the new Act shall be calculated from the date the principal or vice-principal took up his or her duties even if that date is before July 1, 2009.

(2) Subsections 112(1) and (2) of the new Act do not apply in the first school year to the employment of an individual as a vice-principal.

(3) Subsection 112(2) of the new Act does not apply in the first school year to the employment of an individual as a principal if his or her employment contract as a principal was entered into before July 1, 2009.

(4) An individual whose employment contract as a principal was entered into before July 1, 2009 who does not have a certificate of eligibility as a principal may continue to be employed as a principal in the first school year for the same period as he or she would have been eligible to remain employed as a principal under the former Act.

(5) An individual described in subsection (4) remains subject to the same requirements as would have applied to the individual under the former Act including all commitments made under section 2 of the *Principal Certification Regulations* made under the former Act or made under those regulations as they continue to apply under section 32 of these regulations.

(6) In the first school year, any period for which a teacher was designated as an acting principal immediately before July 1, 2009 shall be included in calculating the 12-month limitation in subsection 113(1) of the new Act.

Standards for Teacher Education Programs

34. Despite subsection 122(2) of the new Act, the Minister may establish standards for teacher education programs for the first school year but is not required to do so.

Report on Inuit Qaujimajatuqangit by Minister

35. A report is not required under subsection 122.1(1) of the new Act in respect of any period before July 1, 2009.

Directions

36. The following documents are continued for the first school year and are deemed to be directions given by the Minister under the new Act:

- (a) the departmental directive dated July, 2001 and titled "Student Records and Information Management";
- (b) the document dated 2008 and titled "*Inuglugijaittuq: Foundation for Inclusive Education in Nunavut Schools*";
- (c) the document dated 2008 and titled "*Ilitaunnikuliriniq: Foundation for Dynamic Assessment as Learning in Nunavut Schools*"; and
- (d) the document dated 2007 and titled "*Inuit Qaujimajatuqangit: Education Framework for Nunavut Curriculum*".

Annual Report of Minister

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37. A report is not required under subsection 126(1) of the new Act in respect of any period before July 1, 2009.

Oath of Office

38. The following oath is prescribed for the first school year as the oath to be taken before taking office by members of a district education authority under subsection 130(3) of the new Act:

I,, do solemnly and sincerely promise and (swear or affirm) that I will duly, faithfully and to the best of my skill and knowledge, execute the powers and trust reposed in me as a (name of office).

District Education Authorities: Remuneration and Expenses

39. (1) Sections 3, 4 and 5 of the *Conduct of Business Regulations* made under the former Act are deemed to form part of these regulations and apply in the first school year to the remuneration and expenses of the members of a district education authority.

(2) Despite subsection (1), if the remuneration paid or expenses allowed by a district education authority under its by-laws and guidelines exceeds what is allowed by virtue of a directive made under the *Financial Administration Act*, the district education authority shall reduce the remuneration or expense paid to members of the district education authority, as the case may be, to the maximum allowed under the directive.

(3) In the first school year, Elders appointed under subsection 133(1) of the new Act by a district education authority are entitled to remuneration equal to the remuneration of a member of the district education authority who is not its chairperson and students elected under subsection 134(1) of the new Act are entitled to remuneration equal to 50 per cent of the remuneration paid to Elders.

(4) In the first school year, Elders and students referred to in subsection (3) are entitled to be paid for their expenses on the same basis as a member of the district education authority.

Restriction on Access to Schools

40. In the first school year, a member of a district education authority must be accompanied by a member of the education staff when the member of the district education authority is on school premises and children are present.

Report on Inuit Qaujimagatuqangit by District Education Authority

41. A report is not required under subsection 138.1(1) of the new Act in respect of any period before July 1, 2009.

School Visitation Plan

42. Despite section 139 of the new Act, a district education authority may develop a plan for its members to visit the schools under its jurisdiction during the first school year but is not required to do so.

Annual Report of District Education Authority

43. In the first school year, a district education authority shall make its annual report for the 2008-2009 year available to the community as required under subsection 146(2) of the new Act even though no regulations have been made in respect of that subsection.

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Resignations

44. Section 91 of the former Act is deemed to form part of these regulations and applies in the first school year to the resignation of members of a district education authority, including the resignation of a member as the chairperson or vice-chairperson.

Ceasing to be Member

45. Section 92 of the former Act is deemed to form part of these regulations and applies in the first school year with respect to members of a district education authority ceasing to be members.

Conduct of Business

46. Sections 94 and 95 and subsections 96(2) and (3) of the former Act and sections 2 and 6 of the *Conduct of Business Regulations* made under the former Act are deemed to form part of these regulations and apply in the first school year to the manner in which a district education authority conducts its business.

Commission scolaire francophone

47. Section 14 of the *French First Language Education Regulations* made under the former Act is deemed to form part of these regulations and applies in the first school year to the *Commission scolaire francophone* with respect to the provisions referred to in that section as those provisions apply under these regulations.

Financial Year

48. A decision in the first school year by a district education authority under subsection 182(2) of the new Act to adopt the financial year of the Government of Nunavut as its financial year shall not take effect until after the 2009/2010 financial year of the district education authority.

Operating Budget

49. Section 183 of the new Act does not apply to the operating budget of a district education authority for the first school year

Allocation of Funds

50. (1) Section 185 of the new Act does not allow the allocation or re-allocation of amounts provided to a district education authority by the Government of Nunavut in respect of the approved budget of the district education authority for the first school year.

(2) Despite subsection (1), a district education authority may allocate or re-allocate amounts in the first school year to the same extent as it could have done so before the former Act was repealed.

Bank Withdrawals

51. Section 12 of the *Conduct of Business Regulations* made under the former Act is deemed to form part of these regulations and applies in the first school year with respect to withdrawals of funds referred to in section 186 of the new Act.

Private Schools

52. Section 2 of the *Private School Regulations* made under the former Act is deemed to form part of these regulations and applies in the first school year with respect to applications to register a private school under section 202 of the new Act.

Executive Directors

Transition Regulations

53. (1) The Minister may designate one or more departmental officials as executive directors.

(2) A person who immediately before the repeal of the *Divisional Education Councils Dissolution Act* held the position of executive director continues to hold that designation.

(3) An executive director has jurisdiction in the education district or districts set out in the designation of the official as an executive director.

(4) For the purposes of every Act, a reference to a Superintendent employed under the former Act shall be read as a reference to an executive director.

Repeals

54. All of the regulations made under the former Act are repealed.

Commencement

55. These regulations come into force on the later of July 1, 2009 and the day these regulations are registered with the Registrar of Regulations.