

**EDUCATION ACT**

R-038-2021

Registered with the Chief Legislative Counsel

2021-07-05

**INCLUSIVE EDUCATION REGULATIONS, amendment**

The Commissioner in Executive Council, under section 53 of the *Education Act* and every enabling power, makes the annexed *Inclusive Education Regulations, amendment*.

1. **These regulations amend the *Inclusive Education Regulations, Nu.Reg. R-017-2011*.**
2. **In the French version, the regulations are renamed the *Règlement sur l'inclusion scolaire*.**
3. **Sections 1 and 2 are repealed and replaced by:**

Adjustments and Supports

Permitted adjustments and supports

1. (1) Subject to subsection (2), the adjustments and supports that are permitted for the purposes of paragraph 41(2)(a) of the Act are
  - (a) an adjusted or different curriculum;
  - (b) a diversity of instructional methods;
  - (c) adaptations to instructional materials; and
  - (d) adaptations to the classroom environment.

Conditions for adjustments and supports

- (2) The adjustments and supports listed in subsection (1) are only permitted for the purposes of paragraph 41(2)(a) of the Act if, in the opinion of the Minister,
  - (a) they do not negatively affect the ability of other students to learn; and
  - (b) they are available at a reasonable cost.

4. **(1) The heading preceding section 3 is repealed and replaced by:**

Development of Individual Student Support Plans

- (2) Section 3 is amended**
  - (a) by repealing and replacing the portion preceding paragraph (a) by:**
3. In carrying out their duties under subsection 43(7) of the Act, the main teacher shall
  - (b) in paragraph (c) by adding "or a teacher" after "school team";**
  - (c) in paragraph (f) by replacing "the school team believes" with "they believe"; and**
  - (d) in paragraph (h) by replacing "the school team develops" with "is developed".**

5. **Section 4 and the heading preceding it and following it are repealed and replaced by:**

Participation of parents and students

4. (1) The main teacher shall, at the time described in subsection (2), provide the parent of a student or, if the student is an adult, the student with a written notice of the following information:
  - (a) an explanation of the legal and policy foundations for inclusive education;
  - (b) an explanation of the rights of a parent and minor student or the rights of the adult student under the Act with respect to inclusive education;

- (c) an explanation of the process to be followed if the parent or adult student believes the student requires adjustments or support;
  - (d) if the main teacher intends to develop an individual student support plan for the student, an explanation of the obligation of the parents or the adult student to participate in the development of an individual student support plan.
- (2) The information required by subsection (1) shall be provided to the parent or adult student
- (a) before or at the beginning of the parent or adult student participating in the development of the individual student support plan under subsection 43(8) of the Act;
  - (b) when a parent or adult student inquires about adjustments or support for the student; or
  - (c) when a district education authority requests for a student to be assessed to determine if the student requires adjustments or supports on behalf of the parent of a student or, if the student is an adult, the student.

**6. Section 5 is repealed and replaced by:**

5. (1) The following rules apply with respect to the main teacher carrying out duties under subsection 43(7) of the Act with respect to a student:

- (a) the main teacher shall arrange for meetings with the persons listed in subsection 43(8) of the Act;
  - (b) the parents and the student, or the adult student, may attend the meetings unless, in the case of a minor student, the student is excluded in accordance with subparagraphs 43(8)(c)(i) and (ii) of the Act;
  - (c) a parent, a minor student or an adult student may make a request to bring a person to the meetings to provide personal support and to assist in understanding the proceedings, and the principal shall consider, in consultation with the main teacher, whether to allow the person to attend;
  - (d) the following may attend the meetings if the principal decides, in consultation with the main teacher, that it is appropriate for them to do so:
    - (i) a student support teacher who works with the student,
    - (ii) an Elder employed under section 102 of the Act who works with the student,
    - (iii) an outside agency from which the student receives services or other assistance.
- (2) A principal shall not allow an outside agency to attend a meeting described in subsection (1) if,
- (a) in the case of a minor student, the parent is participating in the development of the individual student support plan but does not consent to the attendance by the outside agency; or
  - (b) in the case of an adult student, the adult student does not consent to the attendance by the outside agency.

(3) If a minor student is excluded from a meeting described in subsection (1), the main teacher shall, subject to subparagraphs 43(8)(c)(i) and (ii) of the Act, allow the minor student to participate in the development of their individual student support plan in a way that is not inappropriate or harmful to the minor student, including providing the minor student with an opportunity to provide input on any decisions made with respect to them.

**7. Section 7 and the heading preceding it is repealed and replaced by:**

Assistance from school team

7. (1) The school team may assist the main teacher in fulfilling their duties under these regulations and the Act, including assisting the main teacher in

- (a) assessing and determining if a student requires adjustments and supports;
- (b) identifying new students who may need adjustments and supports;
- (c) notifying parents in accordance with section 4;
- (d) developing individual student support plans; and
- (e) conducting periodic reviews under section 46 of the Act.

(2) The principal shall consult with the school team prior to making a decision about the interim implementation of a rejected individual student support plan under subsection 43.1(9) of the Act.

Role of principal

- 7.1. The principal shall ensure that
- (a) the school team is providing the assistance referred to in subsection 7(1) when required by the main teacher; and
  - (b) parents and students are informed of their rights and obligation with respect to accessing adjustments and supports under Part 6 of the Act.

**8. Section 8 is amended**

- (a) **by renumbering it as subsection 8(1);**
- (b) **by replacing "the school team in carrying out its duties under subsection 43(5) of the Act" with "the main teacher in carrying out their duties under sections 43 and 43.1 of the Act";**
- (c) **in paragraph (c) by replacing "school team" with "main teacher"; and**
- (d) **in paragraph (d) by replacing "meetings of the school team" with "meetings under subsection 5(1)"; and**
- (e) **adding the following after it:**

(2) For greater certainty, the records referred to in subsection (1) are governed by the *Student Records Regulations*.

**9. Section 9 and the heading preceding it are repealed.**

**10. Section 10 is amended by replacing "school team" with "main teacher".**

**11. Section 11 and the heading preceding it are repealed.**

**12. Section 12 is repealed.**

**13. The French versions of paragraphs 13(c) and 28(2)(d) are amended by replacing "l'intégration scolaire" with "l'inclusion scolaire" wherever it appears.**

**14. Section 14 and the heading preceding it are repealed and replaced by:**

Request for Review

14. A request for a review under section 50 of the Act must include reasons for the request in accordance with subsection 50(1) of the Act.

**15. Section 15 is repealed and replaced by**

(1) The Minister shall make the appointments under paragraph 51(1)(b) of the Act within 14 days after receiving a request for a review by a review board under section 50 of the Act.

(2) If applicable, the chairperson of a review shall make the appointment under subsection 51(2) of the Act within 14 days after the chairperson's appointment by the Minister.

**16. Section 16 is amended by replacing "district education authority" with "Minister".**

**17. Section 17 and the heading preceding it are repealed.**

**18. Section 18 is amended by replacing "A district education authority" with "The Minister".**

**19. Section 21 is amended by replacing "school team" with "main teacher" wherever it appears.**

**20. The following is added after subsection 26(3):**

(4) A criminal record check under this section must include a vulnerable sector check.

**21. Subsection 28(1) is amended by replacing "a district education authority" with "the Minister".**

**22. (1) Subsection 29(1) is repealed and replaced by:**

29. (1) The Minister and, if applicable, the chairperson may not appoint the following persons to a review board:

- (a) a member of the district education authority, other than the member appointed under paragraph 51(1)(a) of the Act;
- (b) a member of the staff of the district education authority or of the school staff of any school under the jurisdiction of the district education authority;
- (c) a person who made or recommended the decision which is being reviewed;
- (d) a close relative of the chairperson;
- (e) any close relative of a party to the review or of any person described in paragraph (a), (b), or (c); or
- (f) a person who has a conflict of interest, including a relationship with a party or with anyone described in paragraph (a), (b) or (c) that would make it inappropriate, in the opinion of the person making the appointment, for them to be appointed as a member of the review board.

**(2) Subsections 29(2) and (3) are repealed.**

**(4) Subsection 29(4) is amended by replacing "subsection (1) and (2)" with "subsection (1)".**

**23. Subsection 31(2) is amended by replacing "district education authority" with "Minister".**

**24. Sections 36 and 37 and the headings preceding them are repealed.**