

Chapter 19

AN ACT TO AMEND THE NUNAVUT TEACHERS ASSOCIATION ACT

(Assented to May 16, 2013)

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

1. **The *Nunavut Teachers Association Act* is amended by this Act.**
2. **The following are amended by striking out "NUNAVUT TEACHERS ASSOCIATION" and substituting "NUNAVUT TEACHERS' ASSOCIATION" in the English version of the Act:**
 - (a) **the title of the Act; and**
 - (b) **the heading preceding section 2.**
3. **(1) The English version of the definition "Association" in section 1 is amended by striking out "Nunavut Teachers Association" and substituting "Nunavut Teachers' Association".**

(2) The definition "discipline committee" in section 1 is amended by striking out "23(1)" and substituting "26(1)".

(3) The definition "teacher" in section 1 is repealed and following substituted:

"teacher" means a person who is a member of the bargaining unit established for teachers under the *Public Service Act*. (*enseignant ou enseignante*)

(4) The following definition is added in alphabetical order to section 1:

"President" means the president of the Association; (*président*)
4. **The English version of subsection 2(1) is repealed and the following substituted:**

Association
2. **(1) The Nunavut Teachers Association is continued and shall be known as the "Nunavut Teachers' Association".**
5. **Paragraph 3(a) is repealed and the following substituted:**
 - (a) **to promote high quality education;**
6. **(1) The following is added after paragraph 4(1)(c):**

- (c.1) respecting notices related to elections and general meetings that are to be given to members;

(2) The following is added after paragraph 4(1)(j):

- (j.1) respecting the disciplinary process for members, including respecting investigations and hearings;

(3) Subsection 4(2) is repealed and the following substituted:

By-laws to be available to the public

(2) The Association shall ensure that the by-laws are available for review by the public.

7. Subsection 5(1) is repealed and the following substituted:

Central Council

5. (1) The affairs of the Association shall be managed and conducted by the Central Council, which shall be composed of the number of persons specified by the by-laws to be elected from among the membership of the Association in accordance with the by-laws.

8. The following is added after section 8:

Notice to members

8.1 The Association shall, in accordance with the by-laws, give its members reasonable notice of elections referred to in sections 5 and 7 and general meetings referred to in section 8.

9. Sections 11, 12 and 13 are repealed and the following substituted:

Membership

11. (1) Subject to subsection (2), every teacher who is employed by the Minister responsible for the *Education Act* is, upon employment, entitled to be registered as a member of the Association and is entitled to continue to be a member until his or her employment ceases or his or membership is terminated in accordance with this Act, the regulations or the by-laws.

Refusal to register

(2) The Association may declare that a person employed as a teacher is not eligible for membership in the Association and may refuse to register that person or terminate his or her membership, as the case may require.

Transition, substitute teachers

(3) Subject to subsection (2), a substitute teacher who is employed by a district education authority on or before June 30, 2013 is, upon employment, entitled to be

registered as a member of the Association and is entitled to continue to be a member until the end of that day unless before that day, his or her employment ceases or his or her membership is terminated in accordance with this Act, the regulations or the by-laws.

Notice, teachers other than substitutes

12. (1) When the Minister responsible for the *Education Act* employs a teacher, other than a substitute teacher, the Minister shall notify the Association in writing

- (a) before the starting date of the employment, of the name of the teacher and the date of commencement of his or her employment; and
- (b) within 30 day after the starting date of the employment, of the amount of salary to be paid to the teacher.

Notice, substitute teachers

(2) The Minister responsible for the *Education Act* shall provide the following information in writing each month to the Association:

- (a) the number of substitute teachers employed in the preceding month in each education district established under the *Education Act*; and
- (b) the name of, and the rate of pay for, every substitute teacher employed in the preceding month.

10. Paragraph 16(a) is repealed.

11. Section 18 is amended by adding “under the conditions that may be established by by-law” after “person”.

12. Section 21 is amended by striking out “, and are not subject to the disciplinary provisions of this Act or the by-laws”.

13. Section 23 is repealed.

14. Sections 25, 26, 27 and 28 are repealed and the following substituted:

Review of complaint

25. (1) If the Association receives a complaint in writing alleging professional misconduct, contravention of the by-laws of the Association or incompetence on the part of a member, the President and the Executive Director, or either of them, as may be provided in the by-laws, shall review the complaint in accordance with the by-laws and shall refer the complaint to the discipline committee for investigation unless after the review it is decided that the complaint is frivolous or vexatious or can be resolved without referring it to the discipline committee.

Frivolous or vexatious complaints

(2) A complaint is deemed to be dismissed if in the review required by subsection (1) it is found to be frivolous or vexatious.

Prompt reviews, investigation and hearing

(3) The Association shall ensure that reviews, investigations and hearings are held and decisions are rendered promptly.

Timelines

(4) The Association shall, by by-law, establish timelines that should be met in the conduct of reviews, investigations and hearings.

Alternates

(5) If the by-laws require that both the President and the Executive Director conduct a review under subsection (1), the Association may, by by-law, provide for the appointment of an officer of the Association to act in the place of the President or Executive Director if the President or Executive Director is unable to act in a particular case.

Discipline committee

26. (1) The Association shall establish a discipline committee for the purposes of

- (a) investigating, in accordance with the by-laws, a complaint referred to it under subsection 25(1); and
- (b) holding a hearing in respect of a complaint if, after considering the results of an investigation, the committee is of the opinion that a hearing should be held in respect of the complaint.

Composition

(2) The discipline committee shall be composed of three members of the Association.

Alternate members

(3) The Association may, by by-law, provide for the appointment of members of the Association as alternate members of the discipline committee to act if one or more permanent members of the committee is unable to act in a particular case.

Delegation of investigation function

(4) The Association may, by by-law, delegate the functions of investigating complaints to a committee of the Association other than the discipline committee but it shall not delegate the hearing function.

Investigations, natural justice and privacy

27. (1) The investigation of a complaint by the discipline committee or by another committee shall be conducted in private and the rules of natural justice, other than the right to be heard, apply to the investigation.

Report to discipline committee

(2) If a committee other than the discipline committee investigates a complaint, the committee shall, in accordance with the by-laws, report its findings and

recommendations to the discipline committee which shall consider the report and decide whether a hearing is required as provided in the by-laws.

Hearings, natural justice and privacy

28. (1) Hearings by the discipline committee shall be conducted in private and in accordance with the rules of natural justice, including the right of the member who is the subject of a complaint to be heard by the committee.

Powers of discipline committee

- (2) Subject to subsection (1), the discipline committee may
- (a) summon and bring before it any person whose attendance it considers necessary to enable it to inquire properly into the matter complained of;
 - (b) ascertain the facts in the manner that it considers necessary;
 - (c) administer oaths and affirmations and examine all persons sworn;
 - (d) do all things that it considers necessary to provide a full and proper inquiry; and
 - (e) make findings as to the conduct and discipline of a member.

Evidence

(3) Subject to subsection (1), the discipline committee is not bound by the laws of evidence applicable to judicial proceedings.

Counsel

(4) The Association and any member whose conduct is being investigated or in respect of whom a hearing is being held have the right to be represented by counsel.

Report on investigation

28.1 (1) If the discipline committee decides that no hearing is required in respect of a complaint, the committee shall submit, in accordance with the by-laws, a full report on the investigation and its decision to the Central Executive.

No discipline without hearing

(2) The discipline committee may recommend disciplinary action without holding a hearing only if the committee scheduled a hearing and the member without reasonable excuse delivered to the committee on or before the day of the hearing failed to appear.

Report to Central Executive.

(3) The discipline committee shall submit, in accordance with the by-laws, a full report to the Central Executive on any hearing held by the committee or any decision it makes following the failure of a member to attend a hearing as described in subsection (2) and the report shall include the committee's recommendations, if any, with respect to disciplinary action.

Decision of Central Executive

(4) The Central Executive shall, in accordance with the by-laws, consider the report of the discipline committee, render its decision on the matter and take the action that it considers necessary and proper in the circumstances.

15. Section 29 is repealed and the following substituted:

Discipline

29. (1) The Central Executive may, in accordance with the by-laws and on the advice of the discipline committee, order the suspension or expulsion of a member either permanently or for a specified period of time, or may otherwise reprimand the member where it has been shown to the satisfaction of the Central Executive that the member has been guilty of professional misconduct or a contravention of the by-laws or is incompetent.

Notice to registrar

(2) The Association shall notify the registrar appointed under section 119 of the *Education Act* when it disciplines a member.

Contents of notice

(3) The notice required by subsection (2) shall be given to the registrar as soon as possible after the disciplinary action is taken and shall set out

- (a) the name of the member;
- (b) a statement of whether the member was suspended, expelled or reprimanded;
- (c) the length of any suspension or expulsion; and
- (d) a brief statement of the facts that caused the disciplinary action to be taken.

Action by registrar

(4) The registrar shall treat a notice under subsection (2) in the same manner as a complaint made in writing to the registrar.

Consequential Amendments

Education Act

16. (1) The *Education Act* is amended by this section.

(2) The English version of section 95 is amended by striking out “Nunavut Teachers Association” and substituting “Nunavut Teachers’ Association”.

(3) The French version of section 95 is amended by striking out “la Fédération des enseignants et enseignantes du Nunavut” and substituting “l’Association des enseignants et enseignantes du Nunavut”.

Public Service Act

17. (1) The *Public Service Act* is amended by this section.

(2) The English version of subsection 41(1.6) is amended by striking out “Nunavut Teachers Association” and substituting “Nunavut Teachers’ Association”.