

EDUCATION ACT

OFFICIAL CONSOLIDATION OF INCLUSIVE EDUCATION REGULATIONS

C.R.Nu. R-017-2011

In force September 26, 2011

*(Consolidation date: July 5, 2021)*

**R-017-2011**

**AS AMENDED BY:**

R-038-2021

In force July 5, 2021

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## GLOSSARY OF TERMS USED IN CONSOLIDATIONS

### *Miscellaneous*

c.	means "chapter".
CIF	means "comes into force".
NIF	means "not in force".
s.	means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
Sch.	means "schedule".

### *Citation of Acts*

R.S.N.W.T. 1988,c.D-22	means Chapter D-22 of the <i>Revised Statutes of the Northwest Territories, 1988</i> .
R.S.N.W.T. 1988,c.10(Supp.)	means Chapter 10 of the Supplement to the <i>Revised Statutes of the Northwest Territories, 1988</i> . (Note: The Supplement is in three volumes.)
S.N.W.T. 1996,c.26	means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
S.Nu. 2002,c.14	means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

### *Citation of Regulations and other Statutory Instruments*

R.R.N.W.T. 1990,c.A-1	means Chapter A-1 of the <i>Revised Regulations of the Northwest Territories, 1990</i> .
R-005-98	means the regulation registered as R-005-98 in 1998. (Note: This is a Northwest Territories regulation if it is made before April 1, 1999, and a Nunavut regulation if it is made on or after April 1, 1999 and before January 1, 2000.)
R-012-2003	means the regulation registered as R-012-2003 in 2003. (Note: This is a Nunavut regulation made on or after January 1, 2000.)
SI-005-98	means the instrument registered as SI-005-98 in 1998. (Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.)
SI-012-2003	means the instrument registered as SI-012-2003 in 2003. (Note: This is a Nunavut statutory instrument made on or after January 1, 2000.)

## INCLUSIVE EDUCATION REGULATIONS

### 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.
- R-038-2021,s.3.

#### 2. **Repealed, R-038-2021,s.3.**

### Development of Individual Student Support Plans

3. In carrying out their duties under subsection 43(7) of the Act, the main teacher shall
    - (a) consider a student's intellectual, communication, linguistic, social, emotional, physical and behavioural learning needs;
    - (b) consider a student's intellectual, communication, linguistic, social, emotional, physical and behavioural strengths;
    - (c) review work done previously by the school team or a teacher with respect to the student;
    - (d) review the goals and outcomes from the current or any previous individual student support plan for the student;
    - (e) consider all relevant information, both current and historical, about the student provided by the student's teachers and other education staff and by the student and their parents;
    - (f) acquire and consider any additional information they believe is necessary or advisable;
    - (g) review the records of any assessments made under section 46 or 47 of the Act, including previous assessments; and
    - (h) ensure that any individual student support plan that is developed provides for adjustments and support that, to the extent possible, build upon the strengths referred to in paragraph (b) to meet the learning needs of the student and to achieve appropriate curriculum outcomes.
- R-038-2021,s.4.

### 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.

R-038-2021,s.5.

### Attendance at School team Meetings

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. R-038-2021,s.6.

#### Contents of Individual Student Support Plan

- 6. (1) An individual student support plan must include
  - (a) a description of the learning needs of the student;
  - (b) a description of the strengths of the student;
  - (c) medical information and other personal information relevant to the development and implementation of the plan;
  - (d) a description of the adjustments and support to be provided under the plan, including
    - (i) if the adjustments include significant adjustments to the curriculum, details of those adjustments, and
    - (ii) a description of the support to be provided in the classroom, the support to be provided outside the classroom by school staff and the support to be provided outside the school;
  - (e) measurable goals for the current school year and for future school years and expected outcomes for the current school year;
  - (f) if an outside agency provides services or other assistance to the student, a description of the services or other assistance;
  - (g) if the student has been referred to an outside agency, a description of what the agency might provide to the student; and

- (h) transition plans, which may include plans for the transition of the student away from being provided with adjustments and support, the transition of the student from one grade to another or from one school to another or the transition from being a student to ceasing to be a student.

(2) In addition to the requirements of subsection (1), if an individual student support plan relates to a student who is excluded from, or refused access to, their regular instructional setting under subsection 45 of the Act and who has been given an alternative placement under that section, the individual student support plan must include

- (a) the reasons for the exclusion or refusal;
- (b) the reasons for the particular placement;
- (c) a description of the alternative placement, including the times the student will be in the placement, when the placement will begin and when it will end; and
- (d) an explanation of how and the extent to which the alternative placement will address the student's needs.

#### 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. R-038-2021,s.7.

#### 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.

R-038-2021,s.7.

### Student Records

- 8.** (1) The principal shall ensure that the information included in a student's record relating to the activities of the main teacher in carrying out their duties under sections 43 and 43.1 of the Act includes
- (a) any individual student support plan that is developed for the student;
  - (b) records of the involvement of the parents or student, including any signed permission forms for assessments;
  - (c) if the main teacher consults with an outside agency, records of that consultation;
  - (d) notices and records relating to meetings under subsection 5(1), including
    - (i) the names of the participants, and
    - (ii) notes of what took place at the meetings, including any decisions made; and
  - (e) records of any relevant assessments under sections 46 and 47 of the Act.

(2) For greater certainty, the records referred to in subsection (1) are governed by the *Student Records Regulations*. R-038-2021,s.8.

**9. Repealed, R-038-2021,s.9.**

### New Students

**10.** The main teacher shall take steps to identify new students before a school year begins to determine which new students may require adjustments and support and to help ensure that there are adequate resources at the school to provide those adjustments and support. R-038-2021,s.10.

**11. Repealed, R-038-2021,s.11.**

### Qualifications to Do Assessments

**12. Repealed, R-038-2021,s.12.**

- 13.** A person making a specialized assessment referred to in section 47 of the Act,
- (a) must be qualified to use and interpret assessment procedures and instruments that are culturally and linguistically appropriate having regard to the circumstances;
  - (b) must be familiar with education in Nunavut; and
  - (c) must have, or be willing to develop, an understanding of the approach to inclusive education in Nunavut and an understanding of Inuit values and how they relate to the assessment.

### 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. R-038-2021,s.14.

### Timing of Appointments to Review Board

**15.** (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. R-038-2021,s.15.

### Notice of Expeditious Decision

**16.** If, because of the needs of the student, it is important that a review board make its decision expeditiously, the Minister, at the time of appointing the chairperson of the review board, shall inform the chairperson of the reasons why the decision should be made expeditiously. R-038-2021,s.16.

**17. Repealed, R-038-2021,s.17.**

### Information to Parties

**18.** The Minister shall make reasonable efforts to inform the parties within seven days after receiving a request for a review under section 50 of the Act that the review has been requested and the review board

- (a) will be appointed in accordance with section 51 of the Act;
- (b) is required under subsection 50(5) of the Act to give the parties an opportunity to be heard; and
- (c) is required under section 52 of the Act to make its decision in accordance with the principles and concepts of Inuit Qaujimagatuqangit, particularly the principles of Tunnganarniq and Pilimmaksarniq.  
R-038-2021,s.18.

### Procedure

**19.** (1) Subject to the Act and regulations, the conduct of and the procedure to be followed by a review board is under the control and direction of its chairperson.

(2) In determining the procedure to be followed, the chairperson shall have regard to

- (a) the needs of the student;



- (b) the privacy of the student;
- (c) the Act and the regulations and any relevant directions of the Minister; and
- (d) the importance of the review board's review being conducted fairly.

#### Consultation

**20.** A review board may consult with outside agencies and experts but shall do so in a way that does not prejudice the right of the parties to be heard.

#### Limitation

**21.** If a review board in acting under subsection 50(5) of the Act decides to substitute its decision for that of a main teacher or a principal, the review board is limited to what the main teacher or the principal could properly decide under Part 6 of the Act.

R-038-2021,s.19.

#### Reaching a Decision

**22.** (1) The chairperson of a review board shall use reasonable efforts to have the review board reach its decision through a consensus of its members.

(2) If a review board does not reach a decision by consensus, the decision of the majority of its members shall be the decision of the board.

#### Circulation of Draft Decision

**23.** (1) Before finalizing its decision, a review board may circulate a draft decision to the parties and give the parties up to two weeks to ask for clarification as to how the decision would be implemented.

(2) After the time period allowed by the review board under subsection (1) expires, it shall give its final decision which may include clarifications in relation to the questions from the parties or other changes as the review board considers appropriate.

(3) In determining whether or not to circulate a draft decision under subsection (1), the review board shall consider whether there might be uncertainty as to how the decision should be implemented and whether it would be useful to allow the parties an opportunity to ask for clarification as to how it would be implemented.

#### Records

**24.** After a review board gives its decision, the chairperson shall deliver the records of the review board into the custody of the department.

### Information on Lists

**25.** (1) The list established under subsection 51(5) of the Act showing potential chairpersons of review boards shall set out the following information for each person on the list:

- (a) the person's name and contact information; and
- (b) the languages the person is able to use.

(2) The list established under subsection 51(5) of the Act showing other potential members of review boards shall set out the following information for each person on the list:

- (a) the person's name and contact information;
- (b) the languages the person is able to use;
- (c) information indicating the extent to which the person satisfies the factors set out in subsection 28(2); and
- (d) the person's area or areas of expertise.

### Criminal Reference Checks

**26.** (1) The Minister shall not add a person to a list established under subsection 51(5) of the Act unless the person has provided the Minister with a criminal reference check done by the police within three months before the criminal reference check was provided to the Minister.

(2) A person who is on a list established under subsection 51(5) of the Act may from time to time provide the Minister with new criminal reference checks.

(3) The Minister shall remove a person from a list established under section 51(5) of the Act three years after the date of the most recent criminal reference check provided by the person to the Minister.

(4) A criminal record check under this section must include a vulnerable sector check. R-038-2021,s.20.

### Maintenance of Information on Lists

**27.** (1) The Minister shall update the lists established under subsection 51(5) of the Act at least annually.

(2) If a person asks to be removed from a list, the Minister shall do so.

### Factors in Appointments

**28.** (1) In determining who to appoint as chairperson of a review board, the Minister shall have regard to any reasons relating to the needs of the student why it may be important for the review board to make its decision expeditiously.

(2) In determining who to appoint as other members of the review board, the chairperson shall have regard to

- (a) any reasons relating to the needs of the student why it may be important for the review board to make its decision expeditiously;
- (b) how knowledgeable the prospective member is about education;
- (c) how knowledgeable the prospective member is about Nunavut, the community, Inuit societal values and the principles and concepts of Inuit Qaujimajatuqangit; and
- (d) how knowledgeable the prospective member is about inclusive education.

R-038-2021,s.21.

#### Disqualification from Appointment

**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) Repealed, R-038-2021,s.22(2).**

**(3) Repealed, R-038-2021,s.22(2).**

(4) In subsection (1), "close relative" in relation to a person means a spouse, child, sibling, parent of the person or any other relative who resides with the person.

R-038-2021,s.22.

#### Duty to Decline Appointment

**30.** A person shall not agree to be appointed as a member of a review board if the person knows that they are not eligible to be appointed.

### Duty to Disclose Conflict of Interest

**31.** (1) A person shall not agree to be appointed as a member of a review board without first disclosing any conflict of interest they may have in serving on the review board.

(2) The disclosure required by subsection (1) shall be made to the Minister in the case of a potential appointee as chairperson and to the chairperson of the review board in the case of other potential appointees. R-038-2021,s.23.

### When Duties Cannot be Performed

**32.** If, before a review board makes its decision, any of its members cannot continue to carry out their duties, a new review board must be appointed under section 51 of the Act.

### Revocation of Appointments for Cause Only

**33.** The appointment of the members of a review board may not be revoked except for cause.

### Agreement to Serve until Work Completed

**34.** A person may not be appointed as a member of a review board unless the person agrees to carry out their duties until the review board issues its decision and not to resign without a justifiable reason.

### Remuneration and Expenses

**35.** The remuneration and expenses payable to the members of review board under subsection 51(4) of the Act shall be determined in accordance with the directives under the *Financial Administration Act*.

**36.** Repealed, R-038-2021,s.24.

**37.** Repealed, R-038-2021,s.24.