



## **DEPARTMENT OF EDUCATION DISCRETIONARY DECISIONS ON TEACHER LEAVE REQUESTS POLICY**

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### **POLICY STATEMENT**

The Department of Education ('the department') is committed to transparency and consistency in the application of its human resource policies and processes.

This policy ensures that clarity exists around the decision-making process related to leave requests for teaching staff—namely, Nunavut Teachers Association (NTA) members—and that this process is consistently applied across the four Regional School Operations including Qikiqtani School Operations (QSO), Kivalliq School Operations (KivSo), Kitikmeot School Operations (KSO) and the Commission scolaire francophone du Nunavut.

The department reaffirms in this document that the NTA Collective Agreement ('Collective Agreement') prevails in determining the working relationship between the Government of Nunavut and NTA members.

### **PURPOSE**

The current disparity between the decision-making processes related to leave requests for teaching staff is a source of frustration. This situation calls for standardization of all practices in this direction throughout the territory of Nunavut. This policy:

- establishes clear principles and guidelines for the review and approval of leave requests for NTA bargaining unit employees;
- confirms the authority of delegated decision-makers to make decisions about leave requests submitted by NTA members;
- aims to ensure that all decisions regarding leave requests are made in the best interests of the students, taking into account the delivery of the school program, and the impact of an approved leave requests on operational requirements.

### **APPLICATION / SCOPE**

This policy applies to leave requests made by NTA members. Leave requests pertains to the class of leave that are referred to in the Collective Agreement as leave that "may"

be granted. This policy does not in any way limit the authority of the Collective Agreement where the descriptive wording of leave provisions includes “shall” and/or “will”.

## **DEFINITIONS**

*Collective Agreement:* refers to the Collective Agreement between The Nunavut Teachers’ Association and the Minister Responsible for the Nunavut Public Service Act.

*Executive Director/Director General:* refers to the Executive Directors of the three Regional School Operations and the Director General of the Commission scolaire francophone du Nunavut.

*Delegated Decision maker:* The employer or the ED may delegate to any principal or employee by name or by designation of position, subject to the terms and conditions that the Employer or ED directs, any of the authority, powers, functions and duties of the Employer or ED under this policy.

*Grievance process:* the formal mechanism for the resolution of disputes as outlined by the Collective Agreement.

*Operational requirements:* the needs and responsibilities of a school/place of employment including the ability to delivery regular and special school programs for student education. A school’s “Operational requirements” is its ability to perform all activities linked to education and/or safety in a school. It can be established on the work load, the importance of an employee (special need, skills) and the fact that the employee can be replaced or not. It implies education, Safety and/or integrity, and interest of students. It refers to the level at which the school has capacity to function.

*Employee/ Teacher/ Teaching staff:* refers to members of the NTA bargaining unit.

## **LIST OF AUTHORITATIVE DOCUMENTS:**

Collective Agreement between the Nunavut Teachers’ Association and the Minister Responsible for the Nunavut Public Service Act

*Public Service Act (2014 revision)*

Education Act

Government of Nunavut Human Resources Manual (HRM)

- Applicable sections Nunavut Public Service Code of Ethics and Values

## PRINCIPLES

This policy is based on the following principles:

- There are many types of leave for which the employer's response is clearly defined by one or more of the authoritative documents listed above. However, there are a number of leave categories where the decision to grant the leave is at the discretion of the employer.
- The Collective Agreement, in support of labour law, provides a dispute resolution procedure outlined through the grievance process.
- The Collective Agreement defines the working relationship between the GN and Teachers employed in Nunavut.
- When an employee disputes a leave decision, their recourse shall be through the grievance procedure outlined in the Collective Agreement.
- No policy or other departmental document can formally limit the rights and benefits defined by the Collective Agreement.
- Should a decision that was made by the appropriate decision-maker be questioned, the employee is encouraged to discuss to seek clarification/ resolution with the decision-maker; however, should no resolution be accomplished the employee can proceed through the grievance process. Delegated decision makers are to ensure decisions regarding leave requests are made fairly, in a consistent manner and in good faith based on solid reasoning such as operational requirements.
- Decisions are to be made at the appropriate level of decision-making authority and based on the best obtained information about the ramifications of the decision.
- When determining the operational impact on the school created by a potential absence of a teaching staff member, the overall benefit and loss to students and to the quality of the school program must be assessed including the availability of effective substitute instruction.
- The department considers teaching assigned classes to be a teacher's most valuable role. This is a teacher's primary function as per the Education Act.
- The department values sport, recreation and other activities of this nature for the educational, social and health outcomes that they provide for students but this does not take precedence of the essential purpose of the school and the teacher to provide effective instruction, which requires regular contact time.

- The department recognizes the commitment of teaching staff to their communities-at-large, including the role that teaching staff might play with respect to community teams and organizations. However, leave requests must be approved based on the priority of meeting operational requirements of the school.

## **ROLES AND RESPONSIBILITIES**

### **1. Minister**

The Minister of Education is responsible to the Executive Council for the implementation of this policy.

### **2. Deputy Minister**

The Deputy Minister of Education is responsible to the Minister for the implementation of this policy.

### **3. Assistant Deputy Minister**

The Assistant Deputy Minister is responsible to the Deputy Minister for the implementation of this policy.

### **4. Executive Directors of the RSOs/Director General of the CSFN**

The Executive Directors (EDs)/Director General (DG) are responsible for ensuring that the policy is communicated to all stakeholders, in particular, the authority of delegated decision-makers for teacher leave requests. The delegated decision-maker is responsible for approving or denying leave requests made by NTA members working in their respective regions, based on the principles and provisions set out in this policy. Unless otherwise specified, decisions on leave requests are to be made in a timely manner, taking into account relevant facts with a primary consideration for operational requirements.

### **5. Principals**

Principals are delegated decision-makers. However, and in order of standardization of all practices related to leave request, their decisions are subject to review by EDs.

Principals are responsible for providing the necessary information to EDs with respect to the potential benefit and loss to students related to a particular requested leave and the impact on operational requirements at their school.

### **6. School Staff**

Unless otherwise specified, school staff are responsible for submitting their applications for leave with appropriate notice and all relevant supporting documentation, according

to the collective Agreement, to allow for appropriate consideration and timely decision making.

## **PROVISIONS OF THIS POLICY**

- The Department of Education expects that leave requests from NTA members will be dealt with in a consistent and timely manner that complies with all aspects of the Collective Agreement, the Government of Nunavut Human Resources Manual, and the *Public Service Act*.
- Where a discretionary decision about a leave request by an NTA member is to be made, the delegated decision-maker must consider the best interests of the students outweighing other considerations.
- An assessment of the impact on operational requirements includes but is not limited to the following considerations: determining the specialized skills of the teacher requesting leave; the length of time of the requested leave; and whether the leave can be accommodated without causing disruption to the delivery of the school program, prior leave requests, the employee's attendance record, conflicts with other staffs' requests for leave, and the timing of the request for leave during the school year.
- Leave requests for teachers to travel with school teams or on school trips, made with appropriate notice and documentation, is to be approved at the discretion of the appropriately designated authority which will be based on considerations of operational requirements.
- When assessing the operational impact of leave requests by a teacher, the delegated decision-maker will consider the total number of and types of absences, including culpable and non-culpable, taken by an individual teacher and the teaching staff as a whole, at the school in question.
- Travel for designated sports events as described in Section 1312 (Sports Events) of the HRM may be supported with appropriate documentation up to the limits mentioned in the HRM (up to eight days).
- Travel with community teams or on community-based trips that does not fall within the provisions of HRM Section 1312 (Sports Events), will be given low priority vis-à-vis other types of leave, and to be approved, must impact school operations as minimally as possible. With the exceptions listed in HRM Section 1312, this type of social, sport or recreational travel does not qualify for paid leave.

- Other than through the grievance process set out in the Collective Agreement, there is no other formal appeal of a delegated decision-maker's decision.
- Teachers who believe the Collective Agreement has been violated are expected to comply with the decision made and should follow the dispute resolution process set out in the Collective Agreement if they wish to contest the decision.

**PREROGATIVE OF CABINET**

Nothing in this policy shall in any way be construed to limit the prerogative of the Executive Council to make decisions or take action respecting the provisions of the policy.

**SUNSET CLAUSE**

This policy shall be in effect from the date of the signature until September 30, 2021.

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Premier

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Date