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MEDICAL TERMINATION

PURPOSE

1. The Government may terminate an employee who is unable to fulfill obligations under the employment relationship due to illness.

APPLICATION

2. These guidelines and procedures apply to all employees.

DEFINITIONS

3. **Medical Termination** is a non-disciplinary termination of employment. A medical termination is considered when an employee is unable to do the job because of illness and it is unlikely that the employee will sufficiently recover to return to duty in the near future. This approach is an option of last resort and will only be considered when all attempts to bring the employee back to the workplace have failed.
4. **Prognosis** is a physician's statement outlining the long-term expectations regarding an employee's medical condition. The prognosis does not state or describe the employee's medical condition. It indicates if and when the employee may be able to report for duty and what tasks the employee may be able to perform.

PROVISIONS

5. A medical termination is not disciplinary in nature.
6. The employee shall be paid severance pay equal to the product obtained by multiplying his/her weekly rate of pay on termination of employment by the number of completed years of his/her continuous employment to a maximum of thirty (30), less any period of continuous employment in respect of which severance pay was previously granted.
7. For teachers, severance upon medical termination is paid at the same rate as severance upon resignation.
8. A medical termination does not affect an employee's disability benefits as long as the employee has applied for the benefits prior to termination.



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9. Sick leave is approved for employees when appropriate. It is not necessary to allow an employee to liquidate all sick leave prior to medical termination.
10. The basis of a medical termination is a prognosis of the employee's condition. The employer is expected to accommodate absenteeism due to illness in most cases. A medical termination is appropriate only where the absences are extensive and likely to be of long duration.
11. A medical termination is appropriate in cases where an employee has been off duty due to illness for an extensive period of time (over a year) and is unable to carry out the duties of the position. Medical termination may be actioned earlier if the prognosis shows that the employee is unlikely ever to return to duty.
12. After being on sick leave from a position for two months or more, the employee is deemed to be the incumbent of another equivalent position. The employee's position may then be filled. However, the department or agency is committed to provide employment if and when the employee returns from sick leave. Under Section 37 of the *Public Service Act*, an employee returning from extended sick leave where the employee's position has been filled may be directly appointed to another equivalent position in the department, provided the returning employee is qualified for that equivalent position. The department must ensure that arrangements are made for the employee's return.
13. Care needs to be taken in all medical termination cases to ensure that there is no discrimination against an employee due to disability.
14. When an employee requests an extended period of sick leave (either with or without pay), the employee's Deputy Head writes to the employee to ask for a prognosis on the employee's condition. This is needed so the department or agency can make appropriate staffing decisions. A time limit of two to four weeks is allowed for the employee to provide this information. A copy of the employee's job description is provided to the physician making the prognosis.
15. If a prognosis is not provided by the employee or is incomplete, the Deputy Head asks for it again and advises the employee that refusal to provide it may be deemed insubordination.
16. The information provided is used to guide the department or agency in its dealings with the employee.




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17. If the prognosis does not specify a definite return to duty date or if it states that the employee's medical condition makes it impossible for the employee to return to the position in the near future, medical termination may be considered. Advice on specific cases may be requested from the Department of Human Resources.
18. If the prognosis states that the employee can return soon, every effort is made to accommodate the employee.
19. If the prognosis indicates the employee can return but cannot do all the duties of the position, efforts are made to accommodate this through a transfer, reduction in hours, special office equipment, etc.
20. It may not be possible to come to an agreement with a returning employee for their placement in an appropriate position. Only when all efforts to reach an agreement have been exhausted will medical termination be considered for this reason.
21. If an employee refuses to provide a prognosis, medical termination may still be an option. This should be discussed with Human Resources.

Proceeding With Medical Termination:

22. The department, board or agency discusses the situation with the employee and advises the employee that medical termination is being recommended. The employee is given the opportunity to apply for disability insurance or Workers' Compensation benefits, if applicable. The employee is advised to consider other options such as medical retirement.
23. The employee's supervisor recommends medical termination to the Deputy Head.
24. The Deputy Head writes to the employee to advise of the recommendation for termination. The employee is given the opportunity to present information to refute the recommendation.
25. The Deputy Head considers any information the employee provides. If medical termination is determined to be appropriate, the Deputy Head consults with Human Resources and the Deputy Head advises the employee that the medical termination is being actioned.

	
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26. The letter of termination should be faxed or hand-delivered to the appropriate Human Resource office so that appropriate pay action can be taken. A copy is placed on the employee's personnel file.

AUTHORITIES AND REFERENCES

27. Nunavut Public Service Act
Sections 33,37
28. Nunavut Human Rights Act

CONTACTS

29. For further information or clarification, please contact:

Director Employee Relations
Department of Human Resources
Iqaluit, Nunavut
975-6211