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GRIEVANCES AND COMPLAINTS

PURPOSE

1. Disputes between the Government and employees and or their bargaining agent are resolved through the grievance process.

APPLICATION

2. These guidelines and procedures apply to all employees.


DEFINITIONS

3. **Grievance** is a statement of dissatisfaction, usually by an individual but sometimes by the union or management, concerning the interpretation or application of a provision of an Act, or regulation, direction or other instrument made or issued by the Employer dealing with the terms or conditions of employment, provisions of the collective agreement or Arbitral Award, disciplinary action, dismissal and letters of discipline.
4. **Grievance Arbitration** is the procedure by which a board or single arbitrator, acting under the authority of both parties, hears both sides of the controversy and issues an award, usually in writing, that is binding on the parties.
5. **Expedited Arbitration** is a process very similar to grievance arbitration. However, witnesses are not called. Instead, an agreed statement of facts is presented to the arbitrator by management and the union or association. Expedited arbitration is not precedent setting and is used for less complicated cases such as disputes regarding the interpretation of a clause or article in the collective agreement.

PROVISIONS

Grievances

6. The grievance process, outlined in the collective agreements allows the parties to the agreement to settle disputes that arise regarding the interpretation or application of a provision of an Act, or regulation, direction or other instrument made or issued by the employer dealing with the terms or conditions of employment, a provision of the collective agreement or Arbitral Award, disciplinary action, dismissal and letters of discipline.

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7. Excluded employees present their grievances personally while employees in the Nunavut Employees Union (NEU) or the Nunavut Teachers Association (NTA) bargaining units may be represented or assisted by the union or association at any level.

8. The grievance process for excluded employees and NEU bargaining unit employees is a two level process.

Initial Level 1 First Level of Management - usually the employee's direct supervisor or a person designated as the first level grievance respondent;

The employer and the union shall meet at the Initial Level of the grievance procedure with respect to each grievance.

Final Level 2 Final Level of Management - usually the employee's deputy head;

The grievance process for employees in the NTA bargaining unit is a two-step process.

Step 1 First Step of Management – usually the employee's Executive Director of Education or a person designated as a grievance respondent;


Step 2 Second Step of Management – usually the President of the NTA and the Director of Employee Relations or a person designated to review the grievance.

9. The different levels of the grievance procedure allow the matter to be examined by different individuals.

10. Specific time limits apply within which employees may submit grievances, and within which the appropriate employer representative must respond to a grievance, see Attachments "A" and "B". The time limits may be extended by mutual agreement between the government and the employee or the employee's representative.

Arbitration/Expedited Arbitration

11. If a grievance of an employee in the bargaining unit is not resolved during the grievance process, it may be referred to arbitration. Arbitration is similar to a court proceeding, although it is less formal. The hearing itself

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normally lasts for one to two days. However, depending on the issue being arbitrated and the number of witnesses that are heard, it may last several days. The union or association and the employer both present their side of the matter. The arbitrator reviews the presentations, makes a decision and issues a written award within 3 months in accordance with the *Arbitration Act*. The arbitrator's decision is binding on the union or association and the government. Should either party to the grievance not abide by the award, the arbitrator's award may be filed with the courts and become an order of the court. Expedited arbitrations are much quicker, with an oral decision usually rendered the same day as the hearing.


12. An employee submits a complaint through the formal grievance process. The employee and the immediate supervisor make a reasonable attempt to solve the problem. The employee may also seek advice from a representative of the union or association.
13. The Executive Director of education has a meeting with the employee and the employee's NTA representative to determine exactly what the employee's concerns are in an attempt to resolve the complaint.

If not resolved at the first step, the grievance moves to the second step where the Executive Director of the NTA and the Director of Employee Relations or his/her designates attempts to reach a resolution. After exhausting these two steps, the matter may be referred to binding arbitration.

14. For employees in the NEU bargaining unit, the employer and the union shall meet at the Initial Level of the grievance procedure with respect to each grievance.

If not resolved at this level for excluded employees and employees in the NEU bargaining unit, the grievance moves to the final level of management where the deputy head or his/her designate attempts to reach a resolution. After exhausting the two levels, the matter may be referred to arbitration, in the case of a member of the NEU bargaining unit or to the Minister of Human Resources in the case of an excluded employee. The decision of the arbitrator is binding and in the case of a grievance from an excluded employee, the minister's decision is final.

15. The Employee Relations Division of the Department of Human Resources provides advice on drafting responses to grievances and the current

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practices of administering benefits or interpreting the collective agreement. A sample grievance response is provided, see Attachment “C”.


AUTHORITIES AND REFERENCES

16. Nunavut Public Service Regulations
Sections 41 - 47, Grievances
17. Main Collective Agreement with NEU
Article 35, Adjustment of Disputes
18. Collective Agreement with NTA
Article 20, Grievances and Complaints
19. Arbitration Act

CONTACTS

20. For further information or clarification please contact:

**Director Employee Relations
Department of Human Resources
Iqaluit, Nunavut**

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ATTACHMENT “A”

**GRIEVANCE PROCEDURE FOR NTA BARGAINING UNIT MEMBERS
(ARTICLE 20.05)**

1. STEP #1


- Employee/Association notifies the Executive Director of the nature of the complaint within Forty (40) working days of becoming aware of the incident giving rise to the complaint.
- The Executive Director may meet with the grievor/association within 10 working days of receiving the written grievance.
- Executive Director will provide the grievor/association with the written decision within 10 working days of the meeting or 20 working days following receipt of the written grievance.

2. STEP #2

- If not resolved or the grievor who is not satisfied with the decision at the 1st step, the grievor may refer the grievance in writing to the President of the Association and the Director of Employee Relations within 10 working days of receiving the written decision.
- The President of the Association and the Director of Employee Relations or their designate will meet to review the grievance in an attempt to find a mediated solution which they may recommend to the grievor and the Deputy Minister of Education or his/her designate to resolve the grievance.
- If not resolved within 20 working days, the Association may refer the grievance to arbitration.

3. BINDING ARBITRATION

- Only matters related to the interpretation/application of the terms and conditions of employment may be referred to arbitration.

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ATTACHMENT “B”

**NEU GRIEVANCE PROCEDURE
EMPLOYEE/UNION**

1. The employee/union has 30 calendar days to file a grievance regarding the interpretation/application of the collective agreement and 15 calendar days on other issues.

INITIAL LEVEL #1

2. The level one grievance respondent has 14 calendar days to respond in writing from when the grievance was received, then;

The union has 14 days from receipt of the written response to forward to level #2.


FINAL LEVEL #2

3. The deputy head has 30 calendar days from receipt of the final level grievance to respond, then;

The union has 21 calendar days from receipt of the final-level response to forward the grievance to arbitration.

ARBITRATION

* Note: time limits may be extended through mutual agreement

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ATTACHMENT “C”

SAMPLE GRIEVANCE RESPONSE

Date:

Association/Union
 Representative
 Name and Address

Dear (name of Representative):

First/Second Level Grievance - Name of Employee (Issue Grieved)

I acknowledge receipt of your letter of (date) grieving (action grieved). I have reviewed the circumstances surrounding this grievance and have reached a decision.

(In this next paragraph briefly provide the reasons for the denial or acceptance of the grievance. These reasons can include specific articles of the relevant Collective Agreement, a policy or procedure to be followed, past practice, timeliness of the grievance or other reasons. You may want to set up a meeting with the employee and the Union or Association representative to discuss the matter. Ensure that your reasoning is consistent and correct, as they will rely on what is said in your response should they decide to forward the matter to the second or third level of the grievance procedure. If you have concerns or questions about an issue you should consult with your administrative personnel, a higher level of management, a Staff Relations consultant at headquarters or the Regional Human Resource Office.)

For the above reasons I hereby deny the grievance at first/second level.

- or -

For the above reasons redress as requested will be granted.

Sincerely,

(Signature of grievance designate)

cc: Employee
 Regional Superintendent/Director
 Personnel File
 Director, Employee Relations