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SUSPENSION PENDING INVESTIGATION

INTRODUCTION

1. The Government may investigate allegations of incompetence or misconduct of an employee.

APPLICATION


2. These guidelines and procedures apply to all employees.

DEFINITIONS

3. **Suspension Pending Investigation** is the temporary removal with pay of an employee from the employee's place of duty to facilitate an investigation into allegations of misconduct or incompetence.
4. **Employee Relations** means the Employee Relations Division of the Department of Human Resources.
5. **Alternative work arrangement:** a plan that identifies and incorporates the steps necessary to integrate an employee in the workplace following allegations of misconduct, being charged or convicted with a criminal offence. The Employer must make every reasonable effort to accommodate employees.
6. **Employee and Family Assistance Program (EFAP):** A program designed to provide short and long term counseling to GN employees and their family members to maintain and improve their overall well being in remote arctic community settings.

PROVISIONS

7. Under Section 30 of the *Nunavut Public Service Act* (PSA), the Minister of Human Resources responsible for PSA can suspend an employee up to 60 days pending investigation. This authority has been delegated to Deputy Heads.
8. A suspension pending investigation is imposed when an employee is alleged to be guilty of misconduct or incompetence and the Deputy Head considers it desirable to remove the employee in order to investigate the allegations.

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9. Under Section 55 of the *Education Act*, a Superintendent may suspend a teacher to investigate an allegation of misconduct or incompetence. Such a suspension is with pay and may not exceed 60 days. When suspension results from the progressive discipline process, the PSA applies.

10. Suspension pending investigation is considered among other things when:
 - an employee's continued attendance in the workplace may hinder the investigation;
 - the employee's continued attendance presents a risk to the employee or others;
 - the employee's behaviour rendered him/her unable to perform his/her duties satisfactorily;
 - when the employee's alleged misconduct including criminal misconduct, interferes with the Government's interests, property, security, reputation, employee safety or the confidence of the public; or
 - when the employer is unable to find an alternative work arrangement for the employee.


11. The Deputy Head may suspend an employee with pay for up to 30 days. The investigation determines whether the Deputy Head should cancel the suspension or discipline the employee.

12. The Deputy Head may extend the suspension for up to a further 30 days if further investigation is necessary. The total period of suspension pending investigation may not exceed 60 days. The Deputy Head informs the employee in writing. The employee on suspension pending investigation must be available for interviews throughout the entire suspension period.

13. Under the *Financial Administration Act*, the employing department must report suspected theft of Government property or funds to the Comptroller General. This reporting is separate from suspension pending investigation or disciplinary procedures.


PROCEDURE

14. When an employee is accused of misconduct, the employee's Manager may recommend suspension pending investigation to the

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Deputy Head. Supporting documentation must accompany this recommendation.

15. The Deputy Head consults with Employee Relations or the appropriate Regional Director of Human Resources, in determining if suspension pending investigation is appropriate.
16. To justify a suspension pending investigation, the department must show that continued attendance in the workplace may hinder the investigation. A suspension is also appropriate when the alleged actions are so serious it is not appropriate for the employee to be at work.
17. If the Deputy Head decides that a suspension is in order, the Deputy Head informs the employee in writing. A copy of this letter will be placed on the employee's personnel file.
18. The employee's department investigates the alleged misconduct or incompetence to determine if dismissal is in order. The Department of Human Resources or the Office of the Comptroller General (in cases where fraud is suspected) may help the department investigate.
19. The investigator(s) meet with the employee to record the employee's version of the incident. The investigator(s) may also need to speak to witnesses, visit sites and review documents.
20. Prior to any meeting taking place, an employee who is a member of the NEU/NTA must receive 24 hours advance notice of the meeting and the right to Union representation.
21. The investigators must complete the investigation and write a report no later than one week before the suspension expires. The investigation report is provided to the employee's Deputy Head.
22. If the Deputy Head believes the employee is guilty of misconduct or incompetence, the Deputy Head will determine, in consultation with Director, Employee Relations, the appropriate discipline to apply, if any. If the Deputy Head determines that the employee is innocent of misconduct or incompetence, the Deputy Head rescinds the suspension.

	
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AUTHORITIES AND REFERENCES

- 23. Public Service Act
Section 30 - 32, Suspension
- 24. Education Act
Section 55, Suspension where allegation of misconduct or incompetence
- 25. Financial Administration Act

CONTACTS

- 26. For clarification or further information, please contact:

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