



# INFOSHEET

Programs and Services



Number

17

2016-09-01

## Legal Assistance for Teachers

### Introduction

The Newfoundland and Labrador Teachers' Association offers a program of legal assistance to teachers who are Association members. The Legal Assistance Policy covers procedure, policies, and appeals. Each of these major components is examined briefly in this Infosheet.

### Procedure

All requests for legal assistance must be initiated through the NLTA Programs and Services staff. The Association does not cover legal expenses for teachers who, of their own volition, retain the services of a lawyer and then request to have the expenses charged to, or reimbursed by, the NLTA.

Following appropriate investigation of the facts of each case by administrative staff in Programs and Services, the staff officer, through the Assistant Executive Director, is authorized to grant or deny a request for legal assistance.

### Policies

In general, the Association may grant permission for legal assistance to teachers who are involved in: arbitration cases; Teacher Certification reviews and appeals; Workers' Compensation, Employment Insurance, TPP Disability, Long Term Disability insurance and CPP Disability appeals; and, other cases arising as a result of the individual's role as a teacher.

For cases involving criminal charges laid against teachers after August 30, 1989, free legal assistance will be made available to former members of the Association, as long as the case arises from a situation which is covered under the Policy and occurred when the person was a member of the NLTA.

Three major stipulations within the area of policy are:

1. No legal case initiated by a member will be supported at NLTA expense unless the Association has authorized

legal assistance in advance of legal services being retained; and

2. Legal assistance provided in accordance with the Policy refers to the legal services of the law firm retained by the Association.

3. Legal assistance may be withdrawn if the teacher fails to aid and cooperate with the Association and its appointed legal counsel and/or fails to reasonably follow the advice of the Association and its appointed counsel.

### Appeals Procedure

NLTA members who have been denied legal assistance have the right, under policy, to make a written request that the decision be reviewed by the Table Officers Committee of Provincial Executive. Such appeal must be made within 30 days of receiving notification that legal assistance has been denied, and is to be addressed to the NLTA Executive Director. Any legal costs incurred by a member in bringing an appeal are the responsibility of that member. Other costs may also be the member's responsibility, to a maximum of \$500, depending on whether the appeal is upheld or denied. Table Officers will have the final decision with regard to the provision of legal services under the Legal Assistance Policy (see reverse).

### Conclusion

Any teacher who seeks legal assistance from the Association shall be provided with a copy of the Legal Assistance Policy. Copies of the Policy are generally available through the NLTA website or by contacting the NLTA office.

Teachers who feel they may require legal assistance for a matter arising as a result of their role as a teacher, should immediately contact a member of the Programs and Services staff.

## **Legal Assistance**

1. The basic aim of legal assistance is to render professional or legal service to NLTA members.

### **2. Procedure**

- a) All requests for legal assistance must be made to administrative staff in Programs and Services at the NLTA Office.
- b) Following appropriate investigation of the facts of each case by the administrative staff in Programs and Services, the staff officer, through the Assistant Executive Director, is authorized to grant or deny a request for legal assistance.
- c) The Association will continue to use all available means to inform the membership of the provisions of the legal assistance policy and the procedure involved in implementing this policy.
- d) A member who seeks legal assistance from the Association, in addition to being advised and counselled by a member of the Programs and Services administrative staff, will also be provided with a written copy of the legal assistance policy.

### **3. Policies**

- a) The Association may grant permission for legal assistance to teachers who are involved in arbitration cases and other problems arising as a result of their role as a teacher.
- b) The services described herein will not be extended to teachers who have elected to be excluded from membership in the Association, except where such services relate to employment terms and conditions as contained in the Collective Agreement.
- c) i) A member will be entitled to free legal assistance in any case in which a member is a defendant or accused provided the Association considers that the case arises as a result of their role as a teacher.  
ii) For cases resulting from actions initiated or charges laid after August 30, 1989, free legal assistance will be made available to individuals who were once members of the Association, if the case arises, in accordance with (c)(i) above, from a situation which occurred when the person was a member of the Association.
- d) In cases of court actions on behalf of teachers authorized by the Association, the NLTA shall pay travel, accommodations, and other legitimate expenses, approved in advance by administrative staff in Programs and Services, less any award of costs which may be rendered in the court decision. The NLTA will not normally provide funding for the conduct of civil actions. However, permission may be granted, at the discretion of the Association, for funding certain civil

actions, where, in the opinion of the Association, the outcome may be significant for not only the individual member, but the general membership.

- e) The NLTA office provides a toll-free telephone number in order to receive calls from teachers who seek advice on legal matters. However, transportation costs of visits to the office will not be paid unless the teacher is invited to the NLTA office by the Association and prior approval has been given for payment of transportation and other related costs.
- f) Legal assistance granted to a teacher in accordance with the above policy can be continued to the completion of a specific case initiated while the teacher was an active member irrespective of whether the teacher's membership status alters in the interim (e.g. retires, resigns, etc.).
- g) No legal case initiated by a member will be supported at NLTA expense unless the Association has authorized legal assistance. Such authorization must be sought in advance of engaging legal services. The provision of legal assistance may be withdrawn by the Association if the teacher fails to aid and cooperate with the Association and its appointed legal counsel and/or fails to reasonably follow the advice of the Association and its appointed legal counsel.
- h) Legal assistance provided in accordance with this policy shall be provided by the law firm retained by the Association.

### **4. Employment Insurance, WHSC, TPP Disability, Long Term Disability and CPP Disability Appeals**

- a) Legal assistance shall be provided to teachers who have grounds for an Employment Insurance appeal; an appeal to the Workplace Health, Safety and Compensation Review Division; a Teachers' Pension Plan Disability appeal; a Long Term Disability appeal or a Canada Pension Plan Disability appeal to the relevant tribunal.
- b) Legal assistance for such appeals shall be provided only in cases when the appeal has the support of the Association.
- c) Support of the Association for the appeal will be based on the recommendation of administrative staff in Programs and Services in consultation with the legal firm retained by NLTA.

### **5. Teacher Certification Cases**

- a) Only when a case has the support of the Association  
i) shall legal assistance be provided for those teachers wishing to make representations or submissions to the Teacher Certification Review Panel;  
ii) shall legal assistance be provided for those teachers

wishing to make representations or submissions to the Registrar of Teacher Certification with respect to the re-examination of an application.

b) If the Teacher Certification Review Panel, or the re-examination of an application by the Registrar, does not resolve a member's case, legal assistance shall be provided for those teachers wishing to present an appeal before the Teacher Certification Appeals Board only in cases when the appeal has the support of the Association.

c) Support of the Association for a case, application or appeal will be based on the recommendation of administrative staff in Programs and Services in consultation with the legal firm retained by NLTA.

c) i) Should the member's appeal be upheld by Table Officers, costs incurred by the appellant in bringing the appeal shall be borne by the Association in accordance with NLTA expense policies.

ii) Should the appeal be denied by Table Officers, the appellant will be responsible for one-half (1/2) of the costs incurred, up to a maximum of \$500, in bringing the appeal. Costs accruing in this context, will be in accordance with NLTA expense policies.

iii) With regard to c) i) and ii) above, any legal costs incurred by the member in bringing the appeal before Table Officers will be the entire responsibility of the appellant.

## **6. Appeal Procedures**

a) A member, if denied legal assistance by the administrative staff in Programs and Services, will have the right to request, in writing, that the decision be reviewed by Table Officers, and such a request shall be made to the Executive Director within 30 days of receiving notification that legal services are being denied.

b) Table Officers shall determine whether the administrative staff in Programs and Services acted fairly and reasonably in denying legal assistance. In addition to considering the merits of any complaint, where a member appeals more than once, Table Officers may consider whether that appeal is frivolous, vexatious or otherwise an abuse of process, and dismiss that appeal on one or more of those grounds. In all areas, exclusive of those cases coming under Section 17 of the NLTA Act, the decision of Table Officers shall be final.