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NLTA Disciplinary Procedure

Introduction

The NLTA Disciplinary Committee is established under the *Newfoundland and Labrador Teachers' Association Act (1974)*, an act passed by the Legislature of Newfoundland and Labrador, giving the NLTA certain powers of association. These powers include the suspension and expulsion of members from the Association.

The NLTA Act outlines the method to be followed by the Association in exercising its power of membership discipline. The purpose of this Infosheet is to briefly outline the disciplinary process. For more detailed information, consult Sections 16-22 of the NLTA Act in the NLTA "Act, By-Laws and Code of Ethics" booklet.

The Disciplinary Committee

Subsections 16(1) to 16(9) of the NLTA Act provide for the establishment of a Disciplinary Committee of five persons to be appointed by the Provincial Executive. The normal term of appointment is two years. Provision is also made for filling vacancies, establishing a quorum of the Committee (three members) and allowing Executive to establish rules and regulations for the Committee's operations.

The Purpose of the Disciplinary Committee

The Disciplinary Committee is established to investigate and make recommendations to Executive in a case where the Executive receives a written complaint that any active or other member is guilty of unprofessional conduct, negligence, misconduct or has been convicted of a criminal offence.

Investigating a Complaint

Upon receiving such a written complaint, Executive shall designate an Administrative Officer to inquire into the complaint, pursuant to section 17(1) of the NLTA Act. The complainant and the member complained of shall be advised of this and the member complained of shall at the same time be provided with a copy of the written complaint.

Where prior to inquiring into the complaint, the Administrative Officer designated by the Executive believes that the complaint is susceptible to mediation, s/he may offer the services of another Administrative Officer to mediate the complaint between the relevant parties. With the agreement of both persons, attempts may be made to mediate a resolution of the complaint between the person complaining and the member complained of for a period of 45 days or such longer period as the Administrative Officer considers beneficial and to which both the person complaining and the member complained of agree.

An Administrative Officer mediating a complaint shall keep confidential all discussions among himself/herself, the person complaining and the member complained of other than the fact of a resolution being reached or not reached, and shall not provide the Administrative Officer inquiring into the complaint pursuant to section 17(1) of the NLTA Act with any information whatsoever pertaining to the complaint.

If mediation results in a successful resolution to the complaint, the person complaining and the person complained of shall notify the Executive in writing that the complaint is withdrawn. If a resolution to the complaint is not achieved through mediation, then the Administrative Officer designated by the Executive to inquire into the complaint shall be advised and shall thereupon do all such things as may be required of

him/her under Section 17 of the NLTA Act. If it is found that the complaint is not frivolous or vexatious, Executive may fix a time and place for hearing of the complaint by the Disciplinary Committee. The party or parties concerned must be given due notice of at least 30 days of the time, place and the matter of such hearing.

Conducting a Hearing

Subsections 17(4) to 17(9) of the NLTA Act outline the hearing process, including the following provisions:

- (i) The Disciplinary Committee must meet at the time and place fixed for hearing the complaint.
- (ii) The Disciplinary Committee is empowered to act under the provisions of *The Public Enquiries Act* and *The Evidence (Public Investigations) Act*.
- (iii) These acts confer upon the Disciplinary Committee the right to subpoena witnesses and provide for examination and cross-examination of such witnesses.
- (iv) Both the Disciplinary Committee and the member(s) against whom the complaint is made shall be entitled to legal counsel.
- (v) If the member against whom the complaint is made does not attend the hearing after being properly notified, the committee is empowered to proceed in his/her absence.

Disciplinary Penalties

If the complaint is proved to its satisfaction, the Disciplinary Committee may recommend to the Executive that the member concerned be:

- (i) reprimanded;
- (ii) censured;
- (iii) suspended from membership; or
- (iv) expelled from membership.

The Executive may take any one or more of the actions recommended by the Committee.

Right to Appeal

Subsections 19(1) to 19(8) of the NLTA Act outline the appeal process open to a member against whom a decision is made. S/He may appeal to the Executive for reconsideration, then to a judge of the Trial Division, then to the Court of Appeal. Any decision of Executive regarding the disciplining of a member shall take effect only after the time limits for appeals have expired.

Other Provisions

The discipline section of the NLTA Act also provides that any disciplinary action taken by the Association against a member does not, of itself, affect the competency of the person to continue his/her employment as a teacher. In addition, no action can be taken against the Association, its officers, or any member of the Executive or Disciplinary Committee for proceedings taken in good faith under the disciplinary provisions of the NLTA Act.

Conclusion

The discipline section of the NLTA Act establishes a procedure whereby the Association can investigate and act upon written complaints concerning the professional conduct of its members. The procedures derive from and are based upon the statutes of the province and, as such, have legal status with its decisions being enforceable by law.

The disciplinary procedure is a serious one, and is intended to give due process to members and the Association when written charges related to unprofessional conduct have been submitted.