

EDUCATION ACT

CONSOLIDATION OF INCLUSIVE EDUCATION REGULATIONS

R-017-2011

In force September 26, 2011

(Current to: August 13, 2013)

AS AMENDED BY:

This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of regulations can be ascertained from the *Revised Regulations of the Northwest Territories, 1990* and the monthly publication of Part II of the *Northwest Territories Gazette* (for regulations made before April 1, 1999) and Part II of the *Nunavut Gazette* (for regulations made on or after April 1, 1999).

A copy of a regulation of Nunavut can be obtained from the Territorial Printer at the address below. The *Nunavut Gazette* and this consolidation are also available online at <http://www.justice.gov.nu.ca/english/legislation.html> but are not official statements of the law.

Any registered regulations not yet published in the *Nunavut Gazette* can be obtained through the Registrar of Regulations at the address below.

Territorial Printer
Legislation Division
Department of Justice
Government of Nunavut
P.O. Box 1000, Station 550
Iqaluit, NU X0A 0H0

Tel.: (867) 975-6305
Fax: (867) 975-6189
Email: Territorial.Printer@gov.nu.ca

GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

c.	means "chapter".
CIF	means "comes into force".
NIF	means "not in force".
s.	means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
Sch.	means "schedule".

Citation of Acts

R.S.N.W.T. 1988,c.D-22	means Chapter D-22 of the <i>Revised Statutes of the Northwest Territories, 1988</i> .
R.S.N.W.T. 1988,c.10(Supp.)	means Chapter 10 of the Supplement to the <i>Revised Statutes of the Northwest Territories, 1988</i> . (<i>Note: The Supplement is in three volumes.</i>)
S.N.W.T. 1996,c.26	means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
S.Nu. 2002,c.14	means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

Citation of Regulations and other Statutory Instruments

R.R.N.W.T. 1990,c.A-1	means Chapter A-1 of the <i>Revised Regulations of the Northwest Territories, 1990</i> .
R-005-98	means the regulation registered as R-005-98 in 1998. (<i>Note: This is a Northwest Territories regulation if it is made before April 1, 1999, and a Nunavut regulation if it is made on or after April 1, 1999 and before January 1, 2000.</i>)
R-012-2003	means the regulation registered as R-012-2003 in 2003. (<i>Note: This is a Nunavut regulation made on or after January 1, 2000.</i>)
SI-005-98	means the instrument registered as SI-005-98 in 1998. (<i>Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.</i>)
SI-012-2003	means the instrument registered as SI-012-2003 in 2003. (<i>Note: This is a Nunavut statutory instrument made on or after January 1, 2000.</i>)

INCLUSIVE EDUCATION REGULATIONS

Duties of Teachers – Identification of Needs

- 1.** In identifying under subsection 43(1) of the Act those students who are entitled to adjustments or support under subsection 41(1) of the Act, a teacher shall
 - (a) use assessment tools and strategies, approved by the Minister, to assess the needs and strengths of the students;
 - (b) consider a student's intellectual, communication, linguistic, social, emotional, physical and behavioural learning needs; and
 - (c) consider a student's intellectual, communication, linguistic, social, emotional, physical and behavioural strengths.

Formation of Teacher's Opinion

- 2.** In forming his or her opinion about what adjustments or support to provide to a student under subsection 43(2) of the Act, a teacher shall
 - (a) consider the learning needs and strengths referred to in paragraphs 1(b) and (c); and
 - (b) choose, to the extent possible, adjustments and support that build upon the strengths referred to in paragraph 1(c).

Duties of School Teams – Individual Student Support Plans

- 3.** In carrying out its duties under subsection 43(5) of the Act, the school team shall
 - (a) consider a student's intellectual, communication, linguistic, social, emotional, physical and behavioural learning needs;
 - (b) consider a student's intellectual, communication, linguistic, social, emotional, physical and behavioural strengths;
 - (c) review work done previously by the school team with respect to the student;
 - (d) review the goals and outcomes from the current or any previous individual student support plan for the student;
 - (e) consider all relevant information, both current and historical, about the student provided by the student's teachers and other education staff and by the student and his or her parents;
 - (f) acquire and consider any additional information the school team believes is necessary or advisable;
 - (g) review the records of any assessments made under section 46 or 47 of the Act, including previous assessments; and
 - (h) ensure that any individual student support plan that the school team develops provides for adjustments and support that, to the extent possible, build upon the strengths referred to in paragraph (b) to meet the learning needs of the student and to achieve appropriate curriculum outcomes.

Information About Inclusive Education

4. (1) The school team shall, at the time described in subsection (2), provide the parent of a student or, if the student is an adult, the student with the following information in writing:

- (a) an explanation of the legal and policy foundations for inclusive education;
- (b) an explanation of the rights of a parent or adult student under the Act with respect to inclusive education; and
- (c) an explanation of the process to be followed if the parent or adult student believes the student requires adjustments or support.

(2) The information required by subsection (1) shall be provided to the parent or adult student

- (a) before or at the beginning of a consultation with the parent or adult student under subsection 43(7) of the Act;
- (b) when a parent or adult student inquires about adjustments or support for the student; or
- (c) when the school team is informed of an inquiry by the principal, vice-principal or other teacher as described in subsection (3).

(3) If a principal, vice-principal or other teacher receives an inquiry from a parent or adult student about adjustments or support for the student, the principal, vice-principal or other teacher, as the case may be, shall inform the school team of the inquiry so that it may comply with paragraph (2)(c).

Attendance at School Team Meetings

5. (1) The following rules apply with respect to meetings at which a school team is carrying out its duties under subsection 43(5) of the Act with respect to a student:

- (a) the parents or the adult student may attend meetings of the school team unless the principal, in consultation with the school team, determines that it would not be in the best interests of the student;
- (b) a parent or adult student may make a request to bring a person to a meeting of the school team to provide personal support and to assist in understanding the proceedings, and the principal shall consider, in consultation with the school team, whether to allow the person to attend;
- (c) the principal shall ensure that at least one of the student's teachers attends each meeting of the school team;

- (d) the following may attend a meeting of the school team if the principal decides, in consultation with the school team, that it is appropriate for them to do so:
 - (i) a teaching assistant who works with the student,
 - (ii) an Elder employed under section 102 of the Act who works with the student,
 - (iii) an outside agency from which the student receives services or other assistance.

(2) A principal shall not allow an outside agency to attend a meeting described in subsection (1) unless the parent of the student or, if the student is an adult, the student consents to the attendance by the outside agency.

Contents of Individual Student Support Plan

- 6.** (1) An individual student support plan must include
- (a) a description of the learning needs of the student;
 - (b) a description of the strengths of the student;
 - (c) medical information and other personal information relevant to the development and implementation of the plan;
 - (d) a description of the adjustments and support to be provided under the plan, including
 - (i) if the adjustments include significant adjustments to the curriculum, details of those adjustments, and
 - (ii) a description of the support to be provided in the classroom, the support to be provided outside the classroom by school staff and the support to be provided outside the school;
 - (e) measurable goals for the current school year and for future school years and expected outcomes for the current school year;
 - (f) if an outside agency provides services or other assistance to the student, a description of the services or other assistance;
 - (g) if the student has been referred to an outside agency, a description of what the agency might provide to the student; and
 - (h) transition plans, which may include plans for the transition of the student away from being provided with adjustments and support, the transition of the student from one grade to another or from one school to another or the transition from being a student to ceasing to be a student.

(2) In addition to the requirements of subsection (1), if an individual student support plan relates to a student who is excluded from, or refused access to, his or her regular instructional setting under subsection 45 of the Act and who has been given an alternative placement under that section, the individual student support plan must include

- (a) the reasons for the exclusion or refusal;

- (b) the reasons for the particular placement;
- (c) a description of the alternative placement, including the times the student will be in the placement, when the placement will begin and when it will end; and
- (d) an explanation of how and the extent to which the alternative placement will address the student's needs.

Contents of Notice of Development of Individual Student Support Plan

- 7.** The school team shall ensure that the notification of the development of an individual student support plan under paragraph 48(1)(a) of the Act
- (a) sets out the contents of the plan;
 - (b) gives notice about how the plan may be rejected, including the deadline for giving written notice of the plan, as provided in subsection 43(9) of the Act; and
 - (c) gives notice that further consultation may be requested under subsection 43(10) of the Act.

Student Records

- 8.** The principal shall ensure that the information included in a student's record relating to the activities of the school team in carrying out its duties under subsection 43(5) of the Act includes
- (a) any individual student support plan that is developed for the student;
 - (b) records of the involvement of the parents or student, including any signed permission forms for assessments;
 - (c) if the school team consults with an outside agency, records of that consultation;
 - (d) notices and records relating to meetings of the school team, including
 - (i) the names of the participants, and
 - (ii) notes of what took place at the meetings, including any decisions made; and
 - (e) records of any relevant assessments under sections 46 and 47 of the Act.

Monitoring, Altering and Discontinuing Individual Student Support Plans

- 9.** (1) The school team shall monitor the implementation of a student's individual student support plan
- (a) to verify that the adjustments and support under the plan are provided;
 - (b) to determine the effectiveness of the adjustments and support; and
 - (c) to determine if alteration or discontinuance of the plan should be considered.

(2) If the school team determines that the alteration or discontinuance of the individual student support plan should be considered, it shall notify the teacher of the student and a parent of the student, or if the student is an adult, the student of its determination and advise the persons so notified that they may wish to consider requesting a review under subsection 43(3) or (4) of the Act, as may be applicable.

(3) This section does not affect any rights or duties under subsections 43(1) to (5) of the Act.

New Students

10. The school team shall take steps to identify new students before a school year begins to determine which new students may require adjustments and support and to help ensure that there are adequate resources at the school to provide those adjustments and support.

Request before Student Attends School

11. The following may request the school team to hold a review under subsection 43(5) of the Act in respect of a student before he or she begins to attend school:

- (a) a parent of the student or, if the student is an adult, the student; or
- (b) a teacher on the school staff, including a teacher on the school team.

Qualifications to Do Assessments

12. A person making an annual assessment of a student who has an individual student support plan, as required by section 46 of the Act,

- (a) must be a teacher at the student's school;
- (b) must have taught the student or have spent a significant amount of time on more than one occasion observing the student in the classroom and the teaching or observing must have taken place after the most recent of
 - (i) the development of the plan;
 - (ii) the most recent annual assessment of the student; or
 - (iii) the most recent adjustment to the plan following an annual assessment of the student; and
- (c) must have had training with respect to the making of annual assessments required by section 46 of the Act or must have had experience in making such assessments.

13. A person making a specialized assessment referred to in section 47 of the Act,

- (a) must be qualified to use and interpret assessment procedures and instruments that are culturally and linguistically appropriate having regard to the circumstances;

- (b) must be familiar with education in Nunavut; and
- (c) must have, or be willing to develop, an understanding of the approach to inclusive education in Nunavut and an understanding of Inuit values and how they relate to the assessment.

Review Board Clerk

14. (1) A district education authority shall notify the Minister within seven days after receiving a request for a review under section 50 of the Act, and the Minister, upon receiving the notice, shall designate in writing a person to act as the clerk of the review board.

(2) The clerk shall assist the district education authority in the appointment of the review board chairperson and assist the chairperson and the review board in carrying out their functions, but the clerk shall provide such assistance only to the extent that the district education authority, chairperson or review board requests.

Timing of Appointments to Review Board

15. (1) A district education authority shall appoint a chairperson of the review board under subsection 51(1) of the Act within 14 days after receiving a request for a review by a review board under section 50 of the Act.

(2) The chairperson shall appoint the other members of the review board under subsection 51(2) of the Act within 14 days after the chairperson's appointment.

Notice of Expeditious Decision

16. If, because of the needs of the student, it is important that a review board make its decision expeditiously, the district education authority, at the time of appointing the chairperson of the review board, shall inform the chairperson of the reasons why the decision should be made expeditiously.

Parties

17. The parties to a review by a review board are the parties to the mediation that preceded it under section 49 of the Act.

Information to Parties

18. A district education authority shall make reasonable efforts to inform the parties within seven days after receiving a request for a review under section 50 of the Act that the review has been requested and the review board

- (a) will be appointed in accordance with section 51 of the Act;
- (b) is required under subsection 50(5) of the Act to give the parties an opportunity to be heard; and

- (c) is required under section 52 of the Act to make its decision in accordance with the principles and concepts of Inuit Qaujimagatuqangit, particularly the principles of Tunnganarniq and Pilimmaksarniq.

Procedure

19. (1) Subject to the Act and regulations, the conduct of and the procedure to be followed by a review board is under the control and direction of its chairperson.

(2) In determining the procedure to be followed, the chairperson shall have regard to

- (a) the needs of the student;
- (b) the privacy of the student;
- (c) the Act and the regulations and any relevant directions of the Minister; and
- (d) the importance of the review board's review being conducted fairly.

Consultation

20. A review board may consult with outside agencies and experts but shall do so in a way that does not prejudice the right of the parties to be heard.

Limitation

21. If a review board in acting under subsection 50(5) of the Act decides to substitute its decision for that of a school team or a principal, the review board is limited to what the school team or the principal could properly decide under Part 6 of the Act.

Reaching a Decision

22. (1) The chairperson of a review board shall use reasonable efforts to have the review board reach its decision through a consensus of its members.

(2) If a review board does not reach a decision by consensus, the decision of the majority of its members shall be the decision of the board.

Circulation of Draft Decision

23. (1) Before finalizing its decision, a review board may circulate a draft decision to the parties and give the parties up to two weeks to ask for clarification as to how the decision would be implemented.

(2) After the time period allowed by the review board under subsection (1) expires, it shall give its final decision which may include clarifications in relation to the questions from the parties or other changes as the review board considers appropriate.

(3) In determining whether or not to circulate a draft decision under subsection (1), the review board shall consider whether there might be uncertainty as to how the decision should be implemented and whether it would be useful to allow the parties an opportunity to ask for clarification as to how it would be implemented.

Records

24. After a review board gives its decision, the chairperson shall deliver the records of the review board into the custody of the department.

Information on Lists

25. (1) The list established under subsection 51(5) of the Act showing potential chairpersons of review boards shall set out the following information for each person on the list:

- (a) the person's name and contact information; and
- (b) the languages the person is able to use.

(2) The list established under subsection 51(5) of the Act showing other potential members of review boards shall set out the following information for each person on the list:

- (a) the person's name and contact information;
- (b) the languages the person is able to use;
- (c) information indicating the extent to which the person satisfies the factors set out in subsection 28(2); and
- (d) the person's area or areas of expertise.

Criminal Reference Checks

26. (1) The Minister shall not add a person to a list established under subsection 51(5) of the Act unless the person has provided the Minister with a criminal reference check done by the police within three months before the criminal reference check was provided to the Minister.

(2) A person who is on a list established under subsection 51(5) of the Act may from time to time provide the Minister with new criminal reference checks.

(3) The Minister shall remove a person from a list established under section 51(5) of the Act three years after the date of the most recent criminal reference check provided by the person to the Minister.

Maintenance of Information on Lists

27. (1) The Minister shall update the lists established under subsection 51(5) of the Act at least annually.

(2) If a person asks to be removed from a list, the Minister shall do so.

Factors in Appointments

28. (1) In determining who to appoint as chairperson of a review board, a district education authority shall have regard to any reasons relating to the needs of the student why it may be important for the review board to make its decision expeditiously.

(2) In determining who to appoint as other members of the review board, the chairperson shall have regard to

- (a) any reasons relating to the needs of the student why it may be important for the review board to make its decision expeditiously;
- (b) how knowledgeable the prospective member is about education;
- (c) how knowledgeable the prospective member is about Nunavut, the community, Inuit societal values and the principles and concepts of Inuit Qaujimajatuqangit; and
- (d) how knowledgeable the prospective member is about inclusive education.

Disqualification from Appointment

29. (1) The following persons may not be appointed as a member of a review board:

- (a) a member of the district education authority;
- (b) a person who was a member of the district education authority at any time since mediation was requested under section 49 of the Act;
- (c) a member of the staff of the district education authority or of the school staff of any school under the jurisdiction of the district education authority;
- (d) a person who made or recommended the decision which is being reviewed; or
- (e) any close relative of a party to the review or of any person described in paragraph (a), (b), (c) or (d).

(2) In addition to the disqualifications under subsection (1), a close relative of the chairperson may not be appointed as a member of the review board.

(3) In addition to the disqualifications under subsections (1) and (2), a person may not be appointed as a member of the review board if he or she has a conflict of interest, including a relationship with a party or with anyone described in paragraph (1)(a), (b), (c) or (d), that would make it inappropriate, in the opinion of the person making the appointment, for the person to be appointed as a member of the review board.

(4) In subsections (1) and (2), "close relative" in relation to a person means a spouse, child, sibling, parent of the person or any other relative who resides with the person.

Duty to Decline Appointment

30. A person shall not agree to be appointed as a member of a review board if the person knows that he or she is not eligible to be appointed.

Duty to Disclose Conflict of Interest

31. (1) A person shall not agree to be appointed as a member of a review board without first disclosing any conflict of interest he or she may have in serving on the review board.

(2) The disclosure required by subsection (1) shall be made to the district education authority in the case of a potential appointee as chairperson and to the chairperson of the review board in the case of other potential appointees.

When Duties Cannot be Performed

32. If, before a review board makes its decision, any of its members cannot continue to carry out their duties, a new review board must be appointed under section 51 of the Act.

Revocation of Appointments for Cause Only

33. The appointment of the members of a review board may not be revoked except for cause.

Agreement to Serve until Work Completed

34. A person may not be appointed as a member of a review board unless the person agrees to carry out his or her duties until the review board issues its decision and not to resign without a justifiable reason.

Remuneration and Expenses

35. The remuneration and expenses payable to the members of review board under subsection 51(4) of the Act shall be determined in accordance with the directives under the *Financial Administration Act*.

Repeals

36. Sections 14 and 15 of the *Transition Regulations (2010 to 2012)* are repealed.

Transition - Individual Education Plans Continued

37. (1) An individual education plan established under the former *Education Act*, S.N.W.T. 1995, c.28, as duplicated for Nunavut by section 29 of the *Nunavut Act* (Canada), that was continued as an individual student support plan under section 14 of the *Transition Regulations (2010 to 2012)* and that was still in effect immediately before the coming into force of these regulations is further continued.

(2) The continuation of the individual education plan of a student by subsection (1) does not

- (a) prevent the development of a new individual student support plan for the student under Part 6 of the Act; or
- (b) prevent the plan from being altered or discontinued in accordance with the Act and these regulations.