



# Code of Professional Conduct

## of The New Brunswick Teachers' Association

(Revised June 2011)

### THE PLEDGE

We, the members of the New Brunswick Teachers' Association (NBTA), accepting the responsibility to practise our profession according to the highest ethical standards, acknowledge our responsibility to the teaching profession. We are prepared to judge and to be judged by our colleagues according to the provisions of the Code of Ethics (the "Code").

### PRINCIPLES

The Code is based on the following principles:

#### Teacher-Student

- Teachers shall regard as their first obligation the student's physical, social, moral and educational growth.
- Teachers have regard for the dignity, liberty and integrity of students under their supervision and endeavour to convey to students an understanding of their own worth.
- Teachers maintain high standards of professional competence and endeavour to develop in their students an appreciation for high standards of accomplishment.
- Teachers have regard for the safety of their students.
- Teachers recognize the special position of trust and responsibility which they assume in their guidance of young people.

#### Teacher-Teacher/Profession

- Teachers endeavour to maintain public regard of their profession by improving and maintaining favourable public relations.
- Teachers endeavour to improve their professional competency and maintain an awareness of changes in education and the world.
- Teachers strive to be supportive of other teachers and ensure that any criticism of other teachers is judicious and proper.
- Teachers support NBTA and the New Brunswick Teachers' Federation (NBTF) in promoting the interests of teachers.

#### Teacher-Employer

- Teachers respect the authority of the School District in the management of schools.
- Teachers avoid all conflicts of interest that arise from, or that might impair their employment.

### CODE OF ETHICS

#### 1. Teacher-Student

It shall be unethical for a teacher to

- (a) treat pupils in a manner that is unjust or partial;
- (b) exploit the privileged relationship between teacher and pupil;
- (c) undermine the confidence of teachers or students in other students;
- (d) divulge other than through professional channels any information of a personal or domestic nature concerning pupils obtained in the course of his/her professional duties;
- (e) accept additional remuneration for tutoring a pupil in any subjects in which the teacher is responsible for giving classroom instruction to that pupil;
- (f) knowingly disregard the safety of his/her pupils;
- (g) fail to notify the Minister of Social Development, as per the terms of the Family Services Act, where he or she has information causing him or her to suspect that a child has been abandoned, deserted, physically or emotionally neglected, physically or sexually ill-treated, or otherwise abused.
- (h) fail to notify the Minister of Education where he or she has information causing him or her to suspect that a student has been physically or sexually ill-treated or otherwise abused by an adult in the school system.

## **2. Teacher-Teacher/Profession**

It shall be unethical for a teacher to

- (a) seek a position except through professional means;
- (b) seek a position that is declared in dispute by the NBTF;
- (c) undermine the confidence of students or parents in other teachers;
- (d) criticize a fellow teacher except (i) when demanded or authorized by law or workplace policies; (ii) in response to enquiries for factual information by the administrative staff, in carrying out the normal course of their duty to the employer; or (iii) where warranted to protect the interests of the profession;
- (e) submit a report either oral or written on a fellow teacher without informing the teacher except as per 2(d)(i) or 2(d)(ii);
- (f) knowingly submit false or misleading reports on fellow teachers;
- (g) seek to change NBTA policy except through the proper channels of the NBTA (Local Branch, Board of Directors, Executive, General Meeting);
- (h) recognize any individual or group except the NBTA and the NBTF as the official voice of teachers;
- (i) criticize the NBTA, its Directors, Executive or Administrative Staff, except within the membership of the NBTA;
- (j) while holding a position of added responsibility, subscribe to the dismissal of a teacher on grounds related to work performance, without first attempting to help and counsel that teacher by means of formative evaluation;
- (k) accept personal gifts which would not directly benefit the school program, from companies servicing the needs of schools or student extracurricular activities;
- (l) use his/her position to profit from the sale of goods and services to or for pupils in the teacher's charge.

## **3. Teacher-Employer**

It shall be unethical for a teacher to

- (a) acting alone or as a member of a group, take unilateral action with a School District, the Minister of Education, or any government person or persons, or politician in matters which

is contrary to the position of the NBTA or NBTF, or which may be prejudicial to fellow members;

- (b) engage in activities which advance their personal financial interest to the detriment of the employer during the hours of instruction.

## **4. Conduct Unbecoming a Member of the Profession**

It shall be unethical for a teacher, while acting in a professional capacity or otherwise, to engage in misconduct of a reprehensible and serious nature which, in the opinion of the Professional Conduct and Standards Committee (Provincial) (the "Provincial Committee"), discredits the teaching profession or raises serious concerns as to the teacher's integrity.

## **5. Misconduct of a Criminal Nature**

It shall be unethical for a teacher to conduct himself/herself in such a way as to be convicted in a court of competent jurisdiction of a criminal offense which, in the opinion of the Provincial Committee, represents serious misconduct which is relevant to the teacher's suitability as a member of the profession.

## **IMPLEMENTATION**

### **Professional Conduct and Standards Committee (Branch)**

1. Each Branch shall appoint a Professional Conduct and Standards Committee consisting of five members.
2. The function of the Committee shall be to investigate ethics charges and, when it deems necessary, require that the Provincial Committee conduct a hearing.

### **Professional Conduct and Standards Appeal Committee (Regional) (the Complainant's Appeal Committee)**

1. There shall be Professional Conduct and Standards Appeal Committees (Regional) consisting of three members.
2. The President (Provincial) shall, in consultation with the Executive, appoint the Professional Conduct and Standards Appeal Committees and shall designate the Chairpersons.
3. The function of the Committees shall be to hear appeals from complainants in ethics charges in those cases where the Branch Committee recommended that a hearing not be held. The decision of the Complainant's Appeal Committee is final.

### **Professional Conduct and Standards Committee (Provincial)**

1. There shall be a Professional Conduct and

Standards Committee (Provincial) consisting of six members, one of whom shall be selected from the public by the NBTA Board of Directors.

2. The President (Provincial) shall, in consultation with the Executive, appoint the members of the Professional Conduct and Standards Committee and shall designate the Chairperson.
3. The function of the Committee shall be to hear cases of alleged unethical conduct that have been referred from the Branch Committee.
4. A hearing conducted by the Provincial Committee shall include the chairperson, the member selected from the public, and three members of the committee.

## **WHO MAY BE CHARGED**

- (a) Any member of the NBTA
- (b) Any person who was a member of the NBTA at the time of the occurrence of the event(s) which could lead to a proceeding under this Code, so long as not more than two years have elapsed from the last date that the person was a member of the NBTA.

## **PRELIMINARY PROCEDURE**

### **1. Laying a Charge**

- (a) A member of the NBTA or the Association des enseignants et des enseignants francophones du Nouveau-Brunswick (AEFNB), or an NBTA Branch, or the NBTA Executive Committee may lodge in writing an ethics charge against a teacher or teachers. The charge must be signed by the person or persons laying the charge.
- (b) The charge shall be based on alleged unethical conduct and shall state specifically under which section of the Code the charge is being laid.
- (c) The charge shall be submitted in writing to: 1) the Chairperson of the Professional Conduct and Standards Committee (Branch) with copies of the charge to 2) the respondent and 3) the NBTA Executive Director.

### **2. Stay of Proceedings in Extenuating Circumstances**

- (a) At any time from the receipt of the written notice of complaint to the commencement of a hearing at the provincial level, the Executive Director of the NBTA has the authority to stay proceedings until the next regularly scheduled meeting of the Provincial NBTA Executive Committee. The Executive Committee may then determine if the stay of proceedings should continue. If the stay is continued, it will be reconsidered at each subsequent meeting of the

Executive Committee until the stay is lifted.

- (b) This procedure may be invoked in cases where either the complainant or the respondent is required to appear before, or is being investigated by the Employer or other authority due to a potential breach of Department policy, a provincial statute, or federal statute, including the Criminal Code of Canada.

### **3. Function of Branch Committee**

Except as noted in Stay of Proceedings (above), within 14 days of the receipt of the written charge, the Branch Committee shall investigate and determine if a hearing by the Professional Conduct and Standards Committee (Provincial) is warranted. If, in the opinion of the Branch Committee, a hearing is not warranted, then the matter is concluded subject to the complainant's right of appeal.

### **4. If Provincial Hearing NOT To Be Held**

- (a) If the Branch Committee determines that a hearing should not be held, the complainant may, within 5 days of notification of the decision of the Branch Committee, register a notice of appeal with the Executive Director of the NBTA.
- (b) Except as noted in Stay of Proceedings, within 14 days of the receipt of the notice of appeal, the Complainant's Appeal Committee shall investigate and determine if a hearing by the Provincial Committee is warranted.
- (c) The decision of the Appeal Committee is final.

### **5. If Provincial Hearing To Be Held**

- (a) Within a further 5 days, if the Branch Committee or the Complainant's Appeal Committee determines that a hearing shall be held, the respondent and the complainant shall be given due notice; and a copy of the notice and all particulars related to the charge shall be forwarded to the NBTA Executive Director by the Chairperson of the Branch Committee or the Complainant's Appeal Committee.
- (b) Except as noted in Stay of Proceedings, the Executive Director shall, within a further 5 days, forward all particulars related to the charge to the Chairperson and members of the Professional Conduct and Standards Committee (Provincial).
- (c) Except as noted in Stay of Proceedings, the Chairperson, within a further 30 days, shall convene a hearing.

## **Procedure for Provincial Hearing**

The Provincial Committee shall:

### **Notification of Hearing**

- (a) Direct the Executive Director to notify all parties involved of the time and place of the hearing at least 20 days before the hearing is to be held.

### **Conduct of the Hearing**

- (b) Conduct the hearing with the complainant and the respondent notified to be present. Should the respondent fail to appear following due notice, the Committee may nonetheless proceed. Each party shall have the right to conduct its case either personally, by teacher advocate, or by legal counsel, to file documents, to call witnesses, to examine and cross-examine witnesses. The Chairperson of the Provincial Committee shall chair the hearing, assisted by legal counsel retained by the Association, such legal counsel to act as advisor to the Provincial Committee in all matters related to the hearing. During the conduct of the hearing, the rules of evidence related to civil action shall be applied by the Committee. The burden of proof to be met shall be “on the balance of probability”, not “beyond a reasonable doubt” as in criminal actions.

### **Sanctions**

- (c) Determine whether or not the respondent is guilty of a breach of the Code of Ethics and if guilty, apply one or more of the following sanctions:
  - (i) a private reprimand
  - (ii) a public reprimand (without limiting the generality of this, it could take one of the following forms.)
    - a. notice to respondent and other interested parties, or
    - b. notice to respondent, other interested parties and appropriate school staff, or
    - c. notice to respondent, other interested parties, and appropriate superintendent or
    - d. notice to respondent, other interested parties, and published in an Association newsletter.
  - (iii) suspension of one or more of the following membership privileges:
    - a. educational improvement grants
    - b. interest-free loans
    - c. eligibility for Project Overseas
    - d. appointment to any NBTA delegations
    - e. participation on any NBTA Committees
  - (iv) recommend to the Minister of Education the suspension or cancellation of the teacher's certificate.

### **Notification of Decision of Committee**

The Executive Director shall, within 10 days after the completion of the hearing, notify both parties of the decision of the Provincial Committee.

### **Expenses**

- (a) Travel, meals and accommodation expenses for the complainant, or designate and the respondent, or designate, will be borne by the NBTA in keeping with current policy on expenses.
- (b) The expenses of witnesses for the successful party may be paid at the discretion of the Provincial Committee.

### **Respondent's Rights Following Provincial Committee Decision**

A person found guilty of a breach of the Code may request judicial review of the Provincial Committee's decision from the New Brunswick Court of Queen's Bench.

### **RECONSIDERATION**

At least one year following the decision of a Provincial Committee, a teacher may request the Provincial Committee convene for the purpose of reconsidering any sanction which it imposed. Prior to holding a hearing of reconsideration, the Provincial Committee may require security for costs associated with the hearing in an amount to be determined by the Board of Directors. Should the request for reconsideration be successful costs may be returned to the teacher.

### **DEFINITIONS**

- (a) Complainant(s): A member of either the NBTA or the Association des enseignantes et des enseignants francophones (AEFNB), or NBTA Branch or the NBTA Executive who lays a charge under the Code.
- (b) Respondent(s): The teacher or teachers against whom a charge has been laid pursuant to the Code.
- (c) Notice(s): For purposes of this Code means official written notification by registered mail or personal service.
- (d) Days: For purposes of this Code means teaching days.
- (e) Rules of Evidence and Procedure: means the receipt of any relevant evidence whether admissible in a court of law or not.
- (f) Burden of Proof: On the balance of probability.