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// Union Duty of Fair Representation

The NBTF often receives questions about its role and responsibilities with regards to members. There are also times when members question the representation of another member. The purpose of this article is to explain the NBTF's duty of fair representation.

The NBTF has the exclusive authority to represent teachers in the Province of New Brunswick. Teachers are automatically members of the NBTF and must pay union dues. Therefore, the NBTF must respect its duty of fair representation. The duty of fair representation is a legal obligation imposed on a union to ensure that it does not abuse its exclusive power. This duty prohibits four types of conduct: bad faith, arbitrary behaviour, discrimination and gross negligence towards employees in the bargaining unit.

The duty of fair representation applies to collective bargaining and negotiations. It does not apply to:

internal union affairs, such as membership and discipline rules;
matters that are beyond the scope of the collective agreement; and
representation in a legal process outside the collective agreement, such as the human rights complaint process, a public inquiry, or a court proceeding.

Unions have a large amount of discretion in determining what course of action is in the best interest of the bargaining unit as a whole, provided their choices and decisions are made fairly and without arbitrariness, discrimination, or bad faith.

In making decisions regarding a grievance, a union must take into account the significance of the grievance for the individual. However, a union can also consider legitimate factors. Except in critical job interest cases, a union may consider factors such as the cost of arbitration in light of the issue, or whether a grievance will have an adverse impact on other bargaining unit employees. A union must weigh these factors fairly against the interests of the grievor.

A union is not required to take a grievance to arbitration simply because an employee wants it to.

If you have any question, please contact the NBTF at 1-888-679-7044.



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Source : Pink Larkin, The Duty of Fair Representation

// Family Responsibility Day

The following are the guidelines agreed upon by the parties re the operational requirements of Article 32.07.

Article 32.07: "Effective September 1, 2014, a teacher while employed as a full-time teacher in the public schools of New Brunswick may be granted one (1) day's leave with pay per school year for family responsibility reasons. Such paid leave shall not be granted to extend a vacation or holiday period, and this leave shall be subject to operational requirements."

- This leave is for the use of all schedule "B" full-time teachers (1.0 FTE).
- Teachers who are on a deferred leave or preretirement leave can access this as long as they are a 1.0 FTE B teacher.
- Teachers are entitled to one full day or two half days per year.
- Leave under this Article does not accumulate if not used during a particular school year.
- Teachers are not permitted to take this leave on days where Professional Development has been planned or Parent Teacher Interviews have been scheduled.
- Leave under this Article is not to be used to extend a vacation or holiday period; however it can be used following a leave with or without pay. Leave without pay remains at the discretion of the Employer.
- Whenever possible, teachers should give at least three days notice when requesting this leave.
- The Employer will exercise discretion in deciding who is approved if a number of teachers in the same school request the same day.

Teachers who are requesting this leave are not required to provide a reason as to why they are making the request, but simply state that they are requesting it under Article 32.07.

We would also like to remind teachers not to make any reservations/plans until the approval is given by the school district to avoid any unpleasant surprises.

NOTE: Teachers on leave as per Article 32.07 on a day where the school is closed as per Article 16.02(a) (inclement weather) will be considered as having used their day for that year.

For other questions related to this subject, please contact a NBTF staff officer at 1-888-679-7044.