

FEDERATION OF NEW BRUNSWICK FACULTY ASSOCIATIONS
TERMS OF REFERENCE
FNBFA LEGAL ASSISTANCE FUND

Approved by FNBFA Board on November 21, 2015.

Revisions approved at the FNBFA AGM held May 7, 2019.

1. PREAMBLE

The Federation of New Brunswick Faculty Associations (FNBFA) may provide financial assistance to member associations for legal costs that they incur.

1.1 The terms of reference herein provide a process for determining the amount of funds available for financing such legal actions and for its distribution in a fair and reasonable manner.

1.2 Financing shall be through an annual budgetary line item (named Legal Assistance) determined by the Board at each Annual General Meeting and a Reserve Fund held at a minimum of \$75,000.

1.3 In the present terms of reference, "day" refers to calendar day and Academic year is July 1 to June 30.

2. ELIGIBILITY

2.1 The Board may use some or all of the annual budgetary allocation to Legal Assistance and the Reserve Fund to cover its legal costs (other than operational).

2.2 Any unused amount from the annual budgetary allowance may be transferred to the legal assistance fund at the end of the fiscal year.

2.3 Member associations may apply for and be eligible to receive financial assistance to cover legal costs pertaining to arbitration, court action, or action before the Labour and Employment Board or any other governmental agencies such as, but not exclusive to, the Human Rights Commission and to the Access to Information and Privacy Commissioner. Legal costs pertaining to collective bargaining and other actions that are covered by the CAUT program are not eligible.

3. LEGAL ASSISTANCE FUND STANDING COMMITTEE

3.1 There shall be a standing committee of the FNBFA that is given the mandate of considering the requests for financial assistance submitted by member associations and of making recommendations to the Board in accordance with section 4. The committee shall be known as the Legal Assistance Fund Committee.

3.2 The Committee shall be composed of three members, appointed by the Board for a term of three (3) years; an attempt will be made to stagger the terms of the Committee members.

Whenever vacancies occur, they shall be filled by the Board in a timely fashion. The Board shall also appoint an alternative member, who shall serve on cases where a member is unable to serve (e.g. when there is a conflict of interest.) The Executive Director of the Federation shall be an ex-officio, non-voting member and shall maintain the records of the Committee.

3.3 Members of the Committee shall be persons who have had considerable experience in faculty association affairs. Before commencement of their examination requests for financial assistance from member associations, the members of the Committee shall elect a chair who shall preside over the proceedings and shall present the Committee's report to the Board in accordance with Section 6.4.

3.4 The Legal Assistance Fund Committee shall present a report of its activities to the Annual General Meeting each year. It may include in its report recommendations as to the present terms of reference and their application.

4. ANNUAL FINANCIAL ASSISTANCE TO MEMBER ASSOCIATIONS

4.1 The Board shall advise the Committee by June 1st of the amount made available for financial assistance to member associations. This amount shall not exceed the total amount in the legal assistance fund minus the minimum reserve of \$75,000.

4.2 In its examination of member association requests for financial assistance, the Committee shall determine the level of assistance to be granted. The level of assistance shall be in the range of \$0 to a maximum of the sum referred to in Section 4.1. and shall not normally exceed \$10,000 per association per year.

4.3 Where the Committee decides that expenditure on a case or cases of more than the maximums referred to in Section 4.1 and/or 4.2 is warranted, it shall, in accordance with Section 6.5, advise the Board as to the additional amounts required. The Board shall then decide whether to increase the Fund above the budgeted level. In such an event, the Board may draw on the Reserve Fund.

5. RESERVE FUND

5.1 The Board shall maintain a Legal Assistance Reserve Fund in the minimum amount of \$75,000. Interest generated shall accrue to the Reserve Fund.

5.2 In the event that the Board decides to draw from the Reserve Fund in accordance with Section 4.3, it shall restore the Reserve Fund to the minimum amount of \$75,000 within a period of two years.

6. FINANCIAL LEGAL ASSISTANCE TO MEMBER ASSOCIATIONS

6.1 Applications for financial assistance shall be submitted to the Committee through the Executive Director of the FNBFA by October 1st of each year.

6.2 In examining applications for financial assistance from member associations, the Committee shall:

- (i) consider whether the position of the applicant is in substantial conflict with FNBFA or CAUT policies and positions; and,
- (ii) treat all applications received from member associations equally.

6.3 The Committee shall examine the requests and their supporting documentation, and if additional information is required, it shall make its request known to the member association(s) at the latest forty-five (45) days prior to the scheduled second Board meeting of the Academic Year. The member association shall have 15 days to provide the additional information.

6.4 The Chair of the Committee shall be invited to the second Board meeting of the Academic Year in order to present the Committee's recommendations and to answer questions from the Board.

6.5 Applicants may appeal an unfavourable recommendation by the Committee to the Board. The Board may refuse the recommendation from the Committee and substitute its own decision when, in its opinion, the Committee has been unreasonable or arbitrary.

7. APPLICATIONS FOR FINANCIAL ASSISTANCE

7.1 All applications shall include the following components with supporting documentation:

- (i) a statement explaining the nature of the case or the action;
- (ii) the legal position adopted;
- (iii) assistance available or received by third parties including CAUT;
- (iv) the importance of the case or action for all members of FNBFA;
- (v) the impact of steps already taken to mitigate the situation; and
- (vi) a statement of disbursements paid per date and activity.

7.2 Disbursements made by the member association up to two (2) years prior to the date of the application are eligible.