

Employment Relationship Problem Resolution

EXPLANATION OF SERVICES AVAILABLE FOR RESOLUTION OF EMPLOYMENT RELATIONSHIP PROBLEMS

As required by the Employment Relations Act 2000 the following includes a plain language explanation of the services available for resolution of employment relationship problems. This will form part of the individual employment agreement between a school board of trustees and their employee.

WHAT IS AN EMPLOYMENT RELATIONSHIP PROBLEM?

It is a problem arising from the employment relationship between employee and employer and includes a personal grievance or a dispute about the meaning or application of any provision of this agreement/contract.

NOTIFICATION OF PERSONAL GRIEVANCE

A personal grievance may arise where an employee believes he or she has been unfairly treated or unjustifiably dismissed.

If the employment relationship problem is a personal grievance then the employee must notify the employer within ninety (90) days from the date when the alleged action giving rise to the grievance occurred or when it first came to the employee's notice, whichever is the later date.

RESOLVING AN EMPLOYMENT RELATIONSHIP PROBLEM

Where appropriate an employee and employer must first make reasonable efforts within reasonable time to resolve any employment relationship problem by discussion and agreement.

An employee or employer has the right to be represented at any stage.

Where the employment relationship problem is a personal grievance involving allegations of misconduct by another employee, discrimination, sexual or racial harassment or duress in relation to membership of a union, then the employer must carry out a fair and proper investigation before taking any action or proposing any solution in response to the problem.

If either party considers the problem has not been resolved within a reasonable time then either party may refer the matter to the Employment Relations Service of the Department of Labour for mediation. If mediation leaves matters unresolved then either party has the right to apply to the Employment Relations Authority to investigate and determine any unresolved employment problems.

Employees who have been dismissed may ask the employer for a written reason for the dismissal within 60 days after the dismissal or after the date they become aware of it. The employer must give this written statement to the employee within 14 days after being asked.

SERVICES AVAILABLE FOR RESOLUTION OF EMPLOYMENT RELATIONSHIP PROBLEMS

The Department of Labour provides services to assist the parties to resolve employment relationship problems. This section tells you about the services that are available.

The Department of Labour provides an **information service** about employment rights and obligations. This service is free and is available by contacting an office of the Department of Labour or by phoning toll free 0800 800 863. The Department of Labour's Employment Relations Service internet address is <http://www.ers.dol.govt.nz> and they can be contacted by e-mail at <mailto:info@ers.dol.govt.nz>.

The Department of Labour provides an independent **mediation service** to assist in the resolution of employment relationship problems and the smooth conduct of employment relationships generally. The Department also offers mediation assistance for resolving any problems in fixing new terms and conditions of employment. These mediation services are free and are available by contacting an office of the Department of Labour

Where mediation assistance has been requested, then the mediator will determine the type of mediation having regard to the nature of the problem, the needs of the parties and the importance of resolving problems promptly and effectively. Any documents disclosed or statements made in the course of the mediation in relation to an employment relationship problem are confidential unless otherwise agreed.

A settlement reached in mediation and signed by the mediator at the request of the parties is final, binding and enforceable. This means that neither party can take the matter any further and either party can be made to comply by court order.

If the parties cannot reach a settlement they can ask the mediator, in writing, to make a final and binding decision.

Either party has the right to apply to the Employment Relations Authority to investigate and determine any unresolved employment problems.