

**REGULATION RESPECTING THE SELECTION AND APPOINTMENT OF  
DECISION-MAKERS TO THE ADMINISTRATIVE TRIBUNAL**

K.R.L. c., J-1, r.4  
Enacted by MCED #117/2023-2024 on 25, Enniskó:wa/March 2024

**SECTION I - GENERAL**

**1. PURPOSE**

1.1 The purpose of this regulation is to establish the rules for the selection and appointment of Decision-makers to the Administrative Tribunal.

**2. DEFINITIONS**

2.1 **Decision-maker** means a member of the Administrative Tribunal.

2.2 **Justice Services** means the Justice Services Division of the Mohawk Council of Kahnawà:ke.

2.3 **Tribunal** means the Administrative Tribunal.

**SECTION II - PUBLIC NOTICE**

**3. NOTICE**

3.1 Following the enactment of this regulation or a vacancy, Justice Services will issue a notice inviting interested persons to submit applications to serve on the Tribunal.

3.2 The notice will be posted in print and electronic media. It will include the following information and a hyperlink if necessary:

- a) eligibility requirements as provided for in the *Regulation Respecting the Institution and Management of the Administrative Tribunal*;
- b) a description of the purpose and duties of a Decision-maker;
- c) the length of the term of office;
- d) the location where an application form, terms of reference and privacy waiver can be obtained and submitted;
- e) the application deadline;
- f) the number of vacancies to be filled; and
- g) the requirement to provide a letter of intent, resume, the names and contact information of two (2) professional references and proof of educational requirements.

3.3 The notice will be posted for thirty (30) days.

- 3.4 An application form will only be accepted if all sections have been completed. This includes the applicant's willingness to sign an oath of office, to sign a confidentiality agreement and to abide by the *Code of Conduct for Decision-makers Appointed to the Administrative Tribunal*. An incomplete application form will not be processed.
- 3.5 A representative of Justice Services will confirm the date on which an application is received by date stamping the original and providing the applicant with a copy of the date stamped application.

#### **4. SECOND NOTICE**

- 4.1 Justice Services will issue a second notice if the total number of applicants is lower than the Tribunal vacancies as well as in one of the following circumstances:
- a) none of the applications have been deemed eligible pursuant to article 5.1 of this regulation;
  - b) none of the applicants meet the eligibility requirements following the screening process pursuant to article 7.1 of this regulation; or
  - c) none of the applicants are determined to be qualified pursuant to article 10.1 of this regulation.
- 4.2 In the event that Justice Services issues a second notice, it will do so in accordance with articles 3.1-3.5 of this regulation.

### **SECTION III - PROCESS FOR SELECTION AND APPOINTMENT**

#### **5. VERIFICATION OF ELIGIBILITY**

- 5.1 The Commissioner of Justice will summarily dismiss any application(s) failing to meet any of the eligibility requirements listed at article 3.2 of the *Regulation Respecting the Institution and Management of the Administrative Tribunal*.
- 5.2 The applicants deemed ineligible will be informed in writing by the Commissioner of Justice that their application has been dismissed.

#### **6. EVALUATION COMMITTEE**

- 6.1 The Commissioner of Justice will convene a three (3) person Evaluation Committee to evaluate the remaining applicants. It will determine which applicants are most qualified to fulfill the duties of Decision-maker.
- 6.2 The Evaluation Committee will be composed of:
- a) the Commissioner of Justice or designate;
  - b) the Lead Decision-maker or one (1) member of the Kahnawà:ke Justice Commission; and
  - c) one (1) other individual with educational and/or work experience in hiring practices.

6.3 The conflict of interest rules found in the *Code of Conduct for Decision-makers Appointed to the Administrative Tribunal* will apply to the members of the Evaluation Committee, with the necessary adaptations as required.

6.4 In the event that a member of the Evaluation Committee withdraws, the Commissioner of Justice will designate a replacement to act in their place.

## **7. SCREENING OF APPLICANTS**

7.1 The Evaluation Committee will screen the eligible applicants and retain those which, in its opinion, may be best suited to fulfill the duties of Decision-maker.

7.2 The Commissioner of Justice will invite the short-listed applicants to an interview with the Evaluation Committee and inform the other applicants that they have not been selected for an interview.

## **8. INTERVIEW OF APPLICANTS**

8.1 The Evaluation Committee will conduct an interview and may administer a skills evaluation test and/or assessment tool for the purpose of assessing an applicant's suitability as a Decision-maker.

## **9. EVALUATION CRITERIA**

9.1 The Evaluation Committee will consider the following criteria when assessing an applicant's aptitude for appointment as a Decision-maker:

- a) personal and intellectual qualities;
- b) written and oral communication skills;
- c) critical thinking skills;
- d) ability to synthesize (analyze and process) large amounts of complex information;
- e) experience, knowledge and skills in relation to the duties of the Tribunal;
- f) ability to perform adjudicative functions;
- g) judgment, open-mindedness, perceptiveness, level-headedness, and decision-making abilities; and
- h) the applicant's understanding of the duties of Decision-maker.

9.2 The Evaluation Committee will prioritize applicants in the following order:

- a) applicants recognized as Kanien'kehá:ka of Kahnawà:ke on the Kahnawà:ke Kanien'kehá:ka Registry who are ordinarily resident in the Mohawk Territory of Kahnawà:ke;
- b) applicants recognized as a Kanien'kehá:ka of Kahnawà:ke on the Kahnawà:ke Kanien'kehá:ka Registry but who are not ordinarily resident in the Mohawk Territory of Kahnawà:ke;

- c) applicants who are Onkwehón:we; and
- d) applicants who are not Onkwehón:we but have experience working with Onkwehón:we communities.

**10. DETERMINATION OF SUITABILITY**

- 10.1 The Evaluation Committee will determine, after considering an applicant's file as a whole, including interview results and results from any skills evaluation test and/or assessment tool that may be administered, which applicant(s) are most qualified to fulfill the duties of Decision-maker.

This determination will be based on a rating system that will objectively measure each applicant's aptitude.

- 10.2 Decisions of the Evaluation Committee to recommend an applicant will be made by majority vote.

**11. RECOMMENDATION**

- 11.1 The Evaluation Committee will recommend to the Mohawk Council of Kahnawà:ke the applicant(s) it has determined to be most qualified to fulfill the duties of Decision-maker.

It will also provide any comments, feedback or information that it considers important to highlight.

- 11.2 The Mohawk Council of Kahnawà:ke will review the recommendation(s) submitted by the Evaluation Committee and determine whether to approve the recommendation(s). The Mohawk Council of Kahnawà:ke will, based on the comments, feedback or information provided, make the final decision as to who will be appointed as a Decision-maker to the Tribunal.

**12. APPOINTMENT**

- 12.1 Successful applicants will be appointed by Mohawk Council Executive Directive.

**13. VACANCY**

- 13.1 In the event of a vacancy, Justice Services will publish a notice in accordance with articles 3.1-3.5 of the present regulation and apply the process for selection and appointment found at articles 5.1-11.2 of this regulation.

**SECTION IV - FINAL**

**14. CONFIDENTIALITY**

- 14.1 All information submitted to the Evaluation Committee and the Mohawk Council of Kahnawà:ke, including the names of unsuccessful applicants, are confidential.

**15. COMING INTO FORCE**

- 15.1 This Regulation comes into force on the date fixed by Mohawk Council Executive Directive.

**16. AMENDMENT**

16.1 This regulation may be amended by Mohawk Council Executive Directive in accordance with the Community Decision-Making and Review Process for regulations.

**17. TRANSITIONAL PROVISIONS**

17.1 Members of the Community Review Board with formal legal training are deemed to be qualified to fulfill the duties of Decision-maker if:

- a) their previous performance as a member of the Community Review Board was satisfactory; and
- b) there are no other considerations that would preclude their appointment.

Formal legal training means having completed an undergraduate degree in law at a recognized North American university.

17.2 Members of the Community Review Board who meet the requirements of article 17.1 and are interested in holding office as a Decision-maker will not have to undergo the process for selection and appointment found at articles 5.1-11.2 of the present regulation.