

REGULATION RESPECTING THE SELECTION AND APPOINTMENT OF JUDGES OF THE COURT OF KAHNAWÀ:KE

K.R.L. c., J-1, r.2

Enacted by MCR # 1 / 2015-2016 on June 15, 2015
Amended by MCED # _____ on __, _____, 2024

SECTION I - GENERAL

1. PURPOSE

1.1 The purpose of this Regulation is to establish the process and rules for the selection and appointment of Judges of the Court of Kahnawà:ke.

2. DEFINITIONS

2.1 The definitions in the *Kahnawà:ke Justice Act* have the same meaning in this Regulation. In the event of any inconsistency, the definitions applicable in this Regulation are paramount.

2.2 For the purposes of this Regulation:

- a) **Commission** means the Kahnawà:ke Justice Commission.
- b) **Court** means the Court of Kahnawà:ke.
- c) **Judge** means a public official with the authority to hear cases in the Court of Kahnawà:ke and pronounce judgment.
- d) **Justice Services** means the Justice Services Division of the Mohawk Council of Kahnawà:ke.
- e) **Onkwehón:we** means the “Original people of Turtle Island.”

SECTION II - PUBLIC NOTICE

3. NOTICE

3.1 Following the enactment of this Regulation or a vacancy, the Commission will issue a notice within 45 days inviting interested persons to submit applications for appointment as a Judge of the Court of Kahnawà:ke.

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 Eligibility Criteria for Appointment of Judges of the Court of Kahnawà:ke*;

- b) a description of the purpose and duties of a Judge;
- 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 Judges of the Court of Kahnawà:ke*. For greater certainty, 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 The Commission will issue a second notice in the following circumstances:

- a) if the total number of applicants is lower than the Court vacancies;
- b) none of the applicants have been deemed eligible pursuant to article 5.1 of this Regulation;
- c) none of the applicants meet the eligibility requirements following the screening process pursuant to article 7.2 of this Regulation; or
- d) none of the applicants are determined to be qualified pursuant to article 10.1 of this Regulation.

4.2 In the event that the Commission 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 3.1 of the *Regulation Respecting Eligibility Criteria for Appointment of Judges of the Court of Kahnawà:ke*.

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 a Judge.

6.2 The Evaluation Committee will be composed of:

- a) the Commissioner of Justice or designate;
- b) the Lead Judge, or in the absence of a Lead Judge, the Commissioner of Justice will designate another Judge or Justice of the Peace of the Court of Kahnawà:ke to participate on the Evaluation Committee; and
- c) one (1) community representative on the Commission.

The Evaluation Committee may request the assistance of an individual with educational and/or work experience in hiring practices to assist the Evaluation Committee during the evaluation process.

6.3 The conflict of interest rules found in the *Code of Conduct for Judges of the Court of Kahnawà:ke* 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 or is unable to participate on the Evaluation Committee, the Commissioner of Justice will designate a replacement to act in their place.

7. SCREENING OF APPLICANTS

7.1 The Commissioner of Justice will provide a list of all applicants to the Evaluation Committee, including those that have been summarily dismissed.

7.2 The Evaluation Committee will screen the eligible applicants and retain those who, in its opinion, may be best suited to fulfill the duties of a Judge.

7.3 The Commissioner of Justice will invite the short-listed applicants to an interview with the Evaluation Committee and inform the other applicants in writing 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 eligible applicant's suitability as a Judge.

9. EVALUATION CRITERIA

9.1 The Evaluation Committee will consider the following criteria when assessing an eligible applicant's aptitude for appointment as a Judge, including but not limited to:

- a) personal and intellectual qualities;

- b) written and oral communication skills;
- c) critical thinking and listening skills;
- d) ability to synthesize (analyze and process) large amounts of complex information;
- e) decision-making ability;
- f) experience, knowledge and skills in relation to the duties of the Court;
- g) extent of experience in the areas of law in which the judicial duties will be performed;
- h) ability to perform judicial functions;
- i) capacity to exercise sound judgment, open-mindedness, perceptiveness, and level-headedness;
- j) ability to set priorities, manage heavy workload and to render a decision within reasonable time;
- k) professional, social and community experience and awareness of social realities;
- l) understanding of the judicial office and the duties of a Judge;
- m) extent of knowledge of the law applicable to the Mohawk Territory of Kahnawà:ke and/or willingness to acquire training to gain that knowledge;
- n) knowledge of Kanien'kehá:ka culture, customs and language and/or willingness to acquire training to gain that knowledge; and
- o) reasons for seeking appointment as a Judge.

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

- a) applicants who are on the Kahnawà:ke Kanien'kehá:ka Registry and who reside in the Mohawk Territory of Kahnawà:ke;
- b) applicants who are on the Kahnawà:ke Kanien'kehá:ka Registry but who do not reside 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 eligible 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 a Judge.

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. SPECIAL COMMUNITY MEETING

- 11.1 Before any formal recommendations are made to the Mohawk Council of Kahnawà:ke Ratitsénhaienhs, Justice Services will hold a special community meeting whereby individuals who are on the Kahnawà:ke Kanien'kehá:ka Registry can participate in a question-and-answer session with the candidate(s) for appointment.
- 11.2 Names and backgrounds of the candidate(s) will be published in a notice not less than fifteen (15) days prior to the meeting. The notice will include the purpose and date of the special community meeting.
- 11.3 The purpose of the special community meeting is to allow the community to become acquainted with the candidate(s) and ask questions about their background, experience, judicial philosophy and why they wish to serve as a Judge.
- 11.4 The special community meeting will be chaired by the Commissioner of Justice in accordance with meeting rules established by resolution of the Commission.

12. RECOMMENDATION

- 12.1 Following the special community meeting and within 30 days from the date of this meeting, the Evaluation Committee will recommend to the Mohawk Council of Kahnawà:ke Ratitsénhaienhs the candidate(s) it has determined to be most qualified to fulfill the duties of a Judge.

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

- 12.2 The Mohawk Council of Kahnawà:ke Ratitsénhaienhs 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 Judge of the Court of Kahnawà:ke.

13. APPOINTMENT

- 13.1 Successful candidates will be appointed by Mohawk Council Executive Directive.

14. SWEARING IN

- 14.1 Once appointed, each Judge must, before taking up duties, make a solemn oath that the powers conferred will be exercised impartially, independently, conscientiously, and judicially.

The oath will be taken before the Mohawk Council of Kahnawà:ke Ratitsénhaienhs responsible for the Justice Portfolio and sent to the Commissioner of Justice.

15. VACANCY

- 15.1 In the event of a vacancy, the Commission will publish a notice in accordance with articles 3.1-3.5 of this Regulation and apply the process for selection and appointment found in articles 5.1-12.2 of this Regulation.

SECTION IV - FINAL

16. CONFIDENTIALITY

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

17. COMING INTO FORCE

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

18. AMENDMENT

- 18.1 This Regulation may be amended by Mohawk Council Executive Directive in accordance with the procedure set forth in the Community Decision-Making and Review Process, as amended from time to time.