

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

K.R.L. c., J-1-r.4

Enacted by Mohawk Council Executive Directive (MCED) #XX/2023-2024 on _____, 2023

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

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

2.4 **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:

- 1) eligibility requirements as provided for in the *Regulation Respecting the Institution and Management of the Administrative Tribunal*;
- 2) a description of the purpose and duties of a Decision-maker;
- 3) the length of the term of office;
- 4) the location where an application form, terms of reference and privacy waiver can be obtained and submitted;
- 5) the application deadline;
- 6) the number of vacancies to be filled; and

- 7) the requirement to provide a letter of intent, resume, two (2) professional letters of reference, 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:

- 1) None of the applications have been deemed eligible pursuant to article 5.1 of this regulation;
- 2) None of the applicants meet the eligibility requirements following the screening process pursuant to article 7.1 of this regulation; or
- 3) None of the applicants are suitable 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:

- 1) The Commissioner of Justice or designate;
- 2) The Lead Decision-maker or one (1) member of the Kahnawà:ke Justice Commission; and
- 3) One (1) other individual with educational and/or work experience in hiring practices.

- 6.3 A member of the Evaluation Committee will withdraw from evaluating an applicant when in a conflict of interest. For the purposes of this regulation a conflict of interest means any interest, relationship, association or activity that is incompatible with a member's obligation to objectively evaluate an applicant.

This includes but is not limited to evaluating an applicant with whom:

- 1) they have a close relationship (child, spouse, parents, grandparents, grandchildren, siblings, extended family members, etc.); or
- 2) they are or were a partner, employer, employee, supervisor or client in the past five (5) years.

- 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:

- 1) Personal and intellectual qualities;
- 2) Written and oral communication skills;
- 3) Critical thinking skills;
- 4) Ability to synthesize (analyze and process) large amounts of complex information;
- 5) Experience, knowledge and skills in relation to the duties of the Tribunal;
- 6) Ability to perform adjudicative functions;
- 7) Judgment, open-mindedness, perceptiveness, level-headedness, and decision-making abilities; and
- 8) The applicant's understanding of the duties of Decision-maker.

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

- 1) 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;
- 2) 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;
- 3) applicants who are Onkwehón:we; and
- 4) 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 verification & evaluation process outlined 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:

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

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.