

Human Resources Manual Directive 702: Staffing Appeals

STAFFING APPEALS

PURPOSE

1. This directive outlines the staffing appeals process available to unsuccessful applicants in staffing competitions.

APPLICATION

- 2. This directive applies to those persons who are eligible to appeal a Government of Nunavut (GN) appointment or the composition of an eligibility list pursuant to the *Staffing Review and Appeals Regulations* (Regulations):
 - a) A GN employee who was an unsuccessful applicant in a competition.
 - b) A beneficiary under the *Nunavut Land Claims Agreement* (NLCA) who was an unsuccessful applicant in a competition.
- 3. This directive does not apply to members of the Nunavut Teachers Association as they are not eligible to appeal under the Regulations.

DEFINITIONS

- 4. **Unionized Staffing Appeal Committee** is the committee formed to hear an appeal on staffing competitions for unionized positions. Committee membership consists of the Nunavut Employees Union (NEU) President or delegate, the Deputy Minister responsible for the *Public Service Act* (PSA) or delegate, and one mutually agreed upon individual who will be committee chair.
- 5. **Non-unionized Staffing Appeal Committee** is the committee formed to hear an appeal on staffing competitions for non-unionized positions. Committee membership consists of the Deputy Minister responsible for the *PSA* or delegate and two individuals from the Deputy Minister approved list, one of which is appointed as committee chair.
- 6. **Appellant** is the eligible person who has filed an appeal under the Regulation.
- 7. **Applicant** is the person who has applied on a staffing competition.
- 8. **Proposed Appointee** is the individual who rated the highest in the staffing competition and to whom a job offer has been made.

May 7, 2015 Page 1 of 5



Human Resources ManualDirective 702: Staffing Appeals

- 9. **Screening Panel** is the group of people which determines a competition outcome and typically consists of three members but must include at least the competition position's supervisor (or alternate) and the Staffing Consultant responsible for the competition.
- 10. **Deputy Minister approved list** refers to the list of qualified persons pursuant to the Staffing Review and Appeal Regulations, s. 3(1)(b) that are able to sit on the Non-unionized Staffing Appeals Committee.

PROVISIONS

- 11. A appellant does not have the right to appeal the following appointments:
 - a) classification or reclassification of an existing position:
 - b) one made for reasons of the health of the appointee and the appointment is not a promotion;
 - c) appointment from an eligibility list under section 11 of the PSA;
 - d) appointment without competition under section 12 of the PSA;
 - e) appointment of a person to an internship position or to a position upon completion of an internship program or another government training program;
 - f) demotion under subsection 22(1)(c) of the PSA;
 - g) return of an employee from leave under subsection 29(2) of the PSA;
 - h) position as a teacher as defined in subsection 55(1) of the PSA.
- 12. An appeal of a staffing appointment or the composition of an eligibility list must be filed with the Deputy responsible for the PSA either in person or by email at the appropriate address provided in the attached Appendix A and the rejection letter.
- 13. An appellant may not appeal if he/she has filed a grievance of the appointment pursuant to the regulations or a collective agreement.
- 14. An appeal must be in writing in the form found in attached Appendix B.
- 15. For an appeal to be reviewed, the appeal must be received by the Deputy Minister responsible for the PSA at the appropriate office listed in the attached Appendix A within the following timeframes which is dependent upon how the appellant was notified of the loss of the competition:
 - If a candidate is notified of the loss of the competition in person or by telephone, the appeal must be received within four working days of the date notice was given;

May 7, 2015 Page 2 of 5



Human Resources Manual Directive 702: Staffing Appeals

- If a candidate is notified of the loss of the competition by email, the appeal must be received within ten working days of the date notice was given; or
- c) If a candidate is notified of the loss of the competition by regular mail, the appeal must be received within fourteen working days of the date notice was given.
- 16. After an appeal is received and verified for eligibility by the appropriate office, the proposed appointee is notified that the verbal job offer is placed on hold pending the outcome of the appeal.
- 17. Upon receipt of an appeal of an appointment to a unionized position, the members of the Unionized Staffing Appeals Committee will be notified immediately and provided with the following information:
 - a) the name of the appellant(s);
 - b) competition number, department, region, and position number; and
 - c) name of the proposed appointee.
- 18. Upon receipt of an appeal of an appointment to a non-unionized appointment, members from the Deputy Minister's approved list will be contacted and a Non-unionized Staffing Appeal Committee will be formed to hear the appeal. The committee members will be provided the information listed in 17 above.
- 19. Hearing dates, times and locations for appeals are set in consultation with appeals committee members. An appellant who has indicated his/her intention to attend a hearing will be advised of the hearing date, time and location.
- 20. The Director, Recruiting and Staffing or appropriate Director of Regional Operations will notify the staffing consultant and the appellant in writing of the staffing appeals committee's decision. The staffing consultant will notify the proposed appointee of the decision and recommended actions.
- 21. A staffing appeal committee shall make one or more of the following decisions:
 - revoke the appointment and direct that a new competition be held on the basis of the original job description, advertisement, screening criteria and any applicable test requirements;
 - b) revoke the appointment and direct that a new competition be held following the review and revision of the original job description advertisement, screening criteria or any applicable test requirements;

May 7, 2015 Page 3 of 5



Human Resources Manual Directive 702: Staffing Appeals

- revoke the appointment and direct that the competition process be recommenced from the step where an irregularity in the process occurred;
- revoke the appointment, direct that the appointee and the applicant be re-interviewed, using different interview questions, and order that no further appeals may be made by the applicant;
- e) confirm the appointment and direct that the applicant and, if necessary, persons placed on an eligibility list following the competition be reevaluated in order to review the exclusion of the applicant from an eligibility list that was created following the competition or the rank of the applicant on that eligibility list;
- f) direct that a competition, interview or re-evaluation held or recommenced pursuant to paragraphs (a) to (e) be conducted by a staffing officer and screening panel that did not participate in the original competition;
- g) confirm the appointment and, if applicable, the composition of an eligibility list despite an irregularity in the competition process or documents if the Committee is satisfied that the irregularity did not prejudice the applicant.
- 22. The decision of a staffing appeals committee is final and not appealable.

AUTHORITIES

- 23. Public Service Act
- 24. Staffing Review and Appeals Regulations

CONTACT

25. For clarification or further information please contact:

Director, Recruiting and Staffing Department of Finance Iqaluit, Nunavut 867-975-6222

May 7, 2015 Page 4 of 5



Human Resources Manual

Directive 702: Staffing Appeals

APPENDIX A

<u>lqaluit:</u>

Director, Recruiting and Staffing

Department of Finance Government of Nunavut Box 100, Station 430 Iqaluit, Nunavut X0A 0H0 Phone number: 867-975-6222 Fax number: 867-975-6220

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Qikiqtaaluk:

Director, Regional Operations

Qikiqtaaluk Region Department of Finance Government of Nunavut

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May 7, 2015 Page 5 of 5