

STAFFING APPEALS

PURPOSE

The Government is committed to ensuring that candidates 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 have an opportunity to do
so.

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

INUIT SOCIETAL VALUES (ISV) GUIDING PRINCIPLES

- 2. This directive is guided by the following ISV guiding principles:
 - **Tunnganarniq:** Fostering good spirits by being open, welcoming and inclusive: This directive promotes transparency in the Government of Nunavut's (GN) staffing process by clearly stating how the staffing appeal process is conducted;
 - **Qanuqtuurniq:** being innovative and resourceful. This directive removes the barriers and improves the hiring process and supports the GN's Article 23 obligations under the Nunavut Agreement;
 - Havaqatigiingniq/lkajuqtigiingniq: working together for a common cause. This
 directive enables the GN to timely fill positions as well as increase and enhance
 Inuit employment.

APPLICATION

- 3. This directive applies to those candidates who are eligible to appeal a GN appointment or the composition of an eligibility list pursuant to the *Staffing Review and Appeals Regulations* (Regulations):
 - a) When a Nunavut Inuk is hired under a non-senior manager job competition, appeal rights are only available to Nunavut Inuit and GN laidoff employees.
 - A Nunavut Inuk who was an unsuccessful candidate in a non-senior manager competition. For senior manager and above competitions, a Nunavut Inuk may only appeal based on non-compliance with the Priority Hiring Policy
 - c) A non-Nunavut Inuk GN employee who was an unsuccessful candidate in a competition for a non-senior manager position.
 - This directive does not apply to positions belonging to the Nunavut Teachers
 Association bargaining unit, as they are not eligible for appeal under the *Public Service Act* and Regulations.

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 Appeal rights for laid-off employees included in the Nunavut Employees Union (NEU) are governed by the provisions of the Collective Agreement.

DEFINITIONS

- 4. **Senior Manager** is a position that involves management of significant financial resources, programs and personnel. Senior Manager includes, Associate Deputy Minister, Assistant Deputy Minister, Executive Director, Director, Director General.
- 5. 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.
- 6. **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.
- 7. **Applicant** is the eligible candidate who has filed an appeal under the Regulations.
- 8. **Candidate** is the individual who has applied to a staffing competition.
- 9. **Proposed Appointee** is the candidate who rated the highest in the staffing competition and to whom a job offer has been made.
- 10. **Selection Committee** is a group of people who determine a competition outcome and typically consists of three members but must include at least the competition position's supervisor (or alternate) and the Staffing Practitioner responsible for the competition.
- 11. **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.
- 12. **Eligibility List** is an inventory of candidates who have applied to a staffing competition and have been found qualified to fill future vacancies with the same job description. An Eligibility List is established by the Staffing Division of the Department of Human Resources, as per HRM516: Eligibility Lists.

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PROVISIONS

- 13. A candidate 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*; or
 - h) Position as a teacher as defined in subsection 55(1) of the *PSA*.
- 14. An appeal of a staffing appointment or the composition of an eligibility list must be filed with the Director, Staffing if the position is located in Iqaluit, or Director, Regional Staffing if the position is located outside of Iqaluit. These Directors are the delegates of the Deputy Minister responsible for the *PSA*.
- 15. An candidate may not appeal if they have filed a grievance of the appointment pursuant to the *PSA* regulations or a collective agreement.
- 16. An appeal must be in writing in the Staffing Appeal form found in Appendix A and must be emailed or mailed to the appropriate Director (Staffing or Regional Staffing), before the closing of the appeal period given to the candidate.
- 17. For an appeal to be reviewed, the appeal must be received by the Deputy Minister or their delegate at the appropriate office listed in the Contact section of this directive within the following timeframes which are dependent upon how the candidate was notified of the loss of the competition:
 - a) If a candidate is notified of the loss of the competition in person or by telephone (verbally), the appeal must be received within four (4) working days of the date notice was given;
 - b) If a candidate is notified of the loss of the competition in writing sent by email, the appeal must be received within **eight (8) working days** of the date notice was given; or

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- c) If a candidate is notified of the loss of the competition by regular mail, the appeal must be received within **fourteen (14) working days** of the date notice was given.
- 18. 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.
- 19. 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 applicant(s);
 - b) Competition number, department, region, and position number;
 - c) Name of the proposed appointee; and
 - d) Related competition documents relevant to the appeal which may include: advertisement, job description, screening criteria, interview responses, an appeals report.
- 20. Upon receipt of an appeal of an appointment to a non-unionized position, members from the Deputy Minister's approved list will be contacted and a Non-unionized Staffing Appeals Committee will be formed to hear the appeal. The committee members will be provided the information listed in Provision 19 above.
- 21. Every effort will be made to have the hearing within two days, and dates, times and locations for appeals are set in consultation with appeals committee. An applicant who has indicated their intention to attend a hearing will be advised of the hearing date, time and location.
- 22. The Director, Staffing or Director, Regional Staffing will notify the Deputy Minister responsible for the PSA, the Deputy Head of the hiring department/public body and the applicant in writing regarding the decision of the Staffing Appeals Committee. The Director, Staffing or Director, Regional Staffing will then notify the Staffing Practitioner, who will then notify the proposed appointee of the decision and recommended actions.
- 23. A Staffing Appeals Committee shall make one or more of the following decisions:
 - a) 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 assessment 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 assessment requirements;

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- Revoke the appointment and direct that the competition process be recommenced from the step where an irregularity in the process occurred;
- d) 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 Practitioner and Selection Committee 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.
- 24. The decision of a Staffing Appeals Committee is final and not appealable.

AUTHORITIES

- 25. Public Service Act
- 26. Staffing Review and Appeals Regulations
- 27. Collective Agreement with the NEU
- 28. Nunavut Agreement
- 29. GN Staffing Manual
- 30. Priority Hiring Policy
- 31. Human Resources Manual:
 - HRM Directive 501: Hiring Process
 - HRM Directive 507: Preparing the Screening Criteria
 - HRM Directive 510: Conducting the Interview
 - HRM Directive 512: Job Offers
 - HRM Directive 516: Eligibility Lists

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HRM Directive 518: Restricted Competitions

CONTACT

32. For clarification or further information please contact:

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Email: IqaluitStaffingAppeals@gov.nu.ca

OR

Director, Regional Staffing Department of Human Resources P. O. Box 460 Rankin Inlet, Nunavut X0C 0G0 Phone # 867-645-8065 Fax # 867-645-8097

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