

chapter J-3, r. 2

Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as members of the Administrative Tribunal of Québec

Act respecting administrative justice
(chapter J-3, ss. 42, 44 and 45).

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DIVISION I

NOTICE OF RECRUITMENT

1. Where it is expedient to draw up a list of persons apt for appointment as members of the Administrative Tribunal of Québec, the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif shall publish a notice of recruitment in a publication circulating or broadcast throughout Québec, inviting interested persons to submit their candidacies for the position of member of the Tribunal.

O.C. 317-98, s. 1.

2. The notice of recruitment shall give

- (1) the name of the divisions of the Tribunal for which a member or members are to be recruited;
- (2) a brief description of the duties of a member;
- (3) the place where a member could be assigned to mainly perform his duties;
- (4) in substance, the selection conditions and criteria prescribed by the law and this Regulation and any qualifications, training and professional experience required for the Tribunal;
- (5) in substance, the system of confidentiality applicable to the selection procedure and an indication that the selection committee may hold consultations about the candidacies; and
- (6) the deadline and address for submitting a candidacy.

O.C. 317-98, s. 2.

3. A copy of the notice shall be sent to the Minister of Justice and to the president of the Tribunal.

O.C. 317-98, s. 3; O.C. 1090-2019, s. 1.

DIVISION II

CANDIDACIES

4. A person who wishes to submit his candidacy shall forward his résumé and the following information:

- (1) his name, home address and telephone number and, where applicable, office address and telephone number;
- (2) his date of birth;
- (3) the name of each division of the Tribunal for which he submits his candidacy;
- (4) the nature of the activities that he has carried out and through which he has acquired the relevant experience required;
- (5) where applicable, proof that he has the qualifications indicated in the notice, when they were acquired and for how many years they were required;
- (6) any condemnation for an indictable offence or an offence punishable on summary conviction or any disciplinary decision, as well as the nature of the offence or fault in question and the imposed sentence or disciplinary penalty;
- (7) any condemnation for a penal offence, the nature of the offence in question and the sentence imposed and whether one can reasonably believe that such offence is likely to question the integrity or impartiality of

the Tribunal or of the candidate, to interfere with his ability to perform his duties or to undermine the trust of the public in the office holder;

(8) where applicable, the names of his employers or partners over the past 10 years;

(9) where applicable, whether he has filed his candidacy for the position of member of the Tribunal in the past 3 years; and

(10) a summary of the reasons for his interest in the position of member of the Tribunal.

The person shall also provide a written statement in which he agrees to a verification with, *inter alia*, a disciplinary body, any professional order of which he is or was a member, his employers over the last 10 years, police authorities and, where applicable, in which he agrees that the persons or organizations mentioned in section 14 be consulted.

O.C. 317-98, s. 4; O.C. 1090-2019, s. 2.

DIVISION III

FORMATION OF A SELECTION COMMITTEE

5. Following publication of the notice of recruitment, the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif shall form a selection committee, designate a chair and appoint to it

(1) the president of the Tribunal or, after consulting the president, another member of the Tribunal;

(2) a member of the staff of the Ministère du Conseil exécutif or the Ministère de la Justice; and

(3) a representative of the public who is neither an advocate nor a notary or a representative of the legal community, or both.

O.C. 317-98, s. 5.

6. Where his impartiality could be questioned, a member of the committee shall withdraw in respect of a candidate, particularly in the following situations:

(1) the member is or was the candidate's spouse;

(2) the member is related to the candidate by birth or marriage, to the degree of first cousin inclusively; or

(3) the member is or was a partner, employer, employee of the candidate in the past 10 years; notwithstanding the foregoing, a member who is in the public service shall withdraw in respect of a candidate only where the member is or was an employee or immediate superior of the candidate.

Where a member of the committee has withdrawn, is absent or unable to act, the decision shall be made by the other members.

O.C. 317-98, s. 6.

7. Before taking office, the members of the committee must take the following oath: "I, (full name), swear that I will neither reveal nor disclose, without due authorization to do so, anything of which I may gain knowledge in the performance of the duties of my office."

The oath shall be taken before a member of the staff of the Ministère du Conseil exécutif or the Ministère de la Justice empowered to administer oaths.

The writing evidencing the oath shall be sent to the Associate Secretary General.

O.C. 317-98, s. 7; O.C. 1090-2019, s. 3.

8. A person may be appointed to more than one committee at the same time.

O.C. 317-98, s. 8.

9. Travel and accommodation expenses of the committee members shall be reimbursed in accordance with the Règles sur les frais de déplacement des présidents, vice-présidents et membres d'organismes gouvernementaux (D. 2500-83, 83-11-30).

In addition to the reimbursement of their expenses, the committee members who are neither members of the Tribunal nor employees of a government department or body are entitled to fees of \$250 or \$200 per half-day of sitting which they attend.

O.C. 317-98, s. 9; D. 378-2003.

DIVISION IV

FUNCTIONING OF THE SELECTION COMMITTEE

10. The list of candidates and their records shall be sent to the chair of the selection committee.

O.C. 317-98, s. 10.

11. The committee shall analyze the candidates' records and shall retain those who, in its opinion, meet the eligibility requirements and any additional evaluative measures applied in consideration of the positions to be filled or the large number of candidates.

O.C. 317-98, s. 11.

12. The chair of the committee shall inform the short-listed candidates of the date and place of their meeting with the committee and shall inform the other candidates that they were turned down and, as a result, will not be called to a meeting.

O.C. 317-98, s. 12.

13. The committee's report shall list the candidates that were turned down, giving reasons therefor.

O.C. 317-98, s. 13.

DIVISION V

CONSULTATIONS AND SELECTION CRITERIA

14. The committee may, on any matter in a candidate's record or any aspect of a candidacy or of the candidacies as a whole, consult with

(1) any person who has been, in the last 10 years, an employer, partner, immediate or first-line superior of the candidate;

(2) any legal person, partnership or professional association of which a candidate is or was a member.

O.C. 317-98, s. 14.

15. The selection criteria that the committee shall take into account in determining a candidate's aptitude are

- (1) the candidate's personal and intellectual qualities;
- (2) the candidate's experience and the relevancy of that experience in relation to the duties of the Tribunal;
- (3) the extent of the candidate's knowledge or skills, in view of the required qualifications, training and professional experience stated in the notice of recruitment;
- (4) the candidate's ability to carry out adjudicative functions;
- (5) the candidate's judgment, open-mindedness, perceptiveness, level-headedness, decision-making and expressive abilities; and
- (6) the candidate's conception of the duties of a member of the Tribunal.

O.C. 317-98, s. 15.

DIVISION VI

REPORT OF THE SELECTION COMMITTEE

16. Committee decisions shall be made by a majority vote of its members. In the case of a tie-vote, the chair of the committee shall have a casting vote.

O.C. 317-98, s. 16.

17. Not later than 30 days after a request therefor by the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif, the committee shall promptly submit a report including

- (1) the names of the candidates with whom the committee met and whom it declared apt to be appointed to the Tribunal, the divisions to which they may be assigned, their profession and the particulars concerning their work place; and
- (2) any comments that the committee considers expedient, especially with respect to the particular characteristics or qualifications of the candidates considered apt.

This report is submitted to the Associate Secretary General and the Minister of Justice.

O.C. 317-98, s. 17; O.C. 1090-2019, s. 4.

18. Wherever possible, the committee shall declare apt a number of candidates corresponding to at least twice the number of vacant positions.

O.C. 317-98, s. 18.

19. A member of the committee may register his dissent with respect to all or part of the report.

O.C. 317-98, s. 19.

DIVISION VII

REGISTER OF DECLARATIONS OF APTITUDE

20. The Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif shall write to the candidates to inform them that they have been declared apt or inapt to be appointed to the Tribunal.

O.C. 317-98, s. 20.

21. The Associate Secretary General shall keep the register of declarations of aptitude up-to-date and shall enter therein, in respect of each division, the list of the candidates declared apt to be appointed to the Tribunal.

A declaration of aptitude is valid for a 3-year period from its entry in the register.

The Associate Secretary General shall strike out an entry upon the expiry of the validity period of the declaration of aptitude or when the person is appointed to the Tribunal, dies or asks to be withdrawn from the register.

O.C. 317-98, s. 21.

DIVISION VIII

RECOMMENDATION

22. As soon as he is notified of a vacant position, the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif shall forward a copy of the updated list of persons declared apt to be appointed to the Tribunal to the Minister of Justice.

O.C. 317-98, s. 22; O.C. 1090-2019, s. 5.

23. If the Minister of Justice is of the opinion that he cannot, considering the list of persons declared apt to be appointed as members of the Tribunal and in the best interest of the proper operation of the Tribunal, recommend an appointment, he shall then ask the Associate Secretary General to have a notice of recruitment published, in accordance with Division I.

The committee in charge of evaluating the aptitude of the candidates who submitted their candidacy after another notice of recruitment and in charge of reporting to the Associate Secretary General and to the Minister may be composed of persons previously designated to sit on a preceding committee.

O.C. 317-98, s. 23; O.C. 1090-2019, s. 6.

24. The Minister of Justice shall recommend to the Government the name of a person who has been declared apt to be appointed as a member of the Tribunal.

O.C. 317-98, s. 24; O.C. 1090-2019, s. 7.

DIVISION IX

25. *(Implicitly revoked by 2005, chapter 17, s. 5).*

O.C. 317-98, s. 25.

26. *(Implicitly revoked by 2005, chapter 17, s. 5).*

O.C. 317-98, s. 26; O.C. 1179-2002, s. 1.

27. *(Implicitly revoked by 2005, chapter 17, s. 5).*

O.C. 317-98, s. 27; O.C. 1179-2002, s. 2.

28. *(Implicitly revoked by 2005, chapter 17, s. 5).*

O.C. 317-98, s. 28.

29. *(Implicitly revoked by 2005, chapter 17, s. 5).*

O.C. 317-98, s. 29.

DIVISION X

CONFIDENTIALITY

30. The names of candidates, the report of the selection committee, the register, the list of candidates declared apt to be appointed to the Tribunal, as well as any information or document relating to a consultation or decision by the committee, are confidential.

O.C. 317-98, s. 30.

31. *(Omitted).*

O.C. 317-98, s. 31.

UPDATES

O.C. 317-98, 1998 G.O. 2, 1439

O.C. 1179-2002, 2002 G.O. 2, 5463

D. 378-2003, 2003 G.O. 2, 1948 (French only)

O.C. 1090-2019, 2019 G.O. 2, 2780

