

## THE CLASSIFICATION REVIEW AND APPEAL PROCESS

### A. Definitions

1. “Appeal” means a request by an employee to the Classification Appeal Board for a change in the Classification of the employee's position.
2. “Appeal Board” means the Classification Appeal Board constituted to function in accordance with these procedures.
3. “Classification” means the identification of a position by reference to a classification title and pay range number.
4. “Day” means a working day.
5. “Permanent Head” means permanent head as defined below, or any official authorized by him/her to act on his/her behalf:
  - in respect of persons employed by government departments, the Deputy Minister of the department concerned;
  - in respect of employees of agencies not specifically covered by the definitions in this section, the highest management official in these agencies;
  - in respect of employees of Board operated hospitals and homes the CEO and/or Executive Director.
- \*6. “Review” means re-appraisal or re-assessment of an employee's position classification by the Classification and Compensation Division of the Public Service Secretariat upon request of the employee or the permanent head on behalf of the organization.
7. “Treasury Board” means Treasury Board as constituted pursuant to The Financial Administration Act as now or hereafter amended.
8. “Organization” means the Government of Newfoundland, commission, agency, hospital, or other entity mentioned in Section A.5.

**B. Constitution of Classification Appeal Board**

1. There shall be a Board to be known as the Classification Appeal Board, consisting of a Chairperson and members to be appointed by the Lieutenant-Governor in Council to serve for a period of one year in the first instance, subject to extension for further periods at the discretion of the Lieutenant-Governor in Council.
2. The Appeal Board is hereby empowered to receive, hear and decide upon any appeal consistent with these procedures. Changes in these procedures shall be recommended for approval only after co-ordination with the Classification Appeal Board, and the Treasury Board Secretariat.
3. A quorum for the Appeal Board shall consist of three members including the Chairperson or Acting Chairperson.
4. In the absence of the Chairperson from a meeting of the Appeal Board, the members present shall appoint one of their members as Acting Chairperson.
5. The Appeal Board may hold hearings on appeals and may require an appellant to appear before it at any time and in any place in the province it may deem desirable.
6. The Chairperson and members of the Appeal Board shall be compensated for their services at such rates as Treasury Board may approve.
7. Expenses incurred by the Appeal Board in the performance of its duties and such out-of-pocket expenses incurred by an appellant appearing before the Appeal Board at its request shall be paid from public funds, subject to Treasury Board approval.
8. The Appeal Board shall be provided with such staff and facilities, e.g. office accommodations, etc. as the Treasury Board may deem necessary to assist it in its work.
9. A commission shall be issued to the Appeal Board, pursuant to Section 2 of the Public Enquiries Act, conferring upon it the powers set forth in the said section.

**C. Procedures**

- \*1. The process of review pursuant to these procedures shall be available to an organization if the organization considers that a position has been improperly classified by the Classification and Compensation Division of the Public Service Secretariat.

The process of review and/or appeal pursuant to these procedures shall be available to any employee who considers that their position has been improperly classified by the Classification and Compensation Division of the Public Service Secretariat.

2. A review or appeal shall not be entertained on the grounds:
- of inadequacy of the pay scale assigned to the pay range number;  
or
  - that the scope of duties and responsibilities has been improperly assigned to the position by management.
- \*3. A request for review shall be submitted to the Director of Classification and Compensation Division, Public Service Secretariat, Confederation Building, St. John's, A1B 4J6 in writing stating:
- the employee's full name;
  - name of the employing organization and place of work;
  - the classification in respect of which the review is requested;
  - details of the reason(s) why the employee, or the department head on behalf of the organization, considers the present classification is incorrect and the justification for the classification which is considered to be correct.
- \*4. The Classification and Compensation Division shall consider individual and group-type requests within 30 days of receipt and within a further 30 days, shall notify the employee(s) in writing of its decision thereon.
- \*5. A request for review shall be regarded as closed:
- when a decision is rendered thereon by the Classification and Compensation Division;
  - if the employee(s) requests in writing the withdrawal of the request for review;
  - in the event of the employee's separation from the organization for any reason including resignation, removal, abandonment of position, incompetence, retirement, death, and so on;
  - if the permanent head, in the case of an organization request for review, requests in writing the withdrawal of the request for review.

- \*6. It shall be the responsibility of the permanent head to notify the Director, Classification and Compensation Division of the effective date of employee's separation from the organization.
- \*7. All documents and evidence relating to a review shall be maintained in special files by the Classification and Compensation Division. Copies of such review materials shall be furnished to the Classification Appeal Board upon its request.
- \*8. If an employee is dissatisfied with the decision of the Classification and Compensation Division an appeal of the decision may be submitted to the Classification Appeal Board.
- \*9. All such appeals shall be submitted to the Appeal Board in writing (in duplicate) within a period of not more than fourteen (14) days after the receipt by an employee of notification of the Classification and Compensation Division's decision as above mentioned.
- \*10. An appeal shall not be submitted to the Appeal Board on any grounds which differ from the grounds upon which a review by the Classification and Compensation Division has been requested by the employee or a group of employees and no such appeal shall be entertained by the Appeal Board. In such a case, the employee or group of employees shall first approach the Classification and Compensation Division seeking a further review on the basis of the new circumstances involved.
- \*11. The Appeal Board shall consider and rule only upon appeals received from an individual employee, or group of employees having identical classifications, provided that such employee or group shall first have submitted a request to the Classification and Compensation Division for a review of the classification in accordance with section 3 of Part C and shall have been notified in writing of the Division's decision on the request.
- 12. The Appeal Board has the right to refuse to receive or hear an appeal if it considers that the grounds on which the appeal it submitted are irrelevant or not in accordance with sections 1 and 2 of Part C.
- 13. The employing organization concerned shall allow time off from regular duties to any employee who is required by the Appeal Board to appear before it and, in respect of such absence, the employee shall be regarded as being O.H.M.S. It is the responsibility of the employee to obtain the prior approval of the permanent head before absenting themselves from their duties for this purpose.

- \*14. On receipt of an appeal from an employee or a group of employees, the Appeal Board shall request the Classification and Compensation Division to assemble all pertinent information prepared as a result of the classification review, a copy of which will be given to the appellant and the immediate supervisor by the Classification Appeal Board.
15. Where the appellant requires clarification on any point contained in the classification file or wishes to comment on any aspect of the classification file, he/she must file with the Board within fourteen (14) days of receiving the file, a written statement including any supporting documentation which details his/her questions or comments.
- \*16. A copy of the appellant's written statement and copies of supporting documentation will be sent by the Classification Appeal Board, within three (3) days of receipt, to the Classification and Compensation Division who may respond or be requested to respond in writing within fourteen (14) days to the points or observations raised by the appellant. Such response shall be forwarded by the Classification Appeal Board to the appellant within three (3) days of receipt. This cumulative documentation shall then constitute the entire file to be considered by the Board.
17. Where the Board is satisfied that all relevant documentation is on file, it shall determine whether an appeal is warranted or if a decision can be rendered on the basis of the written documentation provided.
18. When the Board renders a decision on the basis of the written documentation, notification of such decision shall be forwarded to the appellant, his/her designate, Treasury Board and the employing agency.
- \*19. If a hearing is warranted, the appellant, a permanent head or management designate and a representative of Classification and Compensation Division may be requested to appear before the Board.
20. Appellants are to be given two opportunities to postpone appeal hearings after which appeals will then be withdrawn by the Board.
21. The hearing will be presided over by the Chairperson or Acting Chairperson of the Appeal Board who will retain control over the conduct of the hearing and who will rule on the relevancy of any questions or points raised by any of the parties of the hearing.
22. The Chairperson or Acting Chairperson may adjourn the hearing and order the appearance of any person or party who, at the Appeal Board's discretion, it deems necessary to appear to give information or to clarify any points raised during the hearing.

23. Following the conclusion of the hearing, the Board will deliberate on and consider all relevant evidence and supporting information. Within fifteen (15) working days of reaching a decision, the Board shall inform the appellant in writing over the signature of the Chairperson or the Acting Chairperson. Where applicable, copies of the decision will be forwarded to the appellant's representative, Treasury Board and the employee's department for appropriate action.
24. The powers of the Board are curtailed to classification changes within respective bargaining units while avoiding grade level changes, with the sole authority to make grade level changes for occupational groups to be vested in the Collective Bargaining process and any associated costs to be funded directly from the negotiated general salary increases for that bargaining year.
- \*25. The Board is required to submit written reasons to the Classification and Compensation Division for those decisions that result in classification changes.
26. The processing of any classification change shall be subject to Treasury Board's Personnel Administration Procedures.
27. The decision of the Appeal Board on an appeal is final and binding on the parties to the appeal. The majority opinion of the Board shall prevail and there shall be no minority report.
28. An appeal shall be regarded as closed:
  - when a decision is rendered thereon by the Classification Appeal Board;
  - if the appellant requests in writing the withdrawal of the appeal;
  - in the event of the appellant's separation from the organization for any reason including resignation, removal, abandonment of position, incompetence, retirement, death and so on; or
  - if the appellant postpones a hearing in accordance with Section 20 of Part C.
29. It shall be the responsibility of the permanent head to notify the Chairperson, Classification Appeal Board of the effective date of an appellant's separation from the organization.