

chapter F-3.1.1, r. 5

Regulation respecting an appeals procedure for public servants not governed by a collective agreement

Public Service Act
(chapter F-3.1.1, s. 127)

TABLE OF CONTENTS

DIVISION I	
SCOPE.....	1
DIVISION II	
APPEALABLE MATTERS.....	2
DIVISION III	
FILING OF APPEAL	3
DIVISION IV	
HEARING OF APPEAL.....	7
DIVISION V	
DECISION.....	13
DIVISION VI	
MISCELLANEOUS.....	17
DIVISION VII	
TRANSITIONAL AND FINAL.....	19

DIVISION I

SCOPE

1. This Regulation applies to any public servant who is not governed by a collective agreement.

O.C. 1042-2001, s. 1.

DIVISION II

APPEALABLE MATTERS

2. An appeal is available to any public servant who considers himself or herself aggrieved by a decision rendered in his or her respect under the following directives of the Conseil du trésor, except for the provisions in those directives respecting classification, staffing and performance evaluation excluding, in the latter case, the procedure for performance evaluation:

- (1) the Directive concernant l'ensemble des conditions de travail des cadres;
- (2) the Directive concernant l'ensemble des conditions de travail des cadres juridiques;
- (3) the Directive concernant l'ensemble des conditions de travail des cadres oeuvrant en établissement de détention à titre d'agents de la paix à l'exclusion des directeurs des établissements de détention;
- (4) the Directive concernant l'ensemble des conditions de travail des cadres oeuvrant en établissement de détention à titre de directeurs des établissements de détention;
- (5) *(paragraph revoked)*;
- (6) the Directive concernant la rémunération et les conditions de travail des médiateurs et conciliateurs;
- (7) the Directive concernant l'ensemble des conditions de travail des conseillères et conseillers en gestion des ressources humaines;
- (8) the Directive concernant les conditions de travail des fonctionnaires;
- (9) the Directive concernant l'attribution des taux de traitement ou taux de salaire et des bonis à certains fonctionnaires;
- (10) the Directive sur les frais remboursables lors d'un déplacement et autres frais inhérents;
- (11) the Directive sur le remboursement des frais de déplacement des cadres;
- (12) the Directive sur les frais remboursables lors d'un déplacement à l'extérieur du Québec;
- (13) the Directive sur les déménagements des fonctionnaires; and
- (14) the Directive concernant les indemnités et les allocations versées aux fonctionnaires affectés à l'extérieur du Québec.

O.C. 1042-2001, s. 2; O.C. 1485-2002, s. 1; O.C. 40-2013, s. 1.

DIVISION III

FILING OF APPEAL

3. A public servant shall lodge an appeal within 30 days of the event by sending a written notice to the Deputy Minister or the chief executive officer of the body. The 30-day period is mandatory.

The public servant shall also send a copy of the notice to his immediate superior and to the Commission de la fonction publique.

The notice shall be signed by the appellant and contain his name, address, classification, the directive on which the appeal relies and a brief summary of the facts, grounds invoked and conclusions sought. A copy of the decision appealed, where applicable, shall also be included in the notice.

O.C. 1042-2001, s. 3.

4. The Deputy Minister or the chief executive officer shall reply to the appellant within 30 days of the date on which the notice of appeal is sent.

At the request of the appellant, the Deputy Minister or the chief executive officer of the body, the parties shall meet to discuss the appeal and to attempt reaching a settlement.

O.C. 1042-2001, s. 4.

5. If the Deputy Minister or the chief executive officer fails to reply or if no notice of settlement is sent to the Commission, upon the expiry of the period prescribed by section 4, the Commission shall enter the appeal on the roll for hearing unless the appellant withdraws his appeal.

O.C. 1042-2001, s. 5.

6. No notice of appeal may be deemed invalid by the sole reason that it contains a formal defect or a procedural irregularity.

O.C. 1042-2001, s. 6.

DIVISION IV

HEARING OF APPEAL

7. The appellant and the department or body concerned or, if the secretary of the Conseil du trésor considers it a matter of governmental concern, the Secretariat of the Conseil du trésor, are parties before the Commission.

O.C. 1042-2001, s. 7.

8. The Commission shall give prior notice of the date, time and place of the hearing.

The Commission shall send that notice at least 21 days before the scheduled date of the hearing.

O.C. 1042-2001, s. 8.

9. The Commission may decide that several appeals of the same nature and relying on similar facts, regardless of who has lodged them, will be heard at the same time or that one of them will be heard and decided upon first, while the others are left pending until then.

O.C. 1042-2001, s. 9.

10. Upon request by one of the parties, the Commission shall summon a witness to declare what he knows, produce a document, or both, unless the Commission is of the opinion that the application for a summons is irrelevant on the face of it.

The subpoena shall be served at least 5 clear days before the hearing, or at least 10 clear days before the hearing if it is served on a minister, a deputy minister or the executive officer of a body.

In an emergency, the Commission may reduce the time for service on the subpoena.

O.C. 1042-2001, s. 10.

11. Minutes of the hearing shall be taken and shall contain the names of the appellant, attorneys and witnesses who have been heard.

The minutes shall also contain a list of the documents produced at the hearing, as well as the orders and incidental decisions of the Commission.

O.C. 1042-2001, s. 11.

12. The sittings of the Commission are public. The Commission may however order that a sitting be held in camera when necessary for preserving morals or public order.

O.C. 1042-2001, s. 12.

DIVISION V

DECISION

13. The Commission shall render its decision within 30 days of the date on which the appeal was taken under advisement.

O.C. 1042-2001, s. 13.

14. The Commission's decision is final and binding on the parties.

O.C. 1042-2001, s. 14.

15. In rendering its decision, the Commission may, at the request of a party, fix the amount owing under the decision, including any interest at the legal rate when the payment of interest is prescribed by a specific provision in a directive on which the appeal is based.

O.C. 1042-2001, s. 15.

16. The Commission shall send the parties a true copy of the decision.

O.C. 1042-2001, s. 16.

DIVISION VI

MISCELLANEOUS

17. In computing a time period, the day which marks the start of the period shall not be counted but, except in the case of clear days, the terminal day shall be counted. When the last day of a time limit is a paid holiday, a Saturday or a Sunday, the time period shall be extended to the first working day that follows.

O.C. 1042-2001, s. 17.

18. If the appeal is the subject of a withdrawal, an acquiescence in the demand or a partial or total settlement, the appellant or the other party, as the case may be, shall so inform the Commission de la fonction publique in writing before the decision is rendered.

O.C. 1042-2001, s. 18.

DIVISION VII

TRANSITIONAL AND FINAL

19. Any appeal pending upon 11 October 2001 shall proceed in accordance with the provisions of this Regulation.

O.C. 1042-2001, s. 19.

20. This Regulation replaces the Regulation respecting an Appeal Procedure for Senior Executives (O.C. 2291-85, 85-11-07) and the Regulation respecting an appeal procedure for public servants not governed by a collective agreement (O.C. 2292-85, 85-11-07).

O.C. 1042-2001, s. 20.

21. *(Omitted).*

O.C. 1042-2001, s. 21.

UPDATES

O.C. 1042-2001, 2001 G.O. 2, 5045

O.C. 1485-2002, 2003 G.O. 2, 51

O.C. 40-2013, 2013 G.O. 2, 247

