

The Legal Services Board of Nunavut

Policy for Nunavut Panel Application



2014



LEGAL SERVICES BOARD OF NUNAVUT

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POLICY FOR NUNAVUT PANEL APPLICATION

1.0 Policy Objectives

- 1.1 The Legal Services Board (the “LSB”) seeks to increase access to justice for Nunavummiut by supplementing its own staff lawyers with private bar lawyers who are willing to provide legal aid services to eligible and LSB approved clients in Nunavut.
- 1.2 The goal of the LSB’s Nunavut panel application process is to create a roster of resident and non-resident private bar lawyers to satisfy the LSB’s legislative mandate to maintain a private legal aid panel in Nunavut (the “Nunavut Panel”).
- 1.3 The Chief Executive Officer (CEO) of the LSB will assign legal aid work to lawyers on the Nunavut Panel in a fair and equitable manner in accordance with the criteria articulated under Section 37 of the *Legal Services Act*, R.S.N.W.T. 1988, c. L-4 (the “Act”).
- 1.4 Prior to assigning any private lawyer to a circuit, the CEO will take into consideration the experience, expertise and qualifications required on a file or circuit and choose counsel who is available and best suited.

1.5 The CEO has a positive obligation to ensure the administration of the panel and assignment of circuits is as economically practical as possible and that the interests of eligible persons are not prejudiced by the application of the rotation assignment system.

2.0 Definitions

“Resident” someone who ordinarily resides in Nunavut and meets the residency requirements of the *Income Tax Act of Canada* R.S.C.1985, c. 1.

“Resident Lawyer” a lawyer, in good standing with the Law Society of Nunavut, who is ordinarily resident in Nunavut and can provide proof of residency in accordance with the Nunavut residency requirements as stipulated in the *Income Tax Act of Canada* R.S.C. 1985, c. 1. Proof, in the form of the previous year’s tax designation of residency, may be requested by the CEO at the time the lawyer submits an application to be named to the Nunavut Panel.

A lawyer, newly resident to Nunavut, who is unable to provide the requisite tax designation due to recent relocation, may satisfy the residency requirements by, 1) submitting to the CEO for consideration a valid Nunavut driver’s license or Nunavut health card, and 2) proof of either operating a law office or being employed in a law office in Nunavut.

“Law Office”

a physical structure, located in Nunavut, open during regular business hours, Monday to Friday, where Nunavummiut may access legal services from a panel lawyer. Proof of a valid business license for Nunavut may be required by the CEO.

“Non-Resident Lawyer”

a lawyer who is not ordinarily resident in Nunavut. A non-resident lawyer applying for a position on the Nunavut Panel must provide proof that he or she is in good standing with the territorial or provincial law society in which she/he primarily practices.

3.0 Application

1. All lawyers, either resident or non-resident in Nunavut, who are in private practice, prepared to provide legal aid and not under a contract of service or for services entered into with the Board or a regional committee under which the lawyer is required to provide legal aid in a specified area and wish to have their names added to the Nunavut Panel, are required to submit their applications to the CEO of the LSB for consideration.

2. A resident lawyer will be asked to provide proof of residency in accordance with the Nunavut residency requirements as stipulated under the *Income Tax Act of Canada* R.S.C.1985 c.1.
3. Proof, in the form of the previous year's tax designation of residency, may be requested by the CEO at the time of submission of the lawyer's application to be included on the Nunavut Panel as a resident lawyer.
4. A lawyer, newly resident to Nunavut, unable to provide the requisite tax designation due to recent relocation, may satisfy the residency requirements by submitting to the CEO for consideration:
 - i) a valid Nunavut driver's license or Nunavut health card, and
 - ii) proof of operating a law office or being employed in a law office in Nunavut.
5. All applicants will furnish to the CEO a detailed work history evidencing her/his experience in the areas of family and or criminal law. Applicants are also required to provide a summary of their work and/or living experience in Nunavut to enable the CEO to properly consider when and if a departure from the rotation system under Section 37 is necessitated in assigning circuit work.
6. LSB may request any and or all lawyers on the panel to reapply, reaffirm or renew their panel application, annually or periodically, as LSB sees fit, to ensure that the panel list is current and that all lawyers listed on the panel are eligible, available and interested in being assigned legal aid files.

4.0 Principles

- 4.1 In accordance with Section 37 of the *Legal Services Act* R.S.N.W.T. 1988, c. L-4 (the “Act”), the CEO “shall make every attempt to ensure fairness and equity among the lawyers on the panel”.
- 4.2 The LSB is committed to ensuring that the assignment of files to Nunavut Panel lawyers is completed through a transparent and accountable rotation process.
- 4.3 It is within the discretion of the CEO to determine which files require legal representation by Nunavut panel lawyers. The discretion of the CEO may be exercised in consultation with regional clinic directors, regional lead counsel, and/or the Chief Operations Officer.
- 4.4 Section 37 (4) states that the CEO may depart from the Nunavut Panel rotation system when satisfied that:
- a) the operation of the rotation system would not be economically practical;
 - b) the interests of the eligible person would or might be prejudiced by the application of the rotation system; or
 - c) the lawyer who would be assigned will not or is unlikely to be available for the assignment; and/or would or might be involved in a conflict of interest; and/or does

not have the experience, expertise or qualifications required, having given consideration to all the circumstances.

4.5 A Nunavut Panel lawyer who has been assigned a file may not procure another lawyer to provide any legal aid relating to that file unless:

- d) prior approval is obtained from the CEO as circumstances warrant such an exception;
- e) the retention of the Nunavut Panel lawyer is confined to an appearance at an adjournment of a proceeding or an interlocutory or other preliminary motion in a proceeding; or
- f) the lawyer and eligible person agree in writing to a change of counsel and such agreement is approved by the CEO.

5.0 Roles and Responsibilities

5.1 Lawyers who have their names added to the Nunavut Panel will be responsible for submitting sufficiently detailed dockets to the CEO within sixty (60) days of the completion of any assigned file. It is within the discretion of the CEO to request additional information for submitted dockets prior to approving payment. Lawyers may request and reasonably obtain extensions beyond the 60-day period by providing explanation for the delay. The CEO may deny payment, in full or in part,

for insufficiently detailed dockets and associated invoices. The CEO may deny payment for docket received after 60-day period, if no extension is requested or granted.

- 5.2 A lawyer whose invoice has not been paid due to non-compliance with this policy may appeal, in writing, to the Executive Committee of the LSB for reconsideration.
- 5.3 A non-resident applicant is responsible for procuring her/his own license to practice law in Nunavut, either through a restricted appearance certificate or an annual membership to the Law Society of Nunavut. A non-resident lawyer will not be assigned work until proof of membership with the Law Society of Nunavut or an undertaking to provide same is submitted to the CEO. No file will be assigned to a lawyer who is not entitled to practice law by the Law Society of Nunavut.
- 5.4 In accordance with the regulations, “where a lawyer is unable for any reason to undertake legal aid during any period in excess of ten days he/she shall inform the CEO who shall cause the fact of his or her unavailability to be noted accordingly”.
- 5.5 Any lawyer who, for any reason, decides to have his or her name removed from the Nunavut Panel, will, after giving the CEO formal, written notice of same, complete all remaining work previously undertaken in a competent and professional manner in accordance with their professional obligations.
- 5.6 In accordance with Section 12.1 of the regulations, “a lawyer whose name has been removed from the Panel for any reason shall not be

entitled to reinstatement to any Panel without the approval of the Board of Directors or an Order of a Judge of the Nunavut Court of Justice under subsection 35(3) of the *Legal Services Act.*”