

The Legal Services Board of Nunavut

Appealing Your Denial of Legal Aid



2010



LEGAL SERVICES BOARD OF NUNAVUT

Box 125, Gjoa Haven, Nunavut. X0B-1J0
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Policy on the appeal process if your application for legal aid has been denied.

1.0 Policy Statement

- 1.1 The Legal Services Board (the “LSB”) is committed to providing legal aid services to eligible Nunavummiut.
- 1.2 If your application to receive legal aid assistance is denied you have the right to appeal the decision through a fair and transparent process.

2.0 Definitions

- Eligible Person A person is considered to be eligible to receive legal aid assistance if she/he,
- (1) has a meritorious case based upon the legal opinion of counsel;
 - (2) is resident in Nunavut; and
 - (3) receives all or most of his or her income from social assistance or falls within the financial eligibility criteria as per the financial eligibility grid.

In certain instances, the court may appoint a legal aid lawyer to represent a child in a proceeding.

Meritorious claim if, in the opinion of the lawyer reviewing the file,

- (1) it is likely the matter will ultimately be resolved in favor of the client,
or
- (2) there is a reasonably arguable case for the client, or
- (3) there is a sufficient interest or right at stake and representation is necessary to ensure issues of natural justice and procedural fairness are adhered to,

a claim will be deemed to be meritorious.

Denied the LSB may refuse to approve your legal aid application on one or more of the following grounds:

- (1) merit; and/or
- (2) residency; and/or
- (3) financial eligibility.

3.0 Policy Objective

- To ensure that every “eligible” Nunavummiut is provided with legal aid when required.
- To inform Nunavummiut who are denied legal aid assistance the process by which you may appeal the denial.

4.0 Application Process, Review and Decision

- 4.1 Once you have provided your application to receive legal aid to one of our three clinics in Nunavut, it will be assessed for financial eligibility.
- 4.2 If you are applying for criminal representation and have been deemed financially eligible, a criminal lawyer will be assigned to your file.
- 4.3 If you are applying for family or civil representation and have been deemed financially eligible, a lawyer will be assigned to write a legal opinion as to whether or not your case has legal merit. The Executive Director or their designate will review the legal opinion and make the decision as to whether or not your application for legal aid is approved. You will be informed whether you have been approved or denied legal aid representation regarding the matter(s) in your application.

5.0 Denial Letter

- 5.1 If your application to receive legal aid has been denied you will receive a letter explaining clearly, specifically and in plain language why your application for legal aid has not been successful. Grounds for denial include financial ineligibility, you are not a resident of Nunavut, your legal issue is outside those covered by legal aid or your case lacks sufficient legal merit to bring to Court. The letter will also explain how you can appeal this decision to the Executive Committee of the LSB.
- 5.2 The Executive Director of the LSB will retain a copy of your denial letter in your administrative file.

6.0 Appeal Process

- 6.1 If you wish to appeal your denial of legal aid, you can appeal the decision to the Executive Committee of the LSB. To start your appeal you must send a letter to the Executive Director of the LSB requesting an appeal. The letter should be sent to:

ATTN: Executive Director
Legal Services Board of Nunavut
P.O. Box 125
Gjoa Haven, Nunavut
X0B 1J0

- 6.2 In your appeal letter you must state the error and/or mistakes in the reason(s) stated in the denial letter, any additional or new information, and the reasons why you believe you are entitled to receive legal aid. You should also indicate whether or not you wish to speak at the hearing of your appeal.
- 6.3 When you send your letter please enclose all relevant materials that you would like the Executive Committee to consider at your appeal.
- 6.4 If you wish to speak at the hearing of your appeal, you should also state whether you need a translator at the hearing. LSB will provide at its own cost, a translator on your behalf.
- 6.5 If you do not provide further information at the time you request your appeal, the Executive Committee will rely on the materials in your file to assist in its determination.

- 6.6 Within sixty (60) days of the Executive Director receiving your letter, a meeting of the Executive Committee will be held to hear your appeal.
- 6.7 The Executive Director will inform you, in writing, of the date, time and place of your appeal at least thirty (30) days before your appeal is to be heard.
- 6.8 If you have informed the Executive Director that you wish to speak to the Executive Committee at the hearing of your appeal, the LSB will arrange for you to speak to the Executive Committee by telephone.
- 6.9 At the appeal, you will be given fifteen (15) minutes to explain why you feel you should be entitled to legal aid. You are welcome to have a support person (whether friend or family or someone else) assist you at the hearing. The support person may speak on your behalf during your 15 minutes. Any portion of time your support person speaks will be part of your total allocated 15 minutes.
- 6.10 If you require the use of an interpreter, you are entitled to speak to the Executive Committee for a period of thirty (30) minutes. The LSB will provide the use of an interpreter at its own cost.
- 6.11 A copy of the Executive Director's briefing memo will be provided to you at the time the hearing notice is sent out.
- 6.12 At the hearing of your appeal, the Executive Committee will consider 1) what you have provided in writing, 2) what you say at the hearing, and 3) the briefing memo provided by the Executive Director outlining the reasons for the original denial, to determine the outcome of your appeal.

6.13 A copy of the Executive Director's briefing memo will be provided to you at the time the hearing notice is sent out.

6.14 Within forty five (45) days of the hearing of the appeal you will be advised in writing of the Executive Committee's decision. If the Executive Committee denies your appeal you are entitled to appeal this decision to the Nunavut Court of Justice.