

ENERGY BOARD AND REGULATORY AND APPEALS BOARD APPOINTMENTS

Guidelines to Ensure Appointments Based on Merit

A. Composition of Advisory Committee

1. When the Minister responsible for the Nova Scotia Energy and Regulatory Boards Tribunal determines that an appointment to either the Nova Scotia Energy Board or the Nova Scotia Regulatory and Appeals Board is desirable, the Minister shall establish an Advisory Committee (the Committee) composed of:
 - (a) the Chair of the Energy Board and the Regulatory and Appeals Board, or designate;
 - (b) up to two members appointed by the Minister from among the membership of the Advisory Committee on Provincial Judicial Appointments;
 - (c) a human resource professional appointed by the Deputy Minister of the Public Service Commission;
 - (d) in the case of a full-time appointment,
 - (i) a member of an administrative tribunal of another Province, and
 - (ii) if there is an identified need for an appointee holding a specific professional designation, a representative of the professional association.
2. The Committee shall be chaired by the human resource professional.
3. A member of the Committee must disclose to the Chair of the Committee any real, apparent or perceived conflict of interest in relation to a candidate or the appointment process. A conflict may include, but is not limited to, circumstances where the Committee member:
 - (a) is related to, or has a close personal relationship with a candidate; or
 - (b) has a business, financial, contractual or other private interest involving a candidate.

The Chair of the Committee will determine whether the member may participate in any discussion, assessment or recommendation affected by the conflict.

4. The Committee may consider and give advice on one or more competitions.

5. Members of the Committee appointed pursuant to clause 1(b) shall receive the same remuneration as they do in their role on the Advisory Committee on Provincial Judicial Appointments for duties associated with the work of the Committee. The Chair of the Energy Board and the Regulatory and Appeals Board, or designate, shall receive no additional remuneration.
6. The Energy and Regulatory Boards Tribunal shall pay all reasonable expenses of the Committee and its members.
7. Where a member of the Advisory Committee on Provincial Judicial Appointments has been appointed to the Committee pursuant to clause 1(b), and that member's term on the Advisory Committee on Provincial Judicial Appointments ends prior to the completion of the work of the Committee, that member may continue as a member of the Committee, with compensation as described in clause 5, until such time that the work of the Committee has been completed.

B. Criteria to be Applied by the Committee

The Committee shall use the following criteria when evaluating applicants:

1. Personal characteristics:
 - (a) respect for the essential dignity of all persons regardless of their circumstances;
 - (b) integrity and fairness;
 - (c) politeness and consideration for others;
 - (d) moral courage;
 - (e) punctuality and good, regular work habits;
 - (f) good health except to the extent that any disability would not reasonably preclude performance as a member;
 - (g) not involved in serious, unresolved professional complaints, civil actions or outstanding financial claims such as unpaid taxes or insolvency proceedings; and
 - (h) an absence of pomposity and authoritarian tendencies.
2. Intellectual ability:
 - (a) fair and open-minded;
 - (b) flexible and not unreasonably rigid;
 - (c) able to make decisions promptly or within a reasonable period of time;

- (d) patient; and
 - (e) good listening skills.
- 3. Professional Excellence:
 - (a) an interest in and some aptitude for the administrative aspects of the Board's responsibilities;
 - (b) good writing and communication skills; and
 - (c) where a professional designation has been identified as a requirement for appointment by the Chair of the Energy Board and the Regulatory and Appeals Board and the Minister, candidates shall have:
 - (i) Good standing in the designated professional organization;
 - (ii) At least five years in the profession; and
 - (iii) A record of achievement in the profession.
- 4. Diversity:
 - (a) The Boards should be reflective of the diversity of our Province in terms of Indigenous people, African Nova Scotians and other racially visible people, persons with disabilities and women.
 - (b) As a designated public institution under the *French-language Services Regulations*, the Energy and Regulatory Boards Tribunal encourages members of the Acadian and francophone community to consider applying for Board positions.
 - (c) Candidates will be invited to self-identify whether they are a member of any of the groups described in clauses 4 (a) and (b). When a candidate has self-identified as such, this information will be supplied to the Minister in the event that they are a recommended candidate.
- 5. Community awareness and understanding:
 - (a) a commitment to public service;
 - (b) awareness of and interest in knowing more about the matters coming before the Boards;
 - (c) sensitivity to changes in social values relating to matters coming before the Boards; and

- (d) the ability to understand the public policies inherent in matters coming before the Boards.
- 6. The Committee will recommend the appointment of a well-qualified person from an under-represented group if no one else is clearly better qualified.

C. Advertising and Selection Process

- 1. All vacancies to be filled will be advertised.
- 2. In the case of full-time positions, advertising particular to the position will appear throughout the Province and, at the discretion of the Committee, in a national publication.
- 3. The Committee will consider written material submitted in support of an application and will interview applicants as it considers desirable.
- 4. The Committee will assess applicants and make notes regarding strengths and weaknesses of each.
- 5. The Committee will submit to the Minister responsible a summary of how many candidates applied, how many candidates self-identified as belonging to a bilingual or other diversity group as described in Section B, and to which diversity group they belong.
- 6. The Committee will submit to the Minister responsible a shortlist of recommended candidates with a precis of information about each including whether the candidate has self-identified as belonging to a bilingual or other diversity group as described in Section B, and to which diversity group they belong.
- 7. The shortlist will normally contain no fewer than three nor more than six candidates and candidates will not be ranked in order of the Committee's preference.
- 8. To ensure that the Government is given full and frank advice, the reports of the Committee will not be disclosed except to members of the Executive Council or persons preparing material for consideration by the Executive Council. All reports from the Committee will be kept strictly confidential.
- 9. Where advice received from other sources appears to be at variance with that of the Committee, the Minister may ask the Committee for a reassessment.
- 10. The Governor in Council has the ultimate responsibility to make appointments under the *Energy and Regulatory Boards Act*.

D. Reappointment Process for Full-Time Members

1. Full-time members, including Vice-chairs and the Chair, may be reappointed by the Governor in Council for subsequent terms not exceeding 10 years.
2. The Chair may request a member to confirm whether they wish to be reappointed. They will also confirm that the member is not the subject of any disciplinary action by a professional body. The member shall respond to the request within fourteen days of receipt of the request.
3. Not less than 12 months before the expiration of a member's appointment, the Chair will advise the Minister on whether the member desires to be re-appointed, and in the Chair's view:
 - (a) Has demonstrated that they continue to meet the criteria set out in Section B.
 - (b) Acts independently and remains free from conflicts of interest.
 - (c) Supports and continues to meet the performance standards established for the Board in the annual business plan.
4. The Chair may provide additional advice to the Minister as required.
5. The Minister will consider the advice provided and may recommend to Governor in Council that the member be reappointed.
6. If:
 - (a) the Minister decides not to recommend the reappointment at this time, and,
 - (b) the Board cannot meet the minimum number of members required by the Act as a result,the Minister will:
 - (c) proceed with the process to appoint a new member as set out in Sections A through C, and,
 - (d) advise the Chair and member of their decision.

Reappointment of a Vice-chair

7. The Chair may request a Vice-chair to confirm whether they wish to be reappointed. They will also confirm that the Vice-chair is not the subject of any

disciplinary action by a professional body. The Vice-chair shall respond to the request within fourteen days of receipt of the request.

8. Not less than 12 months before the expiration of a Vice-chair's appointment, the Chair will advise the Minister on whether the Vice-chair desires to be re-appointed, and in the Chair's view:
 - (a) Has demonstrated that they continue to meet the criteria set out in Section B.
 - (b) Acts independently and remains free from conflicts of interest.
 - (c) Supports and continues to meet the performance standards established for the Board in the annual business plan.
9. The Chair may provide additional advice to the Minister as required.
10. The Minister will consider the advice provided and may:
 - (a) Recommend to Governor in Council that the Vice-chair be reappointed.
 - (b) Request that the Chair canvas existing Board members for their interest in serving as Vice-chair, invite interested Board members to submit applications, and request any additional advice that the Minister feels necessary.
 - (c) Recommend to Governor in Council that another Board member be appointed Vice-chair.
11. If:
 - (a) the Minister decides not to recommend the reappointment at this time, and,
 - (b) the Board cannot meet the minimum number of members required by the Act as a result,the Minister will:
 - (c) proceed with the process to appoint a new member as set out in Sections A through C, and,
 - (d) advise the Chair and Vice-chair of their decision.

Reappointment of the Chair

12. In the event the Chair is being considered for reappointment:
 - (a) Not less than 12 months before the expiration of the Chair's appointment, the Chair will advise the Minister whether they desire to be considered for reappointment.
 - (b) The Chair will confirm that they are not the subject of any disciplinary action by a professional body and, if requested by the Minister, provide additional information or consent necessary to verify the Chair's professional standing with the relevant professional body. The Chair shall respond to the request within fourteen days of receipt of the request.
 - (c) The Minister may request any additional advice from the Chair or other Board members they feel necessary and may:
 - (i) Recommend to Governor in Council that the Chair be reappointed.
 - (ii) Determine that more information is required and establish an Advisory Committee in accordance with Section A, modified as below.
 - (d) The Advisory Committee to recommend a Chair shall:
 - (i) Be convened without participation by the Chair if their reappointment is under consideration.
 - (ii) Canvas existing Board members for their interest in serving as Chair and invite interested Board members to submit applications.
 - (iii) If so directed by the Minister, consider applicants external to the Boards, in accordance with the process for new members set out in Section C.
 - (iv) Interview such persons as it considers advisable.
 - (v) Make such inquiries or analysis as it considers prudent and desirable.
 - (vi) Report the scope and results of their work to the Minister including a recommendation on whether to reappoint or appoint a new Chair.
13. The Minister may provide the Committee with qualifications and/or experience required for the Chair, in addition to those set out in Section B.

14. For greater certainty, nothing in this Section prevents a member whose term is expiring, including the Chair or a Vice-chair, from applying for reappointment and being considered for any advertised vacancy on the Boards in accordance with the appointment process set out in Sections A through C.