

Decisions

Decision 1384-1, 25 October 2007

An Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., c. A-2.1)

CONCERNING the Regulation respecting the procedure for selecting persons qualified for appointment as members of the Commission d'accès à l'information

As the Commission d'accès à l'information was established under the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., c. A-2.1);

As according to sections 103 and 104 of that Act, as amended by sections 67 and 68 of the Act to amend the Act respecting Access to documents held by public bodies and the Protection of personal information and other legislative provisions (2006, c. 22), the Commission consists of two divisions, namely an oversight division and an adjudication division, and is composed of at least five members, including a chair and a vice-chair, appointed on a motion of the Prime Minister, by a resolution of the National Assembly approved by at least two-thirds of its members and stating the division to which the members are assigned for the duration of their terms;

As according to section 104.1 of that Act, as enacted by section 69 of the Act to amend the Act respecting Access to documents held by public bodies and the Protection of personal information and other legislative provisions, the members of the Commission d'accès à l'information are chosen beforehand according to the procedure for selecting persons qualified for appointment as members of the Commission established by regulation of the Office of the National Assembly;

As according to that section, the Office may, in particular,

(1) determine the manner in which a person may seek office as a member of the Commission d'accès à l'information;

(2) establish a selection committee to assess the qualifications of candidates for the office of member and give an opinion on the candidates to the Office;

(3) determine the composition of the committee and the method of appointing the committee members;

(4) determine the selection criteria to be taken into account by the committee; and

(5) determine the information that the committee may require of a candidate and the consultations it may carry out;

As according to that section, committee members are not remunerated, except in the cases, on the conditions and to the extent determined by the Office, and are entitled to the reimbursement of expenses incurred in the exercise of the functions of office, on the conditions and to the extent determined by regulation of the Office;

As in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a proposed Regulation respecting the procedure for selecting persons qualified for appointment as members of the Commission d'accès à l'information was published in the *Gazette officielle du Québec* on 4 July 2007;

As according to section 17 of that Act, a regulation comes into force 15 days after the date of its publication in the *Gazette officielle du Québec* or on any later date specified in the regulation or the Act under which it is made or approved;

As according to section 183 of the Act to amend the Act respecting Access to documents held by public bodies and the Protection of personal information and other legislative provisions, section 69 of the Act to amend the Act respecting Access to documents held by public bodies and the Protection of personal information came into force on 15 June 2007;

As it is expedient that the Office approve a procedure for selecting persons qualified for appointment as members of the Commission d'accès à l'information;

BY DECISION, THE OFFICE

APPROVES the Regulation respecting the procedure for selecting persons qualified for appointment as members of the Commission d'accès à l'information; and

ORDERS the publication of the regulation in the *Gazette officielle du Québec*.

MICHEL BISSONNET,
President of the National Assembly

Regulation respecting the procedure for selecting persons qualified for appointment as members of the Commission d'accès à l'information

An Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., c. A-2.1, s. 104.1)

CHAPTER I RECRUITMENT NOTICE

1. When a list of persons qualified for appointment as members of the Commission d'accès à l'information is to be prepared, the Office of the National Assembly publishes a recruitment notice in three daily newspapers in Québec, inviting interested persons to submit their candidacy for the position of member of the Commission.

2. The recruitment notice must

- (1) contain a brief description of the position;
- (2) state the place where a person appointed is to be principally assigned and the division to which he or she is to be assigned for the duration of the term;
- (3) set out the eligibility requirements and the selection criteria prescribed by the Act and this Regulation and, where applicable, the professional qualifications and particular experience sought, given the Commission's needs;
- (4) describe how personal information is to be protected in the context of the selection procedure, and mention that the selection committee may consult with third parties; and
- (5) state the deadline for submitting a candidacy and the address where documents must be sent.

CHAPTER II CANDIDATES

3. Candidates must send in a résumé containing the following information:

(1) their name, home address and telephone number and, where applicable, their office address and telephone number;

(2) their date of birth;

(3) the college and university diplomas they hold;

(4) if they are a member of a professional order, the year of admission to the order, proof of membership and the number of years of practice, along with the main sectors of activity in which they have worked;

(5) a description of the activities through which they have acquired at least 10 years' experience relevant to the position of member of the Commission;

(6) any conviction for an indictable or criminal offence and any disciplinary decision made in their regard, together with a description of the offence or breach concerned and the penalty or disciplinary measure imposed;

(7) any conviction for a penal offence, together with a description of the offence concerned and the penalty imposed, if there is reasonable cause to believe that such an offence is likely to call into question their integrity or impartiality or that of the Commission, affect their ability to perform their duties or undermine public trust in them;

(8) the names of their employers or partners over the last 10 years; and

(9) a summary of the reasons for their interest in the position of member of the Commission.

Candidates must also provide a written statement agreeing to inquiries being made of an educational institution they attended, a professional order to which they belong or belonged, their employers in the last 10 years, a disciplinary body, police authorities or any other party.

CHAPTER III ESTABLISHMENT OF SELECTION COMMITTEE

4. Following the publication of the recruitment notice, the President of the National Assembly establishes a selection committee consisting of the following members:

(1) a chair, namely the chair of the Commission or, after consulting the chair of the Commission, another member of the Commission;

(2) Members of the National Assembly, one for each parliamentary group within the meaning of the Standing Orders of the National Assembly; and

(3) after consulting the Secretary General of the National Assembly, two persons the President considers representative of persons working in the field of access to documents held by public bodies or the protection of personal information.

5. A committee member whose impartiality could be questioned must withdraw with respect to a candidate, including in the following situations:

(1) the member is or was the candidate's spouse;

(2) the member is related to the candidate by birth or marriage, up to the degree of first cousin; or

(3) the member is a partner, employer or employee of the candidate or was such a partner, employer or employee in the last 10 years; however, a member who is in the public service must withdraw with respect to a candidate only if the member is or was under the direct supervision of the candidate or is or was the candidate's immediate superior.

If a committee member has withdrawn or is absent or unable to act, the decision is made by the other members.

6. Committee members must take an oath of discretion before the Secretary General of the National Assembly, solemnly declaring that they will not disclose, without due authorization, any information that comes to their knowledge in the exercise of their functions.

7. The committee's mandate is to determine whether a candidate is qualified for the position to be filled.

8. The President of the National Assembly sends the list of candidates and their files to the chair of the selection committee.

CHAPTER IV ELIGIBILITY REQUIREMENTS AND SELECTION CRITERIA

9. In addition to the eligibility requirements prescribed by the Act and this Regulation, only a person having 10 years' relevant experience may be a member of the Commission.

10. The committee analyzes the candidates' files, short-lists the candidates who, in its opinion, meet the eligibility requirements and informs the other candidates that they have not been selected.

11. The selection criteria to be taken into account by the committee in determining whether a candidate is qualified are

(1) the candidate's personal and intellectual qualities and experience and knowledge in and interest for the field of access to documents held by public bodies or the protection of personal information;

(2) the candidate's judgment, listening skills, perceptiveness, level-headedness, decision-making abilities and expressive abilities; and

(3) the candidate's perception of the functions of a member of the Commission.

12. The committee may apply evaluative measures that it determines to candidates who meet the eligibility requirements.

13. The chair of the committee informs candidates who perform well on any such evaluative measures of the date and place of their meeting with the committee and informs the other candidates that they have not been selected.

Interviews are held without publicity, and at a discreet time and place.

CHAPTER V REPORT OF SELECTION COMMITTEE

14. The committee promptly submits its report to the President of the National Assembly.

15. The report must list the candidates the committee considers qualified for the position of member of the Commission.

The report may also include any comments that the committee considers appropriate, especially with respect to the particular characteristics or qualifications of the qualified candidates.

The list of qualified candidates remains valid for three years.

16. Committee decisions are made by a majority of its members. The committee chair has a casting vote.

17. A committee member may register dissent with respect to all or part of the report.

18. The President of the National Assembly forwards the list of candidates the committee considers qualified for the position of member of the Commission to the Premier.

19. If the Premier considers that, given the list of candidates, it would not be in the best interests of the proper discharge of the functions of the Commission to recommend a person for appointment, the Premier asks the President of the National Assembly to have a recruitment notice published in accordance with Chapter I.

The selection committee established after the publication of the new notice may include persons having sat on a previous committee.

CHAPTER VI

FINAL PROVISION

20. Committee members are entitled to the reimbursement of transportation, meal and accommodation expenses in accordance with the Directive sur les frais remboursables lors d'un déplacement et autres frais inhérents (C.T. 194603 dated 30 March 2000).

In addition to the reimbursement of those expenses, committee members who are not Members of the National Assembly, members of the Commission or employees of a government department or body are entitled to a fee of \$100 for each half-day of committee meetings they attend.

Expenses and fees are authorized by the Secretary General of the National Assembly and paid out of sums provided for that purpose in the budget of the National Assembly.