

Regulations and other Acts

Gouvernement du Québec

O.C. 14-2012, 11 January 2012

Courts of Justice Act
(R.S.Q., c. T-16)

An Act respecting municipal courts
(R.S.Q., c. C-72.01)

Selection procedure of candidates for the office of judge of the Court of Québec, municipal court judge and presiding justice of the peace

Regulation respecting the selection procedure of candidates for the office of judge of the Court of Québec, municipal court judge and presiding justice of the peace

WHEREAS, under the first paragraph of section 88 of the Courts of Justice Act (R.S.Q., c. T-16), the Government may, by regulation, establish the procedure for the selection of persons apt for appointment as judges of the Court of Québec;

WHEREAS, under section 163 of the Act, the Government may, by regulation, establish the selection procedure for persons apt for appointment as presiding justices of the peace;

WHEREAS, under sections 34 and 118 of the Act respecting municipal courts (R.S.Q., c. C-72.01), the Government may, by regulation, establish the procedure for the selection of persons apt for appointment as municipal court judges;

WHEREAS, under those legislative provisions, the regulation may, in particular,

(1) determine the manner in which a person may apply for the office of judge;

(2) authorize the Minister of Justice to form a selection committee to evaluate the aptitude of candidates for the office of judge and to provide the Minister with an opinion concerning the candidates;

(3) fix the composition and mode of appointment of committee members;

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

(5) determine the information which the committee may require of a candidate and the consultations which the committee may make;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation respecting the selection procedure of candidates for the office of judge of the Court of Québec, municipal court judge and presiding justice of the peace was published in Part 2 of the *Gazette officielle du Québec* of 5 October 2011 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Justice:

THAT the Regulation respecting the selection procedure of candidates for the office of judge of the Court of Québec, municipal court judge and presiding justice of the peace, attached to this Order in Council, be made.

GILLES PAQUIN,
Clerk of the Conseil exécutif

Regulation respecting the selection procedure of candidates for the office of judge of the Court of Québec, municipal court judge and presiding justice of the peace

Courts of Justice Act
(R.S.Q., c. T-16, ss. 88 and 163)

An Act respecting municipal courts
(R.S.Q., c. C-72.01, ss. 34 and 118)

CHAPTER I SCOPE AND DEFINITION

1. This Regulation establishes the terms and conditions of the selection procedure of candidates for the office of judge of the Court of Québec, municipal court judge and presiding justice of the peace.

It establishes a secretariat responsible for the administration of that procedure.

2. For the purposes of this Regulation, unless otherwise indicated, “judge” means a judge of the Court of Québec, a municipal court judge and a presiding justice of the peace.

CHAPTER II

SECRETARIAT FOR THE SELECTION OF CANDIDATES FOR JUDICIAL OFFICE

3. The secretariat for the selection of candidates for judicial office, directed by a secretary, is hereby established within the Ministère de la Justice.

The secretary acts under the authority of the Deputy Minister, who designates the secretary after consultation with the chief judge of the Court of Québec and the Barreau du Québec.

The secretary and employees of the secretariat take the oath of discretion appearing in Schedule B.

4. The function of the secretariat is to administer the selection procedure of candidates for judicial office. For each competition, the secretariat publishes the information concerning the steps of the selection procedure on the website of the Ministère de la Justice. The secretariat takes the necessary measures to ensure the confidentiality of the information referred to in the first paragraph of section 34.

5. The secretariat ensures that the members of selection committees receive the training required for the exercise of their functions.

The training includes in particular the structure of the court system, the judicial function in general and the qualities required for the office of judge, in relation to the criteria established for the judicial vacancy. In addition, the members of selection committees are aware of the objective to promote gender parity and the representation of cultural communities within the judiciary.

6. The secretariat files on the website of the Ministère de la Justice an annual report on the work of the selection committees. The report contains an analysis of the appointments for judicial office considering the representation of men and women and that of cultural communities.

The secretary sends a copy of the report to the Minister of Justice.

CHAPTER III

SELECTION PROCEDURE

DIVISION I

NOTICE OF JUDICIAL VACANCY

7. Where a judge must be appointed and after having taken in consideration the needs expressed by the chief judge of the Court of Québec or, as the case may be, the needs expressed by the municipality in which the chief-place of the municipal court is located and by the associate chief judge of the Court of Québec who is responsible for municipal courts, the secretary holds, at the Minister’s request, a competition and publishes in the Journal of the Barreau du Québec and on the website of the Ministère de la Justice a notice inviting interested persons to submit their application.

8. A single competition may be held for various offices of judge of the Court of Québec for the same division or divisions or for various offices of presiding justice of the peace, as the case may be, if

(1) the place of residence pertaining to those offices is the same; or

(2) the place of residence pertaining to those offices is situated in the territory comprised of the territories of the cities of Montréal, Laval and Longueuil.

A single competition may also be held for various judicial offices for the same municipal court.

9. The notice includes the following information:

(1) the legal conditions of eligibility for judicial office;

(2) the court and the division, if applicable, where an office is vacant;

(3) the place where the judge’s residence will be established, if applicable;

(4) the requirement that interested persons submit their application to the secretariat for the selection of candidates for judicial office on the form appearing in Schedule A and provide the documents required in support of their application;

(5) the selection criteria provided for in section 25 used to assess the application of every candidate met by a selection committee;

(6) the address of the secretariat; and

(7) the final date for submitting one’s application.

10. The secretary sends the notice to the chief judge of the Court of Québec, to the Conseil de la magistrature, to the Bâtonnier du Québec, to the bâtonnier of any division concerned, and to the Office des professions du Québec. In the case of a position to be filled in a municipal court, the notice is also sent to the municipality in which the chief-place of the municipal court is located and to the associate chief judge of the Court of Québec who is responsible for municipal courts.

DIVISION II APPLICATION FOR THE OFFICE OF JUDGE

11. Persons who wish to submit their application must, not later than the date indicated in the notice, send to the secretariat the form appearing in Schedule A, duly completed, along with a recent photograph and proof of their entry on the Roll of the Ordre des avocats, if applicable.

In addition, every candidate must

(1) consent to verifications to be made concerning the candidate with any disciplinary body, any professional order, police authorities and credit agencies;

(2) undertake to preserve the confidentiality of the filing of the candidate's application and that of any decision made in respect of the application; and

(3) undertake not to exert directly or indirectly any influence on the appointment for judicial office.

Paper documents sent by mail are presumed received by the secretariat on the date of mailing. Technology-based documents are presumed received by the secretariat when they become accessible at the address of the secretary, as provided in section 31 of the Act to establish a legal framework for information technology (R.S.Q., c. C-1.1).

12. When a candidate's file is complete and the candidate meets the legal conditions of eligibility, the secretary sends it to the chair of the selection committee established by the Minister and so informs the candidate.

When a candidate's file is received after the closing date indicated in the notice or the candidate does not meet the legal conditions of eligibility, the secretary returns the file to the candidate, who is deemed not to have applied.

13. Members of the selection committee may not submit their application for judicial office during their term and for one year following the filing of the report of the selection committee.

DIVISION III SELECTION COMMITTEE

14. Following publication of the notice, the Minister of Justice establishes the selection committee and appoints the members.

The function of the committee is to assess the applications for judicial office and make a report. The committee may be established to perform its duties in view of more than one competition.

15. Where a person is to be appointed to the office of judge of the Court of Québec or the office of presiding justice of the peace, the committee is composed of

(1) the chief judge of the Court of Québec or a judge designated by the chief judge from among the judges of the Court of Québec or presiding justices of the peace, who will act as chair of the committee;

(2) two persons designated by the Barreau du Québec,

(a) where one person is an advocate, and

(b) one person works in law and the person's professional activities do not include representation before the courts, promoting the presence of representatives of Québec universities where possible to do so;

(3) two persons who are not judges or members of the Barreau du Québec or the Chambre des notaires du Québec, designated by the Office des professions du Québec.

16. Where a person is to be appointed to the office of municipal court judge, the committee is composed of

(1) the associate chief judge of the Court of Québec who is responsible for municipal courts or of a judge designated by the associate chief judge from among municipal court judges, who will act as chair of the committee;

(2) two persons designated by the Barreau du Québec,

(a) where one person is an advocate, and

(b) one person works in law and the person's professional activities do not include representation before the courts, promoting the presence of representatives of Québec universities where possible to do so;

(3) two persons who are not judges or members of the Barreau du Québec or the Chambre des notaires du Québec, designated by the Office des professions du Québec.

17. For the purposes of paragraphs 2 and 3 of sections 15 and 16, the Barreau du Québec and the Office des professions du Québec must, on a yearly basis and where possible to do so, tend towards gender parity and promote the representation of cultural communities and that of the population of the region covered by the position of judge to be filled.

18. Where a member is absent or disqualifies himself or herself, the Minister may appoint a person to act as a substitute, following the mode of appointment prescribed for the appointment of the member to replace.

19. Members must take the oath of discretion appearing in Schedule B.

They must take the measures required to ensure the confidentiality of the information referred to in the first paragraph of section 34.

20. Members must undergo the training proposed by the secretariat established in Chapter II.

21. A member must disqualify himself or herself with respect to a candidate

- (1) if that member is or has been the candidate's spouse;
- (2) if that member is related to the candidate by blood or marriage to the degree of first cousin inclusively;
- (3) if that member is or has been a partner, employer, immediate superior or employee of the candidate in the last five years; or
- (4) if there is reasonable cause to fear that the member will not be impartial for any other reason.

For the purposes of subparagraph 4 of the first paragraph, a member must immediately bring to the attention of the chair of the committee any fact to justify reasonable apprehension of bias.

A candidate may bring a ground for disqualification of one of its members to the attention of the committee that assesses his or her application.

22. A person may be appointed to several committees at the same time.

DIVISION IV OPERATION OF THE SELECTION COMMITTEE

23. The chair of the committee decides every question relating to the operation, work and report of the committee, including those relating to the application of section 21.

The chair informs the candidates of the date and place where they will be met.

24. The committee must meet candidates privately.

The chair may exceptionally authorize, instead of a meeting, the holding of an interview using means that allow participants to see and hear each other.

DIVISION V SELECTION CRITERIA

25. To assess the application of a candidate, the committee considers the following criteria:

- (1) the candidate's competencies, including
 - (a) personal and intellectual qualities, integrity, knowledge and general experience;
 - (b) extent of knowledge of the law and experience in the areas of law in which the judicial duties will be performed; and
 - (c) capacity for judgment, insight, level-headedness, ability to set priorities and to render a decision within a reasonable time, and quality of expression;
- (2) the candidate's conception of the judicial office;
- (3) the candidate's motivation for the judicial office;
- (4) the candidate's human, professional, social and community experience;
- (5) the candidate's level of awareness with respect to social realities; and
- (6) recognition by the legal community of the candidate's qualities and competencies.

DIVISION VI REPORT OF THE SELECTION COMMITTEE

26. In order to allow the Minister to make a recommendation to the Cabinet, the selection committee draws up a report indicating, in alphabetical order, the names of three candidates qualified to be appointed as judges that it proposes. Where a competition is held for more than one office, the number of candidates is three for each additional office.

If the committee cannot propose the number of candidates required under the first paragraph, the committee indicates in the report the reasons for that impediment.

A candidate is proposed where a majority of the members is in favour of the proposal.

In its report, the committee gives a personalized appreciation of the proposed candidates.

No political affiliation may be considered by the committee when assessing the applications and making proposals to the Minister or by the Minister when choosing a candidate to be recommended to the Cabinet.

27. The proposals of the committee are valid only for an office included in the competition for which the committee is established.

28. The chair sends the committee's report to the secretary.

The secretary sends to the Deputy Minister the report along with the files of proposed candidates. The Deputy Minister sends the report to the Minister.

29. For each proposed candidate, the secretary makes the necessary verifications with disciplinary bodies, professional orders, police authorities and credit agencies.

DIVISION VII SPECIAL PROVISIONS RELATING TO MUNICIPAL COURT JUDGES

30. A judge appointed to a municipal court may be appointed to another municipal court. To that end, the judge must, following the publication of a notice of judicial vacancy, submit his or her application in accordance with Division II.

For the purposes of the first paragraph, Chapter III applies, with the following modifications:

(1) the candidate must send the documents referred to in section 11 within the period provided for in the notice of selection to the associate chief judge of the Court of Québec who is responsible for municipal courts;

(2) the associate chief judge of the Court of Québec who is responsible for municipal courts must send to the secretary the documents referred to in paragraph 1 and his or her comments on every application received under the first paragraph within 30 days after the expiry of the period provided for in the notice of selection;

(3) the candidate referred to in the first paragraph is deemed to have been proposed by the selection committee; and

(4) the number of candidates proposed under the first paragraph of section 26 is increased by the number of municipal court judges who submitted their application.

DIVISION VIII EXPENSES AND ALLOWANCES OF MEMBERS OF A SELECTION COMMITTEE

31. Committee members, except judges and members who hold offices or positions in the public service or in a body or agency whose members are appointed by the Government, receive fees of \$100 per half day of attending committee meetings or training activities.

32. Members are entitled to be reimbursed for expenses incurred to attend committee meetings or training activities, as provided in the order made under section 119 of the Courts of Justice Act (R.S.Q., c. T-16).

DIVISION IX MISCELLANEOUS

33. If, after receiving a committee's report and considering the list of proposed candidates, the Minister is of the opinion that, in the best interests of justice, the Minister cannot choose for a position a candidate to be recommended to the Cabinet for appointment, the Minister may request the committee to propose the name of other candidates qualified to be appointed as judges for that position, in accordance with section 26.

Where the committee is unable to satisfy the Minister's request, the secretary publishes a new notice in accordance with Division I. The committee that made a report following the first notice analyzes the files of persons who submitted their application, meets the candidates and sends its report in accordance with Division VI.

For the purposes of the second paragraph, persons who submitted their application following the publication of the first notice may not submit it again following the publication of the second notice.

34. The names of candidates, the selection committee's report, the list of proposed candidates and documents relating to an application are confidential.

Despite the first paragraph, every candidate is informed by the secretary of whether or not the candidate has been proposed by the committee, after the appointment of the candidate retained for judicial office.

CHAPTER IV**FINAL**

35. The Regulation respecting the procedure for the selection of persons apt for appointment as judges (R.R.Q., c. T-16, r. 5), amended by section 66 of chapter 21 of the Statutes of 1988, and the Regulation respecting the procedure for the selection of persons for appointment as municipal judges, made by Order in Council 915-89 dated 14 June 1989, are revoked.

Despite the foregoing, those Regulations continue to apply to the selection procedures in progress on the date of coming into force of this Regulation. However, every declaration of aptitude of a candidate for judicial appointment, for which a competition was held under a regulation revoked by the first paragraph, has no effect in respect of a competition for which a notice was published under this Regulation.

36. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

**SCHEDULE A
(ss. 9 and 11)**

**Application for the office of judge of the Court of Québec,
municipal court judge or presiding justice of the peace**

Surname			
Given name			
Male <input type="checkbox"/>	Female <input type="checkbox"/>	Member of a cultural community (optional) <input type="checkbox"/>	
Residential address			
Business address			
Email			
Residence number	telephone	Business number	telephone Cellphone number
Where do you want your mail to be sent? Office <input type="checkbox"/> Residence <input type="checkbox"/>			

POSITION OF JUDGE AT THE COURT OF QUÉBEC			
Competition number		Place of residence of the judge to be appointed	
Division(s) where the judge will hold office			

POSITION OF PRESIDING JUSTICE OF THE PEACE			
Competition number		Place of residence of the judge to be appointed	

POSITION OF MUNICIPAL COURT JUDGE			
Competition number		Identification of the municipal court concerned	

<p>IF YOU RESIDE IN A JUDICIAL DISTRICT DIFFERENT FROM THE PLACE OF RESIDENCE FIXED FOR THE POSITION OF JUDGE TO BE FILLED, PLEASE INDICATE THE REASONS FOR WHICH YOU WOULD ACCEPT TO BE APPOINTED IN THAT DISTRICT</p>

CONDITION OF ADMISSION: 10 YEARS EXPERIENCE	
Year of admission to the Barreau du Québec	
Number of years in the practice of law	
Proof of entry on the Roll of the Barreau du Québec	BQ membership card or <input type="checkbox"/> BQ attestation <input type="checkbox"/> Not registered <input type="checkbox"/>
<i>(If applicable, indicate the reasons for your absence from the Roll of the Order.)</i>	

PROFESSIONAL EXPERIENCE

(Employers, main sectors of activities, time periods, including experience acquired before obtaining an undergraduate degree in law).

IF YOU HAVE NOT PRACTISED LAW FOR AT LEAST 10 YEARS SINCE OBTAINING THE CERTIFICATE OF COMPETENCE TO PRACTISE THE PROFESSION OF ADVOCATE

(Indicate the nature of the professional activities that allowed you to acquire relevant law experience and the number of years during which the activities were practised.)

**HUMAN, PROFESSIONAL, SOCIAL OR COMMUNITY EXPERIENCE,
PUBLICATIONS, HONORARY OR ACADEMIC AWARDS YOU WISH TO MENTION
TO THE COMMITTEE**

(Describe briefly.)

REASONS FOR YOUR INTEREST IN BEING JUDGE

Reasons and personal or professional qualities you have that, in your opinion, make you qualified to hold the position of judge

POST-COLLEGE TRAINING (University and professional training)
<i>(Name of the university or professional institution, years of attendance, diploma or permit to practise and date diploma or permit was obtained.)</i>

Languages spoken	French <input type="checkbox"/>	English <input type="checkbox"/>	Other <input type="checkbox"/>
Languages written	French <input type="checkbox"/>	English <input type="checkbox"/>	Other <input type="checkbox"/>

HAVE YOU BEEN THE SUBJECT OF A COMPLAINT BEFORE A COMPETENT BODY OF THE BARREAU DU QUÉBEC, THE PROFESSIONS TRIBUNAL OR THE CONSEIL DE LA MAGISTRATURE?

Yes No

(If yes, describe the object of the complaint / attach any relevant document.)

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HAVE YOU BEEN THE SUBJECT OF A DISCIPLINARY DECISION RENDERED BY A COMPETENT BODY OF THE BARREAU DU QUÉBEC, THE PROFESSIONS TRIBUNAL OR THE CONSEIL DE LA MAGISTRATURE?

Yes No

(If yes, describe the object and reasons of the decision / attach any relevant document.)

HAVE YOU BEEN THE SUBJECT OF A COMPLAINT OUTSIDE QUÉBEC THAT, IF IT HAD BEEN MADE IN QUÉBEC, WOULD HAVE BEEN BROUGHT BEFORE A COMPETENT BODY OF THE BARREAU DU QUÉBEC, THE PROFESSIONS TRIBUNAL OR THE CONSEIL DE LA MAGISTRATURE?

Yes No

(If yes, describe the object of the complaint / attach any relevant document.)

HAVE YOU BEEN THE SUBJECT OF A DISCIPLINARY DECISION RENDERED OUTSIDE QUÉBEC THAT, IF IT HAD BEEN RENDERED IN QUÉBEC, WOULD HAVE HAD THE EFFECT OF A DECISION RENDERED BY A COMPETENT BODY OF THE BARREAU DU QUÉBEC, THE PROFESSIONS TRIBUNAL OR THE CONSEIL DE LA MAGISTRATURE?

Yes No

(If yes, describe the object and reasons of the decision / attach any relevant documents.)

HAVE YOU EVER BEEN FOUND GUILTY OF A CRIMINAL OFFENCE OR AN INDICTABLE OFFENCE?

Yes No

(If yes, explain and indicate the offence and the sentence given. Indicate if you were granted a pardon regarding the conviction.)

HAVE YOU HAD OTHER PROBLEMS WITH THE LAW, INCLUDING BANKRUPTCY OR ASSIGNMENT OF PROPERTY?

Yes No

(If yes, explain briefly.)

ARE YOU OR HAVE YOU BEEN IN THE LAST 5 YEARS IN A PRECARIOUS FINANCIAL SITUATION?

Yes No

(If yes, explain briefly.)

DO YOU HAVE HEALTH PROBLEMS THAT COULD PREVENT YOU FROM HOLDING THE OFFICE OF JUDGE?

Yes No

(If yes, explain briefly.)

IS THERE A CURRENT OR PAST FACT OR SITUATION THAT MAY HAVE NEGATIVE CONSEQUENCES FOR YOURSELF OR THE JUDICIARY AND THAT MUST BE DISCLOSED?

Yes No

(If yes, describe the fact or situation.)

Attach a recent photograph and a photocopy of your Barreau membership card, if applicable, to this form. Those documents must be forwarded in 6 copies.

I consent to verifications to be made concerning me with any disciplinary body, any professional order, including the Barreau du Québec, to which I belong or have belonged, and with police authorities and credit agencies. For that purpose, my date of birth and social insurance number are

(Date of birth)

(Social insurance number)

I undertake to preserve the confidentiality of the filing of my application and that of any decision made in respect of my application.

I undertake not to exert directly or indirectly any pressure or influence on my appointment for judicial office.

I certify that all the information provided is accurate to my knowledge.

Date: _____ Signature: _____

SCHEDULE B
(ss. 3 and 19)

OATH OF DISCRETION

I declare under oath that I will not reveal or disclose, unless duly authorized, anything that may come to my knowledge in the discharge of my duties.

Name of declarant

Sworn before me

at _____

this _____

Person authorized to administer the oath