

Treasury Board

Gouvernement du Québec

T.B. 214922, 21 April 2015

Public Service Act
(chapter F-3.1.1)

Qualification process and qualified persons

Regulation respecting the qualification process and qualified persons

WHEREAS, under subparagraphs 1 to 3, 5 and 8 to 10 of the first paragraph of section 50.1 of the Public Service Act (chapter F-3.1.1), amended by section 14 of chapter 25 of the Statutes of 2013, the Conseil du trésor determines, by regulation, the procedure for a qualification process to establish a bank of qualified persons, geographical areas and criteria to determine whether a person belongs to an area for the purposes of eligibility for a qualification process in that area, the administrative entity to which a public servant must belong in order to be eligible for a qualification process, norms according to which a bank of qualified persons may be established, used and terminated, cases and circumstances in which and conditions subject to which a person may be removed from a bank of qualified persons, all particulars relating to the information to be provided by a candidate during a qualification process or after registration in a bank of qualified persons, cases and circumstances in which and conditions subject to which the qualification of a person who was once appointed may be maintained so that the person can be re-appointed even if they were removed from a bank of qualified persons or the bank has been terminated;

WHEREAS, under the third paragraph of section 53 of the Public Service Act amended by section 15 of chapter 25 of the Statutes of 2013, the Conseil du trésor may, by regulation, determine cases and circumstances in which the deputy minister or the chief executive office cannot make an appointment before all candidates have completed the qualification process;

WHEREAS, under section 37 of chapter 25 of the Statutes of 2013, the Conseil du trésor may, by regulation, determine the terms and conditions under which the qualification of a person for appointment to certain positions may be maintained despite the termination of the list of candidates declared qualified from which the person was appointed to a position;

WHEREAS, in accordance with the second paragraph of section 50.1 of the Public Service Act, a draft Regulation respecting the qualification process and qualified persons was published in Part 2 of the *Gazette officielle du Québec* of 12 March 2014 with a notice that it could be made, with or without amendment, on the expiry of 30 days following that publication;

WHEREAS the 30-day period has expired;

WHEREAS it is expedient to make the Regulation with amendments;

THE CONSEIL DU TRÉSOR DECIDES:

THAT the Regulation respecting the qualification process and qualified persons, attached hereto, be made.

MARIE-CLAUDE RIOUX,
Clerk of the Conseil du trésor

Regulation respecting the qualification process and qualified persons

Public Service Act
(chapter F-3.1.1, ss. 50.1 and 53; 2013, chapter 25, ss. 14, 15 and 37)

CHAPTER I OBJECT

1. This Regulation prescribes, for recruitment and promotion, rules applicable to a qualification process held under the Public Service Act (chapter F-3.1.1).

It also prescribes rules applicable to persons whose eligibility is established by a qualification process, hereinafter called qualified persons.

CHAPTER II QUALIFICATION PROCESS

DIVISION I GENERAL

2. A qualification process includes, from the publication of an invitation for applications to the qualification of a person, all the stages at the end of which a person becomes qualified.

3. The duties related to the holding of a qualification process may be performed in whole or in part by an evaluation committee or a resource person. An evaluation committee or a resource person makes recommendations in writing.

A person who is a member of an evaluation committee or a resource person is selected on the basis of the person's knowledge of the position for which the qualification process is held, experience in personnel management or selection of personnel or professional competence.

4. The following may not act as members of an evaluation committee or as resource persons:

- (1) staff of the Lieutenant-Governor's office;
- (2) staff of a minister's office;
- (3) staff of the office of a person covered by the first paragraph of section 124.1 of the Act respecting the National Assembly (chapter A-23.1);
- (4) Members of the National Assembly and their staff.

DIVISION II FILING OF APPLICATIONS

5. The application period for a qualification process is indicated in the invitation for applications.

The period may be of a limited duration or an unspecified duration. Where the duration is limited, it is at least 10 days. Where the duration is unspecified, a notice indicating the date of the end of the application period must be published at least 10 days before that date.

6. Any person who wishes to register for a qualification process must, during the application period, send the prescribed application form duly completed.

7. An application received after the application period is not considered unless an unforeseeable event has had the effect of delaying the reception.

8. A person registered in a bank of qualified persons may not register for another qualification process upon completion of which the person would be registered in the same bank.

DIVISION III ELIGIBILITY

9. A person must, at the time of the application, meet the conditions of eligibility set forth in the invitation for applications including, where applicable, belonging to a geographical area or an administrative unit.

§1. *Geographical areas and administrative units*

10. In a qualification process for promotion, eligibility may be restricted to persons belonging to a geographical area.

A person is considered to belong to a geographical area when the person's principal residence or base is located in that area.

The following areas constitute geographical areas for the purposes of this Regulation:

(1) a regional area corresponding to a region described in the Décret concernant la révision des limites des régions administratives du Québec (chapter D-11, r. 1);

(2) a local area corresponding to a municipality governed by any Act, an unorganized territory or an Indian reserve;

(3) a regional area to which is added another local or regional area;

(4) a local area to which is added another local area.

11. Where a qualification process for promotion is held, eligibility may be restricted to persons belonging to the administrative unit for which the process is held and to persons placed on reserve who would belong to that administrative unit had they not been placed on reserve.

Eligibility may also be restricted to persons belonging to an administrative unit forming part of a group of administrative units and to persons placed on reserve who would belong to one of those administrative units had they not been placed on reserve.

For the purposes of this Regulation, an administrative unit is a department and the bodies under the responsibility of the minister of that same department or the National Assembly and the bodies under its responsibility.

Despite the third paragraph, the following are separate administrative units:

(1) the Commission de la santé et de la sécurité du travail;

(2) the Société de l'assurance automobile du Québec;

(3) the Régie de l'assurance maladie du Québec;

(4) the Régie des rentes du Québec;

(5) the Sûreté du Québec.

12. To restrict eligibility pursuant to sections 10 and 11, the following criteria must be considered:

- (1) the mobility of the available labour force;
- (2) a sufficient number of persons likely to meet the eligibility conditions;
- (3) the characteristics of the position to be filled.

13. Despite sections 10 and 11, and under the circumstances provided for in an affirmative action program or in a program designed to ensure the hiring of handicapped persons, the eligibility of a person covered by the program may not be restricted because the person belongs to a geographical area or administrative unit other than those set forth in the conditions of eligibility.

§2. Determination of eligibility

14. Eligibility of a person is determined by studying the person's application form and the determination must be made before the person may be called to an evaluation.

15. A person who meets the conditions of eligibility is presumed eligible until the person provides the documents enabling to confirm the person's eligibility.

16. The documents enabling to confirm eligibility may be requested at any time, even after a person has been qualified. The documents must be verified before the appointment of a person, failing which there cannot be an appointment.

Failure to provide the documents within the period allotted entails, for a person not yet qualified, the rejection of the person's candidacy. For a person already qualified, failure to comply entails the consequence provided for in the second paragraph of section 31 or, as the case may be, the removal of the person from the bank pursuant to paragraph 2 of section 32.

DIVISION IV EVALUATION

17. The evaluation procedure is comprised of one or more evaluation tools.

An evaluation tool may be comprised of one or more examinations.

18. A qualification process must be comprised of examinations the content of which is identical or equivalent.

The content of the examinations is equivalent when the following conditions are met:

- (1) the criteria evaluated and the attributes measured are the same for each examination;
- (2) the same type of questions is used;
- (3) the same task is required of the person evaluated;
- (4) the level of difficulty of the examinations is similar.

19. An evaluation tool may be disqualifying only if it meets any of the following conditions:

- (1) it counts for at least 25% of the value of the evaluation procedure;
- (2) it allows the evaluation of at least one-quarter of the criteria selected for the evaluation procedure.

20. Knowledge of a language other than French may be a criterion for disqualifying applicants in a qualification process, without the conditions provided for in section 19 being met, provided that such knowledge is considered essential to the carrying out of certain duties of the position.

21. The pass mark for an evaluation tool used in a qualification process is set at the first evaluation of persons made in the course of that process.

22. In setting the pass mark for an evaluation tool, the following criteria are considered:

- (1) the recommendation submitted concerning the pass mark prior to the application of the tool;
- (2) an analysis of the results available;
- (3) the value of the tool with respect to the value of the evaluation procedure;
- (4) the estimate of the number of positions to be filled.

23. A person who fails to obtain a pass mark fails the qualification process and is not qualified.

24. The result a person obtains in an examination or part of an examination, in a qualification process, including a special qualification process, or in an assessment of qualifications, may be transferred to any qualification process where the following conditions are met:

- (1) the content of the examinations or parts of examination is identical or equivalent;

(2) the period between the dates of those examinations or parts of examination does not exceed 12 months.

CHAPTER III BANK OF QUALIFIED PERSONS

25. A bank of qualified persons is constituted as soon as a person declared qualified is registered therein.

The registration of a person in a bank of qualified persons must be approved by a person authorized to do so.

26. A bank of qualified persons may only be used for the purposes set forth in the invitation for applications.

27. Qualification processes lead to the registration of qualified persons in the same bank provided that the following conditions are met:

(1) the positions covered by each qualification process belong to the same class of positions;

(2) the duties of those positions are similar;

(3) the conditions of eligibility are of the same level and not more restrictive than the conditions previously used;

(4) the other intended uses of the bank are identical;

(5) the evaluation tools used within the scope of each qualification process evaluate the same criteria.

Provided that the conditions set out in the preceding paragraph are met, persons who successfully complete a specific qualification process may also be registered in that bank even if the conditions of eligibility for that process were more restrictive and even if a greater number of criteria were evaluated.

The foregoing applies to persons who successfully complete a qualification process reserved for a group concerned by the implementation of a Government policy in accordance with section 43 of the Public Service Act.

28. A bank of qualified persons terminates when one of the following circumstances is ascertained:

(1) the minimum conditions of eligibility of the class of positions are revised upwards;

(2) there is no longer any appropriateness of the evaluation procedure used in relation to the nature of the position;

(3) the class of positions is abolished.

29. A bank of qualified persons may terminate when one of the following circumstances is ascertained:

(1) there are no longer any persons registered in that bank;

(2) manpower is no longer needed.

CHAPTER IV QUALIFIED PERSONS

DIVISION I GENERAL

30. Subject to the termination of the bank in which the qualified person is registered and subject to the cases provided for in section 32, the qualification of a person is for a period of 5 years.

31. A qualified person must provide, within the period allotted, either of the following information:

(1) the documents required to confirm the person's eligibility to a qualification process, not later than 30 days after an application to that effect is sent, or, if the application immediately precedes the appointment, not later than before the appointment;

(2) the information concerning the person's record, profile and professional interests or the update of the information, using the prescribed form and not later than 30 days after an application to that effect is sent.

If a person fails to provide the information, the person remains registered in the bank of qualified persons, but may not be appointed until the situation is remedied.

A qualified person who ceases to meet the conditions of eligibility may not be appointed until the person meets again the conditions.

32. A qualified person is removed from a bank

(1) at the end of a 5-year period as of the person's registration in the bank;

(2) where it is ascertained that the person could not, at the time of registration, meet the conditions of eligibility of the qualification process leading to the person's registration in the bank;

(3) where the person has been appointed to a position after being admitted as candidate under the Directive concernant certains aspects de l'admission aux classes

d'emplois de la fonction publique and the person cannot provide within the period prescribed the documents required by that directive;

(4) where the person is appointed from that bank as a regular employee following a recruitment or promotion;

(5) where the person so requests;

(6) where the person dies, after reception of proof of death.

DIVISION II SPECIAL PROVISIONS

33. The qualification of a person who has been removed from a bank of qualified persons pursuant to paragraph 1 of section 32 or who is no longer registered in a bank of qualified persons because of the bank's termination is maintained provided that all the following conditions are met:

(1) the person must have held for at least 1 year, on a continuous basis or not, one or more positions related to that qualification in one or more departments or bodies;

(2) no more than 1 year must have elapsed since the end of the person's last position related to that qualification;

(3) the person's last position related to that qualification must have ended otherwise than by resignation.

Qualification is maintained only to appoint the person in the department or body where the person held his or her last position related to that qualification.

34. The qualification of a person who, under his or her employment conditions, holds recall privileges in connection with a cyclical, seasonal or on-call position is also maintained if the person is not longer registered in a bank for the reasons referred to in the first paragraph of section 33.

Qualification is maintained only to appoint the person in the department or body where the person held his or her last position related to that qualification.

However, qualification ceases when the person no longer has recall privileges.

35. The qualification of a person appointed as a regular employee who has not acquired permanent tenure and who is laid off for lack of work or because a person placed on reserve is assigned or mutated to the person's position is maintained for a position related to the qualification that allowed the person's appointment.

The qualification of a person with or without permanent tenure who, while serving his or her probationary period after being promoted, sees the probationary period terminated for lack of work is maintained for a position related to the qualification that allowed the person's appointment.

The qualification of one of those persons is maintained until the latest of the following dates:

(1) the date on which, under paragraph 1 of section 32, the person would have been removed from the bank of qualified persons that allowed the person to be appointed;

(2) for a person referred to in the first paragraph, 3 years after the end of his or her last position related to that qualification;

(3) for a person referred to in the second paragraph, 3 years after the end of his or her probationary period.

36. A person integrated into a class of positions following a change in the classification of positions is considered qualified for appointment in the class of positions into which the person has been integrated.

The qualification of the integrated person may also be maintained if the person is in one of the situations provided for in sections 33 to 35 provided that the conditions prescribed in those sections are met.

37. The qualification of a person to whom a new classification was assigned while undergoing career transition is maintained for the positions corresponding to the classification held before the new classification was assigned.

The foregoing also applies to a person who is assigned a new classification after the first 104 weeks of total disability provided that qualification may be maintained under the employment conditions governing the person.

38. Where a qualification process is initiated to fill one position, no appointment may be made before all the persons participating in the process have completed it.

39. A person registered in a bank of qualified persons for a class or an intern grade or for a grade II may be transferred to a bank of qualified persons for the next level of the same class or same group of positions, as the case may be, if the person meets the condition of eligibility for that level and provided that the evaluation tools used to constitute those banks evaluate the same criteria.

However, such transfer is made only for the remaining duration of the person's qualification.

CHAPTER V MISCELLANEOUS, TRANSITIONAL AND FINAL

40. The Regulation respecting the holding of competitions (chapter F-3.1.1, r. 6) is revoked.

41. The result obtained by a person in an examination or a part of an examination in a competition may be transferred to any qualification process where the conditions in section 24 are met.

42. Despite the end of the validity of the list of candidates declared qualified that allowed the appointment of a person to a position, the certification of the qualification of the person is maintained provided that all the conditions in the first paragraph of section 33 are met.

The certification of qualification is maintained only to appoint that person in the department or body where the person held his or her last position related to the certification of qualification.

43. Despite the end of the validity of the list of candidates declared qualified that allowed the appointment of a person to a position, the certification of qualification of a person who, under his or her employment conditions, has recall privileges in connection with a cyclical, seasonal or on-call position is maintained as long as the person has recall privileges.

The certification of qualification is maintained only to appoint that person in the department or body where the person held his or her last position related to that qualification.

However, qualification ceases when the person no longer has recall privileges.

44. Despite the end of the validity of the list of candidates declared qualified that allowed the appointment of a person as a regular employee, the certification of qualification of a person who has not acquired permanent tenure and who is laid off for lack of work or because a person placed on reserve is assigned or mutated to the person's position is maintained provided that no more than 3 years have elapsed since the end of the person's last position related to the certification of qualification.

The certification of the qualification of a person with or without permanent tenure who, while serving his or her probationary period after being promoted, sees the probationary period terminated for lack of work is maintained provided that no more than 3 years have elapsed since the end of the probationary period.

45. A person placed in a class of positions following a change to the classification of positions is considered declared qualified for an appointment to the class of positions in which the person has been placed.

That person may also be considered declared qualified if the person is in one of the situations provided for in sections 42 to 44 provided that the conditions prescribed in those sections are met.

46. The certification of the qualification of a person to whom a new classification was assigned while undergoing career transition is maintained for the positions corresponding to the classification held before the new classification was assigned.

The foregoing also applies to a person who is assigned a new classification after the first 104 weeks of total disability provided that the certification of qualification may be maintained under the employment conditions governing the person.

47. This Regulation comes into force (*insert the date of coming into force of the provisions of section 14 of chapter 25 of the Statutes of 2013 that are not already in force*).

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