

# Out-of-Scope Classification Appeal Procedures

Last revised: April 2023

Last reviewed: April 2023

**Next review: April 2024**

*Saskatchewan!* 

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## AUTHORITY AND PROCEDURES

The following procedures are for the purpose of ensuring the integrity of the job evaluation plan and clarity in roles, authorities, and responsibilities of persons attending appeal hearings.

### Preamble

*The Public Service Act* provides the Public Service Commission with the authority to develop, implement and maintain job evaluation plans.

The Act obligates the Chair of the Public Service Commission, or delegate (hereafter called a Classification Consultant), to ascertain the assigned duties and responsibilities of all positions in the classified division and allocate each position to the appropriate class within the classification plan.

Classification Consultants are charged with the responsibility to ensure equitable judgments in the application of the plan, to the best of their ability, and are required to provide the appellant with written rationale supporting the classification decision.

### Right to Appeal

*The Public Service Regulations*, Section 9(2) provides permanent employees, outside the scope of a collective agreement, the right to appeal a classification decision to the Public Service Commission when an employee has received written notification of the result of the decision. *Note: Order in Council appointees and employees of Agencies, Boards and Commissions that use the MCP Class Plan but are outside of The Public Service Regulations do not have appeal rights.*

*The Public Service Regulations*, Section 9(3) requires that appeals be made within 15 calendar days after receiving the written notification. Note: appeals must be submitted to the Appeals Coordinator, Total Rewards.

The appellant will have 30 calendar days from the date their appeal is acknowledged by Total Rewards to submit written appeal rationale to the Appeals Coordinator. Should written rationale not be received by the deadline, the appeal shall be considered withdrawn. Extensions to the deadline will only be granted upon request for valid or unforeseen reasons as determined by Total Rewards.

The Classification Consultant will have 15 calendar days to respond to the appellant's appeal rationale upon its receipt. The appeal rationale will be reviewed by the classification team taking into consideration the class plan's application, benchmarks, and service-wide relativity comparisons. Following the team review, the Classification Consultant will notify the appellant if there are any changes, or not, to the factor rating(s) under appeal.

Once the Classification Consultant has notified the appellant of the final classification decision, the appellant will have 5 calendar days to notify the Appeals Coordinator whether they wish to withdraw the

appeal or have the appeal hearing scheduled. If the appellant does not respond within five (5) calendar days, the appeal is deemed withdrawn.

## Scheduling the Appeal

1. The Appeals Coordinator acknowledges receipt of the appeal request and informs the appellant of the requirement to submit written rationale.
2. When the appellant submits written appeal rationale, the Appeals Coordinator will forward the rationale to the Classification Consultant for a response and wait to hear if the appellant wishes to withdraw their appeal or not.
3. If the appellant wishes to proceed to an appeal hearing, the Appeals Coordinator will notify the Secretary to the Public Service Commissioners to arrange a date for the hearing.
4. Once the appeal hearing has been scheduled, the Appeals Coordinator notifies the appellant, their manager, and the Classification Consultant of the date, time, and place of the hearing. If the scheduled date is unsuitable, the appellant must notify the Appeals Coordinator to determine an alternate date for the hearing.
5. 10 calendar days in advance of the hearing, the Appeals Coordinator shall provide the Secretary to the Public Service Commissioners with electronic copies of all appeal documentation including the appellant's job description, organization chart, appeal rationale, Classification Consultant's initial classification report, response to written rationale, appeal brief, and relativity job descriptions where appropriate.

## Purpose of the Appeal Hearing

To adjudicate evidence as to whether appealed factor ratings are appropriate, relative to the full intent of the factor degree definitions and benchmarks.

## Composition of Panel

The Public Service Commissioners typically hear out-of-scope appeals pursuant to *The Public Service Regulations* Section 9(4). However, the Commissioners may also delegate the hearing to a classification appeal tribunal in accordance with subsection 9(4)(b).

## Role of the Panel

- To uphold the integrity of the job evaluation class plan through the adjudication of disputes regarding the assignment of factor ratings in accordance with the primary responsibilities of the job assignment. In this regard, members of the panel do not represent, nor advocate, for employees, management, or the commission.

- To assess job content presented to determine if it meets the requirements in the class plan's factor definitions, notes to raters, benchmarks, and relativity comparators.
- Where necessary, to ensure that evidence presented by the appellant is verified as assigned duties and responsibilities of the job assignment.

## Role of the Appellant

- To prepare written rationale as to why the job should be rated higher. This may be in the form of additional or counter arguments to the Classification Consultant's rationale. *Note: effective rationale is typically one or two pages in length but can be up to a maximum of three single-sided letter pages per appealed factor.*
- To contact his/her own witness(es) to invite them to the hearing and to advise the Appeals Coordinator which witness(es) will be attending.
- To determine if they wish to continue with the appeal or not.
  - An appellant may withdraw their appeal at any time prior to the appeal hearing.
  - If the appellant fails to attend the scheduled hearing, the panel will proceed to hold the hearing, deliberate, and render a decision.
  - If the appellant requests an adjournment prior to the decision being released, the panel will exercise its discretion as to whether or not to grant the adjournment, documenting the decisions regarding why an adjournment was or was not granted.
- If there is a group appeal, the group will identify a spokesperson to the Appeals Coordinator prior to the hearing, and this person shall serve as the contact person for the group. Only a single spokesperson shall present the appeal.

## Appellant Representation

From time-to-time an appellant may be unable to present their own case. In such situations, the appellant may have another person present the appeal rationale. For example, an appellant, in absentia, may be represented by a nominee designated in advance by the appellant. To ensure there is no conflict of interest, representatives may not be:

- a member of an appeal tribunal;
- an employee of the Public Service Commission (except where the appeal is another employee of the Public Service Commission); or
- a subordinate employee to the appellant.

## Role of the Classification Consultant

- Upon the appeal being scheduled and receiving all required information, the Classification Consultant shall provide the Appeals Coordinator an electronic copy of the PSC appeal brief a minimum of 10 calendar days in advance of the hearing.
- Along with the appeal brief, the Classification Consultant will provide the Appeals Coordinator the original classification report, appellants appeal rationale, the PSC response to written

rationale, job description and organization chart, and relativity job descriptions where appropriate.

- Attend the appeal hearing and explain how the duties of the position meet the assigned factor ratings.

## Role of the Witness

- Appellants and or the Classification Consultant may request the Appeals Coordinator to schedule the presence of a witness(es). The appellant's supervisor is always expected to attend as a witness, regardless of scheduling their presence.
- Witness(es) must have first-hand knowledge of the position being appealed. There is an expectation that the panel will determine how such witness(es) came to have first-hand knowledge.
- Witnesses when asked, will answer questions for clarification of job content or authority, subject to the panel's discretion. Responses are to be addressed to the panel.

## Observers

At the discretion of the appellant, two observers may attend the appeal.

- Observers are typically human resource professionals or employees with a pending appeal.
- Observers must remain silent and leave the room prior to deliberations.

## Rules of Evidence

The standard criteria applied to all job evaluations consists of two primary components: class plan factors that assess different aspects of a job; and benchmark descriptors chosen to represent the rating levels in each factor. While one or two relativity comparisons to other Government jobs may be referenced per appeal brief, they are a secondary consideration to the standard criteria.

The basis for the evaluation of a position is evidenced by:

- the duties, responsibilities, and work examples in the job description, confirmed as accurate by the manager; and
- written rationale received from the appellant and Classification Consultant. *Note: cannot exceed three single-sided letter pages per appealed factor.*

If new job responsibilities are presented at an appeal hearing, the appeal panel will render a decision based on the original responsibilities. It is not the role of the panel to render a decision on responsibilities not previously assessed. *Note: appellants may provide new examples to illustrate responsibilities already on the job description.*

Words copied from a factor definition must be substantiated with examples and are not accepted outright. Similarly, if the appeal presentation includes examples copied from benchmarks they must be verified in advance of the hearing by the manager and are subject to questioning by the panel.

## Procedures in the Appeal Hearing

### Selection of Panel Chair

The Public Service Commissioners will select the Panel Chair prior to the appeal hearing. The Chair's primary role is to lead and guide the appeal hearing such that the appellant is provided the best opportunity to present their case in relation to the factor rating(s) they have appealed.

### Role of the Panel Chair

- Shall ensure the hearing is run in an expeditious manner and has the authority to move the hearing along if information is repetitious, or not relevant to the factor under appeal.
- The Chair must focus the presentation on information relevant to the factor under appeal and may limit the length of the question-and-answer period on the factor and request that the panel take breaks if necessary.
- Shall ensure that the question period does not become a debate. This is to be question and response, both without interruption.
- Has authority to and shall excuse any person whose behaviour is considered inappropriate.
- May stop the proceedings if an appeal hearing is running longer than scheduled to advise the appellants waiting for the next scheduled hearing how long the wait might be.

### Opening the Appeal Hearing

- There shall be no discussion by appeal panel members with either party (the appellant, witnesses, or Classification Consultant) prior to entering the appeal hearing.
- The Panel Chair shall call the hearing to order, introduce themselves and describe the role of the Chair and the presentation order that will be followed.
- The Chair will then ask each person in attendance to introduce themselves and describe what their role will be in the hearing (e.g., Commissioners, appellant, manager, witness(es), observer(s), Classification Consultant, Secretary to the Public Service Commissioners).

### Presentations

1. Appellant (or advocate) presents their rationale on the first appealed factor without interruption from the Classification Consultant. *Note: the panel may question the presenter at any time during the appeal, the appellant may question their witness at this time, and the witness may only respond to matters of job content of which they have first-hand knowledge.*

2. Classification Consultant presents their rationale for the first factor without interruption from the appellant. *Note: the panel may question the consultant at any time.*
3. Question period - after both parties have completed their presentations, questions may be asked by the panel, the appellant, or the consultant, as directed by the Panel Chair. *Note: for group appeals, appellants who are not the spokesperson, are to be given an opportunity to provide comments at this time. The Chair may allow a ten (10) minute break, to allow the group to formulate any comments or questions they may have.*
4. Repeat - each of the above steps are repeated in order until all appealed factors have been heard.

## Deliberations

- The chairperson will excuse the consultant and appellant, witnesses, and observers after presentation on all appealed factors.
- The panel shall determine the appropriate rating and notify the secretary, providing rationale on the form provided.
- Appeal panels may seek interpretation advice only from a Classification Consultant at the Public Service Commission. Any such interpretations, arising from an appeal hearing, shall be provided to both parties who presented (i.e., the appellant and Classification Consultant).
- The panel shall provide written rationale for any decision it makes, inclusive of examples, if necessary, which show how the work is consistent with the meaning and intent of the level definitions within the factors, factor definitions, notes to raters and/or benchmarks.
- In comparing duties and responsibilities to benchmarks, the panel shall consider the full content of the description for that factor. Comparative analysis should be provided in relation to the benchmarks in the classification plan. However, equity considerations should not be discounted provided there is adequate content presented to ensure understanding of the other jobs.
- Moral or monetary issues are not to be considered.
- No results are to be released by the panel members, except to the secretary, and panel members are not to discuss their decision with appellants at any future date.
- Only the appealed factors are subject to review.
- The panel shall consider only the duties and responsibilities of the position as of the effective date determined and shall not take into consideration subsequent changes that have taken place.



## Release of Decisions

- No decision shall be released, except to Secretary to the Public Service Commissioners.
- The Secretary to the Public Service Commissioners shall provide the written decision to the appellant(s), supervisor/manager, panel members, Classification Consultant, and the Appeals Coordinator.
- Decisions of the panel are final and binding unless there is a change in job content. Such decisions are also final and binding on subsequent incumbents, where there has been no change of duties and responsibilities.

## Records

The Public Service Commission (i.e., Total Rewards) shall keep a register of all appeals, showing name of appellant, agency, branch, occupation, date filed, date heard, panel and committee decisions.