

Summary of Classification Appeal Process

The Classification Appeal Adjudicator is an independent position created within the Public Service Commission.

All correspondence and enquiries should be directed to:

Classification Appeal Adjudicator
Public Service Commission
P. O. Box 8700
St. John's, NL
A1B 4J6
(709) 729-2658

Powers of the Classification Appeal Adjudicator

The Classification Appeal Adjudicator is empowered to receive, hear and decide upon any appeals for which specific compensable factor(s) is/are being challenged. The appeal process is restricted to those factors identified as being challenged and for which sufficient reasoning provided.

The Classification Appeal Adjudicator is empowered to receive, hear and decide upon any appeal consistent with the procedures outlined in the Government of Newfoundland and Labrador collective agreements. The collective agreements can be viewed at the following link:

https://www.exec.gov.nl.ca/exec/hrs/working_with_us/collective_agreements/index.html

The Classification Appeal Adjudicator may render decisions based on the information provided or may hold hearings if deemed necessary. The appellant may be required to appear at any time and in any place in the province.

The Classification Appeal Adjudicator is empowered to change (higher or lower) the rating assigned to any compensable factor for which an appeal is received with sufficient reasoning. The reasoning must be based on the job content information reviewed by Classification and Organizational Design Division of the Human Resource Secretariat in the Position Description Questionnaire (PDQ).

The decision of the Classification Appeal Adjudicator relates to a specific position or positions in the case of a group appeal and is final and binding on the parties to the appeal.

Adjudicator's Authority

The Classification Appeal Adjudicator shall only consider and rule upon:

- 1) appeals submitted within fourteen (14) days after receipt by an employee of notification of the Classification and Organizational Design Division's decision regarding its review;
- 2) compensable factors challenged by an individual employee or a group of employees for which sufficient reasoning is provided by the appellant(s); and,
- 3) group appeals where all employees within the group have identical classifications.

The Appeal Process

The Classification Appeal Adjudicator **shall not** accept appeals based on job content information which differs from that reviewed by the Classification and Organizational Design Division.

Before initiating an appeal certain pre-conditions must be met:

1. The position in question must have been classified by Classification and Organizational Design Division using a PDQ specific to that position.
2. The request for an appeal must identify the compensable factor(s) being challenged and the rationale for appeal for each factor.
3. The rationale and reasoning shall be based on the same job content information that was reviewed by Classification and Organizational Design Division (the PDQ).

Procedures

1. On receipt of an appeal from an employee or a group of employees, the Classification Appeal Adjudicator may request all pertinent information prepared as a result of the Classification Review, a copy of which will be provided to the appellant and the immediate supervisor by the office of the Classification Appeal Adjudicator.
2. Where the appellant requires clarification on any point contained in the classification file or wishes to comment on any aspect of the classification file, they must file with the Classification Appeal Adjudicator within fourteen (14) days of receiving the file, a written statement including any supporting documentation which details the appellant's questions or comments.
3. A copy of the appellant's written statement and copies of supporting documentation will be sent by the Classification Appeal Adjudicator, within three (3) days of receipt, to the Classification and Organizational Design Division who may respond or be requested to respond in writing within fourteen (14) days to the questions or observations raised by the appellant. Such response shall be forwarded by the

Classification Appeal Adjudicator to the appellant within three (3) days of receipt. This cumulative documentation shall then constitute the entire file to be considered by the Classification Appeal Adjudicator.

4. Where the Classification Appeal Adjudicator is satisfied that all relevant documentation is on file, they shall determine whether an appeal hearing is warranted or if a decision can be rendered on the basis of the written documentation provided.
5. Where, in the opinion of the Classification Appeal Adjudicator, a group of appellants' PDQs are sufficiently similar, have identical ratings and the appellants are employed in the same classification by the same organization, the Adjudicator may propose the consolidation of individual appeals to those appellants such that the appeals of individuals may be decided upon in a group appeal.
6. Where the Classification Appeal Adjudicator proposes a group review, the individual appellants must indicate in writing that they are in agreement with the group review.
7. Where not all appellants agree to the consolidation, the Classification Appeal Adjudicator will first decide on a consolidated basis the appeals of those appellants who are in agreement with consolidation. Those appellants not in agreement shall be provided an opportunity for individual review, as soon as practical following the determination of a consolidated appeal.
8. When the Classification Appeal Adjudicator renders a decision on those compensable factors challenged on the basis of the written documentation, notification of such decision shall be forwarded to Classification and Organizational Design Division. The Classification and Organizational Design Division will notify and provide the necessary authority to the employing agency as well as provide a copy of the Classification Appeal Adjudicator's decision and the impact, if any, on the position to the appellant and their designate.
9. If a hearing is warranted, the Classification Appeal Adjudicator will determine if the hearing will be in person or by video conference. The requirement that job content information be the same as that provided to Classification and Organizational Design Division remains. The appellant, a permanent head or management designate and a representative from the Classification and Organizational Design Division may be requested to appear before the Classification Appeal Adjudicator. The appellant may also be accompanied by an individual of the appellant's choice who may act as a spokesperson subject to the discretion of the Classification Appeal Adjudicator to hear from specific individuals as noted below.
10. Appellants are to be given two opportunities to postpone appeal hearings after which appeals will then be deemed withdrawn by the Classification Appeal Adjudicator.

11. The hearing will be presided over by the Classification Appeal Adjudicator who will retain control over the conduct of the hearings and who will rule on the relevancy of any questions or points raised by any of the parties to the hearing.
12. The Classification Appeal Adjudicator may adjourn the hearing and order the appearance of any person or party who, at the discretion of the Classification Appeal Adjudicator, they deem necessary to appear to give information or clarify any points raised during the hearing.
13. In the event of a hearing and upon conclusion of that hearing, the Classification Appeal Adjudicator will deliberate on and consider all relevant evidence and supporting information. Within fifteen (15) working days of reaching a decision, the Classification Appeal Adjudicator shall inform the Classification and Organizational Design Division in writing of their decision on those compensable factors challenged and an explanation of the rationale of any change from the Classification & Organizational Design Division's original determination. The Classification & Organizational Design Division will notify and provide the necessary authority to the employing agency as well as provide a copy of the Classification Appeal Adjudicator's decision and the impact, if any, on the position to the appellant and their designate.
14. The Classification Appeal Adjudicator is required to submit written reasons to the Classification & Organizational Design Division for those decisions that result in changes in the compensable factors challenged.
15. The decision of the Classification Appeal Adjudicator is final and binding on the parties to the appeal.
16. An appeal shall be regarded as closed:
 - when a decision is rendered by the Classification Appeal Adjudicator;
 - if the appellant requests in writing the withdrawal of the appeal;
 - in the event an employee is dismissed for cause; or,
 - if the appellant postpones a hearing after already postponing the hearing on two occasions.
17. The impacts of changes in ratings arising from decisions of the Classification Appeal Adjudicator shall be processed by the Classification & Organizational Design Division in accordance with the Human Resource Secretariat's compensation policies.