

Appeals Committee

General Principle

To provide an accessible process during which individuals who wish to dispute an Administrative Review decision may present their case to an Appeals Committee and have their circumstances assessed by independent third parties that do not have a conflict of interest with the individual, the Administering Authority nor Indian and Northern Affairs Canada (INAC).

Composition

The Appeals Committee shall comprise of the following members:

1. A person nominated by the appellant (the individual who has filed a request for an Appeals Committee Hearing) in Section 3 of the *Administrative Review Decision and the Request for Appeals Committee Hearing* (SA 142) form. This person must not be related to the appellant.
2. A person nominated by the Administering Authority within 7 business day after the date of receipt of the *Administrative Review Decision and the Request for Appeals Committee Hearing* (SA 142) form. This person must not be an employee of the Administering Authority nor INAC.
3. A chairperson selected jointly by the nominees of the appellant and the Administering Authority within 7 business days after the date the person is nominated by the Administering Authority.

Note: If the appellant's nominee and the Administering Authority's nominee are unable to agree upon a chairperson, the chief of the band in whose community the appellant resides, and the Manager, INAC, shall jointly select a chairperson.

Functions of Chairperson

The chairperson shall:

- convene the Appeals Committee hearing within 10 business days of the chairperson's nomination
- notify in writing the appellant, Manager, INAC and the band chief and council of the time, date, and place of the hearing **at least 2 business days before the hearing is to take place**
- carry out the responsibilities of a chairperson at the hearing, ensuring that the proceedings are conducted and recorded in an appropriate manner
- **inform all persons present in the Appeals Hearing that all information shared and collected during the proceedings are confidential**
- submit a completed Recommendation of the Appeals Hearing Committee (SA 144) form and all relevant documentation (including the appellant's statement of designation of their representative, if applicable) presented in the hearing to the Manager, INAC within 10 business days of the conclusion of the hearing
- inform the appellant of the recommendation of the Appeals Committee

Appeals Committee Hearings

The Appeals Committee may proceed with an Appeals Hearing subject to the following:

- all three members of the Appeals Committee are present,
- the appellant, or in cases where the appellant is unable to attend, an individual who has been designated by the appellant as their representative to attend the Appeals Hearing, is present. The designation must be in the form of a written statement dated and signed by the appellant; and

(Note: The signed statement must be attached to the *Recommendation of the Appeals Hearing Committee* (SA 144) form)

- a representative of the Administering Authority is present.

Appellants may also attend the Appeals Hearing together with a representative of their choosing.

In situations where neither the appellant nor the duly-appointed representative is present at the scheduled Appeals Hearing:

- the chairperson will contact the appellant immediately to enquire whether they intend to proceed with the matter
- the appellant must resubmit the request for an Appeals Hearing within 10 business days if they intend to proceed
- this would be the appellant's final opportunity to appeal

Appeals Hearing Process

The Appeals Hearing may be held at the office of the Administering Authority, or at a suitable location in or near the appellant's community of residence.

The Administering Authority shall provide the Appeals Committee with copies of the following documents:

- *Request for Administrative Review* (SA 140) form
- *Administrative Review Decision and the Request for Appeals Committee Hearing* (SA 142) form
- all related forms, information, records or testimony that are attached to the above forms

Note: INAC shall provide related documentation, information or testimony for Persons with Disabilities designation appeals.

The Administering Authority may withhold sensitive materials (i.e., information relating to fraud, child protection situations, or third parties).

Documents provided to the Appeals Committee remain the property of INAC.

The Appeals Committee may only consider and examine information, records or testimony that are attached to and included in the appellant's request for *Request for Administrative Review* (SA 140) form submitted to dispute the initial decision.

The Appeals Committee may examine the *Social Development Policy and Procedures Manual BC Region*, and any directives or statements of policy and procedures relating to the Social Development Program.

Representatives for the Administering Authority and the appellant may be called upon to identify and explain any documents that are examined by the Appeals Committee.

Appellants, or their representatives, have the right to explain fully their position with respect to the decision being appealed, to produce witnesses who can provide relevant information.

Representatives for the Administering Authority will be required to explain the decision on the matter in the context of the *Social Development Policy and Procedures Manual BC Region* and may produce witnesses who can provide relevant information.

The Appeals Committee may question any person present at the Appeals Hearing. Witnesses called upon to give evidence may be present only while giving evidence.

The Appeals Committee may consult or seek information from any individual who can assist in providing relevant information.

When the Appeals Committee is unable to complete the hearing of an appeal, the case may be adjourned for a period not exceeding 20 business days.

Disposition of Appeals

Recommendations of the Appeals Committee shall be determined by majority vote. An Appeals Committee may dispose of an appeal as follows:

- dismiss the appeal in the case of non-appearance of the appellant or duly-appointed representative
- make a recommendation consistent with the policy and procedures of the program with respect to the matter being appealed
- identify and make recommendations respecting policy and procedures which require review

Report of Appeals Committee

Social Assistance

The chairperson shall submit a completed *Recommendation of the Appeals Hearing Committee* (SA 144) form and all relevant documentation presented in the Appeals Hearing to the **Manager, Funding Services, INAC** by courier.

The proceedings of the Appeals Committee are confidential.

Persons with Disabilities Designation

The chairperson shall submit a completed *Recommendation of the Appeals Hearing Committee* (SA 144) form and all relevant documentation presented in the Appeals Hearing to the **Manager, Social Development Unit, Intergovernmental Affairs, INAC** by courier.

The proceedings of the Appeals Committee are confidential.

Implementation of Recommendations

Recommendations in accordance with policy

If the recommendation is in accordance with Social Development Program policy and procedures, it will be implemented.

Recommendations not in accordance with policy

If the recommendation appears not to be in accordance with Social Development Program policy and procedures, a meeting between the Manager, INAC and the chairperson will be held to identify and resolve the conflict.

Final Decision

The Manager, INAC shall advise the Appeals Committee chairperson and the appellant of the final decision with respect to the recommendation.

Travel Allowances

INAC shall reimburse the Appeals Committee members for their actual costs of travel, accommodations, and meal allowances in accordance with prevailing treasury board travel regulations, with funds from BC Region.