



## COMPETENCY BASED LEARNING AND DEVELOPMENT TOOL

### Introduction

The Employment and Assistance Appeal Tribunal has engaged in a number of initiatives to strengthen member skills relative to the work performed on behalf of the Tribunal. The Code of Conduct established the rules of conduct governing the professional and ethical responsibilities of Tribunal members based on the fundamental principle of a fair hearing and the requirement of independence in adjudicative decision-making. The Code of Conduct establishes the competencies that would enable members to meet the high service expectations of the public. The Competency Based Learning and Development Tool assists members to analyze skills and abilities and develop learning and development plans based on the competencies identified in the Code of Conduct. This tool will also be used to provide objective information on member competency in order to make recommendations for reappointment. The Tribunal wishes to acknowledge the contribution of its members in developing both the Code of Conduct and the Competency Based Learning and Development Tool, as well as acknowledging both the Justice Studies Board for its outstanding work in developing a competency framework for members of administrative tribunals and the work done by the Property Assessment Review Board in this area.

### Evaluation Framework

The Competency Based Learning Development Tool based on five core elements:

1. Legislation and Practices and Procedures
2. Conduct of Hearing
3. Evidence
4. Decision Making
5. Decision Writing

These sections are laid out sequentially to the hearing process to make for easier observation by the member assisting with the review. The only exception to a member performing the review is Competency #5: Decision Writing. This section will be completed by the Tribunal Chair for panel chairs. Each core element lists a number of competencies. A competency can be defined as a learned skill which can be assessed through observation of performance. Each competency has one or more performance indicators – specific actions that can be observed as evidence that the competence is demonstrated. While some competencies are expected to be demonstrated by both panel chairs and panel members, others are expected to be demonstrated by the panel chair only and this division is clearly indicated. As well, not all competencies or performance indicators may be demonstrated or observed in every hearing.

### Use of the Competency Based Learning and Development Tool

This tool can be used by members for as a self-evaluative tool to identify competencies and where skills would be enhanced by additional learning. This tool will also be used to provide objective information on member competency for reappointments and, on request, for references.



## A Self-Evaluative Tool

The framework essentially provides a tool for continual learning and development. It will enable members to better understand the requirements of panel members and panel chairs; it makes those expectations clear and transparent.

Members can review the competencies and performance indicators to assess their own level of learning. As well, members can ask another panel member prior to a hearing if they would be willing to provide informal feedback on their performance. The objective is to enhance members' skills and knowledge. Feedback could occur either in person after the panel makes a determination or later, by telephone.

## Providing Informal Feedback

The member requesting feedback on performance controls the process. The member reviews the competencies and the relevant performance indicators and reflects on his or her level of skill. The observing member may then share his or her observations. If the member determines s/he requires some training or coaching in a specific competency, s/he is to complete the Learning and Development Action Plan and submit it to the Tribunal Chair who will determine how to address this request.

## Provision of Objective Criteria for Reappointment

Each member will have the opportunity to demonstrate their skill level with the various competencies prior to reappointment. The observer will be either a Mentor or the Tribunal Chair. The Competency Based Learning and Development Tool provides objective information on which to base recommendations for reappointment. It would also be valuable for members who wish to work for other administrative bodies as well as providing a solid basis for recommendations for other types of work. A determination will be made by the observer for each performance indicator within a competency as to whether further training would be of benefit to the member, whether the member is performing adequately, or whether the member demonstrates a high level of competence and is able to mentor other members. When a panel chair is being observed, the observer will inform the appropriate Appeal Coordinator of the necessity of completing Competency #5: Decision Writing – Panel Chair – for that specific appeal. The Appeal Coordinator will then provide the Tribunal Chair with a copy of the decision for this purpose. Where the Competency Based Learning and Development Tool is used to demonstrate member competency for reappointment or reference purposes, a completed copy is to be sent to the Appeal Panel Administrator who will place a copy on the member's record and provide the member with a copy on request.

## Mentors

Mentors are members who have been determined to be competent to mentor other members and have agreed to act in this capacity. Mentors may provide coaching to other members, may assist first time panel chairs, and may act as observers to assist members using the Competency Based Learning and Development Tool.

## Completion for Reappointment or for Reference Purposes

Members who wish to have a record for reappointment or reference purposes are to contact the Tribunal and request assistance with completing the Competency Based Learning and Development Tool. For reappointment purposes, a member is to contact the Tribunal for assistance one year prior to the expiry of his or her term of appointment.

Competency **1** **Legislation and Practices and Procedures**  
*Knowledge of relevant legislation and Tribunal Practices and Procedures*

Appeal Number:

**Panel Members and Panel Chairs**

Does Not Meet  
Expectations  
Requires Training

Adequate  
Meets  
Expectations

Mentor  
Exceeds Expectations  
and can coach others

Understands the Tribunal's legislated jurisdiction

- Can accurately describe the Tribunal's jurisdiction
- Can accurately describe the procedures the panel would follow in the course of a hearing

Understands the applicable legislation

- Can accurately describe and explain the legal framework of the legislation
- Accurately describes the issue under review

Applies the applicable legislation

- Ensures member's copy of the legislation is updated and current
- Applies the applicable legislation to the issue under review

Protects privacy

- Ensures personal notes regarding the appeal are returned to the Tribunal
- Ensures electronic copies of appeal records are deleted on completion

Obligations to the Tribunal

- Aware of obligation to inform the Tribunal Chair of matters that could have an adverse impact on the public perception of the Tribunal
- Inform Tribunal Chair of actual or potential conflict of interest with respect to the performance of duties for the Tribunal



Competency **1** **Legislation and Practices and Procedures**  
*Knowledge of relevant legislation and Tribunal Practices and Procedures*

Appeal Number:

**Panel Chairs**

Does Not Meet  
 Expectations  
 Requires Training

Adequate  
 Meets  
 Expectations

**Mentor**  
 Exceeds Expectations  
 and can coach others

Possesses a detailed knowledge of the Tribunal's Practices and Procedures

- In conducting the hearing, properly applies the Tribunal's Practices and Procedures, including those relating to:
  - Adjournments
  - Safety concerns
  - Apprehension of bias
  - Authorization to act on behalf of another
- Obtains advice or information from appropriate sources when required

Possesses a detailed knowledge and understanding of the legislation and legal jurisdiction

- Directs hearing activities based on this knowledge
- Obtains advice from appropriate sources when required



<b>Competency 2 Conduct of Hearing</b> <i>Conducts hearing in a courteous, timely and respectful manner, consistent with the Tribunal Code of Conduct</i>			<b>Appeal Number:</b>
<b>Panel Members and Panel Chairs</b>	<b>Does Not Meet Expectations</b> Requires Training	<b>Adequate Meets Expectations</b>	<b>Mentor Exceeds Expectations</b> and can coach others
Fully prepares for the hearing <ul style="list-style-type: none"> <li>■ is punctual</li> <li>■ has read the appeal record</li> <li>■ discloses any potential conflict of interest</li> </ul>			
Communicates effectively <ul style="list-style-type: none"> <li>■ Ensures each party has an equal opportunity to present their case without unnecessary interruption</li> <li>■ Avoids asking non-relevant and repetitive questions</li> <li>■ Focuses on subject matter of the hearing</li> <li>■ Asks clear, concise and relevant questions which are understood by those to whom they are addressed</li> <li>■ Employs active listening skills, e.g., is attentive, uses open and closed questions</li> <li>■ Shows courtesy and respect to all parties through his/her demeanour, behaviour and language</li> <li>■ Avoids casual, social or private conversations with the parties so as not to create an impression of bias</li> <li>■ Does not communicate directly or indirectly with any party to the proceeding except in the presence of all parties and their representatives</li> <li>■ Does not become an advocate for any party</li> </ul>			

<b>Competency 2 Conduct of Hearing</b> <i>Conducts hearing in a courteous, timely and respectful manner, consistent with the Tribunal Code of Conduct</i>			<b>Appeal Number:</b>
<b>Panel Chairs</b>	<b>Does Not Meet Expectations</b> Requires Training	<b>Adequate Meets Expectations</b>	<b>Mentor Exceeds Expectations</b> and can coach others
Conducts hearing effectively <ul style="list-style-type: none"> <li>■ Monitors questions, intervening only if questions are not asked in a reasonable manner or to limit non-relevant or repetitive questions</li> <li>■ Maintains control of the hearing</li> <li>■ Takes effective steps, where appropriate, to deal with parties who are angry, frightened or distraught</li> <li>■ Constructively resolves conflict between members in private, not in the presence of the parties</li> </ul>			
Communicates effectively <ul style="list-style-type: none"> <li>■ Starts hearing by explaining procedures and relevant procedural issues in plain language and confirms comprehension</li> <li>■ Ensures effective communication between the panel members and all parties attending</li> <li>■ Ensures opportunities to provide comment are equally balanced</li> </ul>			



<b>Competency 3 Evidence</b> <i>To ensure that all relevant issues are addressed by eliciting and managing evidence</i>			<b>Appeal Number:</b>
<b>Panel Members and Panel Chairs</b>	<b>Does Not Meet Expectations</b> Requires Training	<b>Adequate Meets Expectations</b>	<b>Mentor Exceeds Expectations</b> and can coach others
Undertakes necessary preparatory work ■ Identifies the areas requiring clarification			
Asks questions concerning material issues ■ Asks questions so as to elicit evidence relevant to the issues			
Identifies new relevant evidence ■ Identifies new oral or documentary evidence ■ Determines admissibility of new evidence and states why it is admissible or not ■ Where there is a dispute on the evidence, makes findings of fact and explains why that evidence was relied upon over other evidence			



<b>Competency 4 Decision Making</b> <i>Decision making to ensure effective deliberation and structured decision making</i>			<b>Appeal Number:</b>
<b>Panel Members and Panel Chairs</b>	<b>Does Not Meet Expectations</b> Requires Training	<b>Adequate Meets Expectations</b>	<b>Mentor</b> Exceeds Expectations and can coach others
Keeps an open mind <ul style="list-style-type: none"> <li>■ Does not come to any final judgement, conclusion or decision on an issue until all the evidence has been submitted and arguments concluded</li> <li>■ Considers opinions and advice of other panel members before making a decision</li> </ul>			
Takes an active part in deliberations and decision-making <ul style="list-style-type: none"> <li>■ Appropriately participates in the decision-making process by making findings of fact and a reasoned decision based on the relevant legislation</li> <li>■ Expresses opinions in discussion relevant to the issues</li> </ul>			

<b>Competency 4 Decision Making</b> <i>Decision making to ensure effective deliberation and structured decision making</i>			<b>Appeal Number:</b>
<b>Panel Chairs</b>	<b>Does Not Meet Expectations</b> Requires Training	<b>Adequate Meets Expectations</b>	<b>Mentor</b> Exceeds Expectations and can coach others
Involves members in decision making process <ul style="list-style-type: none"> <li>■ Summarizes the issues and, if necessary, reminds the panel of the evidence and relevant legislation</li> <li>■ Facilitates discussion between panel members regarding the disposition of the case</li> <li>■ Ensures there is opportunity for full discussion and encourages each member to express an opinion on the issues to be decided</li> </ul>			
Establishes a structured decision making process <ul style="list-style-type: none"> <li>■ Leads deliberations in a logical progression through the decision template</li> <li>■ Ensures that proper consideration is given to the reasoning of all members when there is a disagreement on any finding of fact, issue or decision</li> <li>■ Ensures that a clear and final decision is reached by the majority of the panel members</li> </ul>			

**Competency 5 Decision Writing**  
*Provides clear, concise and well written decisions*

Appeal Number:

**Panel Members and Panel Chairs**

Does Not Meet  
 Expectations  
 Requires Training

Adequate  
 Meets  
 Expectations

Mentor  
 Exceeds Expectations  
 and can coach others

- Participates in the decision writing process
- Assists with completing the Tribunal Decision according to Tribunal guidelines and EAR s. 87
  - Identifies the relevant legislation
  - Assists to identify a clear set of relevant finding of facts drawn from the evidence
  - Assists with providing clear and understandable reasoning that leads to a logical conclusion on each issue
  - Ensures decision of the panel is the decision of the majority
  - Provides reasons for dissent to the panel chair (for information purposes) and Appeal Coordinator (AC) within 48 hours of the hearing; where the panel chair is dissenting, panel members must write the reasons for the majority decision and provide them to the panel chair and the AC within 48 hours of the hearing; the dissent will be provided to panel members and AC within 48 hours also
  - The dissenting member must identify him/her self
  - Reviews and approves the final facts and reasons within 24 hours of receipt
  - If retaining appeal documents for the purpose of writing a decision, is responsible for returning the documents to the Tribunal within 5 business days of a determination



This section of the evaluation will be completed by the Appeal Coordinator

Competency **5** **Decision Writing**

*Provides clear, concise and well written decisions*

Appeal Number:

**Panel Chairs**

Does Not Meet  
Expectations  
Requires Training

Adequate  
Meets  
Expectations

Mentor  
Exceeds Expectations  
and can coach others

- Ensures the Tribunal Decision is completed correctly and in accordance with Tribunal guidelines and EAR s. 87
- Ensures accuracy of Part A & B
  - Summarizes reconsideration decision, state date and the ministry's reason(s)
  - Cites the relevant legislation
  - Ensures 'Summary of Facts' notes procedural matters, summarizes evidence, deals with new evidence, makes findings of fact
  - Ensures 'Reasons' states issue, parties' positions, relevant legislation, uses specific facts to show why the legislative test was met or not met and determines the reasonableness of ministry's decision; confirms or rescinds
  - Uses plain, direct and concise language

- Facilitates completion of the decision
- Obtains panel signatures
  - Liaises with Appeal Coordinator to ensure sufficiency of decision
  - Returns all documents within 5 business days of a determination of the panel unless an extension is granted by the Tribunal Chair

- Protects Privacy
- Does not include identifying information in the decision's facts or reasons or when emailing drafts for review