

Institutional guidelines concerning postponements at the TAQ

1. Objectives

These institutional guidelines are intended, while respecting the jurisdictional authority of the administrative judges, to ensure the quality, promptness and accessibility of administrative justice and to respect the parties' right to be heard.

To ensure that these goals are attained, particular attention must be paid to postponements since they can disrupt scheduling. In fact, citizens have to wait before obtaining a hearing date and tardy requests for postponements accentuate this problem since it often becomes impossible for the Tribunal to schedule another case in place of the postponed one. Therefore, the period of time reserved for the case goes unused while many citizens wait to be heard by the Tribunal.

Essentially, tardy requests for postponement go against the Tribunal's objective regarding prompt handling of cases.

The Tribunal has full authority over the conduct of hearings. It generally sets dates for convening hearings with the consent of the parties; nevertheless, it foregoes this consent when the parties or their representatives do not cooperate in order to set the date or when they attempt to delay scheduling without justification.

These institutional guidelines and their application are intended to comply with the rules of natural justice as well as the parties' right to be heard.

2. Scope

These institutional guidelines apply to any request for postponement submitted to the Tribunal administratif du Québec.

3. Handling a request for postponement

3.1 Criteria

The Tribunal handles the request for postponement specifically taking into consideration the nature of the case and the time limits prescribed by law, the complexity of the case, the diligence of the parties, the seriousness of the reasons given, the prejudice that could be suffered by the other parties, and whether or not other postponements have been previously granted in the case. Moreover, in order for the postponement to be granted, the Tribunal must conclude that the interests of justice would be better served.

No postponement will be granted based solely on the fact that the parties agree to it.

3.2 Deadline

The request for a postponement must be submitted as soon as possible and at the latest 45 days prior to the date of the hearing.

3.3 Tardy request for postponement

The party that requests a postponement less than 45 days prior to the date of the hearing must, in addition to the conditions indicated above, provide serious grounds to explain the reasons they were unable to submit its request earlier. The Tribunal will assess the request for postponement based on the criteria provided above, but must also be convinced of the seriousness of the grounds for which the request was submitted tardily.

4. Presentation of the request for postponement

The written request for a postponement must indicate the names of the parties, the Tribunal file number and provide serious grounds justifying the request¹. A copy must be transmitted to the other parties. The request must indicate whether or not the parties agree to the postponement and, if available, it must be accompanied by supporting documentation. For example, a request for postponement based on a party's medical condition must, inasmuch as possible, be accompanied by a medical report.

5. Decision concerning the request for postponement

If the Tribunal refuses the request, the parties must proceed on the scheduled hearing date. The Tribunal may proceed despite the absence of a party².

When the Tribunal refuses the request, it can take any other measure that would minimize the consequences of the refusal or to ensure a party's right to be heard.

If the Tribunal does not communicate with the parties to inform them that the postponement is granted, they must appear on the date and at the scheduled time.

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¹ *Regulation respecting the procedure of the Administrative Tribunal of Québec*, CQLR, chapter J-3, r. 3, section 27 states: "A party requesting postponement of the hearing must apply to the Tribunal as soon as the grounds invoked become known.

The postponement is granted only if it is based on serious grounds and the interests of justice will be better served as a result. No postponement may be granted solely on agreement of the parties."

² *An Act respecting administrative justice*, CQLR, chapter J-3, section 100.