

INSTITUTIONAL GUIDELINES FOR REQUESTS TO MODIFY, IN WHOLE OR IN PART, THE MODE OF PARTICIPATION OF A HEARING, A CONCILIATION SESSION OR ANY OTHER ADJUDICATIVE ACTIVITY FOR THE SOCIAL AFFAIRS SECTION

1. OBJECTIVES

These institutional guidelines are adopted to provide a framework regarding all requests to modify, in whole or in part, the mode of participation of a hearing, conciliation session or any other adjudicative activity to be conducted in a courtroom or by the use of technological means, whichever the case may be.

For the sake of transparency and to promote uniform application, they set out the applicable criteria and the procedure to be followed to submit a request.

Essentially, the guidelines promote quality, promptness and accessibility to administrative justice, as well as the safeguard of the rights of the parties to be heard.

2. SCOPE OF APPLICATION

These institutional guidelines apply to all requests made by a party to modify, in whole or in part, the mode of participation for a hearing, conciliation session or any other adjudicative activity to be conducted (such as case management conferences or pre-hearing conferences for example).

These guidelines also apply to all requests to have a party or any other participant (such as a witness or expert for example) participate in the courtroom or by the use of technological means to an adjudicative activity by another mode of participation.

These guidelines **do not apply** to the adjudicative activities of the Real Estate Section, Territory and Environment Section, Economic Affairs Section and the Mental Health Division (with regards to cases of the Review Board for Mental Disorders and the cases under the Act respecting the protection of persons whose mental state presents a danger to themselves or to others).

3. CRITERIA AND DELAY

The Tribunal administrative du Québec (Tribunal) will decide the request by taking into account the nature of the proceeding, the reasons underlying the request, the feasibility of the request with regards to the availability of the technological material and the prejudice the parties could suffer. To grant the request, the Tribunal must find that the request would better serve the ends of justice. No request to modify, in whole or in part, the mode of participation of a hearing, conciliation session or any other adjudicative activity will be granted solely based on the consent of the parties.

The request to modify, in whole or in part, the mode of participation to an adjudicative activity must be made as soon as possible once the court date is set. A request can be refused solely on the fact that it is late.

4. PRESENTATION OF THE REQUEST

A party who wishes to make a request to modify, in whole or in part, the mode of participation to an adjudicative activity should send such request, in writing, to the Secretariat of the Tribunal.

The request must contain the following information:

- The names of the parties and the file numbers concerned by the request;
- The first and last name of the party or any other participant (such as a witness or expert) making the request, their civic address, email address, their telephone and fax numbers;
- The reasons justifying that the hearing be held in a courtroom or by technological means, whichever the case may be;
- Whether or not the other parties consent, if this information is available;

A copy of the request must be sent to the other parties.

5. DECISION

Once duly completed, the request received by the Secretariat of the Tribunal is submitted to the administrative judges assigned to the case or to the Vice-President of the Social Affairs Section (if the administrative judges have not yet been assigned to the case)

They may refuse or grant, in whole or in part, the request. It may also be made subject to any conditions deemed necessary.

The Secretariat of the Tribunal informs the parties of the decision concerning the request.

If the request is not granted, the parties must be present depending on the mode of participation indicated and at the time mentioned in the notice of hearing. The same applies if the Tribunal does not communicate with the parties to inform them of the decision regarding the request.

June 22nd, 2023