

Policy #2023-001: Citizen Removal Appeals Policy

(Adopted by the MNO Special Assembly held on June 17, 2023)

1. Policy Name, Definitions, and Effective Date

This policy, entitled, MNO Policy #2023-001: *Citizen Removal Appeals Policy* (the “**Policy**”), is authorized pursuant to the MNO Bylaws and is effective as of June 17, 2023 (the “**Effective Date**”).

The Policy makes use of defined terms in the MNO Bylaws, unless otherwise specified in the Policy.

2. Background and Context for the Policy

In 1993, the MNO adopted its *Statement of Prime Purpose* as a foundational document that sets out the following aims and objectives, among others:

- “to establish democratic institutions based on our inherent right of self-government,”
- “to research, publish and promote the genealogical documentation of the Métis,” and
- “to establish and maintain a registry of the Métis Citizens of Ontario.”

Over the last 30+ years, the MNO has—based on the inherent Métis right to self-government—changed its definition of “Métis” for the purposes of citizenship within the MNO Bylaws to reflect the direction and will of its citizens and the Métis communities comprised of those citizens. Since its creation, MNO AGAs have repeatedly amended the MNO Bylaws to ensure Métis rights-holders and Métis communities are being represented by Métis.

In 2004, the MNO AGA adopted a new definition of “Métis” within the MNO Bylaws. In 2014, the *MNO Registry Policy* was formally adopted to provide further clarity on “who” the MNO represents as well as clear direction to the Registrar on the documentary requirements each MNO citizen must meet for their citizenship file to be considered “complete.”

In addition, given the utmost priority the MNO places on the advancement of collectively-held Métis rights, self-government, and claims against the Crown, the MNO—as a Métis government—needs to be able to verify it represents Métis rights-holders in its negotiations with other governments, and ensure the Métis communities it represents are being represented by verified Métis rights-holders. As the Supreme Court of Canada recognized in *R. v. Powley* based on arguments advanced by the MNO:

It is important to remember that, no matter how a contemporary community defines membership, only those members with a demonstrable ancestral connection to the historic community can claim a s. 35 right. Verifying membership is crucial, since individuals are only entitled to exercise Métis aboriginal rights by virtue of their ancestral connection to and current membership in a Métis community.

Policy #2023-001: Citizen Removal Appeals Policy

(Adopted by the MNO Special Assembly held on June 17, 2023)

In 2017, as a part of its mandate to engage in negotiations and reach agreements with other governments to recognize and respect Métis rights, self-government, and claims, the MNO initiated a Registry Review. This review included an assessment of all MNO citizenship files to determine whether they are “complete” or “incomplete” based on the current citizenship requirements set out in the MNO Bylaws and the *MNO Registry Policy*. “[I]ncomplete” files include those with missing documentation or other necessary forms. All MNO citizens have been made aware of the status of their file by the Registrar.

In May 2021, the results of the Registry Review were released, and province-wide consultations were undertaken throughout 2021 and 2022. In the summer of 2022, a “What We Heard” report from these consultations was publicly released.

In August 2022, the MNO AGA adopted a resolution directing the MNO to hold a province-wide plebiscite (“**Plebiscite**”) asking all MNO citizens over the age of 16 years whether individuals with “incomplete” citizenship files should be removed as citizens, and for the PCMNO to call a Special Assembly based on the results of the Plebiscite.

The Plebiscite was held over an 82-day period between December 8, 2022 and February 28, 2023 based on Métis democratic traditions that all citizens have the right to be heard. MNO citizens across the province voted online, via phone or by mail-in ballots. MNO citizens with “complete” and “incomplete” files were allowed to vote in the Plebiscite.

8,270 MNO citizens cast ballots in the Plebiscite, representing the largest voter turnout the MNO has ever had in its 30+ year history. A clear majority (5,898 citizens representing 71% of total votes cast) voted to remove individuals with “incomplete” citizenship files as MNO citizens.

On April 28, 2023, the PCMNO called a Special Assembly under the MNO Bylaws to follow through on the direction of the 2022 MNO AGA and to give effect to the will of MNO citizens as demonstrated through the Plebiscite.

At the Special Assembly held on June 17, 2023, this Policy was adopted to put in place a process for individuals who want to appeal their impending removal as an MNO citizen.

This Policy reflects the desire to ensure all MNO citizens have been provided with reasons from the Registrar as to why their citizenship file does not meet the MNO’s current requirements, and to potentially identify any administrative oversights or errors made by the Registrar in determining a citizenship file does not meet the MNO’s current citizenship requirements.

The Policy also exceeds the minimum removal requirements set out under section 51 of the *Not-for-Profit Corporations Act*.

Policy #2023-001: Citizen Removal Appeals Policy

(Adopted by the MNO Special Assembly held on June 17, 2023)

3. The Citizen Removal and Appeal Process

The removal and appeal process set out below shall apply if the Registrar determines that an MNO citizen does not meet the current requirements for MNO citizenship as set out in the MNO Bylaws and the *MNO Registry Policy*.

Stage 1: Removal Notice

1. The Registrar shall provide written notice to the affected individual confirming the individual's pending removal as an MNO citizen 90 days from receipt of the written notice (the "**Removal Notice**"). The Removal Notice shall be sent to the MNO citizen's email address or last known mailing address, if the MNO Registry does not have an email for the MNO citizen.¹
2. If an MNO citizen does not have a current email or mailing address on file and the MNO Registry has, on at least three prior occasions, attempted to follow up with the MNO citizen without success, the MNO citizen is deemed to have waived receipt of notice, including of their Removal Notice, and is still subject to removal pursuant to step 3 below. The onus is on each MNO citizen to provide the Registrar with up-to-date contact information and the documentation necessary to complete their citizenship file.
3. An MNO citizen subject to a Removal Notice shall be removed from the MNO Registry and cease to be an MNO citizen immediately following the conclusion of the 90 days' notice period, unless the citizen appeals the Registrar's decision in accordance with this Policy and the process set out below. An MNO citizen who has filed an appeal shall remain as an MNO citizen pending a final determination in their appeal under this Policy.

Stage 2: Filing an Appeal

4. An MNO citizen subject to removal may appeal their Removal Notice. Due to the fact-specific nature of each MNO citizen's file, appeals will be determined on an individual, case-by-case basis, and cannot be combined with another citizen's appeal (i.e., no "group" appeals). In addition, and consistent with the confidentiality requirements in the *MNO Registry Policy*, information under this Policy cannot be shared with or disclosed to anyone other than the affected MNO citizen, subject to the consent requirements under the *MNO Registry Policy* being satisfied.
5. An MNO citizen may only appeal their Removal Notice on one or a combination of the following appeal grounds:
 - (a) insufficient notice has been provided to the MNO citizen based on this Policy;

¹ Under this Policy, a document sent by mail is deemed to have been received on the fifth day after it was sent, and a document sent by email is deemed to have been received immediately after it was sent unless notification is provided otherwise (e.g., a bounce back or undeliverable message).

Policy #2023-001: Citizen Removal Appeals Policy

(Adopted by the MNO Special Assembly held on June 17, 2023)

- (b) the citizen has not been provided written reasons from the Registrar as to why their citizenship file is “incomplete” based on the current requirements for citizenship set out in the MNO Bylaws and *MNO Registry Policy*; or
 - (c) the citizen has identified an existing record or document in their citizenship file that the Registrar failed to consider, which fully addresses the reasons why the Registrar has determined they do not meet the current requirements for citizenship set out in the MNO Bylaws and *MNO Registry Policy*.
6. To file an appeal, the affected MNO citizen must complete the Citizen Removal Appeal Form (“**Appeal Form**”) attached as Appendix A to this Policy, and detail their reasons for the appeal based on the appeal grounds set out above. No new documentation may be submitted as part of the appeal process.
 7. The Appeal Form must be submitted by the affected MNO citizen to the individual or firm appointed to manage the administrative aspects of the appeal (the “**Appeal Administrator**”). The Appeal Form must be received by the Appeal Administrator on or before the last day of the 90 days’ notice period to avoid removal under step 3 above.
 8. The Appeal Administrator shall forward the Appeal Form to the Registrar within a reasonable period. The Registrar shall maintain authority to “revoke” (i.e., reverse) the Removal Notice throughout the course of the appeal process if they determine, at any time, that an MNO citizenship file is now “complete” and meets the current requirements for citizenship as set out in the MNO Bylaws and *MNO Registry Policy*.

Stage 3: Document Sharing Between the Parties to the Appeal

9. Upon receipt of the Appeal Form, the Registrar shall forward copies of the Removal Notice, assessment letter, and any re-assessment letters (the “**Appeal File**”) to the Appeal Administrator. Best efforts will be made by the Registrar to forward the Appeal File within 30 days of receiving the Appeal Form.
10. Upon receipt, the Appeal Administrator will forward a copy of the Appeal File and Appeal Form to the individual appointed by the PCMNO to independently review and consider the appeal (the “**Appeal Decision-Maker**”) based on this Policy. A copy of the Appeal File will also be provided to the MNO citizen in digital form only, subject to any confidentiality requirements identified by the Registrar.

Stage 4: The Appeal Decision

11. The Appeal Decision-Maker will review the Appeal Form and Appeal File, and issue a written decision with reasons confirming whether or not they believe a ground for the appeal has occurred (“**Appeal Decision**”). For clarity, the Appeal Decision-Maker has authority to “impose” (i.e., affirm) the Registrar’s Removal Notice, but not “revoke” (i.e., reverse) it. Best efforts will be made by the Appeal Decision-Maker to provide the Appeal Decision within 60 days of receiving the Appeal File.

Policy #2023-001: Citizen Removal Appeals Policy

(Adopted by the MNO Special Assembly held on June 17, 2023)

12. An MNO citizen whose appeal is unsuccessful shall be removed from the MNO Registry and cease to be an MNO citizen immediately after receipt of the Appeal Decision.

Stage 5: Reconsideration Decision

13. An MNO citizen whose appeal is successful based on one of the appeal grounds set out above shall have their citizenship file sent back to the Registrar for reconsideration, taking into account the appeal grounds identified in the Appeal Decision.

14. After review of the Appeal Decision, the Registrar shall issue a written decision with reasons to the MNO citizen (the “**Reconsideration Decision**”) confirming whether or not the Registrar’s original decision has been affirmed or reversed. Best efforts will be made by the Registrar to provide the Reconsideration Decision within 60 days of receiving the Appeal Decision.

15. If the Registrar reverses its original decision and decides the citizen’s file meets the current requirements for MNO citizenship, the MNO citizen shall remain on the MNO Registry and be issued a new MNO citizenship card.

16. If the Registrar affirms its original decision that the citizen’s file does not meet the current requirements for MNO citizenship, the individual shall be removed from the MNO Registry and cease to be a citizen of the MNO immediately after receipt of the Reconsideration Decision by the MNO citizen. The Reconsideration Decision is considered final and binding with no further right of appeal.

For a visual illustrating the above-noted removal and appeal process, see Appendix B of this Policy. For clarity, Appendix B has been provided for reference and illustrative purposes only, and the terms of this Policy shall govern to the extent of any conflict or inconsistency.

4. Compliance with the *Not-for-Profit Corporations Act*

While the MNO—as a Métis government—asserts it has the right to determine who are its citizens based on the inherent Métis right to self-government and self-determination, this Policy also fulfills the requirements in the *Not-for-Profit Corporations Act* for membership removal to be undertaken in “a fair and reasonable manner,” and that the requirements set out in section 51(3) of the *Not-for-Profit Corporations Act* are met.

The discharge of the processes set out in the Policy equate to good faith under section 51(2) of the *Not-for-Profit Corporations Act* being demonstrated to an MNO citizen who has received a Removal Notice. No further rights or procedural fairness is owed.

5. Effect of Technical Non-Compliance with the Policy

A failure to comply with this Policy is an irregularity and does not render a Removal Notice, an Appeal Decision, a Reconsideration Decision, or the removal of an MNO citizen from the MNO Registry a nullity, invalid, or otherwise ineffective.

Policy #2023-001: Citizen Removal Appeals Policy

(Adopted by the MNO Special Assembly held on June 17, 2023)

6. Interpretation

The terms of this Policy shall be given such fair, large, and liberal construction and interpretation as best to ensure the attainment of its objects. Nothing in this Policy shall be interpreted in a way that alters or modifies the MNO Bylaws or *MNO Registry Policy*. To the extent of any conflict, the MNO Bylaws or *MNO Registry Policy* shall prevail.

For clarity, no appeal under nor any provision in this Policy, including related to the Appeal Decision-Maker's review of the Registrar's decision shall be interpreted as altering or changing the Registrar's authority, as set out in the MNO Bylaws and *MNO Registry Policy*, to be the ultimate and final decision-maker as to whether an individual meets the current citizenship requirements of the MNO.

In addition, no provision in this Policy, nor an MNO citizen's participation in an appeal under this Policy, creates any rights beyond those set out in the MNO Bylaws.

7. Adoption and Implementation

This Policy was adopted by a special resolution duly passed at the MNO Special Assembly held on June 17, 2023, based on the MNO's inherent right to self-determination and self-government as well as the authorities set out in the MNO Bylaws.

Any decision made under this Policy following its Effective Date are final and any subsequent changes made by an MNO AGA to this Policy shall not invalidate any previous response made under this Policy or give rise to a claim against the MNO.

Citizen Removal Appeal Form

(Citizen Removal Appeals Policy – Appendix A)

I, _____ *(name)*, received a Removal Notice from the Registrar dated, _____ *(date)*, confirming that I am subject to removal from the MNO Registry under article 5 of the MNO Bylaws because the Registrar has determined that my file does not meet the current requirements for MNO citizenship. Specifically, the Registrar has deemed my file as *(select one)*:

- Incomplete
- Missing Documentation

I am requesting an appeal of the Registrar’s Removal Notice decision in accordance with MNO Policy #2023-001: *Citizen Removal Appeals Policy (“Policy”)*, based on the following appeal ground(s) *(select all that apply)*:

- (a) insufficient notice has been provided based on the Policy
- (b) no written reasons from the Registrar have been provided as to why my citizenship file is “incomplete” based on the current requirements for citizenship set out in the MNO Bylaws and *MNO Registry Policy*
- (c) there is an existing record or document in my citizenship file that the Registrar failed to consider, which fully addresses the reasons why the Registrar has determined I do not meet the current requirements for citizenship set out in the MNO Bylaws and *MNO Registry Policy*

Please provide further details on the above-noted appeal ground(s). *(You may attach additional pages if needed; however, no new documentation may be provided. For appeals related to ground (c) above, please also provide the title or description of the applicable document):*

Form continues on next page.



Citizen Removal Appeal Form

(Citizen Removal Appeals Policy – Appendix A)

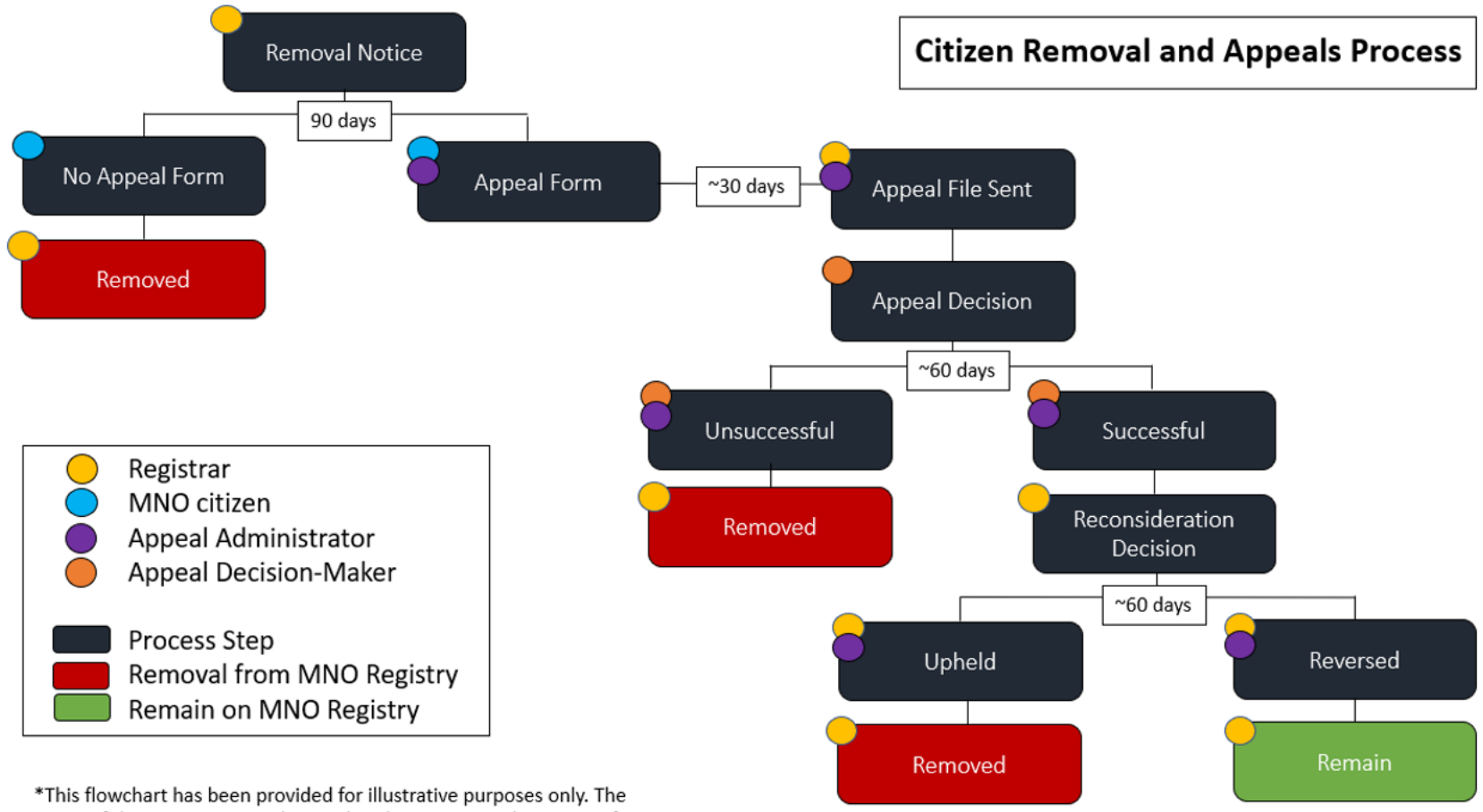
By signing this Form, I consent to the MNO Registry providing a copy of the required contents of my MNO citizenship file to the Appeal Administrator and Appeal Decision-Maker. *(Failure to complete and sign this Form will prevent the MNO Registry from being able to forward the relevant information in your file necessary for the appeal. This is because all personal information in the MNO Registry is considered confidential under the MNO Registry Policy and may not be disclosed without an MNO citizen's consent).*

Name: _____
MNO Citizenship #: _____
Address: _____

Phone #: _____
Email: _____
Signature: _____ **Date:** _____

Citizen Removal and Appeals Process Flowchart

(Citizen Removal Appeals Policy – Appendix B)



*This flowchart has been provided for illustrative purposes only. The terms of the *Citizen Removal Appeals Policy* govern to the extent of any conflict or inconsistency.