

## Procedures for recourse on staffing (Staffing Program)

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Upon request, these procedures are available in multiple formats for individuals with a visual impairment (email [PA/AP Multiple Media-Format Substitut](mailto:PA/AP Multiple Media-Format Substitut)).

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### **1. Effective date**

The Procedures for recourse on staffing (Staffing Program) received approval by the Assistant Commissioner, Human Resources Branch (HRB), on September 23, 2013, and is in effect as of November 1, 2013.

These procedures replace the 2008 Directive on Recourse for Assessment and Staffing and the 2011 Canada Revenue Agency Directive for Independent Third Party Review for Staffing Situations.

Staffing decisions made prior to November 1, 2013, in accordance with the CRA Staffing Program (2007) are subject to the applicable staffing recourse under the following policy instruments:

- Directive on Recourse for Assessment and Staffing (2008); and
- Canada Revenue Agency Directive for Independent Third Party Review for Staffing Situations (2011).

See [section 10](#) for the version history of this document.

### **2. Application**

These procedures apply to employees of the Canada Revenue Agency (CRA), employees of the Public Service, and individuals with preferred status who are involved in staffing at the CRA, as well as any other individuals required to comply with CRA policy by virtue of a contract or a memorandum of understanding (MOU). They do not apply to Executive Cadre staffing.

The Code of Ethics and Conduct highlights for all CRA employees the expected standard of conduct and the required adherence to CRA policy instruments. Compliance with CRA corporate procedures is mandatory.

To assist with the interpretation and implementation of the Procedures for recourse on staffing, a number of key terms are defined in the [glossary](#).

### **3. Related corporate policy instruments**

These procedures flow from the Staffing and Recourse Directive (Staffing Program) and are complemented by the Procedures for Staffing (Staffing Program).

See also [References](#).

### **4. Introduction**

- 4.1. The [Canada Revenue Agency Act](#) gives the CRA authority in matters related to human resources management including the authority to develop its own program governing staffing and recourse for employees.
- 4.2. The CRA staffing program includes opportunities for recourse. The purpose of recourse is to address an employee's concerns of arbitrary treatment as a result of a staffing decision or voluntary assessment. It is not on the evaluation of other employees. Arbitrary is defined as:
  - 4.2.1. In an unreasonable manner, done capriciously; not done or acting according to reason or judgment; not based on rationale or established policy; not the result of a reasoning applied to relevant considerations; discriminatory, i.e. as listed as the prohibited grounds of discrimination in the [Canadian Human Rights Act](#).
- 4.3. The procedures apply to all staffing decisions and voluntary assessment.
- 4.4. Recourse decisions are binding but do not set precedent.
- 4.5. Managers must be able to explain their principles-based staffing decisions. They can assign to other persons involved in the staffing process certain activities, including, but not limited to, assessment and recourse during the staffing process in accordance with the [Delegation of Human Resources Authorities](#). Managers remain responsible for decisions taken.
  - 4.5.1. For the assessment of CRA behavioural competencies using a targeted behavioural interview (TBI), portfolio of competencies (PoC), or competency overview (CO), the competency consultant is responsible for individual feedback (IF).
- 4.6. Employees and managers involved in recourse have the right to:
  - request information related to the request for recourse;

- question statements made by the other party; and
- be heard.

4.7. These procedures outline the recourse types and related recourse activities.

## 5. Activities

5.1. Managers must use the staffing principles to explain their staffing and staffing recourse decisions.

### 5.2. Types of recourse

5.2.1. There are three types of recourse:

- individual feedback (IF);
- decision review (DR); and
- independent third-party review (ITPR).

5.2.2. The type of recourse available corresponds to the staffing decision, as identified in Appendix A of these procedures. Appendix A also identifies the recourse available for voluntary assessment.

5.2.3. There is no staffing recourse for staffing processes if the source of candidates includes the general public.

### 5.3. Access to recourse

5.3.1. For staffing processes with and without solicitation, access to recourse is identified in Appendix A – Staffing recourse table.

5.3.2. Managers identify the area of notification in consultation with human resources, considering the following:

- staffing principles;
- source of candidates;
- area where the employee is identified for appointment;
- substantive organization of the employee identified for appointment;
- significance of the staffing decision;
- duration of the appointment; and
- any other relevant information.

### 5.4. Recourse notification

5.4.1. Employees must be informed in writing of the recourse available.

5.4.2. Recourse notification must include:

- the type(s) of recourse available;
- the deadline to submit a request for recourse;
- the name of the manager who is responsible for providing recourse;
- a link to the applicable request for recourse form(s);

- a link to these procedures;
- the results of screening for prerequisites, including the reason why the employee did not meet the applicable staffing requirement(s);
- for assessment, the employee's assessment results;
- for appointment,
  - the name of the employee identified for appointment;
  - the type of the appointment; and
  - the staffing requirements used for appointment.

## 5.5. Requesting recourse

5.5.1. Employees have nine (9) calendar days following the date of notification to submit a request for recourse.

5.5.2. Employees must submit requests for:

- IF and DR to the manager responsible for determining the eligibility of the request.
- ITPR to the National Conflict Resolution Office (NCRO) which is responsible for determining the eligibility of the request. The request must also be provided to the manager responsible for the permanent promotion.

5.5.3. The employee identifies their concerns, outlining the reasons they feel they were treated arbitrarily, on the mandatory request for recourse form.

5.5.4. When requesting recourse, employees must identify:

- any accommodation requirements; and
- their preferred official language.

5.5.5. Employees must advise the manager and/or the NCRO in writing of any absences or change in contact information. Failure to do so could affect the request for recourse.

## 5.6. Disclosure

5.6.1. Disclosure is the act of providing information to another party. Disclosure must take place at the earliest opportunity. Disclosure is not limited to a one-time exchange of information; it can be an ongoing process. Information must be disclosed in accordance with the [Access to Information Act](#) and the [Privacy Act](#). Each request for disclosure is considered on a case-by-case basis.

5.6.2. Managers disclose information in consultation with human resources. Managers make decisions on requests for disclosure, considering the following:

- requirement for procedural fairness; and
- obligation to protect information.

- 5.6.3. When requesting recourse, employees initiate the disclosure process by identifying on the request for recourse form the information they want disclosed.
- 5.6.4. If requested, employees must be given access to information related to their individual treatment as a result of a staffing decision or during voluntary assessment, including but not limited to:
- their assessment results for standardized assessments;
  - their assessment results for locally developed tools, including the questions, their answers, the answer key, and rating guide;
  - notes taken during interview(s); and
  - reference checks.
- 5.6.5. Disclosure of information can occur if consistent with the reason for which it was collected, in accordance with the *Privacy Act*.
- 5.6.6. Information related to employees who participate in a staffing process can be disclosed, if the information was used by the CRA to make a staffing decision. If the disclosure of other employees' information is requested, all personal information must be removed as per the provisions of the *Privacy Act*.
- 5.6.7. Managers are not permitted to disclose protected standardized assessment material.
- 5.6.8. Standardized Assessment Services (SAS) manages all disclosure requests related to:
- CRA standardized assessments; and
  - Public Service Commission (PSC) standardized assessments.
- 5.6.9. Disclosure requests for information related to standardized assessments will be denied in order to:
- protect the validity of the assessment tool;
  - permit the continued use of the assessment tool;
  - protect assessment results; and
  - ensure no employee is given an unfair advantage.
- 5.6.10. Information disclosed allows parties to clarify their concerns. The disclosure of information provides the parties the opportunity to review the information prior to participating in recourse.
- 5.6.11. For DR and ITPR, failure to disclose requested information can result in a decision of adverse inference.

## 5.7. Corrective measures

5.7.1. Following a recourse decision of arbitrary treatment, corrective measures must be taken.

5.7.2. The manager identifies and implements corrective measures within thirty (30) calendar days following the recourse decision.

5.7.3. When determining corrective measures, the manager must:

- consult human resources;
- consult SAS if corrective measures relate to a standardized assessment to maintain the integrity of the standardized tool; and
- for ITPR cases, consult their Assistant Commissioner/branch head.

5.7.4. The manager must communicate in writing, details on the corrective measures, including implementation. This written communication is provided to:

- the employee requesting recourse and if applicable, to a person of their choice;
- other employees impacted by the corrective measures;
- human resources; and
- for ITPR, the applicable Assistant Commissioner/branch head and the NCRO.

5.7.5. Human resources monitors the identification and implementation of corrective measures.

5.7.6. If corrective measures cannot be implemented within the prescribed timeframe, the manager must explain in writing why and the alternate date on which the corrective measures will be implemented to:

- their supervisor;
- the employee requesting recourse and if applicable, a person of their choice;
- human resources; and
- for ITPR, the applicable Assistant Commissioner/branch head and the NCRO.

5.7.7. There is no staffing recourse following corrective measures resulting from DR and ITPR.

## 5.8. Additional activities

5.8.1. Persons responsible for providing recourse must conduct recourse in accordance with the relevant legislation as outlined in the References section of these procedures and the Staffing Program Policy governing the CRA and its employees.

- 5.8.2. Persons responsible for providing recourse must provide:
- accommodations during the recourse process, if required; and
  - recourse in the employee's preferred official language.
- 5.8.3. Parties involved in recourse are required to participate in good faith, and must respect these procedures.
- 5.8.4. At any point during recourse, the employee and the manager can resolve the employee's concerns through informal means. If both parties agree, they inform human resources and, if applicable for ITPR, the NCRO and the ITPR reviewer. In these circumstances, the request for recourse is put on hold pending the outcome of the informal process.
- 5.8.5. The CRA encourages the employee and the manager to request the services of a Conflict Resolution Advisor to facilitate discussions, if applicable.
- 5.8.6. The request for recourse reactivates when the employee or manager informs the other party, and if applicable, the NCRO and the ITPR reviewer that they wish to continue. Informal resolution discussions cease and formal recourse continues.
- 5.8.7. If the employee and manager informally resolve a request for recourse before a final decision, the request for recourse is closed.
- 5.8.8. Recourse processes are private and confidential. The disclosure of information is prohibited to anyone not involved in the case.
- 5.8.9. The employee can withdraw a request for recourse for any reason and at any time during the recourse process. To withdraw a request, the employee must inform all parties in writing. The NCRO, if applicable, or the person responsible for providing recourse must confirm in writing the request is closed.
- 5.8.10. If the manager cancels the staffing process after a request for recourse is submitted, a written rationale must be provided to those impacted, and to the Resourcing Division, Employment Programs Directorate, HRB within thirty (30) calendar days following the date the process was cancelled. A cancellation of the staffing decision closes the request for recourse. For ITPR, the written rationale must also be provided to the manager's Assistant Commissioner and the NCRO.

## 5.9. Individual feedback

### General information

- 5.9.1. Individual feedback (IF) is a review of an employee's concerns of arbitrary treatment. It must be completed before requesting either decision review or independent third-party review, if available. The review includes a formal discussion between an employee and a manager.
- 5.9.2. IF provides an employee with information regarding their treatment as a result of a staffing decision or voluntary assessment.
- 5.9.3. The manager responsible for the staffing decision must conduct IF. The competency consultant must conduct IF for the assessment of behavioural competencies using a TBI, PoC or CO.
- 5.9.4. The manager conducts IF verbally or in writing. IF can include more than one discussion between the employee requesting recourse and the manager. IF is limited to the employee and the manager, except when accommodations are required.

### Requesting individual feedback

- 5.9.5. The employee must complete the RC136 – Request for Individual Feedback, identifying their concerns and reasons they feel they were treated arbitrarily.
- 5.9.6. Requests for IF must be made in accordance with subsection 5.5 of these procedures.

### Preparing and planning for individual feedback

- 5.9.7. If required, managers consult human resources for advice and guidance.
- 5.9.8. Upon receipt of a request for IF, the manager must:
  - review the RC136 – Request for Individual Feedback;
  - gather relevant information related to the request; and
  - contact the employee to:
    - select a date for IF;
    - confirm content on the RC136; and
    - disclose information, in accordance with subsection 5.6 of these procedures.

### Conducting individual feedback

- 5.9.9. The manager conducts IF and makes a decision within twenty-eight (28) calendar days from receipt of the request. If the manager cannot complete IF within the prescribed timeframe, they advise, in writing, their supervisor, the employee, and human resources. The written



communication must include the reason why IF cannot be completed and an alternate completion date.

5.9.10. The manager must:

- address the employee's concerns and reasons they feel they were treated arbitrarily, as identified on the RC136;
- provide the employee the opportunity to present their concerns and supporting information;
- present the information necessary to explain the basis for the staffing decision or voluntary assessment;
- document key points of the discussion(s);
- continue discussions with the employee until both agree IF is complete or the manager concludes the IF discussions;
- review all information presented;
- determine if the employee was treated arbitrarily; and
- inform the employee in writing when IF is complete.

Individual feedback decision

5.9.11. The manager must advise the employee in writing of their decision, using the RC137 – Response to Request for Recourse.

5.9.12. The manager must complete the RC136 and submit it to human resources with a copy of the RC137.

5.9.13. The decision detailed on the RC137 must include:

- the date and nature of any discussions;
- an overview of the process used to conduct the review;
- the employee's original concerns;
- a response to the concerns identified on the RC136;
- a decision whether the employee was treated arbitrarily;
- the rationale for the decision;
- corrective measures, if applicable;
- the subsequent recourse, if available;
- the deadline to submit a subsequent request for recourse, if applicable; and
- to whom any subsequent request for recourse is directed, if applicable.

5.9.14. If arbitrary treatment is identified, the manager, in consultation with human resources, must implement corrective measures in accordance with these procedures. Corrective measures can include cancelling the staffing process and revoking appointments.

## 5.10. Decision review

### General information

- 5.10.1. Decision review (DR) is a review of an employee's concerns of arbitrary treatment following individual feedback. DR, if available, is conducted by a decision reviewer and can be requested only after individual feedback is completed. DR is not available if the employee requests ITPR.
- 5.10.2. DR is a review of an employee's concerns of arbitrary treatment on the original staffing decision or voluntary assessment, and not specifically on the process or results of IF.
- 5.10.3. The decision reviewer conducts DR verbally or in writing. DR can include more than one discussion between the decision reviewer and the parties. The decision reviewer can meet both parties at the same time.
- 5.10.4. The employee can be accompanied by a person of their choice; this person can fully participate in the DR process. This person's name must be included on the RC135 – Request for Decision Review.
- 5.10.5. The manager can be accompanied by a person of their choice; this person can fully participate in the DR process. The manager informs the decision reviewer of the name of the person participating.

### Fact Finder

- 5.10.6. The decision reviewer can assign a fact finder to assist with the gathering of relevant information from all parties. The fact finder does not provide an opinion or a recommendation on the request.

### Requesting decision review

- 5.10.7. After completing IF, the employee must complete the RC135 – Request for Decision Review form, identifying their concerns and reasons they feel they were treated arbitrarily.
- 5.10.8. Requests for DR must be made in accordance with subsection 5.5 of these procedures.

### Preparing and planning for decision review

- 5.10.9. Upon receiving notification of a request for DR the manager must:
  - review the request and complete the RC135;
  - forward the RC135 to the decision reviewer and human resources;
  - gather relevant information related to the request; and
  - consult human resources for advice and guidance.

- 5.10.10. The manager sends relevant information to the decision reviewer. This includes, but is not limited to:
- any information shared during IF;
  - the results of IF;
  - information related to the staffing decision or voluntary assessment; and
  - the rationale for the staffing requirement(s).
- 5.10.11. If DR relates to a standardized assessment, the decision reviewer must consult SAS using the [standard form](#). The decision reviewer does not have the authority to change standardized assessment results. SAS maintains the standardized assessment methodology and the authority for corrective measures.
- 5.10.12. If the DR request relates to a locally developed tool (LDT), the manager must provide the decision reviewer with all information related to the LDT assessment.
- 5.10.13. The manager must disclose information in accordance with subsection 5.6 of these procedures.
- 5.10.14. The decision reviewer must contact the employee and the manager to confirm:
- the method to conduct DR;
  - the receipt of information; and
  - the distribution of relevant information.
- 5.10.15. All information submitted by the employee and the manager to the decision reviewer must be shared with each party.

#### Conducting decision review

- 5.10.16. The decision reviewer conducts DR and makes a decision within twenty-eight (28) calendar days from receipt of the request. If the decision reviewer cannot complete DR within the prescribed timeframe they must advise, in writing, their supervisor, the employee, the manager, and human resources. The written communication must include the reason why DR cannot be completed and an alternate completion date.
- 5.10.17. The decision reviewer must review all information submitted by the employee and manager. The decision reviewer gathers and reviews any additional information relevant to the request. Subject matter experts and human resources experts can assist with the review of information.
- 5.10.18. The decision reviewer must:
- address the employee's concerns and reasons they feel they were treated arbitrarily, as identified on the RC135;

- provide the employee the opportunity to present their concerns and supporting information;
- provide the manager the opportunity to present the information necessary to explain the basis for the staffing decision or voluntary assessment;
- document key points of the discussion(s);
- consult SAS before making a decision if DR relates to a standardized assessment;
- review all information presented;
- determine if the employee requesting recourse was treated arbitrarily; and/or
- advise HR if issues are identified that extend beyond the concerns identified by the employee requesting recourse.

#### Decision review decision

5.10.19. The decision reviewer must advise the employee and manager in writing of their decision using the RC137 – Response to Request for Recourse.

5.10.20. The decision reviewer must also complete the RC135 and submit it to human resources with a copy of the RC137. If DR relates to a standardized assessment, a copy of the RC137 must be sent to SAS.

5.10.21. The decision, detailed on the RC137 must include:

- the date and nature of any discussions;
- an overview of the process used to conduct the review;
- the employee's original concerns;
- a response to the concerns identified on the RC135;
- a decision whether the employee was treated arbitrarily;
- the rationale for the decision; and
- corrective measures, if applicable.

5.10.22. If arbitrary treatment is identified, the manager, in consultation with human resources, must implement corrective measures in accordance with these procedures. Corrective measures can include cancelling the staffing process and revoking appointments.

#### 5.11. Independent third-party review

##### General information

5.11.1. Independent third-party review is a review of an employee's concerns of arbitrary treatment, following individual feedback. It is reserved for permanent promotions, except those within an apprenticeship program. This review is conducted by a third party outside of the CRA and can be requested only after individual feedback is completed. ITPR is not available if the employee requests DR.

- 5.11.2. The employee can be accompanied by a person of their choice; this person can fully participate in the ITPR process. This person's name must be included on the RC117 – Request for an Independent Third Party Review.
- 5.11.3. The manager can be accompanied by a person of their choice; this person can fully participate in the ITPR process. The manager informs the NCRO of the name of the person participating.
- 5.11.4. During the ITPR process, written communication must be sent to all parties and the NCRO, except if the written communication is between the employee and a person of their choice or the manager and a person of their choice.
- 5.11.5. The ITPR reviewer conducts the review verbally or in writing. ITPR can include more than one discussion with all parties.

#### Oversight of the independent third-party review process

- 5.11.6. The NCRO oversees the application of the ITPR process and is responsible to:
  - maintain a list of ITPR reviewers to meet demand;
  - determine eligibility of the request, in accordance with these procedures;
  - monitor compliance of these procedures, prior to the case being assigned to an ITPR reviewer;
  - maintain communication during the review and copy all parties on all written communication; and
  - manage the ITPR timelines.
- 5.11.7. The NCRO remains impartial with respect to the request and is not involved in the content of the case. The role of the NCRO is strictly administrative.
- 5.11.8. If there is a clear violation of the ITPR reviewer's contractual obligations, the NCRO has the authority to terminate the contract. In these circumstances, the NCRO takes immediate action to assign a new ITPR reviewer to the case.

#### Requesting independent third-party review

- 5.11.9. After completing IF, the employee must complete the RC117 – Request for an Independent Third Party Review form, identifying their concerns and reasons they feel they were treated arbitrarily.
- 5.11.10. Requests for ITPR must be made in accordance with subsection 5.5 of these procedures.

5.11.11. Upon receipt of the request, and to determine eligibility, the NCRO must confirm:

- the request was submitted within the prescribed timeframe;
- IF is complete;
- the employee did not request DR;
- the employee has not pursued a resolution through administrative recourse under a federal act, except the Canadian Human Rights Act; and
- the employee's concerns relate to a permanent promotion subject to ITPR.

5.11.12. If required, the NCRO contacts the employee and the manager to clarify and validate the request.

5.11.13. Within fourteen (14) calendar days of receiving the request, the NCRO must contact the employee and the manager in writing to confirm if the request is accepted. If the request is not eligible, the NCRO provides a written response to the employee and manager.

5.11.14. A request is no longer eligible in the following situations:

- the circumstances giving the right to the employee to request ITPR change during the course of the review process; or
- undisclosed information surfaces making the request ineligible.

In these circumstances the NCRO terminates the request.

5.11.15. After requesting an ITPR, the employee must be available to receive communication from the NCRO. If the employee remains unavailable for a period of thirty (30) calendar days after submitting their request, the NCRO considers the request abandoned and informs the employee and the manager of this in writing.

5.11.16. Following a request, the manager must be available to receive communication from the NCRO. If the manager remains unavailable for a period of thirty (30) calendar days, the NCRO must contact their immediate supervisor to follow up.

5.11.17. The NCRO can move the review forward without the manager's contribution.

#### Preparing and planning for independent third-party review

5.11.18. Upon receipt of the request, the manager must:

- consult human resources for advice and guidance; and
- gather relevant information related to the request.

## Exchange of information

5.11.19. The manager must disclose information in accordance with subsection 5.6 of these procedures. This includes, but is not limited to:

- any information shared during IF;
- the results of IF;
- information related to the permanent promotion decision; and
- the rationale for the staffing requirement(s) used to identify the employee for appointment.

5.11.20. The NCRO sends the Information Exchange Checklist to the employee and the manager.

5.11.21. Exchange of information can include the following:

- the employee sends allegations related to arbitrary treatment and their requests for information to the manager;
- the manager responds to the allegations and requests for information in accordance with subsection 5.8 of these procedures;
- the employee submits revised allegations;
- the manager responds to the revised allegations; and
- the employee submits final allegations.

5.11.22. The exchange of information continues for up to thirty (30) calendar days. It can end prior to thirty (30) calendar days, if the employee and manager agree. If the exchange of information is not completed within the thirty (30) calendar days, the NCRO can assign the case to an ITPR reviewer based on the information submitted.

5.11.23. If a written request for an extension is required, the request for up to an additional thirty (30) calendar days must be made to the NCRO within the initial thirty (30) calendar days. The NCRO can assign the case to an ITPR reviewer when the accepted extension expires. The NCRO evaluates cases requiring more than the additional thirty (30) calendar days on a case-by-case basis.

5.11.24. If a party is not available or does not respond to communication within the prescribed timeframe, the NCRO reserves the right to move the process forward.

5.11.25. Final allegations outlining the reasons the employee feels they were treated arbitrarily are required before the expiry of the exchange of information. During the exchange of information, the employee can add supporting information to the original allegations included on the request. Revising allegations is not permitted once the exchange of information is over.

5.11.26. If during the exchange of information, the manager discovers an error in the process, they must take appropriate action. All parties must then sign the written agreement outlining the appropriate action. By signing the agreement, the employee agrees to withdraw the request once the manager takes the appropriate action. A copy of the agreement must be sent to human resources and the NCRO. The manager communicates in writing to the NCRO confirming appropriate action taken.

- If the employee disagrees with the manager's proposed action to correct the error, they are not obligated to sign the agreement and can proceed with the request for ITPR.

#### Case assignment

5.11.27. The NCRO assigns eligible ITPR requests to an external reviewer who conducts a review and makes a final decision. This decision is binding and not precedent setting.

- The ITPR reviewer considers each case individually and is not bound by previous ITPR decisions.

5.11.28. The NCRO can assign multiple requests to the same ITPR reviewer if they relate to the same staffing decision.

#### Conducting the independent third-party review

5.11.29. The ITPR reviewer must respect administrative law principles, which follow the rules of procedural fairness and natural justice. The ITPR reviewer conducts the review with the understanding that it is an administrative process with no legal procedural requirements.

5.11.30. Within seven (7) calendar days from assigning the case, the ITPR reviewer must contact the employee and the manager to:

- inform the parties of the ITPR reviewer's mandate;
- clarify roles and responsibilities of all the parties involved in the review process;
- clarify the nature of the case and the issues subject to review;
- determine and describe the review process;
- establish timelines for conducting the review; and
- confirm receipt of relevant information.

5.11.31. Prior to commencing the review process, the employee and manager must raise any processing and administrative issues with the ITPR reviewer. The ITPR reviewer makes decisions on processing matters as they arise during the process.

5.11.32. The ITPR reviewer considers only the documented allegations that are finalized as part of the exchange of information, and are sent to the ITPR reviewer when the case is assigned.



5.11.33. The ITPR reviewer must:

- respect their roles and responsibilities as outlined in these procedures;
- examine only staffing decisions related to appointment, prerequisite and assessment decisions are not subject to ITPR;
- manage the review process in accordance with these procedures until a final decision or the request is legitimately closed;
- gather any additional information as determined relevant to the request in accordance with subsection 5.6 of these procedures; and
- complete the case within twelve (12) weeks from the time the case is assigned, excluding the time to write the final report (for extensions to the review period, see paragraph 5.11.37).

5.11.34. The ITPR reviewer is not authorized to:

- determine the eligibility of an ITPR request;
- mediate informal resolution discussions;
- order the production of documents; and
- make decisions on issues related to the interpretation or application of the *Canadian Human Rights Act*.

5.11.35. The ITPR reviewer can:

- allow one observer from each party;
  - These observers do not represent the parties and do not participate in the process.
  - Their attendance is for learning purposes only.
- request policy interpretations related to the case from internal subject matter experts and human resource experts , if required;
  - These interpretations must be shared with the parties.

5.11.36. If the employee or the manager is uncooperative, the ITPR reviewer can make decisions based on information submitted.

5.11.37. If a party requires an extension to the twelve (12) week review period, a written rationale must be provided to the ITPR reviewer and shared with the other party. A copy of the written rationale is provided to the NCRO, who confirms the extension. Any time limit extension excludes the time required for the ITPR reviewer to write the final report.

Employee(s) identified for appointment

5.11.38. The manager informs the employee(s) identified for appointment if there is a request for ITPR. Employee(s) identified for appointment can request to participate in the ITPR. If so, they must notify the manager in writing.

5.11.39. If employee(s) identified for appointment participate in the review, the manager informs the NCRO and the ITPR reviewer. The manager is responsible to keep these employee(s) informed during the ITPR.

5.11.40. The ITPR reviewer decides if it is necessary to include the employee(s) identified for appointment in any meetings, if applicable.

5.11.41. The ITPR reviewer can request additional information from the employee(s) identified for appointment.

#### Independent third-party review decision

5.11.42. The ITPR reviewer has ten (10) calendar days following final contact with the parties to issue a final and binding decision. The ITPR reviewer makes a decision based on their application and interpretations of these procedures.

5.11.43. If the ITPR reviewer identifies arbitrary treatment, the corrective measures they can prescribe are limited to:

- ordering the correction of an error(s).

5.11.44. The ITPR reviewer is not authorized to order how the error(s) be corrected. However, the ITPR reviewer can recommend:

- another manager be involved in the correction of an error(s);  
and
- the revocation of an appointment.

5.11.45. If arbitrary treatment is identified, the manager, in consultation with human resources, must implement corrective measures in accordance with these procedures. Corrective measures can include cancelling the staffing process and revoking appointments.

5.11.46. The final decision is sent to the parties and the NCRO in writing.

5.11.47. The NCRO sends a copy of the final decision to the responsible Assistant Commissioner and the Resourcing Division, Employment Programs Directorate, HRB for monitoring and follow-up purposes.

5.11.48. The parties and the Resourcing Division, Employment Programs Directorate, HRB can request clarification from the ITPR reviewer on the content of the final decision.

5.11.49. The NCRO translates and revises the final decision to remove all private and personal information. The final decision is then posted to the CRA internal website (InfoZone).

5.11.50. The manager is responsible for all direct costs associated with the ITPR, including those related to the ITPR reviewer and translation of the final decision.

#### Independent third-party review evaluations

5.11.51. The ITPR reviewer must inform the NCRO ten (10) calendar days prior to providing a final decision. To ensure an unbiased evaluation of the ITPR reviewer, the NCRO sends an evaluation form to the parties to solicit feedback before a final decision is distributed.

5.11.52. After receiving the final decision, the NCRO sends a second evaluation form to the parties and the ITPR reviewer to solicit feedback on the ITPR process. This feedback is used to monitor and improve the ITPR process.

#### Closing a request for independent third-party review

5.11.53. If a written agreement is made between the employee and manager to informally resolve the issues related to the request, the manager must consult with human resources prior to finalizing the agreement. A copy of the final agreement must be sent to human resources and the NCRO. The request is then considered closed.

5.11.54. The ITPR reviewer can also terminate the ITPR before issuing a final decision if:

- a request is frivolous;
- there is no jurisdiction to proceed, based on the Staffing Program Policy instruments;
- the ITPR reviewer discovers a conflict of interest; or
- any other condition that could adversely impact their impartiality or ability to continue.

5.11.55. If the ITPR reviewer terminates a review:

- a rationale is prepared and forwarded to the parties and the NCRO;
- the mandate of the ITPR reviewer ends when the review is terminated; and
- due to a conflict of interest, the NCRO immediately takes action to assign a new ITPR reviewer to the case.

## **6. Assessment and review**

The Human Resources Branch is responsible for the scheduled review of these procedures every five years, as well as for any ad-hoc reviews deemed necessary.

To support the review process, the Human Resources Branch is also responsible for identifying and undertaking any monitoring and assessment activities that will help determine whether the procedures are effective and are being followed.

## 7. Definitions

Refer to the [glossary](#) for more information.

## 8. References

The Procedures for recourse on staffing must be administered and implemented in conjunction with the following:

### Legislation

- [Access to Information Act](#)
- [Canada Revenue Agency Act](#)
- [Canadian Charter of Rights and Freedoms](#)
- [Canadian Human Rights Act](#)
- [Employment Equity Act](#)
- [Official Languages Act](#)
- [Privacy Act](#)

### CRA policy instruments

- [Staffing Program Policy](#)
- [Staffing and Recourse Directive \(Staffing Program\)](#)
- [Procedures for Staffing \(Staffing Program\)](#)
- [Guidelines for Staffing \(Staffing Program\)](#)

The following Web or intranet pages provide more information related to this directive:

### Web or intranet pages

- [Delegation of Human Resources Authorities](#)

## 9. Enquiries

Questions about these procedures should be directed to the [Human Resources Branch](#).

## 10. Version history table

Version #	Change(s)	Reason for change(s)	Area responsible	Major change - Approved by: Minor change- Sign-off by: (name and title)	Approval date	Effective date
1.0	New CPI	n/a	Employment Programs Directorate, Human Resources Branch	Assistant Commissioner, Human Resources Branch	September 23, 2013	Nov 1st, 2013

## 11. Appendix A – Staffing recourse table

There is no staffing recourse for staffing processes if the source of candidates includes the general public.

#	Staffing decision			Recourse type(s)	Access to recourse	
<b>Staffing process with solicitation</b>						
1.	Staffing requirement(s): security, language, performance <sup>1</sup> , education, and conditions of employment			IF	Employees who applied	
2.	Screening for prerequisites			IF	Employees who applied	
3.	Assessment			IF followed by DR	Employees who participated in the assessment	
4.	Appointment	Temporary	<b>less than six months<sup>2</sup></b>	IF	Employees who are eligible, but were not identified for appointment	
			<ul style="list-style-type: none"> <li>• promotion</li> <li>• equivalent level</li> <li>• lower level</li> </ul>			
			<b>six months or more<sup>2</sup></b>			
			Permanent	<ul style="list-style-type: none"> <li>• equivalent level</li> <li>• lower level</li> </ul>	IF	Employees who are eligible, but were not identified for appointment
				<ul style="list-style-type: none"> <li>• promotion</li> </ul>	IF followed by DR	Employees who are eligible, but were not identified for appointment
				<ul style="list-style-type: none"> <li>• promotion</li> </ul>	IF followed by DR or ITPR	Employees who are eligible, but were not identified for appointment
<b>Staffing process without solicitation</b>						
5.	Staffing requirement(s): security, language, performance <sup>1</sup> , education, and conditions of employment			IF	Employees within the area of notification	
6.	Appointment	Temporary	<b>less than six months<sup>2</sup></b>	IF	Employees within the area of notification	
			<ul style="list-style-type: none"> <li>• promotion</li> <li>• equivalent level</li> <li>• lower level</li> </ul>			
			<b>six months or more<sup>2</sup></b>	IF	Employees within the area of notification	
			<ul style="list-style-type: none"> <li>• equivalent level</li> <li>• lower level</li> </ul>			

#	Staffing decision		Recourse type(s)	Access to recourse
			<b>six months or more<sup>2</sup></b> • promotion	IF followed by DR Employees within the area of notification
		Permanent	• equivalent level • lower level	IF followed by DR Employees within the area of notification
			• promotion	IF followed by DR or ITPR Employees within the area of notification
<b>Apprenticeship program</b>				
7.	Appointment within or following the completion of an apprenticeship program		IF followed by DR	Employees within the apprenticeship program who are eligible, but were not identified for appointment
<b>Other</b>				
8.	Assessment for alternation		IF followed by DR	Opting employees who participated in the assessment
9.	Rehire pool		IF	Term employees who are not put in the rehire pool
10.	Removal from a pool or rehire pool		IF	Employees who are removed from the pool
11.	Promotion following reclassification of the substantive position		IF followed by DR	Employees within the area of notification
12.	End of employment of a term employee prior to the date specified		IF	Term employees whose term employment is ending earlier than the original date
<b>Preferred status</b>				
13.	Refusal to grant preferred status		IF followed by DR	Permanent employees whose preferred status is denied
14.	Screening for prerequisites		IF	Individuals with preferred status who applied
15.	Assessment		IF followed by DR	Individuals with preferred status who participated in the assessment

#	Staffing decision	Recourse type(s)	Access to recourse
16.	Appointment of an individual with preferred status	IF followed by DR	Individuals with preferred status who are eligible, but were not identified for appointment
17.	Rescinding preferred status	IF followed by DR	Individuals whose preferred status has been rescinded

#	Assessment Outside of a staffing process	Recourse type(s)	Access to recourse Outside of a staffing process
18.	Voluntary assessment	IF followed by DR	Employees who participated in the assessment

<sup>1</sup> The content of an Employee Performance Management Report is not subject to staffing recourse.

<sup>2</sup> Includes extensions, which are cumulative unless there is at least a one-day break.

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