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# Reconsideration of a refused temporary residence application

 [Key contacts](#)

## Updates

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This page is available internally only.

These instructions apply to all refused applications for temporary residence (including electronic travel authorizations [eTAs]) for which a reconsideration request has been received. The legal doctrine of *functus officio* does not automatically bar reconsideration of final decisions (such as in the case of [MCI v. Kurukkal, 2010 FCA 230](#)). The decision maker is obligated to consider the request and may exercise their discretion to reconsider or refuse to reconsider the applicant's request for the reopening of a previous decision. However, reconsideration should occur only when the circumstances are justified.

An applicant's dissatisfaction or disagreement with the decision does **not** by itself qualify as a reason to reconsider.

Reconsideration requests should be returned to the original decision maker when possible. When not possible, the request should be sent to a decision maker who has the delegated authority to render a decision.

**i Note:** Reconsideration is **not** the same as redetermination. An application is remitted for redetermination with a different decision maker after the original decision has been quashed by the Federal Court. To learn more about redetermination, see [Judicial Review: Federal Court decides to allow the application](#).

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## Sending a reconsideration request

Requests for reconsideration of negative decisions should be sent back to the office that made the original decision.

### Reconsideration contact information

Where the original decision was made	Contact
Domestic Network (DN)	<a href="mailto:IRCC.DNDGO-BDGRN.IRCC@cic.gc.ca">IRCC.DNDGO-BDGRN.IRCC@cic.gc.ca</a>
Centralized Network (CN): Operational Support Centre (OSC)	<a href="mailto:OSC-CSO@cic.gc.ca">OSC-CSO@cic.gc.ca</a>
CN: Case Processing Centre in Ottawa (CPC O)	<a href="mailto:CPR-Ott-CaseProcessing@cic.gc.ca">CPR-Ott-CaseProcessing@cic.gc.ca</a>
CN: Case Processing Centre in Edmonton (CPC E)	<a href="mailto:CPCEDMENQ@cic.gc.ca">CPCEDMENQ@cic.gc.ca</a>
International Network (IN)	The corresponding <a href="#">visa office outside Canada</a> that originally refused the request

## Reviewing a request for reconsideration

When deciding whether to reopen a case and consider the new evidence, even if the case is under litigation at the Federal Court, it is important to consider all the factors.

## Factors for deciding whether to reconsider

The officer must first determine if a reconsideration of a negative temporary residence decision is warranted, based on the information submitted. The onus is on the applicant to satisfy the officer that a reconsideration is justified. The officer should consider all relevant factors and circumstances to determine if a case merits reconsideration. The following is a non-exhaustive list of factors that may be relevant to consider:

- whether or not the decision maker failed to comply with the principles of natural justice or procedural fairness when the decision was made
- whether the applicant has requested a correction of a clerical or other error (for example, a decision was made by an officer who did not have the delegated authority)
- if new evidence is submitted by an applicant, whether that evidence
  - is based on new facts (that is, facts that arose after the original decision was made and communicated to the applicant)
  - is material and reliable
  - would be more appropriately considered in the context of a new application
- if additional evidence is presented that was available at the time of the original decision, consideration of why the evidence was not submitted at the time of the original application and whether it is material and reliable
- the passage of time between the date of the original decision and the date of the reconsideration
- whether or not there were any concerns regarding fraud or misrepresentation relating to a material fact in the original decision or relating to the new submissions
- if there is a negative decision from the Federal Court after judicial review, the option of refusing to reopen the decision if there are no extenuating factors to warrant reconsideration

## Deciding whether to reconsider

### Decision to reconsider

If the decision is to reconsider the application, the officer is to review the new submissions and the original file and decide whether to change the original decision by taking the following actions:

- reopen the decision
- if necessary, request from the applicant information such as
  - medical information
  - a procedural fairness letter
- make a new decision and send an approval or refusal letter
- record the reasons for the decision in the Global Case Management System (GCMS)

### Decision not to reconsider

If the decision is **not** to reconsider the application, the officer is to take the following actions:

- notify the applicant (the officer may refer to the original decision to explain the refusal to reconsider, as the applicant has already been informed of the reasons that their application was refused)
- record the reasons for the decision in GCMS

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## APPENDIX JJ

### RECONSIDERATIONS

For all reconsideration requests, any information received after the decision has been made is **not** acceptable. Exceptions to this procedure may arise due to circumstances at the time. Each case should be examined in detail on an individual basis.

#### Examples of Reconsideration Requests:

**Example 1:** You rejected the application for a missing FBI clearance. PA submits a reconsideration request advising proof the FBI clearance was applied for was provided with the original submission. When you review the file again, you realize you over looked the FBI clearance application and tracking info of application to FBI office in Clarksburg, West Virginia. This is considered best efforts and the file should have moved forward in processing, not rejected. Since an error was made in processing, you must reopen the file if R10 is passed. NOTE: If something else is missing and R10 is incomplete, file will not be reopened. **Discuss with your RA prior to sending updated rejection letter.**

**Example 2:** You rejected the application as the PC on file was issued before the client's last date of residence in that country. PA submits a reconsideration request with a newer version of the police certificate and advises they made a mistake in uploading and forgot to include the new version of the police certificate. Decision remains in this case, no error was made during processing on the department's behalf and PA submitted an application that was R10 incomplete.

In some cases, notification of a reconsideration request is received via email from CSU.

#### CSU Procedures:

- Upload the email request to the application
- Receive the reconsideration request when they run the Provided Report.
- Notify the Program Assistant by email of the reconsideration request.
- Forward a template response to the client (Edit template to request applicant monitor their IRCC secure account for further information).

## RECONSIDERATION - APPLICATION RE-OPENED

If after review you decide the file will be re-opened, you must complete the R10 review to verify no other mandatory documents are missing.

**If the file is R10 complete, and the fees HAVE been refunded (fee records show as Refund Complete; Finance has completed the refund):**

- Assign the application to your GCMS code with a 7 day due date.
- Enter the following reconsideration note:  
Reconsideration request received at CIO. After a thorough review of the request and application, file has been reopened. Processing fees have been refunded. Notification sent to PA via the IRCC secure account along with a request to repay the processing fees.
- Re-open the file
  - Click **History** tab
  - In the **App Status** field, use the dropdown arrow to change **Cancelled** to **Open**
  - In the **App Status Reason** field, use the dropdown arrow and select **In Progress**
- Send reconsideration letter and request fees
  - Correspondence tab, Outgoing subtab
  - Click **New**
  - In the **Document** field, select **Request Letter**
  - Scroll down to **Item(s) Requested** section, click **New**
  - In the **Item** field, select **Payment Receipt**
  - Scroll up to the **Request Letter** line and change the **Status** field from **Not Started** to **Generate**
  - Click the hyperlink under Correspondence Attachments
  - Then select (1.2 TEMPLATE - EE - Reconsideration - R10 passed – Reopened) from the T drive, letter must be edited, export, send, and park the file until the new fees are received (see [Appendix U](#))
- Allocate the fees upon receipt and forward the application based on the following information:
  - All CEC and FST files are to be assigned to C5291
  - PNP and FSW files are to be assigned based on the PA's COR:
    - If COR is Canada or USA assign to C5291
    - If COR is any other Country assign to LB6660

**If the file is R10 complete, and the fees have NOT been refunded (Fee records show as Refund Request, Finance has NOT completed the refund and the Refund can be cancelled)**

- Enter the following reconsideration note:  
Reconsideration request received at CIO. After a thorough review of the request and application, file has been reopened. Refund cancelled. Notification sent to PA via the IRCC secure account.
- Click **Fees** tab, scroll down to **Fees**
- Cancel the refund
  - In the **Status** field, use the dropdown arrow to change **Refund Request** to **Refund Cancelled**
  - Repeat for all fee lines indicating **Refund Request**
  - Press **Ctrl+S** keys to save, the fee lines will automatically change from **Refund Cancelled** to **Paid**
- Re-open the file
  - Click **History** tab
  - In the **App Status** field, use the dropdown arrow to change **Cancelled** to **Open**
  - In the **App Status Reason** field, use the dropdown arrow and select **In Progress**
- Generate reconsideration letter (1.2 TEMPLATE - EE - Reconsideration - R10 passed – Reopened), letter must be edited, export, send and proceed with file (see [Appendix U](#))

## **RECONSIDERATION – DECISION REMAINS**

- Enter the following reconsideration note:  
Reconsideration request received at CIO. After a thorough review of the application, decision remains. (Include details and any e-doc to reference the reason). Notification sent to client via the IRCC secure account.
- Generate reconsideration letter (letter type should be “other” (19 TEMPLATE - EE - Reconsideration – decision remains – ENG version), letter must be edited, export and send letter to advise PA that the decision remains (see [Appendix U](#))
- In the PR screen, remove code from the Assigned To field

## Requests for reconsideration or reactivation

If the applicant fails to comply with the request for additional information, a decision maker may take either of the following actions:

- declare an application “abandoned” (section 13.2 of the Citizenship Act)
- refuse an application for non-compliance (section 10 of the Immigration and Refugee Protection Regulations)

In such cases, the applicant may request a reconsideration or reactivation of their file. The onus is on the **applicant** to satisfy the decision maker that reconsideration of their application is warranted.

Any decision on whether or not to exercise discretion to reconsider is subject to judicial review before the federal court. Therefore, all decisions should be well documented in the GCMS file, with the rationale and supporting documentation to reflect that IRCC received, assessed and rendered a decision on the request for reconsideration.

For additional information on reconsideration, see [Admissibility and final decisions on applications in family class](#).

### Reconsideration or reactivation on the basis of no email correspondence received

#### Immigration applications

In cases where the applicant or representative requests reconsideration of the immigration application, stating that **they did not receive an email instructing them to provide additional information**, the decision maker must consider all relevant factors and circumstances of the case to determine whether or not to exercise their discretion to reconsider the application.

If the decision maker finds that an error was made by IRCC, and the email requesting additional information was **not** sent to the applicant or representative, the office responsible for processing the application should reopen the application and provide the applicant with the opportunity to submit the required documentation.



### **Evidence of sent emails for litigation cases**

In cases of litigation alleging non-receipt of an email, decision makers should do the following:

- check that there is no undelivered message (that is, the email did not “bounce back”) in the generic inbox
- if there is no undelivered message, then provide a copy of the sent email by printing a copy of either of the following:
  - the eDoc found under the outgoing correspondence record
  - the note containing the date, time and content of the sent email as well as the client’s email address in their GCMS file

Once the Minister of Immigration, Refugees and Citizenship proves that the email correspondence was sent to the most up to date email address provided by the applicant, the applicant bears the risk involved in a failure to receive the email correspondence.

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