

Reconsideration

November 29, 2022 11:26 AM

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.

When an officer receives a reconsideration request from a program assistant, please reassess the application and verify if your decision still stands.

- Reconsideration Request received. After a careful review of the application, I have determined that the applicant did submit sufficient information to warrant re-opening of this application. Therefore, previous decision set aside. Application approved.
- Reconsideration Request received. After a careful review of the application, I have determined that there was neither error in fact nor law in the previous decision and that the applicant did not submit compelling new information to warrant re-opening the application. Therefore, previous decision stands.

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

See PDI for further [Reconsideration of a refused temporary residence application](#) instructions