



Chapter 4 - Area of Selection

Area of Selection and Residence

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Legal Considerations and Definitions

1. [Subsection 13](#)(1) of the *Public Service Employment Act* (PSEA) states:

The Commission may establish, for competitions and other processes of personnel selection, geographic, organizational and occupational criteria that prospective candidates must meet in order to be eligible for appointment. (Emphasis added)

2. The Federal Court of Appeal decision in *Fredette v. Canada (PSC)* 1972 F"C" 1343 states that the eligibility of a candidate to be considered in a competition is determined by the facts that exist at the time the competition is run and the candidate files his/her application.

3. To insure that all candidates eligible by virtue of a permanent residence are treated in a consistent fashion, it is necessary to define "permanent residence", as this term is neither defined in the PSEA, in the PSER or in the staffing policies and guidelines.

- The place of permanent residence of a person is, generally, the place that has always been, or that the person has adopted as, the place of his/her habitation or home, and to which he/she intends to return when he/she is away from it.
- Although, generally, a person's place of permanent residence is where his/her family is, if he/she is living temporarily apart from his/her family, his/her place of permanent residence is where his/her family lives, if he/she has the firm intention to return to it.

Nota Bene: The notion of living temporarily apart from the family does not include absences for reasons such as holidays.

It is important to note that in order to be eligible to apply for a position, the candidate must have a permanent residence or a temporary place to live within the area of selection when the competition is posted.

However, in certain circumstances, a candidate could be considered as having a permanent residence within the area of selection even if that candidate is not physically in that area or is not residing in the area either. The following conditions apply to those circumstances:

- the candidate is temporarily away from his/her place of permanent residence; and
- the candidate has the firm intention of returning to this place of residence at the end of the temporary absence.

From what is stated above, a person might be temporarily living outside the area of selection in order to attend university or college or to take a temporary job, but still be eligible by virtue of

the place of his/her permanent residence. However, the candidate must have the firm intention to return to this residence at the end of the school year or upon completion of his or her employment. This residence could be a dwelling that the candidate owns or rents, or it could be the candidate's parents' or other immediate family's home, or even a friend's home where he or she resided before moving out temporarily. There is nothing in the definition that would exclude the possibility of a person having two different places of residence at once.

The new definition is in line with the current PSC's practice to consider the candidacy of Canadians living temporarily abroad, but who have a permanent residence within the area of selection of the advertised position.

Roles, Responsibilities and/or Authorities

Candidates

Candidates are responsible for providing appropriate information demonstrating that they are within the area of selection. Upon request from either the PSC Human Resources Officer or a departmental representative, a candidate may be asked to provide a written attestation related to residence issues.

PSC Human Resources Officers

PSC Human Resources Officers (HRO) have the authority to refer candidates to departments (unless the recruitment authority has been delegated to departments). This is normally done once an initial screening has been done on various criteria, for example: timeliness of application, area of selection, citizenship, education, experience. As it is the responsibility of the PSC to refer candidates who are within the area of selection, special attention must be paid to applications that contain information raising questions as to eligibility based on the area of selection. In the interest of the resourcing values of fairness, equity and transparency, it is the responsibility of the HRO to obtain additional information from candidates if and when required. If the gathering of information is difficult and would delay the referral of candidates, the HRO should make the referrals, but hold back the contentious case(s) and inform the department accordingly. The gathering of the required information needs to be carried out in a timely fashion, to either screen out or refer the candidate(s) whose application was in contention, as departments need to consider all eligible candidates before making a decision on who is the best qualified candidate(s). It is important to arrive at the proper screening decision, as this could lead to candidates being unfairly denied an opportunity to be assessed further or result in ineligible candidates obtaining employment.

Hiring Departments

In certain circumstances, it is the department that has the responsibility of receiving the applications directly, either because they have the delegated authority to recruit or a memorandum of understanding has been signed between the PSC and the hiring department. In those cases, departments are responsible for screening, which may include the gathering of additional information, as required, to determine if candidates are within the area of selection. Departments are required to ensure that all eligible candidates have the opportunity of being assessed further and that ineligible candidates are not screened in. For assistance with difficult cases, the hiring department may contact the staffing consultant at the PSC .

Examples

i) Student candidate gives the address of his/her parents where he/she lives when not attending school. That address is within the area of selection.

ii) Student candidate gives the address of the residence where he/she lives temporarily while attending school. That address is within the area of selection.

In both cases, the students have dual eligibility, based either on their permanent residence or the location of their residence while attending the educational institution in which they are registered.

iii) Candidate gives a postal office box within the area of selection, but does not reside or has never resided in that area.

Not eligible: A candidate who holds only a postal office box within the area of selection does not meet the residence requirement

iv) Candidate gives, as a permanent address, which is within the area of selection, the address of where he/she used to live, but no longer has ties to that address and has no intention of moving back to that address.

v) Candidate gives an address that is in the area of selection, but indicates that he/she is moving to that address at a date after the closing date.

Not eligible (both cases): The eligibility of a candidate is determined by the facts that exist at the time the competition is run and he/she files his application (per the Federal Court of Appeal decision in *Fredette v. Canada (PSC)* 1972 F.C. 1343). Therefore, the candidate must have a permanent residence or a place to live within the area of selection when the competition notice is posted.

vi) Candidate gives the address of a friend or a relative in the area of selection, but does not reside at that address and has never resided at that address.

Not eligible: The candidate is screened out as he/she does not live at the address given during the posting of the notice and has never resided at that address.

vii) Candidate's present address is outside the area of selection, but he/she gives a permanent address within the area of selection. He/she indicates that he/she is presently on a specified period contract and is going back to live where he/she was living before (permanent address provided).

Eligible: The definition of "permanent residence" allows for circumstances where a candidate could be considered as residing in the area of selection even if he/she was not physically living in the location when the competition was posted. The candidate must have the firm intention to return to the permanent address at the end of the contract. The simple desire of eventually returning is not sufficient. This residence could be a dwelling that the candidate owns or rents, or it could be the

candidates's parents' or other place where he/she resided before moving out temporarily.

viii) Candidate's present address is outside the area of selection, but gives a permanent address within the area of selection (his/her parents' address). Provides information that he/she had to move away to secure permanent employment, but with the intention of coming back to his/her home town if could find employment in that area.

Not eligible: The definition of "permanent residence" quoted above allows for circumstances where a candidate could be considered as residing in the area of selection even if he/she was not physically living in the location when the competition was posted. In this case, the employment is not temporary and the possibility of a return or even an eventual return to the permanent address is not sufficient.

ix) Candidate provides two sets of addresses and telephone numbers. One within the area of selection and one outside the area of selection. Provides information that he/she is at one location during the week and at the other on week ends.

Eligible: There is nothing in the definition of "permanent residence" that would exclude the possibility of a person having two different places of residence at once.

x) Candidate's present address is outside the area of selection, but gives a permanent address within the area of selection (e.g. his/her parents' address). However, in looking at the employment history, there is evidence that demonstrates that the candidate has not resided at the address provided for many years.

Not eligible: Even though the candidate has resided within the area of selection in the past, the evidence does not lead to believe that the move is "temporary".

xi) Candidate's present address is outside the area of selection, but provides information that his/her spouse or common law partner and children have recently relocated within the area of selection. He/she explains that he/she wants to move to be with his/her family

Note: In this case, additional facts will be required to establish if the candidate has two different places of residence. An example of the type of question to ask this candidate is: "Please provide evidence of ties to a residence within the area of selection at the time the poster was issued". Based on the facts provided, the candidate could be screened in on the basis of having two different places of residence at the same time. For instance, the candidate provides copies of several plane tickets, in his/her name, between the two locations for holiday seasons, week-ends, etc. These facts could contribute to demonstrating that he/she has two places of residence.

xii) Candidate's present address is outside the area of selection but provides

information that he/she wants to move to the area of selection as his/her spouse or common law partner has accepted a position there and is presently boarding with relatives during the week and comes back home when not working, for example on week-ends and holidays.

Screened out: In this case, the candidate is definitely outside of the area of selection as he/she does not reside in the area of selection. However, the spouse or common law partner would be considered to have dual eligibility, based either on the permanent residence where he/she lives during week-ends and holidays or the location where he/she resides when working.

xiii) Candidate is a member of the Canadian Armed Forces, whose present address is outside the area of selection, but he/she provides information that he/she has concrete plans to move back to the locality where he/she lived before (this locality is within the area of selection). He/she had accepted a posting abroad for a 3 year period which is ending in the near future. He/she has no address or residence within the area of selection.

Eligible: In this situation, the candidate is eligible to compete as his/her absence is temporary and he/she has the firm intention of returning to the location where he/she lived prior to his/her temporary absence.

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http://www.psc-cfp.gc.ca/staf_dot/pol-guid/chap_04/5_e.htm

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