



Citizenship and  
Immigration Canada

Citoyenneté et  
Immigration Canada

# OP 24

## Overseas Processing of Family Members of In-Canada Applicants for Permanent Residence

# OP 24 Overseas Processing of Family Members of In-Canada Applicants for Permanent Residence

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# OP 24 Overseas Processing of Family Members of In-Canada Applicants for Permanent Residence

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## 1. What this chapter is about

This chapter explains how to process family members outside Canada of the following in-Canada applicants for permanent residence:

- Spouse or common-law partner in Canada class – FC1
- Live-in caregiver class – LC2
- Protected persons – DR2
- Protected persons processed under the one-year-window-of-opportunity provisions – OYW, CR, RA, RS, DR
- Protected temporary residents (PTR) (women at risk – AWR, urgent protection – UPX)
- Applications for permanent residence made in Canada on humanitarian or compassionate grounds – HC1
- Temporary resident permit holder class – PH1

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## 2. Program objectives

The purpose of processing family members abroad is to facilitate the reunion in Canada of Canadian permanent residents, Canadian citizens and various in-Canada class applicants with their family members.

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## 3. The Act and Regulations

The relevant sections of the *Immigration and Refugee Protection Act* (IRPA) and its Regulations are cited in section 3 of each chapter of the Inland Processing manual that deals with an in-Canada application class or type, and in certain OP chapters. The following table provides a summary:

Application type	Section 3 of
Spouse and common-law partner in Canada class	IP 8
Live-in caregiver class	IP 4
Protected persons	IP 3, OP 5, PP 4
Protected persons processed under the one-year-window-of-opportunity provisions	IP 3, OP 5, PP 4
Protected temporary residents	IP 1, OP 5
In-Canada humanitarian & compassionate applicants	IP 5
Temporary resident permit holder class	IP 1

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### 3.1. Forms

The forms required are shown in the following table:

Form title	Form number
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Application for Permanent Residence in Canada	IMM 0008EGEN
Schedule 1 – Background /Declaration	IMM 0008Esh1
Medical Surveillance Undertaking	IMM 0535B
Medical Report – Section A Client identification and summary	IMM 1017E
Financial Evaluation	IMM 1283E
Application to Sponsor and Undertaking	IMM 1344AE
Sponsorship Agreement	IMM 1344BE
In-Canada Application for Permanent Residence	IMM 5202E
Confirmation of Permanent Residence	IMM 5292B
Fees Receipt Handling of Public Money–Remittance	IMM 5401B
Additional Family Information	IMM 5406E
Use of a Representative	IMM 5476E

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### 4. Instruments and delegations

[A6\(1\)](#) authorizes the Minister to designate officers to carry out specific powers, and to delegate authorities. It also states those ministerial authorities that may not be delegated, specifically those relating to security certificates or national interest.

Pursuant to subsection [A6\(2\)](#), the Minister of Citizenship and Immigration has delegated powers and designated those officials authorized to carry out any purpose of any provisions, legislative or regulatory, in instrument [IL 3 – Delegation and Designation](#).

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#### 4.1. Delegated powers

The IL 3 instrument organizes delegated powers by modules. Each module is divided into columns, e.g., column 1: provides an item number for the described powers; column 2: provides a reference to the sections or subsections of the Act and Regulations covered by the described powers; and column 3: provides a description of the delegated powers.

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#### 4.2. Delegates/designated officers

Officers should consult the list of appendices in [OP 2, section 4.2](#).

Where applicable, specific instruments and delegations may be found in section 4 of each of the relevant chapters of the IP and OP manuals (noted in section 3, above).

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### 5. Departmental policy

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#### 5.1. General requirements

Family members of in-Canada applicants for permanent residence who are residing abroad must be declared on the original application form of the principal applicant (PA).

Family members of most in-Canada applicants who were not declared and examined as per R23 will be subsequently excluded from the family class and may not be sponsored in the family class at a later date [R117(9)(d)]. Family members must be assessed for eligibility and for admissibility.

Both accompanying and non-accompanying eligible family members must undergo a medical examination and, if applicable, must also establish that they are not inadmissible for criminal and security reasons.

This requirement does not apply to the family members abroad of protected persons in Canada; they do not need to be examined to enable the protected person to become a permanent resident. They may be sponsored if they meet the definition of “member of the family class” at the time of sponsorship.

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### 5.2. Responsible CIC offices

All applications for in-Canada processing for permanent residence are submitted to the Case Processing Centre in Vegreville (CPC-V), which becomes the chief holder of the file. However, the CPC-V may transfer the file to the Canada Immigration Centre (CIC) nearest the principal applicant's residence if an interview or other processing is required locally.

After assessing the initial application for eligibility, the CPC-V will notify the appropriate visa office abroad with details of all eligible family members to be processed for each case.

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## 6. Definitions

"Family member" refers to the R1(3) definition.

"Dependent child" refers to the R2 definition.

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## 7. Procedures: General

This section describes the general principles for processing family members outside Canada of all types of in-Canada permanent resident applicants.

Sections 8 to 14 below provide processing information specific to each of the in-Canada applicant classes and types.

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**Note:** For all case correspondence with the CPC-V, please use the following e-mail general mailbox address: **CPC-Vegreville-Enquiries**.

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### 7.1. Concurrent processing

With three exceptions (noted below), the processing of family members residing abroad can be done concurrently with applications for permanent residence in Canada. If the principal applicant has chosen **not** to have family members processed concurrently, they can be sponsored as members of the family class at a later date, after the PA has obtained permanent residence.

However, all family members must still be listed on the principal applicant's original application, whether accompanying or not, and must be assessed for eligibility and admissibility.

The three exceptions to the general principle of concurrent processing are:

1. One-year-window cases (refugees): by definition these family members were not available for concurrent processing with the principal applicant. (See section 11.)
2. Applications for permanent residence made in Canada on humanitarian and compassionate (H&C) grounds: Family members *in Canada* can be processed with the principal applicant, but family members *outside Canada*, while they must be examined, must be sponsored at a later date. R69 was amended in August 2004 to reflect this change.
3. See IP 5, section 16.9 for further details and for transitional provisions. (See also section 13 below.)
4. Applications for permanent residence made in Canada in the permit holder class: family members outside Canada must be sponsored after the applicant in Canada has become a permanent resident. (See section 14 below.)

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### 7.2. File creation

Once the visa office has received the paper file from the CPC-V, files for family members can be created as follows:

- *One file*: this may be the most convenient in the following situations:
  - ◆ The principal applicant's spouse and minor child(ren) are being processed concurrently. There is no need to create separate files for a parent accompanied by dependent children, all of whom are family members of the PA in Canada.
  - ◆ For cases in which family members are being examined but none is accompanying the principal applicant, the family members (regardless of age and relationship) may be included in a single file for convenience.
- *Separate files for each family member* is the preferred option in the following situations:
  - ◆ There are several minor children (a group of siblings, for instance), not accompanied by an adult. The files must be split so that the children do not appear as dependants of a sibling, whether the sibling is a minor or an adult.
  - ◆ Cases of family members 18 or over, or if some family members will be accompanying and some will not.

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**Note:** Cross-referencing of these files is essential.

**Note:** Each family member must fill out a separate application form, even if only one file is created.

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### 7.3. Role and responsibilities of the CPC-V

All in-Canada applications for permanent residence, including any sponsorship applications, are submitted to the CPC-V.

All applicable processing fees are also submitted to the CPC-V, although, in some instances, the principal applicant may choose to pay the right of permanent residence fee (RPRF) at a later date, or, in exceptional circumstances, to have family members pay their RPRF through the visa office.

The application of the principal applicant in Canada cannot be finalized without the results of the visa office processing of any family members residing abroad.

Therefore, when the principal applicant has listed family members living abroad in their application, the CPC-V will do the following:

- Forward a *paper copy* of the original in-Canada application to the visa office by diplomatic bag; this will include a copy of the principal applicant's application form and any supplementary family information forms included with the application. A copy of form IMM 5476 "Use of a Representative" will be included when applicable.
- This paper file will be *accompanied by a covering memo* which must contain the following information:
  - ◆ the name, date of birth, and client ID number of the principal applicant;
  - ◆ the immigrant class/category of the principal applicant;
  - ◆ the date of receipt/lock-in date of the application;

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- ◆ the status of the principal applicant's application for permanent residence (approved stage one, statutory requirements met, ready to receive permanent resident status, missing information, etc.);
- ◆ the name(s) of accompanying and non-accompanying family member(s);
- ◆ what processing fees and RPR fees have been paid or exempted.
- Advise the visa office if, at any stage of the in-Canada processing, new information is received that may be pertinent to visa office processing (e.g., fraudulent documents, ineligible in-Canada family members, etc.).
- When the principal applicant and any family members in Canada have been granted permanent residence by the local responsible CIC, this CIC will advise the visa office so it can issue visas to the accompanying family members abroad who are being processed concurrently.

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### 7.4. Role and responsibilities of the visa office

When the visa office has received the paper file from the CPC-V for any family members who are to be assessed abroad for eligibility and admissibility, it will do the following:

- forward an Application for Permanent Residence in Canada [IMM 0008EGEN] to each family member, with a time limit by which they must respond;
- open the appropriate file for each case;
- if the completed IMM 0008EGEN and required documentation are not received within the requested time limit (as decided by each visa office, pursuant to local conditions), send a reminder letter requesting that documentation be provided (by a new date), after which the file would be closed and, in some circumstances, the applicant in Canada could be refused;
- send a copy of this letter to the principal applicant in Canada and notify the CPC-V; the visa office may try to contact the principal applicant directly at any time during this process;
- after receipt of the completed application and documentation, assess eligibility, confirm identity and determine relationship and whether or not they are family members;
- initiate medical and background examination (security and criminality);
- inform the CPC-V if any applicants are found to be ineligible;
- inform the CPC-V if any family members are found to be inadmissible;
- inform the CPC-V of the results of medical and background checks, their period of validity and the visa office file number for both accompanying and non-accompanying family members so that the CPC-V can finalize the case in Canada

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**Note:** This does not apply to DR2s. In this class, the principal applicant can be granted permanent resident status regardless of the examination of family members.

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- in exceptional circumstances, collect the RPRF for family members abroad, if it has not yet been paid to the CPC-V in Canada;



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- after the responsible CIC has advised that the principal applicant has been granted permanent residence in Canada, issue permanent resident visas to all accompanying family members who have been included and are eligible for concurrent processing.

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**Note:** For all case correspondence with the CPC-V, please use the following e-mail general mailbox address: **CPC-Vegreville-Enquiries**.

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### 7.5. Lock-in age for dependent children

The age of any dependent children is locked in on the date the application for permanent residence is received (or the date sponsorship and permanent residence applications are jointly received for in-Canada spouse or common-law partner class cases) by the CPC-V, completed and signed, with the minimum requirements met as specified in the Regulations and with proof of payment of the correct processing fees.

An accompanying child must meet the definition of a dependent child in order to be considered eligible for processing as an accompanying family member of any in-Canada applicant.

### 7.6. Requirements for dependent children and when they must be met

The following table outlines requirements and when they must be met:

Family member	When must requirements be met
Dependent child under 22 years of age	<ul style="list-style-type: none"><li>• Is under 22 years of age and not a spouse or common-law partner when the application is received by the CPC-V; and</li><li>• without taking into account age, the person continues to be unmarried or not involved in a common-law relationship at visa issuance or application.</li></ul>
Dependent child over 22 years of age and full-time student	Since before the age of 22 or since becoming a spouse or common-law partner, the person has been <ul style="list-style-type: none"><li>• substantially dependent for financial support on their parent(s); and</li><li>• continuously enrolled in and actively pursuing a course of study at an accredited post-secondary institution when the application is received by the CPC-V and when the visa is issued.</li></ul>
Dependent child over 22 years of age and unable to be financially self-supporting due to a physical or mental condition	Since before the age of 22, the person has been <ul style="list-style-type: none"><li>• substantially dependent for financial support on their parent(s) when the application is received by the CPC-V; and</li><li>• continues to be substantially dependent upon their parent(s) when the visa is issued.</li></ul>
Dependent children of dependent child	When the application is received and when the visa is issued.

### 7.7. Eligibility of family members outside Canada

Once the visa office has received the paper file from the CPC-V regarding the family members outside Canada, CAIPS "B" file(s) must be created (see section 7.2 above). An application kit

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which includes the IMM 0008EGEN and instructions to undergo medical examination should be forwarded to the family member(s).

When the visa office has been advised by the CPC-V, or by the local CIC responsible, that the principal applicant has been assessed and approved against the eligibility requirements, it will proceed to verify the relationship of the overseas family members.

Verifying the relationship between the in-Canada applicant and overseas family members is a shared responsibility between the CPC-V and the visa office. There are no clear lines of responsibility. Often, however, the required identification documents are overseas with the family members, making it more expedient for the visa office to verify the relationships. The visa office must be satisfied of the relationship between the family members and the in-Canada applicant. Confirmation of the relationship, or any concerns the visa office may have, must be communicated to the CPC-V via e-mail using the [CPC-Vegreville-Enquiries](#) general mailbox.

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### 7.8. Eligible family members are examined for admissibility

The spouse or common-law partner and all dependent children of any age outside Canada, whether or not they are seeking permanent resident status at the same time as the principal applicant, will be examined for compliance with admissibility requirements (i.e., medical, criminality and security).

The exception to this requirement is separated or former spouses/common-law partners and children in the sole custody of another person, including the separated or former spouse/common-law partner. A separated spouse, former common-law partner or child in the custody of another person, who was not examined, cannot later be sponsored as a member of the family class [\[R117\(9\)\(d\)\]](#).

The visa office will advise the family members whether an interview is necessary.

#### Misrepresentation

With the *exception of refugees and protected persons*, foreign nationals are inadmissible for two years for withholding or misrepresenting information that is material to making a decision on an application.

If the visa office determines there is a case for refusal because of misrepresentation, all pertinent information must be communicated to the CPC-V (or the CIC that holds the file if the file has been transferred). The CPC-V or the CIC is responsible for addressing issues of misrepresentation regarding both the principal applicant in Canada and any accompanying family members being processed overseas.

For more information regarding misrepresentation, see ENF 2, section 9.

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**Note:** DR2 and applicants under the one-year-window-of-opportunity provisions cannot be refused under A40. As per R176(3), the grounds for inadmissibility of protected persons and their family members are defined in A21(2). See further details in sections 10 and 11 below and in OP 5.

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The visa office will advise the CPC-V by e-mail of the outcome of any interview, medical examination, or criminality and security checks.

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### 7.9. Criminal and security check requirements

Applicants and dependent children 18 years of age or over must provide police certificates, clearances, or records of no information for every country they have lived in for six months or more during the 10 years preceding their application for permanent residence. If they were under the age of 18 when they lived in these countries, this information is not necessary.

Applications will be refused by the CIC office with carriage of the application if the applicant or any spouse or common-law partner or any dependent child is inadmissible for criminality/security reasons. *Exceptions* to this are to be found in section 10.7 below.

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The visa office should inform the CPC-V or the responsible CIC, as the case may be, of any negative results for family members being processed abroad.

For more information on determining inadmissibility on criminal and security grounds, see IC 1, Security and Criminal Screening of Immigrants and [ENF 2](#), Evaluating inadmissibility.

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### **7.10. Medical examinations**

The visa office is responsible for sending medical instructions to all overseas family members of in-Canada applicants.

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### **7.11. A44(1) reports**

If an officer, either in Canada or at a visa office, uncovers information that could lead to an A44(1) report, the officer should contact the CPC-V. Staff there will transfer the application to an inland CIC for investigation. The inland CIC should keep the CPC-V and the visa office informed of developments on the A44(1) report and make every effort to have a decision on the report rendered as soon as possible.

For more information on A44(1) reports, see [ENF 5](#).

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### **7.12. Criminal charges—Principal applicant in Canada**

Principal applicants in Canada are asked on the application if they have been charged with a serious offence. If the charges could lead to imprisonment or an A44(1) report, the application must be held in abeyance until the charges have been dealt with.

The visa office must contact the CPC-V if it uncovers information that could lead to serious charges against a principal applicant in Canada. The CPC staff will check FOSS for information on serious criminal charges and refer the case to an inland CIC if such information exists.

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### **7.13. Transfer of applications**

Applications for permanent residence made in Canada cannot be converted into applications for a permanent resident visa made outside Canada. Applications that begin in Canada cannot be transferred to visa offices outside Canada.

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## **8. Procedure: Overseas family members of the spouse and common-law partner in Canada class**

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### **8.1. Background**

Concurrent processing applies to this class.

The creation of the spouse or common-law partner in Canada class promotes family unity. It allows Canadian citizens and permanent residents to sponsor their spouses or common-law partners *who live with them in Canada*, without the need for them to leave Canada. Sponsored spouses or common-law partners may include their dependent children in the application. Dependent children may be living in Canada or may still be overseas.

Spouses or common-law partners in Canada and their sponsors submit a joint application to the CPC-V, which includes the Application to Sponsor and Undertaking [IMM 1344AE], the In-Canada Application for Permanent Resident Status [IMM 5202E and Schedule 1], all supporting documents identified in the application guide, and the appropriate fees. (Information regarding the required forms and processing fees is available on CIC's Internet site at [www.cic.gc.ca](http://www.cic.gc.ca).)

The CPC-V is responsible for processing and assessing both the Application to Sponsor and Undertaking, and the In-Canada Application for Permanent Resident Status. Once the CPC has

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made the initial determination of the PA's membership in this class, the appropriate visa office is contacted for the processing of any overseas family members.

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### 8.2. CAIPS procedures

The principal applicant is in the FC1 or FCC category and is processed in Canada, with concurrent processing of family members abroad. The case must be opened in CAIPS in the FC1 or FCC category to enable matching of the Unique Medical Identifier (UMI) for medical results that are exempt from refusal for excessive demand. The procedure is as follows:

- an FC1 file is opened for each of the dependent children;
- the only marital status that CAIPS will accept for this category overseas is "married." At file creation, all dependent children will be coded by CAIPS (by default) as "married;"
- the visa office must ensure that the correct marital status (if single) of the dependent child is noted in the CAIPS notes;
- the Special Program Code "CHI" is entered for these cases. This coding is from RIM-046 of July 13, 2004. ([http://www.ci.gc.ca/international/missions/messages/2004/04rim046\\_e.aspx](http://www.ci.gc.ca/international/missions/messages/2004/04rim046_e.aspx)) New CAIPS updates are currently on hold due to the GCMS;
- at visa issuance, the appropriate remark, e.g., "Applicant is single," is to be recorded on the Confirmation of Permanent Residence [IMM 5292B];
- the physical paper file of the dependent children remains at the visa office.

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### 8.3. Dependent children

The principal applicant in Canada must list on their application all dependent children, whether accompanying or not, and indicate which dependent children are seeking permanent residence.

For the purposes of the in-Canada spouse or common-law partner class, accompanying dependent children are those listed on the application who are applying for permanent residence and:

- reside in Canada; or
- reside outside Canada but will join the applicant if permanent resident status is received.

All dependent children must be examined for admissibility requirements (i.e., medical, security and criminality), whether or not they are accompanying family members.

The principal applicant and dependent children of in-Canada spouse or common-law partner class applicants are not inadmissible on the grounds of excessive demand on health or social services. See A38(2)(a).

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**Note:** Who qualifies as a dependent child: see OP 2, section 5.13

Definitions of dependent child: see OP 2, section 6

Assessment of a claim that a dependent child is a student: see OP 2, section 14

Inadmissibility and non-accompanying family members: see OP 2, section 5.11

Exclusion from membership in the family class: see OP 2, section 5.12

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### 8.4. Ineligible family members

Should the visa office determine that a claimed family member is ineligible (e.g., a child over 22 years of age and not a full-time student), the CPC-V must be informed immediately.

The CPC-V will then inform the in-Canada applicant of the findings, advising the applicant that they have an **opportunity to provide more information** (procedural fairness), or to apply for a refund of the right of permanent residence fee for the ineligible applicant, if it has already been paid.

Ineligible applicants are not required to be examined for admissibility. The visa office must stop processing the applicant and refuse the case in CAIPS, as an ineligible applicant is not a family member.

If there are ineligible applicants on the PA's application in Canada, the same process applies as with ineligible applicants abroad. Depending on the circumstances, the CPC-V or the local CIC may consult the visa office if there are concerns about documents provided as proof of relationship. The CPC-V or CIC may request assistance in verifying the legitimacy of the documents or, if a temporary resident visa has been issued, seek information regarding details provided on the temporary resident visa application form or during an interview at the visa office.

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### 8.5. Medical examinations

The sponsor's spouse or common-law partner and dependent children are not inadmissible on health grounds owing to excessive demand on health or social services [A38(2)(a)].

If a dependent child does not pass medical examinations on other grounds, this information is communicated to the CPC-V, which is responsible for informing the principal applicant and sponsor.

For further information on medical examinations, see OP 15, Medical Procedures. That chapter also explains how to interpret medical results to determine if the applicant is medically admissible.

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### 8.6. Roles and responsibilities in the final approval process

#### The CPC-Vegreville and the Canada Immigration Centre

The CPC-V holds carriage of the file, receives and processes the application, informs the visa office of concurrent processing of any dependent children, and is responsible for sending all letters (procedural fairness, refusal, etc.) to the principal applicant.

Unless the file has been transferred by the CPC-V to a local CIC for the purpose of interviewing a sponsor and/or principal applicant, responsibility for the file will remain with the CPC-V. However, should a file be transferred to a CIC, the CIC will then be responsible for processing the application to completion.

CICs normally do not enter information into FOSS to indicate a file has been transferred to their office; therefore, visa offices should always approach the CPC-V (**CPC-Vegreville-Enquiries**) first, if it is not clear who holds the file.

#### Visa office

Prior to issuing the permanent resident visa to an accompanying family member, the visa office is responsible for:

- verifying that medical results and background checks are still valid;
- verifying that all applicants are still dependent children by definition;
- verifying that the right of permanent residence fee (RPRF) has been paid, if applicable;

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- verifying that the principal applicant in Canada has been granted permanent residence; and
- issuing the permanent resident visas to dependent children living abroad.

If the right of permanent residence fee has not been paid and is applicable to any of the family members, the visa office may collect the fee. Normally, the fee would be paid by the principal applicant in Canada in order to facilitate processing; however, the visa office can collect the RPRF in exceptional circumstances.

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### 8.7. Finalizing the case and issuing a visa

When the application of the principal applicant in Canada is ready to be finalized and the applicant can become a permanent resident, the CPC-V will inform the CIC responsible for the applicant's place of residence that permanent residence may be granted.

Once the CIC has granted permanent residence to the principal applicant, the visa office will be notified. The visa office may then issue permanent resident visas to the accompanying dependent children.

The appropriate remark, e.g., "Applicant is single," is to be recorded on the IMM 5292B (see section 8.2 above).

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## 9. Procedure: Family members in the live-in caregiver class

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### 9.1. Background

Concurrent processing applies to this class.

Persons who come to Canada under the Live-In Caregiver Program (LCP) may qualify to apply for permanent residence from within Canada, once they have completed all the requirements to be a member of the class. These requirements include proof of having worked full time as a live-in caregiver for a cumulative period of two years within the first three years of arriving in Canada under the program.

More complete information on the LCP can be found in OP 14, especially section 9, and in IP 4.

Live-in caregivers must submit their application for permanent residence, including all supporting documents and the appropriate fees, to the CPC-V. (Information regarding the required forms and processing fees is available on CIC's Internet site at [www.cic.gc.ca](http://www.cic.gc.ca).)

The CPC-V is responsible for processing and assessing all LCP applications for permanent residence. Once the CPC has made the initial determination for membership in this class, the appropriate visa office is contacted for the processing of any overseas family members.

Concurrent processing of family members living abroad may be requested by the principal applicant. The principal applicant can also choose to sponsor these family members in the family class after receiving permanent residence.

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**Note:** If the family member is accompanying, the visa office needs to proceed with both the eligibility and the admissibility assessments. If the family member is non-accompanying, and will be sponsored at a later date, the visa office needs to proceed only with the admissibility assessment.

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### 9.2. CAIPS procedures

The principal applicant is in the LC1 category and is processed in Canada, with concurrent processing of family members abroad. The visa office case must be opened in the LC2 category.

The procedure is as follows:

## OP 24 Overseas Processing of Family Members of In-Canada Applicants for Permanent Residence

- an LC2 file is opened for the family members;
- the physical paper file of family members remains at the visa office.

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### 9.3. Spouse or common-law partner and dependent children

For the purposes of the live-in caregiver class, an accompanying spouse or common-law partner and accompanying dependent children are those persons listed on the application who are applying for permanent residence and:

- who reside outside Canada, but will join the applicant if permanent resident status is received.

The spouse or common-law partner and all dependent children must be examined for admissibility (i.e., medical, security and criminality), whether they are accompanying or not.

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**Note:** Who qualifies as a spouse or common-law partner: see OP 2, sections 5.15, 5.16, 5.17 and 6;

Who qualifies as a dependent child: see OP 2, section 5.13

Definitions of a dependent child: see OP 2, section 6

Assessment of claim that a dependent child is a student: see OP 2, section 14

Inadmissibility and non-accompanying family members: see OP 2, section 5.11

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### 9.4. Ineligible family members

Should the visa office determine that a claimed family member is ineligible (e.g., a child over 22 years of age and not a full-time student), the CPC-V must be informed immediately.

The CPC-V will then inform the in-Canada applicant of the findings, advising the applicant that they have an **opportunity to provide more information** (procedural fairness), or to apply for a refund of the Right of permanent residence fee for the ineligible applicant, if it has already been paid.

Ineligible applicants are not required to be examined for admissibility. The visa office must stop processing the applicant and refuse the case in CAIPS as the ineligible applicant is not a family member.

If there are ineligible applicants on the PA's application in Canada, the same process applies as with ineligible applicants abroad. Depending on the circumstances, the CPC-V or the local CIC may consult the visa office if there are concerns about documents provided as proof of relationship. The CPC-V or CIC may request assistance in verifying the legitimacy of the documents or, if a temporary resident visa has been issued, seek information regarding details provided on the temporary resident visa application form or during an interview at the visa office.

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### 9.5. Medical examinations

If a family member does not pass the medical examinations, this information is communicated to the CPC-V. The medical inadmissibility of a family member will render the principal applicant in Canada inadmissible. The CPC-V is responsible for medical procedural fairness and final decision-making.

For further information on medical examinations see OP 15, Medical Procedures. That chapter also explains how to interpret medical results to determine if the applicant is medically admissible.

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### **9.6. Roles and responsibilities in the final approval process**

#### **The CPC-Vegreville and the Canada Immigration Centre**

The CPC-Vegreville holds carriage of the file, receives and processes the application, informs the visa office of concurrent processing of any dependent children and the spouse or common-law partner, and is responsible for sending all letters (procedural fairness, refusal, etc.) to the principal applicant.

Unless the file has been transferred by the CPC-V to a local Canada Immigration Centre for the purpose of interviewing the principal applicant, responsibility for the file will remain with the CPC-V. However, should a file be transferred to a CIC, the CIC will then be responsible for processing the application to completion.

CICs normally do not enter information into FOSS to indicate a file has been transferred to their office; therefore, visa offices should always approach the CPC-V (**CPC-Vegreville-Enquiries**) first, if it is not clear who holds the file.

#### **Visa office**

Prior to issuing the permanent resident visa to an accompanying family member, the visa office is responsible for:

- verifying that medical results and background checks are still valid;
- verifying that spouses or common-law partners and children are still eligible;
- verifying that the right of permanent residence fee has been paid, if applicable;
- verifying that the principal applicant in Canada has been granted permanent residence; and
- issuing the permanent resident visas to eligible family members living abroad.

If the RPRF has not been paid and is applicable to any of the family members, the visa office may collect the fee. Normally, the fee would be paid by the principal applicant in Canada in order to facilitate processing; however, the visa office could collect the RPRF in exceptional circumstances.

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### **9.7. Finalizing the case and issuing a visa**

When the application of the principal applicant in Canada is ready to be finalized and the applicant can become a permanent resident, the CPC-V will inform the CIC responsible for the applicant's place of residence that permanent residence may be granted.

Once the CIC has granted permanent residence to the principal applicant, the visa office will be notified. The visa office may then issue permanent resident visas to the accompanying family members.

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## **10. Procedure: Family members of protected persons (DR2s)**

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### **10.1. Background**

Concurrent processing applies to this class.

The granting of permanent resident status to protected persons helps fulfill Canada's international legal obligations.



## OP 24 Overseas Processing of Family Members of In-Canada Applicants for Permanent Residence

CIC recognizes the plight of foreign nationals who have come to Canada in an effort to escape persecution in their country of nationality. Foreign nationals who have been granted protected person status in Canada are taking the next natural step, which is applying for permanent resident status for themselves and their family members.

Once it is determined that a protected person is eligible to apply for permanent residence, their spouse or common-law partner and dependent children in Canada and abroad are also eligible provided that they meet the definition in R1(3) of a “family member.” The decision whether to include these family members in the application rests with the protected person.

Family members of protected persons living outside Canada are processed concurrently as DR2s. In keeping with the priority accorded to reuniting immediate family members, visa offices should endeavour to complete DR2 case processing within the same time frames as the principal applicant is processed in Canada by the CPC-V or the responsible CIC.

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**Note:** The principal applicant in Canada may be granted permanent residence prior to completion of the processing of overseas family members due to the inadmissibility exemption for protected persons under A42 and R23 (see PP 4, section 11 for additional details). The principal applicant in Canada may include any or all family members, and only those family members who have been included in the application must be examined.

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### 10.2. CAIPS procedures for DR2s

The principal applicant is in the CR8 category and is processed in Canada, with concurrent processing of family members in Canada and abroad. The overseas case must be opened in the DR2 category. The procedure is as follows:

- a DR2 file is opened for the family members;
- the physical paper file of family members remains at the visa office.

### 10.3. Steps specific to DR2s

In the application kit, it is stated that the family members of protected persons must meet statutory requirements in order to be issued a visa. *However, the inadmissibility of a family member has no bearing on the permanent residence application of the protected person in Canada [A42].* Also, the inadmissibility of one family member abroad does not have a bearing on the admissibility of other family members included in the protected person’s application for permanent residence.

Although protected persons do not have to seek permanent residence on behalf of all of their family members, all family members must be *declared* by the protected person at the time of their in-Canada application for permanent residence, whether or not the family members intend to join the principal applicant in Canada. The importance of declaring all family members at the time of the PR application is to ensure their future eligibility under R117(9)(d), which excludes unexamined family members from the family class unless an officer has determined that they are not required to be examined.

#### Removal of a family member from the application

If protected persons wish to remove a family member from their application, they may do so at any time up to the point of visa issuance.

Because permanent separation may result, the CPC-V or the CIC must ask the principal applicant to sign a statutory declaration acknowledging this possibility. The principal applicant will be asked to sign if, for instance, the family member cannot be located and therefore cannot be examined.

While permanent separation may result, it is not a direct consequence of the removal of the family member from the application. The eligibility of a family member, particularly a child of the

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protected person, to be sponsored as a member of the family class will depend on the statutory and regulatory requirements in force when that sponsorship occurs. That the family member was not examined is not the critical issue.

Once protected persons become permanent residents, they may apply to sponsor their family members (in the family class) who were declared but not included in their application for permanent residence—provided that the family members still meet the definition of family member.

### Requirement for passport, travel document, or satisfactory identity document

Protected persons and their family members shall not be granted permanent resident status until the protected person is in possession of a valid and subsisting passport or travel document, or other prescribed identity document. For more information on this requirement and how it might affect the processing of family members, see PP 4, section 10.4. It is to be noted that R178 applies only to those applicants in Canada. Therefore, it may be necessary to consider other "travel documents" for family members who do not have a national passport.

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**Note:** The family member (DR2) of a protected person in Canada is not automatically a protected person and is not accorded the same protection as a protected person once in Canada.

The visa office should *keep the CPC-V informed if the DR2 applicant is found to be ineligible or inadmissible* prior to the granting of permanent residence to the principal applicant in Canada, as the CPC-V also informs the principal applicant of these findings.

The Act *does not provide for an appeal right* of an officer's decision to refuse the issuance of a visa under R176 to a DR2 applicant who has been found inadmissible or not to be a family member. The principal applicant's only recourse is to seek leave for judicial review.

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### 10.4. Verifying relationship between the principal applicant in Canada and family members living outside Canada – Role of the visa office

The role of the visa office in verifying the relationship between the principal applicant in Canada and family members overseas is as described for all cases in section 7.7 above.

However, in DR2 cases, the determination that an applicant does not meet the definition of a family member may result in a refusal of that applicant by the visa office (see section 10.6 below).

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**Note:** To assist in reviewing the eligibility and admissibility of overseas family members of in-Canada refugee applicants, visa offices have been requesting copies of the principal applicant's Personal Information Forms (PIFs) from the CPC-V. However, the CPC-V is not able to provide PIFs as requested by visa offices. Until further notification, the information in RIM-055-2004 ([http://www.ci.gc.ca/international/missions/messages/2004/04rim055\\_e.aspx](http://www.ci.gc.ca/international/missions/messages/2004/04rim055_e.aspx)) still applies.

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### 10.5. De facto dependants

Only individuals found to be *de facto* dependants of overseas family members of persons in the protected temporary residents class should be processed as per OP 5, sections 13.6, 13.7 and 13.8 (for a definition of *de facto dependant* see OP 5 section 6.13). Dependants of DR2s must be family members as per R1(3). Where a DR2 claims an accompanying individual to be a *de facto* dependant, that individual may be assessed as an independent individual applicant rather than as a dependant.

As an independent applicant they must meet all necessary eligibility and admissibility criteria in their own right, and then be processed accordingly in order to be issued a permanent resident visa. Where a *bona fide* relationship exists between the individual and the DR2, the visa officer may choose to process the files concurrently, although the processing of the individual's file (i.e., their admissibility) will have no impact on the DR2 file. The individual is to be coded according to

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the category in which they have been accepted. It is to be noted that the individual in this case is not a *de facto* dependant but rather an individual applicant.

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### 10.6. Ineligible family members

Section 7.6 above outlines the requirements for eligible dependent children. Note that the lock-in date for the age of a dependent child is the date on which the CPC-V receives the principal applicant's PR application in Canada (see section 7.5 above).

Should the visa office determine that a claimed family member is ineligible (e.g., a child over 22 years of age and not a full-time student), the visa office must ensure that procedural fairness is respected and inform the applicant of the concerns so that they can respond (whether in person at an interview or in writing).

If there is no additional information or the additional information does not change the ineligibility assessment, then the visa officer must refuse the applicant in writing (see sample refusal letter in Appendix A) and send a copy of this refusal to the CPC-V. The ineligible applicant should be removed from the application at the visa office following refusal, and the visa office should continue processing the remaining family members.

Ineligible applicants are not required to be examined for admissibility requirements.

If there are possible ineligible applicants on the PA's application in Canada, the same process applies as for ineligible applicants abroad. Depending on the circumstances, the CPC-V or the local CIC may consult the visa office if there are concerns about documents provided as proof of relationship. The CPC-V or CIC may request assistance in verifying the legitimacy of the documents or, if a temporary resident visa has been issued, seek information regarding details provided on the TRV application form or during an interview at the visa office.

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### 10.7. What to do if a family member is inadmissible due to security or criminality

A(42) exempts protected persons from being found inadmissible on grounds that a family member is determined to be inadmissible.

DR2s who are inadmissible may be refused despite the granting of permanent resident status to the principal applicant in Canada. The inadmissible family member does not have to be "removed" from the application of the protected person in Canada. The protected person is not inadmissible by reason of an inadmissible included family member.

R176(3) stipulates that the applicable grounds for inadmissibility for family members of protected persons are those cited in A21(2), i.e., A34 or A35, A36(1) or A37 or A38).

*A40 cannot be used as a basis for the refusal of DR2 family members of protected persons.* A40 is not included in the grounds for inadmissibility of family members of protected persons cited in A21(2), as per R176(3). Where material misrepresentation occurs and concerns a non *bona fide* relationship or the identity of the family member (e.g., marriage of convenience, adoption of convenience, misrepresentation of marriage records or of a child's birth records, etc.), then the family member should be refused not as per A40, but as per R176(1) and R176(3). See the procedures for refusal of ineligible family members in section 10.6 above.

If a family member for whom permanent residence is sought is inadmissible under A21(2), the visa office must ensure that procedural fairness is respected and inform the family member of the concerns so as to permit the family member to respond (whether in person at an interview or in writing). If no additional information is submitted, or if the new information submitted does not change the inadmissibility assessment, then the family member should be refused (see sample refusal letter in Appendix A) and removed from the application at the visa office. Processing of the remaining eligible and admissible family members can continue.

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### 10.8. Medical examinations

DR2 family members are required to undergo a medical examination [R30(1)(a)].

The medical examination is both for the purpose of determining whether the family members are medically inadmissible pursuant to A38(1)(a) or A38(1)(b) and for the purpose of identifying medical conditions that may be covered by A38(1)(c), so that treatment can occur.

Protected persons, and their family members in Canada and abroad, can be granted permanent residence even if they have a medical condition within the scope of A38(1)(c). See A38(2)(c), A38(2)(d) and R176(3).

Protected persons and their family members may not be granted permanent resident status if they are found to be medically inadmissible under A38(1)(a) or A38(1)(b) because of a medical condition which renders them a danger to public health or public security. The application with respect to a family member is to be refused.

If a family member does not pass the medical examination, this information must be communicated to the CPC-V, which is responsible for informing the principal applicant.

Conditions may be imposed in some instances; see section 10.9 below.

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### 10.9. Roles and responsibilities in the final approval process

#### The CPC Vegreville and the Canada Immigration Centre

The CPC-Vegreville holds carriage of the file, receives and processes the application, informs the visa office of the concurrent processing of any family members, and is responsible for sending all letters (procedural fairness, refusal, etc.) to the principal applicant.

Unless the file has been transferred by the CPC-V to a local Canada Immigration Centre for the purpose of interviewing the principal applicant, the responsibility for the file will remain with the CPC-V. However, should a file be transferred to a CIC, the CIC will then be responsible for processing the application to completion.

CICs normally do not enter information into FOSS to indicate a file has been transferred to their office; therefore, visa offices should always approach the CPC-V (**CPC-Vegreville-Enquiries**) first, if it is not clear who holds the file.

#### Visa office

Prior to issuing the permanent resident visa to an accompanying family member, the visa office is responsible for:

- verifying that medical results and background checks are still valid;
- verifying that spouses or common-law partners and children are still eligible;
- issuing the permanent resident visas to family members living abroad.

For **family members who have not met the normal medical requirements**, the visa office must note and act upon the following information:

- Under A26(d), an officer may, when granting permanent residence, impose conditions of a prescribed nature.
- R30(1), combined with R32, allows an officer to impose a condition requiring an applicant who does not meet normal medical requirements to report for medical examination, surveillance or treatment at times and places specified by the immigration officer.

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- A Medical Surveillance Undertaking [IMM 0535B] should also be completed when required.
- When issuing a permanent resident visa to a family member who does not meet normal medical requirements, the visa officer should indicate which of the above conditions should be imposed at the port of entry. An IMM 0535B should be completed when required.

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**Note:** If, in the opinion of a medical officer, a family member requires special medical attention, the visa office must advise the Medical Services Branch, Immigration Health Program Delivery Division, which will in turn advise the appropriate provincial health authorities sufficiently in advance of the person's arrival in Canada.

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### 10.10. Finalizing the case and issuing a visa

When the application of the principal applicant in Canada is ready to be finalized and the applicant can become a permanent resident, the CPC-V will inform the CIC responsible for the applicant's place of residence that permanent residence may be granted.

Once the CIC has granted permanent residence to the principal applicant, the visa office will be notified. The visa office may then issue permanent resident visas to the accompanying family members.

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## 11. Procedure: Family members of protected persons processed under the one-year-window-of-opportunity provisions (OYW)

Concurrent processing does *not* apply.

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**Note:** Officers should refer to OP 5, section 25, for guidelines on the one-year-window-of-opportunity provisions for family members of persons resettled to Canada under the Refugee and Humanitarian Resettlement Program (per R141). To deal with the issues not covered under OP 5, section 25, some new procedural steps have been developed by Refugees—Resettlement (SRE) in consultation with International Region, and will be sent out to the visa offices by International Region—Operational Coordination (RIM) before the end of fall 2005. The Refugee Resettlement Division will incorporate these new steps in OP 5 by the end of 2005, and the revised section in OP 5 will be hot linked to this chapter for the convenience of visa officers. Visa offices will be informed when section 25 is updated in OP 5.

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The visa office may issue a permanent resident visa under R176(2) to a family member who was included in the application for permanent residence submitted by the protected person in Canada if the family member makes an application to a visa office in the DR2 category and under the OYW program within one year of the date the principal applicant became a permanent resident. In such cases, the CPC-V will have informed the visa office of the inclusion of family members abroad, in accordance with 7.3 above. For details, refer to section 11.2 of PP 4.

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**Note:** Should the permanent resident locate an included family member within the one-year time limit, they may advise the CPC-V in writing. The CPC will have a record of who was included in the application and for whom fees were paid. In Quebec cases, the CPC will have informed the *ministère de l'Immigration et des Communautés culturelles* (MICC) of the application and who has been included. The MICC will have sent certificates of selection for Quebec for included family members, as appropriate; the visa office may need to request extensions of the validity of the certificates in some cases. The CPC-V has not suggested a separate form for the protected person to inform the CPC of the contact information for the family member abroad. The only change needed is to clarify that the protected person must inform the CPC of the contact information for "included" family members. The CPC will inform the visa office.

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While the visa office will act on such requests as quickly as possible, it is incumbent on the included family member to make an application within one year after the day on which the protected person in Canada became a permanent resident.

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### 12. Procedure: Family members of protected temporary residents

Concurrent processing applies to this class.

This section refers to family members of protected persons who have been issued a temporary resident permit (TRP) to proceed to Canada on an emergency basis because they are at risk.

Persons issued a TRP to proceed to Canada as protected temporary residents are then processed in Canada in the protected temporary residents class and coded PTR by the CPC-V. This means that their family members remaining abroad would be processed in the same way as either DR2 family members if their whereabouts are known (see section 10 above) or as one-year-window-of-opportunity applicants, if their whereabouts are unknown. The one-year period commences once refugee protection is conferred on the principal applicant [R141(1)(b)].

Visa office CAIPS coding should be PTR, as in Canada, unless the visa office had already opened a file for the protected person and their family members in another existing category before the principal applicant proceeded to Canada on a TRP.

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**Note:** Protected temporary residents are not the same as members of the permit holder class (see section 14 below).

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### 13. Procedure: Family members of H&C applicants in Canada

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#### 13.1. Background

Concurrent processing does not apply.

The visa office processes admissibility requirements at the request of the CPC-V or the CIC handling the principal applicant's file in Canada (see sections 13.3 and 13.4 below).

Applications can be made to remain in Canada based on humanitarian and compassionate grounds under R66. This assessment applies to applicants who are seeking an exemption from certain requirements for becoming a permanent resident from within Canada. Such applications are often called H&C applications. The principal applicant is HC1 or HC2.

All H&C applications are sent to the CPC-Vegreville. If a positive H&C decision can be made, the application is processed at the CPC. If, for any reason, a decision cannot be made, the application is referred to a CIC, where officers or counsellors will make a decision on the referred application.

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#### 13.2. CAIPS procedures

"B" files should be created for these cases in order to facilitate case tracking, the matching of medical results, and the entry of criminality and security decisions in CAIPS.

The immigration category is HC1 (HC2 is not available in CAIPS).

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**Note:** The category FCH can be used only for family class H&C applications made abroad.

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#### 13.3. No concurrent processing overseas

With the technical revisions to the Regulations of August 11, 2004, amendments to R69 state that family members who are *in Canada* may become permanent residents concurrently with the principal applicant in Canada. They also clarify that family members who are *outside Canada*

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*cannot be processed* for permanent resident visas concurrently with the principal applicant in Canada. This maintains the original policy intent of limiting exceptional provisions to foreign nationals and their family members who are in Canada. Family members outside Canada can be processed as members of the family class supported by a sponsorship, after the principal applicant in Canada has become a permanent resident.

*Transitional guidelines* clarify that applicants in Canada can still benefit from the ability to concurrently process family members overseas if their H&C application was received at a CIC office prior to the implementation date of the amendments to the Regulations. This benefit applies whether or not assessment of the H&C application has yet started. Applications received at a CIC office on or after August 11, 2004, will not be able to benefit from concurrent processing. For details on the processing of these transitional cases, refer to Operational Instruction RIM-053 of August 12, 2004 ([http://www.ci.gc.ca/international/missions/messages/2004/04rim053\\_e.aspx](http://www.ci.gc.ca/international/missions/messages/2004/04rim053_e.aspx)).

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### 13.4. Admissibility of overseas family members

The admissibility of overseas family members must be considered when assessing the admissibility of applicants in Canada who have received a positive H&C decision.

Except in a few limited situations, an inadmissible family member, whether accompanying or not, inside or outside of Canada, renders the principal applicant inadmissible. For instances in which non-accompanying family members might not render an applicant inadmissible to Canada, see [OP 2, section 5.11..](#)

*Overseas family members are required to undergo* medical, background and criminal checks as a prerequisite to approving the principal applicant for permanent residence in Canada.

Officers examining the case *in Canada* are delegated the authority to waive the requirement that non-accompanying family members be examined in order for a foreign national to become a permanent resident in [A25\(1\)](#) cases, when appropriate.

This authority of officers *in Canada* is not meant to be used to overcome the known or suspected inadmissibility of the family member abroad. An exemption from this requirement should be granted only in exceptional circumstances when the officer in Canada is satisfied that:

- the family member is unavailable to be examined; or
- the requirement would be unreasonable in light of the circumstances of the case.

An example of when it could be appropriate to waive this requirement might be if the H&C applicant has shared custody of his non-accompanying dependent child, but his ex-spouse, who has physical custody, refuses to let the child be medically examined. In such situations, where there is little risk that the applicant would be inadmissible due to the non-accompanying child, the officer *in Canada* could consider waiving the examination of the child.

It is important to note that in this type of situation, when the applicant has declared their family members and the decision has been made by the CIC officer in Canada to waive the examination, if the family member later becomes available for examination, a family class sponsorship would be possible since that family member was declared. The decision not to examine was that of the officer per R117(10), and the family member is therefore not excluded from the family class. The officer should keep this fact in mind when making the decision to waive this requirement.

Nevertheless, it remains the applicant's responsibility to disclose all family members on the application for permanent residence:

- whether accompanying or not; and
- whether available for examination or not.

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In cases where the principal applicant knowingly concealed the existence of non-accompanying family members in the application for permanent residence, the applicant would not be able to sponsor these family members in the future, since the family members are excluded from the family class as a result of the applicant's non-declaration.

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### 13.5. Medical examinations and background and criminal checks

These cases are not exempt from medical excessive-demand requirements.

Either the CPC-V or the CIC in Canada processing the H&C case, as appropriate, will notify the visa office of any family members abroad who need to be examined.

The visa office will proceed with the medical examinations, as well as the criminal and background checks for all family members, and will notify the CPC-V or the CIC of the results.

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**Note:** Further information can be found in IP 5, sections 5.16, 16.2 and 16.9.

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## 14. Procedure: Family members of TRP holders

There is *no provision* to allow members of the permit holder class to include family members on their applications for permanent residence.

Visa offices are therefore not involved in the processing of such family members.

At the time of their original entry into Canada, members of the permit holder class are inadmissible under any of the grounds for inadmissibility described in A33 to A43, except A34, A35, A36(1) and A37(1); therefore, their family members are also inadmissible on grounds of being an accompanying family member of a foreign national who is inadmissible or having an accompanying family member who is inadmissible. Consequently, accompanying family members would require their own permit to enter Canada. In order to be considered for permanent residence, such individuals would need to submit their own applications under the permit holder class as principal applicants.

Family members living abroad who are eligible for membership in the family class may be sponsored, once a member of the permit holder class has attained permanent resident status.

Additional information may be found in OP 20, especially sections 5.18 and 5.19, as well as IP 1, sections 5.18 and 5.19, and section 21 in its entirety.



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## Appendix A. DR2 Refusal Letters

### Refusal letter for spouse/common-law partner

DR2 Refusal letter – Overseas family member (spouse) included in the in-Canada Application for Permanent Residence of a protected person

### INSERT LETTERHEAD

Our Ref.:

### INSERT ADDRESS

Dear

Your name was included as a family member in a protected person's In-Canada Application for Permanent Residence made by your spouse/common-law partner \_\_\_\_\_  
**(insert the name of the protected person in Canada).**

According to sections 176(1) and 176(3) of the *Immigration and Refugee Protection Regulations*:

**176.(1)** An applicant may include in their application to remain in Canada as a permanent resident any of their family members.

**176.(3)** A family member who is inadmissible on any of the grounds referred to in subsection 21(2) of the Act shall not be issued a permanent resident visa and shall not become a permanent resident.

You were interviewed by me at \_\_\_\_\_ **(insert the name of your visa office)**, on \_\_\_\_\_ in \_\_\_\_\_ **(insert the language in which applicant was interviewed)**, which is your native language, through the interpretation of an English/ \_\_\_\_\_ **(insert the language in which applicant was interviewed)** -speaking interpreter. At no time during the interview did you indicate that there was any difficulty in understanding my questions. **(Amend or delete, as appropriate)**

Under subsection 1(3) of the *Immigration and Refugee Protection Regulations*, a "family member" has been defined as follows:

**1.(3)** For the purposes of the Act, ... and for the purposes of these Regulations,... "family member" in respect of a person means

- (a) the spouse or common-law partner of the person;
- (b) a dependent child of the person or of the person's spouse or common-law partner;
- and
- (c) a dependent child of a dependent child referred to in paragraph (b).

Section 4 of the *Immigration and Refugee Protection Regulations* provides that:

**4.** For the purposes of these Regulations, a foreign national shall not be considered a spouse, .... of a person if the marriage ... is not genuine and was entered into primarily for the purpose of acquiring any status or privilege under the Act.

## OP 24 Overseas Processing of Family Members of In-Canada Applicants for Permanent Residence

Based on information available to me, I have concluded that your marriage to \_\_\_\_\_ (**insert the name of the protected person in Canada**) is not genuine and was entered into primarily for the purpose of acquiring permanent residence in Canada.

I am not satisfied that you meet the requirements to obtain a permanent resident visa as a family member of \_\_\_\_\_ (**insert the name of the protected person in Canada**). I am, therefore, refusing your application pursuant to subsection 11(1) of the *Immigration and Refugee Protection Act*.

Subsection 11(1) of the *Immigration and Refugee Protection Act* provides that a foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the Regulations. The visa or document shall be issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act. Pursuant to subsection 2(2) of the Act, references to "this Act" include regulations made under it.

I am satisfied that you do not meet the requirements for a permanent resident visa as a family member of \_\_\_\_\_ (**insert the name of the protected person in Canada**). I am, therefore, refusing your application pursuant to subsection 11(1) of the *Immigration and Refugee Protection Act*.

Yours truly,

Officer

cc: CPC-Vegreville

## OP 24 Overseas Processing of Family Members of In-Canada Applicants for Permanent Residence

### Refusal letter for dependent child

DR2 Refusal letter – Overseas family member (dependent child) included in the in-Canada Application for Permanent Residence of a protected person

### INSERT LETTERHEAD

*Our Ref:*

### INSERT ADDRESS

Dear

Your name was included as a family member in a protected person's In-Canada Application for Permanent Residence made by your father/mother, \_\_\_\_\_(**insert the name of the protected person in Canada**).

According to sections 176(1) and 176(3) of the *Immigration and Refugee Protection Regulations*:

**176.**(1) An applicant may include in their application to remain in Canada as a permanent resident any of their family members.

**176.** (3) A family member who is inadmissible on any of the grounds referred to in subsection 21(2) of the Act shall not be issued a permanent resident visa and shall not become a permanent resident.

You were interviewed by me at \_\_\_\_\_(**insert the name of your visa office**), on \_\_\_\_\_ in \_\_\_\_\_ (**insert the language in which applicant was interviewed**), which is your native language, through the interpretation of an English/ \_\_\_\_\_ (**insert the language in which applicant was interviewed**) -speaking interpreter. At no time during the interview did you indicate that there was any difficulty in understanding my questions. (**Amend or delete, as appropriate**)

Under section 1(3) of the *Immigration and Refugee Protection Regulations*, a "family member" has been defined as follows:

**1.**(3) For the purposes of the Act, ... and for the purposes of these Regulations,... "family member" in respect of a person means

(a) the spouse or common-law partner of the person;

(b) a dependent child of the person or of the person's spouse or common-law partner; and

(c) a dependent child of a dependent child referred to in paragraph (b).

The term "dependent child" is defined as follows in section 2 of the *Immigration and Refugee Protection Regulations*:

**2.** "Dependent child", in respect of a parent, means a child who

## OP 24 Overseas Processing of Family Members of In-Canada Applicants for Permanent Residence

- (a) has one of the following relationships with the parent, namely,
- (i) is the biological child of the parent, if the child has not been adopted by a person other than the spouse or common-law partner of the parent, or
  - (ii) is the adopted child of the parent; and
- (b) is in one of the following situations of dependency, namely,
- (i) is less than 22 years of age and not a spouse or common-law partner,
  - (ii) has depended substantially on the financial support of the parent since before the age of 22— or if the child became a spouse or common-law partner before the age of 22, since becoming a spouse or common-law partner—and, since before the age of 22 or since becoming a spouse or common-law partner, as the case may be, has been a student
    - (A) continuously enrolled in and attending a post-secondary institution that is accredited by the relevant government authority, and
    - (B) actively pursuing a course of academic, professional or vocational training on a full-time basis, or
  - (iii) is 22 years of age or older and has depended substantially on the financial support of the parent since before the age of 22 and is unable to be financially self-supporting due to a physical or mental condition.

### **[OFFICERS SHOULD PROVIDE REASONS WHY SON / DAUGHTER DOES NOT MEET DEFINITION OF “DEPENDENT CHILD”]**

I am not satisfied that you meet the requirements to obtain a permanent resident visa as a family member of \_\_\_\_\_ (**insert the name of the protected person in Canada**). I am, therefore, refusing your application pursuant to subsection 11(1) of the *Immigration and Refugee Protection Act*.

Subsection 11(1) of the *Immigration and Refugee Protection Act* provides that a foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the Regulations. The visa or document shall be issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act. Pursuant to subsection 2(2) of the Act, references to “this Act” include regulations made under it.

I am satisfied that you do not meet the requirements for a permanent resident visa as a family member of \_\_\_\_\_ (**insert the name of the protected person in Canada**). I am, therefore, refusing your application pursuant to subsection 11(1) of the *Immigration and Refugee Protection Act*.

Yours truly,

Officer

cc: CPC-Vegreville