



Values and Ethics

Staffing Principles for Hiring Managers

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Table of Contents

Introduction.....	3
A values-based staffing system.....	3
The Values of the Public Sector.....	3
Core Values of the <i>Public Service Employment Act</i> (PSEA).....	4
Guiding Values of the <i>Public Service Employment Act</i> (PSEA).....	4
Public Service Commission (PSC) Appointment Policy.....	5
Protecting our Integrity.....	6
Transforming our Values into Action, DO's and DON'Ts	8
Consequences of not respecting the values.....	9
Conclusion.....	9
For more information.....	10
Annex A: Jurisprudence.....	11
Annex B: ESDC Staffing Sub-Delegation - Attestation Form.....	17
Annex C: Signed Statement of Persons Responsible for Screening/Assessment Form	18

Introduction

The objective of this document is to remind hiring managers of their authorities and responsibilities from a values and ethics perspective.

This document aims to affirm managers' authorities, while serving as a reminder that the Values of the Public Sector and the principle of merit must continue to be respected in the exercise of latitude and flexibility in staffing.

The values of the public sector guide public servants in all activities related to their professional duties. Managers are public servants who are in a position of influence and authority; they have been given a special responsibility to exemplify the values of the public sector, particularly in the exercise of their authority in recruitment and staffing. In addition to the values of the public sector, the *Public Service Employment Act (PSEA)*¹, the principal legislation that governs staffing in the federal public service, establishes a values-based staffing system.

A Values-Based Staffing System

The Preamble to the PSEA refers to Canada gaining from a public service that strives for excellence, is representative of Canada's diversity and that is able to serve the public with integrity and in their official language of choice. It also refers to Canadians benefiting from a public service where appointments are based on merit, non-partisanship and that is representative of Canada's diversity, whose members reflect a myriad of backgrounds, skills and professions.

The Values of the Public Sector

These values are a compass to guide managers in all actions and decisions related to recruiting and staffing.

Respect for Democracy refers to the system of Canadian parliamentary democracy, and reminds us that a non-partisan public sector is essential to our democratic system.

Respect for People refers to the importance of treating all people with respect, dignity and fairness. Respect is fundamental to our relationship with the Canadian public and contributes to a safe and healthy work environment that promotes engagement, openness and transparency. The diversity of our people and the ideas they generate are the source of our innovation.

Integrity is the cornerstone of good governance and democracy. By upholding the highest ethical standards, we conserve and enhance the public's confidence in the honesty, fairness and impartiality of the federal public sector.

¹ Public Service Employment Act: <http://lois-laws.justice.gc.ca/eng/acts/P-33.01/>

Stewardship refers to the trust that has been placed on public servants to use and care for public resources responsibly, for both the short and long term.

Excellence refers to our on-going commitment to excellence in the design and delivery of public sector policy, programs and services to Canadians. Engagement, collaboration, effective teamwork and professional development are all essential to a high-performing organization.

Core Values of the *Public Service Employment Act (PSEA)*²

The PSEA requires appointments to be based on the core appointment values of **merit** and **non-partisanship**.

Merit refers to the requirement that the person to be appointed must meet all the essential qualifications (this includes official languages proficiency) for the work to be performed. In addition, the manager (or other delegate of the deputy head) may take into consideration qualifications that would be an asset for the work to be performed, currently or in the future, as well as any current or future operational requirements and organizational needs. Organizational needs may also include current and future needs of the public service, as identified by the employer. The essential qualifications, asset qualifications, operational requirements and organizational needs, collectively referred to as the merit criteria, form the basis for the assessment of merit.

A non-partisan public service is one in which appointments are based on merit and are free from political influence, and where employees perform their duties, and are seen to perform their duties, in a politically impartial manner.

“Canada will continue to benefit from a public service that is based on merit and non-partisanship and in which these values are independently safeguarded;

Canada will also continue to gain from a public service that strives for excellence, that is representative of Canada’s diversity and that is able to service the public with integrity and in their official language of choice.”

-Preamble to the Public Service Employment Act

Guiding values of the *Public Service Employment Act (PSEA)*

The Public Service Commission (PSC) protects the core appointment values of merit and non-partisanship, as well as the guiding values of fairness, transparency, access and representativeness. These guiding values are balanced with two principles of management: flexibility and affordability/efficiency.

² Core Values of the PSEA: <https://www.canada.ca/fr/commission-fonction-publique/organisation/propos-nous/valeurs-enoncees-loi-emploi-fonction-publique.html>

Fairness – Decisions are made objectively and free from political influence or personal favouritism; policies and practices reflect the just treatment of persons. Persons have the right to be assessed in the official language(s) of their choice in an appointment process.

Transparency – Information about strategies, decisions, policies and practices is communicated in an open and timely manner.

Access – Persons from across the country have a reasonable opportunity to apply, and to do so in the official language(s) of their choice, and to be considered for public service employment.

Representativeness – Appointment processes are conducted without bias and do not create systemic barriers to help achieve a public service that reflects the Canadian population it serves.



Public Service Commission (PSC) Appointment Policy ³

Under the PSEA, the PSC has the authority to make appointments to and within the public service, and has delegated many of its appointment authorities to Deputy Heads.

The PSC's Appointment Framework guides deputy heads in building their own staffing systems adapted to their needs and in ensuring that they respect legislative and policy requirements. The PSC's Appointment Policy and Appointment Delegation and Accountability Instrument should be read in the context of the PSEA, the Public Service

³ Appointment Policy: <https://www.canada.ca/en/public-service-commission/services/appointment-framework/appointment-policy.html>

Employment Regulations, and any other relevant legislative instrument (ex.: Exclusion approval orders, Official Languages Act, etc.)

The PSC's Appointment Framework has been updated to provide flexibility for the Deputy Minister to customize ESDC's staffing frameworks based on the department's unique context and business needs. This update results in significantly fewer "rules" and provides increased latitude for managerial judgment in how to staff while clearly **ensuring** that merit is met and documented.

Protecting our Integrity

Public servants must be careful to be as impartial as possible in staffing actions that they are involved in, **and this means that favouritism or bias must not be shown**. Public servants must ensure that they **do not grant preferential treatment** to friends, relatives, or community or peer groups over others, and that they do not allow their treatment of any person or group to be negatively influenced by their personal experience or views.


"A strong, merit-based, non-partisan and representative public service is essential to this country's success – and indeed to the success of any democratic society."

-David Johnston, former Governor General of Canada

The Federal Public Service is the largest employer in Canada. Based on this fact alone, it is not only possible but highly probable that a manager involved in a staffing process (e.g. a sub-delegated manager, an assessment board member or a hiring manager) would encounter a candidate that they know or are related to. The Code of Conduct⁴ guides all employees on this subject: *"If you are a participant in the decision making process in a staffing action, **you cannot help family or friends who are competing for the job**. In such situations, it might be necessary to **recuse yourself from the Department's recruitment process**."* In this context, inappropriate preferential treatment includes the decision or action to give an unfair advantage to a candidate in order for the candidate to succeed in the recruitment, staffing or selection process and obtain a higher position (group and/or level) with higher income and/or responsibilities and/or influence. As such, the closer the relationship between anyone involved in a staffing process (ex: assessment board member, hiring manager, sub-delegated manager, person responsible for administrative work, etc.) and a candidate, the stronger the control measures should be to protect the integrity of the staffing process against favouritism, bias, the perception of a conflict of interest and inappropriate preferential treatment.

There are overarching measures in place to protect the integrity of processes. For instance, all sub-delegated managers must **read, understand, commit to and sign** the form "ESDC Staffing Sub-Delegation - Attestation Form" before exercising their sub-delegated

⁴ ESDC's Code of Conduct: http://iservice.prv/eng/is/ve/code_of_conduct/code_of_conduct.shtml



authorities. Although they are only required to sign this document once, it must be respected in the course of all staffing processes.

Also, individuals who are not sub-delegated must **read, understand, commit to and sign** the form “Signed Statement of person responsible for screening and assessment” at the beginning of each staffing process in which they are involved.

In addition, everyone involved in a process should review the list of candidates. If they notice there is someone they know in the list of candidates, some or all of the following options (depending on the situation and the nature of the relationship) should be implemented:

- ✓ **Disclose** the relationship to the other assessment board members, the sub-delegated manager responsible for the process and/or HR.
- ✓ **Decline** to participate (partial recusal) in the assessment of the candidate from the very start of the process.
- ✓ **Step down**, as an assessment board member, from the staffing process entirely (complete recusal).

It is a best practice to always disclose to HR any relationship between individuals involved in a staffing process and candidates. Through discussion, the risk assessment process and their expertise, your HR advisor can help you determine the best measures to put in place to protect the integrity and success of the process.

Integrity must also be maintained when selecting an individual for a staffing action in the same way it must be in the course of an assessment process. Additionally, once a selection has been made and there is a decision to make an offer of employment, managers are responsible to ensure integrity in that process as well. This can be accomplished by ensuring that all relevant documentation is prepared and submitted in a timely manner. Furthermore, until an individual’s documentation has been processed and they have received their letter of offer, they should not have access to the department’s networks (for individuals coming from outside the department) and/or systems (for the position for which they are being hired).

Transforming our Values into Action

The values of the public sector, core staffing values and guiding values can sometimes be perceived as abstract notions. These values are intertwined and at the same time also related to the ideals and roles of the public service in a democratic society.

The following **DO**'s and **DONT**'s can help make our values concrete in staffing actions:

DO:

- ✓ Become knowledgeable of the Values of the Public Sector, the core and guiding values of staffing;
- ✓ Equip yourself with knowledge on staffing and recruitment: the rules, procedures and HR tools that have been created for your benefit. If the rules are not clear, let the Values guide you;
- ✓ Keep in mind that the law, the *Public Service Employment Act*, requires all staffing actions to be based on "Merit", and the law continues to take precedence over any policy, framework, and directive;
- ✓ Remember that the essential qualifications, asset qualifications, operational requirements and organizational needs form the basis for the assessment of merit;
- ✓ Ensure that you are clear with the competencies that are needed for a candidate to be successful; this clarity will determine what statement of merit criteria you will use;
- ✓ Hire and appoint people based on their merits: they must meet all the essential qualifications of the job;
- ✓ Keep in mind that good intentions are not sufficient; you must document your decision(s);
- ✓ Consider the long term impacts of your decisions and actions related to staffing: appointing an individual into the public service involves a long term working relationship and commitment between the Government of Canada and the successful candidate;
- ✓ Contact your Human Resource Advisor for advice and guidance.

DON'T:

- ✗ Hire and appoint people based on your relationship with them (e.g. friends and family);
- ✗ Inappropriately use your authority to influence managers into hiring your friends and relatives;
- ✗ Succumb to the temptation of doing something inappropriate because it will be "faster" or "less expensive";
- ✗ Deceive yourself and minimize the impacts of improper conduct or fraud related to staffing actions;
- ✗ Assume that you can make your own rules regarding staffing just because you have been sub-delegated with authorities on staffing. Staffing authority is both a privilege and a duty;
- ✗ Cling to stereotypes, biases and prejudices when assessing candidates in a staffing process;
- ✗ Ignore the overarching objectives of forming a public service that strives for excellence, is representative of Canada's diversity and is able to serve the public with integrity in their official language of choice.

Consequences of not respecting the values

Investigations can be conducted into whether staffing actions or appointments were not made on the basis of merit, or there was an error, an omission, improper conduct, fraud or political influence that affected the selection of a person that was appointed, or proposed for appointment. Staffing complaints are also a possibility to determine if there was abuse of authority (ex: personal favouritism) in the appointment process.

The investigation, if the allegation is founded, could result in the cancellation of the appointment process or reassessment of parts of the process, revocation of the appointment, conditions imposed on candidates before accepting appointments in the Public Service, and any other appropriate corrective action. In addition, where there is a finding of improper conduct or fraud by an employee or manager in a staffing process, the department can decide to implement its own measures including but not limited to disciplinary action and/or suspensions or limitations to sub-delegated authorities

In the case of a complaint, corrective measures could also include the revocation of an appointment and any other measure deemed appropriate by the Federal Public Service Labour Relations and Employment Board (FPSLREB) (including re-assessments).

Conclusion

This guide is intended to help hiring managers understand and exercise values and ethics. Respect for Democracy, Respect for People, Integrity, Stewardship and Excellence are the values of the Public Sector. It is the hiring managers' responsibility to understand and respect the values of the public sector and core values of the PSEA. A public service, staffed with engaged and committed public servants, is the *raison d'être* for one of the most important and rewarding responsibilities of a manager: Staffing.

As a hiring manager, you may find the following pages beneficial since they contain case summaries, the *ESDC Staffing Sub-Delegation Attestation Form* and the *Signed Statement for Persons responsible for Screening and Assessment*.

“Working for the public service is the best job anyone could have. The public service brings you in and develops your career with you.”

-Louise Levonian, former ESDC Deputy Minister

For more information

If you are interested in learning more about values and ethics, please contact the Office of Values and Ethics via email at NC-V&E-GD.

For advice and guidance on staffing, please contact your manager or the [Human Resources Service Centre](#).



ANNEX A Examples of the PSC's investigative reports⁵

Case summary 1

(Conducted under section 67(2) of the *Public Service Employment Act*)

Improper conduct: Favoritism, inappropriate re-assessment

Errors: Each essential qualification was not assessed, reference checks were not considered, priority clearance was not updated accordingly.

An anonymous source provided information to the Public Service Commission (PSC) indicating problems in an internal appointment process. The resulting investigation was undertaken at the request of the organization under subsection 67(2) of the *Public Service Employment Act* (PSEA).

The purpose of the investigation was to determine whether the selection of this candidate for an indeterminate position was affected by an error, omission or improper conduct. Specifically, it was alleged that the education requirement and one of the experience qualifications in the statement of merit criteria were changed to favour the candidate. Furthermore, the staffing file for this process revealed that the candidate did not initially satisfy the screening criteria, but the candidate was subsequently screened into the process upon reconsideration. Lastly, while the candidate was reinstated into the process following a reassessment of the written exam, the circumstances surrounding the reassessment were unclear. In addition, other concerns surfaced during the investigation in terms of how the request for priority clearance was handled, how the interviews for the process were conducted, and how the references were used.

The evidence gathered showed that there was improper conduct on the part of the hiring manager and the Executive Resourcing Consultant (ERC). The hiring manager's behaviour was determined to be improper because they decided to lower the education requirement for the position in consideration of the candidate's background, to screen the candidate into the process without verifying that the candidate met one of the experience criteria, and to re-assess the candidate's exam and change the candidate's score to that of a passing grade without a substantiated reason to do so. The ERC's conduct was determined to be improper because the ERC failed to fulfill their obligation to ensure that the appointed candidate met all of the essential qualifications, and to challenge the basis for reinstating the candidate's candidacy after the candidate initially failed the exam.

Errors were found to have been committed by another board member who determined that the candidate had passed the exam upon reassessment, despite the fact that the answers reviewed did not contain all of the previously identified requisite elements.

In addition, it was determined that the ERC erred in failing to establish that reference verifications were used in assessing candidates, and in failing to update the priority clearance request further to a change in the experience criterion in the statement of merit criteria. The hiring manager and the ERC both erred while conducting interviews in this

⁵ Additional case scenarios are available in the Public Service Commission's website.

process by failing to establish that each essential qualification was assessed individually and was met.

It was established that these actions and errors affected the selection and appointment of the candidate and accordingly, the PSC recommended a series of corrective actions to the organization, including:

- The revocation of the candidate's appointment;
- Values and ethics training and staffing training for the hiring manager;
- Suspension of the hiring manager's sub-delegated appointment and appointment related authorities for a period of three years; and
- Staffing training for the board member who erred.

No corrective action was recommended in relation to the ERC as that person retired from the public service.

Case Summary 2

Improper conduct: Favoritism, inappropriate re-assessment

Errors: Overturning the right decision and altering the assessment approach to appoint an unqualified candidate into an indeterminate position. Human Resources Advisor did not stop the executive from making a bad staffing decision, and also provided bad advice to the executive on how to bypass the rules.

This case involved the indeterminate appointment of a candidate that was found to be not qualified after a selection process.

The candidate had been acting in the position for a significant amount of time, and an advertised process was launched by the hiring manager to stabilize the position. At the conclusion of the process, the 3 assessment board members reported the results of the process to senior management: none of the candidates qualified for the position. An executive in the senior management team instructed the board members to redo the process to qualify the candidate and the chairperson of the board withdrew from leading the process. The executive consulted with HR and decided to overturn the board members decision by altering the assessment approach. The candidate was then found qualified and appointed to an indeterminate position.

The Public Service Commission conducted an investigation and found improper conduct by two members of the senior management team for overturning the board's decision and altering the assessment approach to qualify and appoint the candidate. The Commission also found improper conduct by individuals in HR when they did not stop the executives' actions and for encouraging the use of a different assessment approach to assess this individual

After the investigation, the Commission recommended the following corrective measures:

- the candidate was to be reassessed by individuals who were not involved in the original process.
- the executives involved were to complete training courses on staffing and values and ethics; that a discussion was to take place with their Assistant Deputy Minister to ensure they understood the contents of the training courses; and their appointment and appointment-related authorities be removed until the above-mentioned training courses were completed.
- the individuals from HR were to complete training courses on staffing and values and ethics, followed by a discussion with their director or director general to ensure that they understood the contents of the training courses, and for a period of one year, they were not to sit on an assessment board.

Case Summary 3

Improper conduct: Favoritism, inappropriate re-assessment

Errors: Improper conduct, inappropriate influence and preferential treatment towards hiring a family friend.

This is a rare case where an Agent of Parliament, the Public Sector Integrity Commissioner, and an independent agency, the Public Service Commission, conducted investigations involving the same individual, resulting in founded allegations.

In February 2010, the Public Sector Integrity Commissioner received a disclosure of wrongdoing with numerous allegations regarding a manager in the federal public service. An investigation found that the manager had falsified travel claims, claimed expenses that were not allowed, misused public funds by purchasing non work-related merchandise (e.g. massage chairs, water bottles, LCD high definition TVs) and services (e.g. personal massages for staff coded as “office supplies”) with public funds. In addition, the manager’s misconduct was deemed to be “gross mismanagement” for selecting a close family friend, who was living in the manager’s home, to fill a position in a satellite office over 200 km away when there was a qualified candidate already residing in close proximity to that office. As a result, unnecessary expenses were incurred and the manager did not respect the principle of fairness in a staffing action.

The Public Service Commission also received an allegation regarding this same manager on March 2010, and launched an investigation on the allegation that the manager was hiring their friends. The Public Service Commission’s investigation found improper conduct by the manager for participating in, and inappropriately influencing, the screening and interview of two candidates. By their actions, the manager ensured that the two candidates were found qualified even though they did not possess the educational qualifications that were in the advertisement.

The manager retired from the public service before the two investigations were concluded. However, numerous corrective and control measures were put in place by the Department to prevent such similar wrongdoing in the future.

Case Summary 4

(conducted under section 66 of the Public Service Employment Act)

Improper conduct: Reference check

Errors: Omission of reference check, inadequate documentation

During an advertised appointment process in a federal public service department, personal suitability was assessed using two selection tools: an interview and a reference check. Personal suitability marks were awarded to the person appointed, but there was no evidence to show that the reference check for the candidate had been included in the determination of those marks. This resulted in a finding of improper conduct that affected the selection and appointment of the candidate.

The department had opportunities to question the lack of evidence for the marks allotted, both prior to the appointment and also at the time that the complaint was received. The Department's decision not to review the appointment process documentation was an error which compounded the initial flaw.

The omission of the reference check to support the marks allotted constitutes improper conduct. This, together with the failure to review the documentation, is deemed an error, contrary to section 66 of the Public Service Employment Act.

The Public Service Commission (the "Commission") ordered that a new assessment board be convened to reassess the personal suitability qualifications of the candidate, the results of which were to be relayed to the Commission in order to confirm or revoke the appointment of the candidate. The Commission also ordered that the department ensure that all external appointment processes respect merit, non-partisanship and the guiding values, such as transparency, as well as adhere to the requirements of the Act and its regulations.

Case Summary 5 ⁶

Case: Bain v. Deputy Minister of Natural Resources

Neutral Citation: 2011PSST0028

Decision Date: 2011-10-14

Keywords: Internal advertised appointment process; abuse of authority; personal favouritism; reasonable apprehension of bias; inadequate material for evaluation; merit.

Summary: The complainant alleged that the respondent abused its authority in its assessment of the appointee. The complainant also alleged that the respondent demonstrated personal favoritism towards the appointee and that a member of the assessment board was a personal friend of the appointee, giving rise to a reasonable apprehension of bias.

Decision: The assessment board assessed the essential qualifications for the position on the basis, in part, of a presentation given by the candidates. The Tribunal found that the board knew or should have known that the appointee used copyrighted material from third party sources in his presentation. Since the appointee did not prepare his presentation, it is possible that he did not meet the essential qualifications. The board therefore made its decision to appoint him based on inadequate material, resulting in an improper result. Appointing a person who does not meet the essential qualifications is an appointment that is not based on merit and is consequently an abuse of authority.

The Tribunal determined that the respondent did not personally favor the appointee in its decision to reclassify the position to meet organizational requirements, in the choice of the area of selection, and in finding that the appointee possessed the requisite experience to be screened into the process. The Tribunal also concluded that the respondent's decision to postpone the manner in which the respondent assessed the appointee's references, do not give the rise to a finding of personal favoritism either.

The evidence established that one of the assessment board members was a "good friend" of the appointee. In applying the test for reasonable apprehension of bias adopted in *Newfoundland Telephone Co. v. Newfoundland (Board of Commissioners of Public Utilities)*, (1992) 1 S.C.R. 623, the Tribunal found that the fact that board member did not interrupt his social contacts with the appointee during the appointment process, and that he could not categorically deny having had any discussion with the appointee about his candidacy once the process was engaged, gives rise to a reasonable apprehension of bias towards the appointee, which constitutes an abuse of authority.

Complaints substantiated.

Corrective action: The Tribunal ordered the Deputy Head to revoke the appointment within 30 days.

⁶ Federal Public Sector Labour Relations and Employment Board: http://pslreb-crtefp.gc.ca/Decisions/summaries/2011-PSST-0028_e.asp

ANNEX B ESDC Staffing Sub-Delegation Attestation Form ⁷

I, *insert name of sub-delegated manager*, hereby attest that in exercising my sub-delegated appointment and appointment-related authorities:

- I will be accountable to the Deputy Minister of Employment and Social Development Canada (ESDC) for my actions and decisions.
- I will, when establishing qualifications, ensure that individuals are not personally favored in appointment processes.
- I will consider employment equity objectives.
- I will ensure that the rights of persons with a priority entitlement are respected.
- I will ensure those conducting the assessment are competent and that qualifications are assessed in the official language(s) of choice of the candidate.
- I will ensure the assessment is conducted in good faith, free from bias and personal favoritism, and in a manner that is supportive of an individual's right to accommodation.
- I will disclose any personal relationship I may have with candidates participating in appointment processes and ensure that the nature of this association, if any, is such that a decision can be rendered in an impartial manner.
- I will make appointments based on merit without undue influence from any individual, group or political body.
- I will make values-based appointment and appointment-related decisions that respect the ESDC [Code of Conduct](#) and the principles outlined in the preamble to the [Public Service Employment Act](#).
- I will adhere to all the terms and conditions outlined in the [Department's Table of Human Resources Authorities](#) and respect the conditions that apply to specific sub-delegated appointment and appointment-related authorities.
- I will access human resources advice and guidance to ensure that staffing activities conducted within my authorities respect the [Public Service Employment Act](#), [Public Service Employment Regulations](#), and other applicable Public Service Commission/ESDC policies and guidance documents.
- I will remain competent to exercise my sub-delegated appointment and appointment-related authorities by maintaining my knowledge and remaining current with respect to ESDC staffing frameworks and will do so by completing training every five years.

Failure to comply with the terms of this attestation may result in the revocation of or limitations to sub-delegated appointment and appointment-related authorities.

SIGNATURE:

DATE:

Name of sub-delegated person

⁷ Attestation form:

http://iservice.prv/eng/hr/staffing/managers_corner/direction/accountability_framework.shtml#annex_A

ANNEX C Signed Statement of Persons Responsible for Screening/Assessment Form⁸

I, THE UNDERSIGNED, promise that I will faithfully and honestly fulfill the duties which devolve upon me in connection with this decision or this evaluation/assessment and that I will not reveal to any person or persons, except those authorized by the Public Service Commission or the Department, the deliberations of the decision or the evaluation/assessment or the nature of its report.

Having been made aware of the applicant or list of applicants, I declare that to the best of my knowledge, I am not related to the applicant(s), and that the nature of my association, if any, with the applicant(s) is such that I can render decisions in an impartial and non-partisan manner.

I further declare that if I am required, as a person present at the assessment, to assess a person who has requested to be assessed orally or in writing in the official language other than my first official language, I consider myself able to understand and speak the applicable official language sufficiently to fulfill the role of a person present at the assessment.

Name – Nom:	Title – titre:	Date:
Signature:	Group and level – Groupe et niveau:	Screening / Présélection Assessment / Évaluation

Note: This form must only be signed by members of the assessment committee who do not have sub-delegated staffing authority

⁸ http://iservice.prv/eng/hr/staffing/managers_corner/tools_templates/index.shtml