Office of the
Merit Commissioner
Upholding Fair Hiring in the BC Public Service

2024 2025 ANNUAL REPORT

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Merit Commissioner
Upholding Fair Hiring in the BC Public Service

The Honourable Raj Chouhan
Speaker of the Legislative Assembly
Province of British Columbia
Parliament Buildings, Room 207
Victoria, British Columbia V8V 1X4

Dear Mr. Speaker:

It is my honour to present the *2024/25 Annual Report of the Merit Commissioner*. This report is submitted pursuant to section 5.2 of the *Public Service Act*, Chapter 385 of the Revised Statutes of British Columbia.

As an Officer of the Legislative Assembly, I would be pleased to appear and report further on these matters at the request of the Members of the Legislative Assembly.

Respectfully submitted,

David McCoy
Merit Commissioner
Province of British Columbia
May 2025

The Office of the Merit Commissioner would like to acknowledge that we are living and working with gratitude and respect on the traditional territories of the Indigenous peoples of British Columbia.

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Message from the Merit Commissioner

As the Merit Commissioner, I am pleased to present the *2024/25 Annual Report of the Merit Commissioner* highlighting this Office's ongoing commitment to upholding fair hiring practices within the British Columbia Public Service. My mandate, as outlined in the *Public Service Act*, focuses on ensuring that appointments are based on the principle of merit and that dismissal processes adhere to established standards.

Throughout 2023/24, my office conducted 272 comprehensive hiring competition audits to assess the application of the merit principle in staffing processes within organizations that hire under the *Public Service Act.* These audits are designed to ensure that hiring decisions are made objectively, based on candidates' qualifications, skills, and abilities, thereby promoting and ensuring a competent and non-partisan public service. I published a detailed report in early 2025, the *Merit Performance Audit Report 2023/24*, on these audits, including recommendations.

The Office continues to assess our audit processes. To improve on our previous random sampling method, a new random sampling process was implemented at the start of the new fiscal year (2024/25). Statistics Canada was engaged to create the sampling approach, which improved on our already rigorous sampling methodology.

During fiscal year 2023/24, we received 25 requests for staffing reviews from unsuccessful employee candidates of a hiring competition, of which 16 were deemed eligible and thoroughly examined. The majority of concerns raised pertained to the competition stages of interviewing and testing, including issues related to the marking of responses, the interview format, and the elevancy of assessment questions. In two instances, I directed the reconsideration of appointment decisions due to identified flaws, including inconsistent interpretation of referee information at the past work performance stage and unfair advantages provided in written assessments. These cases underscore the critical importance of well-designed assessment processes and equitable treatment of all candidates.

In December 2024, my office released a special study on inclusive hiring practices. This study reviewed existing literature and surveyed emerging recommendations to mitigate biases and foster a more welcoming and inclusive environment for all job seekers. Recommendations include removing identifying information from resumes during the screening process, ensuring diverse representation on hiring panels, and proactively addressing accommodations that support accessibility. Implementing inclusive practices is vital to attracting and retaining a diverse and talented workforce

> We remain committed to promoting excellence within the BC Public Service, ensuring that all staffing decisions are conducted with the utmost integrity, fairness, consistency, and transparency.

within the BC Public Service. This report is available on the Office's website.

My oversight also extends to monitoring just cause dismissal processes to ensure they comply with government practices, policies, and standards. By reviewing these processes, I aim to identify any systemic issues and recommend improvements, thereby safeguarding the integrity and fairness of such employment practices within the BC Public Service.

The ongoing awareness of my office's work has been bolstered by a series of "merit awareness" sessions. I have personally met with many organization heads and deputy ministers to discuss matters that pertain to the merit-based audit process, their specific results, staffing reviews results, and their obligations therein, and to identify any questions or concerns they may have insofar as my office is concerned, and to address any communication gaps that may exist. My office has also presented, upon invitation, to organizations that are keen to understand the nature of this office, the results and recommendations from the merit performance audit report and the inclusive hiring report, and to demystify and clarify how the principle of merit can improve hiring practices. To date, we have presented to over 400 hiring managers and their staff within the public service.

In June 2024, the Office of the Ombudsperson released *Hire Power*, the first report to be released under the *Public Interest Disclosure Act*. Recommendation 4 states that "The PSA [will] report to the Merit Commissioner annually for the next three years the compliance with these recommendations, in a manner the Merit Commissioner considers appropriate." Our work on this endeavour has begun.

The activities and findings over the last year reinforce my dedication and that of my Office to merit-based hiring and fair just cause dismissal practices. We remain committed to promoting excellence within the BC Public Service, ensuring that all staffing decisions are conducted with the utmost integrity, fairness, consistency, and transparency.

David McCoy
Merit Commissioner

Our Vision

A provincial public service founded in merit-based hiring and fair process in just cause dismissals.

Our Mission

To strengthen and support fairness and transparency in organizations that operate under the *Public Service Act* by:

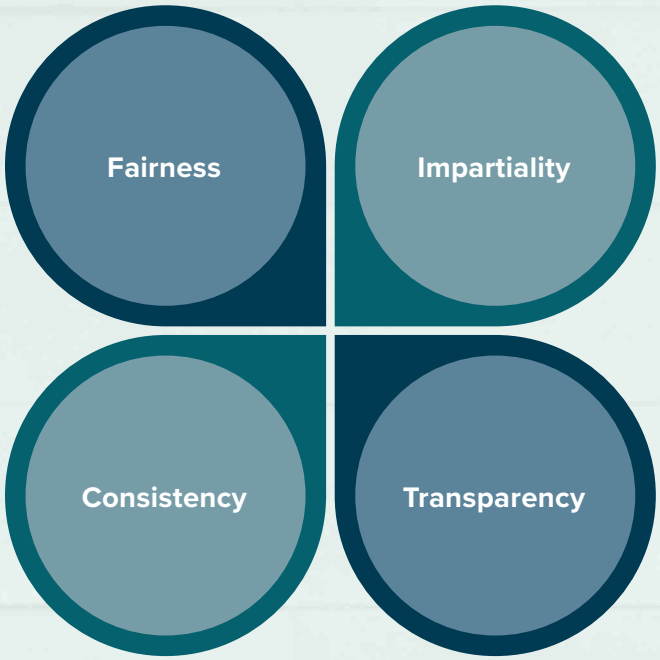
- Monitoring the application of the merit principle in hiring appointments.
- Reviewing the application of best practices, policies, and standards in just cause dismissals.
- Providing guidance information and insights into relevant subject matter pertaining to our mandate.

Our Values

The employees at the Office of the Merit Commissioner bring professional values to the workplace through eight professional values:

Our Principles

The work at the Office of the Merit Commissioner is guided by the principles of:



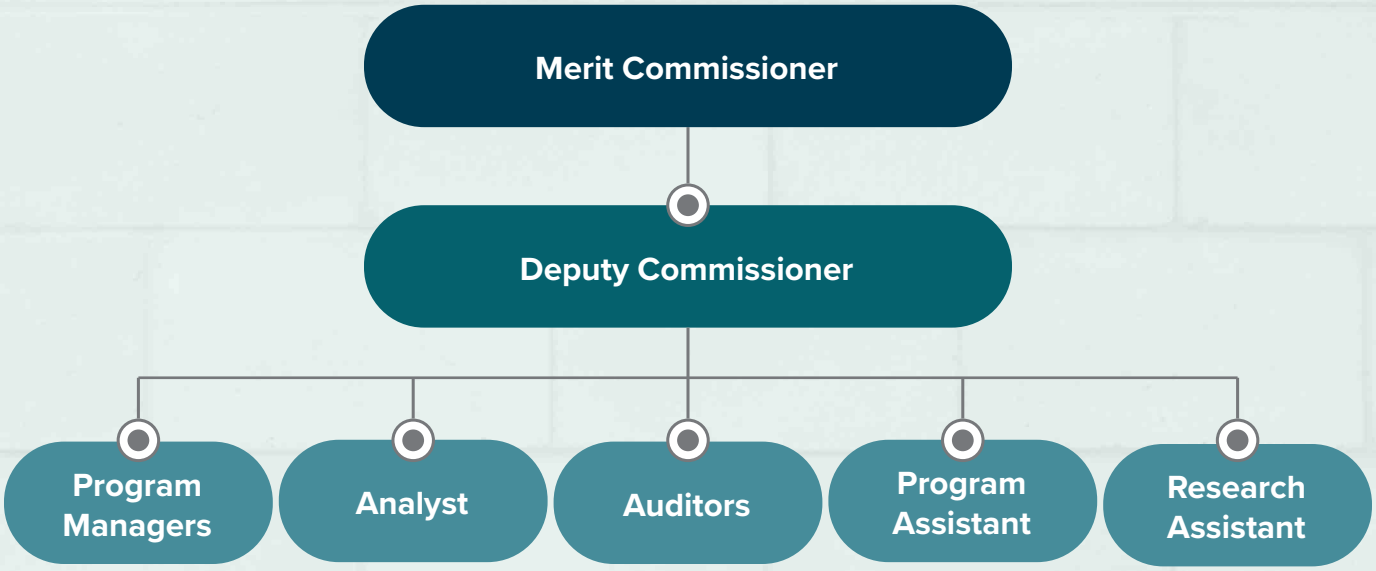
We uphold standards of integrity and professionalism in our performance, as we do for those over whom we provide oversight.

Who We Are

The Merit Commissioner is an independent officer of the Legislature, appointed by the Legislative Assembly on a part-time basis for a three-year term. As set out in the *Public Service Act* (the Act), the Merit Commissioner is responsible for:

- Monitoring the application of the merit principle in the recruitment and selection of employees in provincial government organizations where employees are appointed under the Act.
- Reviewing the application of government practices, policies, and standards to just cause dismissals as per the Act.

The Commissioner is supported by a small team of dedicated staff and contract resources, known collectively as the Office of the Merit Commissioner (the Office). The Office's work is guided by the principles of fairness, impartiality, consistency, and transparency. We uphold the same standards of integrity in performance and accountability that we apply to others, and all who contact the Office are treated with respect.



About Our Work

A number of individuals and organizations are directly involved in hiring and just cause dismissals processes. Their roles in fair hiring and dismissal processes for organizations under the *Public Service Act* are outlined below.

Fair Hiring and Dismissal Process Roles

Merit Commissioner

Monitors fairness in hiring through audits and independent staffing reviews

Reviews just cause dismissals processes, after employees have been dismissed for just cause, to determine whether due process was followed

Makes recommendations that have potential to inform future policy and practices

BC Public Service Agency/ Agency Head

Sets HR policy and accountability framework for HR management

Provides staffing and labour relations advice, training, and support

Prior to dismissing employees for just cause, confirms that due process has been appropriately followed

Deputy Ministers/ Organization Heads

Ensure that hiring and labour relations processes within their ministries/organizations follow established practice, policy, and standards, as well as collective agreements

Complete internal inquiries for employee applicants who are dissatisfied with feedback following a hiring process

Hiring Managers

Conduct hiring and dismissal processes and make related decisions in a manner consistent with government practice, policies, and standards, as well as collective agreements

Unions and Employee Associations

Represent and advocate for the interests of employees

What We Do

The Office has three central responsibilities:

1. **Conducting merit performance audits**
2. **Reviewing specific staffing decisions upon request by eligible individuals**
3. **Reviewing processes that have resulted in just cause dismissals**

We also conduct relevant special audits and studies.

Appointments on Merit

Section 8(1) of the Act requires that, other than in some defined exceptions, appointments to and from within the public service must:

(a) be based on the principle of merit, and
(b) be the result of a process designed to appraise the knowledge, skills and abilities of eligible applicants.

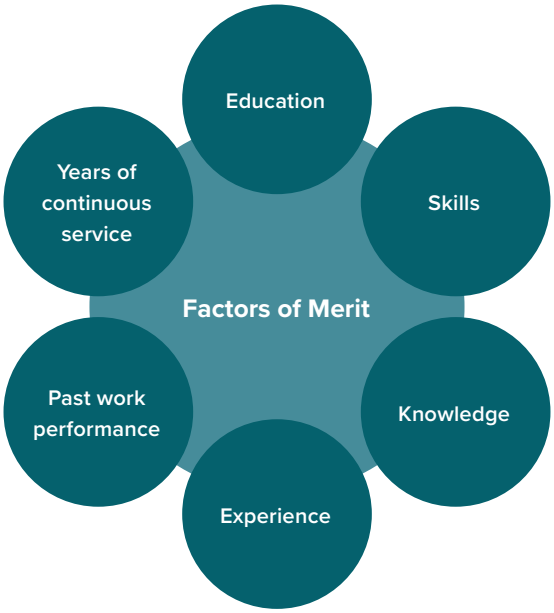
The Merit Principle

The Act states that all appointments to and from within the BC Public Service must be based on the principle of merit. The merit principle means that candidate selection is based on:

- possessing the established qualifications for a role;
- an assessment that includes the six factors of merit listed in the Act; and
- non-partisanship and impartiality.

Factors of Merit

Section 8(2) of the Act lists the matters to be considered in determining merit. These must include:



Our audits follow established practices to determine whether hiring processes have been designed and conducted in a way that leads to merit-based appointments.

Performance Audits – Annually Surveying the Hiring Landscape in BC's Public Service

The merit principle was introduced into hiring for BC's public service in 1908. Public servants were to be hired not due to their political connections, but rather for their qualifications. Merit-based hiring meant that employees were qualified for the work and that appointments were not the result of patronage.

Since then, the guidance around how to ensure merit-based hiring has evolved, but the principle of merit-based hiring has remained. Hiring for public service jobs is to follow sound processes and principles. Applicants to public service jobs are to be assessed fairly and objectively, through reasonable and transparent processes.

It remains as important today as in the past that people hired under the *Public Service Act* are qualified to do the work. Given the diversity and importance of public service workers – from firefighters to engineers, social workers, policy analysts, liquor store managers, and financial experts – merit-based hiring continues to be foundationally important to the government services upon which British Columbians rely.

Through the years, the Office of the Merit Commissioner has played an important role in auditing hiring competitions and conducting staffing reviews to ensure the merit principle is applied in practice in all organizations that hire under the Act.

Audits Today

The Office monitors the application of the merit principle in organizations whose roles are hired under the Act. It does so by conducting random audits of appointments on a quarterly basis and reporting out on the results. The focus of the merit performance audit program is on permanent appointments and temporary appointments greater than seven months made in any organization that is subject to section 8 of the Act. Appendix A includes the list of organizations the Merit Commissioner monitors for the application of the merit principle to appointments. Annually, we randomly select a statistically representative number of appointments for audit.

In accordance with section 5.1(a) of the Act, the purpose of a merit performance audit is to determine whether:

(i) the recruitment and selection processes were properly applied to result in appointments based on merit; and

(ii) the individual, when appointed, possessed the required qualifications for the position to which they were appointed.

We conduct audits in accordance with generally-accepted professional audit standards and methodology. Periodically, we ask independent experts to review our approach to ensure our sampling methodology and practice support our objectives. We also conduct quality assurance reviews of the audits to ensure our results and findings are both consistent and comparable year over year.

Semi-annually, we provide deputy ministers and organization heads with detailed individual audit reports for appointments within their organization so they may share findings with the responsible hiring managers and take any necessary action to improve hiring practices. These individual audit reports are also provided to the deputy minister of the BC Public Service Agency (Agency Head) who is responsible for staffing policy, support, and training in the BC Public Service.

The Office also prepares a consolidated report of all audit findings, which sets out the risks to merit-based hiring identified through the audit and makes recommendations to improve hiring practices. The Merit Commissioner's recommendations are directed to deputy ministers and organization heads (and the staff to whom they have delegated staffing authority). The Office submits this report to the Legislative Assembly. It is also shared with the public via our website.

The *2023/24 Merit Performance Audit Report* was created using data reported on from the new case management system introduced in 2023/24.

Merit-based hiring continues to be foundationally important to all the government services upon which British Columbians rely.

The Audit Process for Each Audited Competition

We examine:

- The overall recruitment process used to recruit and select applicants
- The five common stages of a hiring process:
  - Short-listing
  - Interviewing and testing
  - Past work performance
  - Years of continuous service
  - Selection
- The individual appointee's application and their performance in the competition.

We consider:

- If the process complied with the *Public Service Act* and, where applicable, relevant provisions of collective agreements
- If the panel's approach was consistent with fair hiring principles:
  - Open and transparent processes
  - Objective and relevant job assessments
  - Reasonable decisions
  - Fair and consistent treatment of applicants
- The qualifications of the individual appointed:
  - Experience, education, knowledge, skills, and abilities, according to the job requirements
  - Overall ranking in the context of the competition results

We make:

- Two audit **findings**:
  - Whether the recruitment and selection process was based on merit
  - Whether the individual appointed was qualified
- One **determination**:
  - Whether there was appropriate documentation on file to support the hiring decision

Below are the definitions for each of the findings and the determination we make for each audited appointment.

Recruitment and Selection Process Findings

Merit: The recruitment and selection process was properly designed and applied to result in an appointment based on merit.

Merit not applied: The recruitment and selection process contained one or more errors in design or application: the impact on the outcome was known to be negative and, as a result, the appointment was not based on merit.

A finding of merit not applied is also made if there is insufficient evidence to demonstrate that the design or application of a process was based on merit.

Merit with exception: The recruitment and selection process contained one or more errors in design or application: there was no identifiable negative impact on the outcome.

Individual Appointment Findings

Qualified: The individual, when appointed, possessed the qualifications specified as required for the position.

Not qualified: The individual, when appointed, did not possess the qualifications specified as required for the position.

Qualifications not demonstrated: There was insufficient evidence to demonstrate that the individual, when appointed, possessed the qualifications specified as required for the position.

Documentation Determination

Good: The hiring process was comprehensively documented. Minimal or no follow-up was required with the hiring manager.

Insufficient: The hiring process was insufficiently documented. Key aspects of the process were not documented and a detailed explanation was required from the hiring manager.

Sufficient: The hiring process was partially documented. Some key documents were missing or incomplete and/or some aspects of the process required more than simple clarification with the hiring manager.

The detailed audit program can be viewed at **www.meritcomm.bc.ca**.

2023/24 Merit Performance Audit Findings

A total of 11,467 permanent appointments and temporary appointments greater than seven months were made to and within the BC Public Service between April 1, 2023 and March 31, 2024. To be able to generalize the results of the audit to all of these appointments, a random sample, based on a predetermined sample size, was chosen from this population each quarter. This resulted in:

A sample of 284 appointments selected for audit. Of these, 12 were determined to be outside the scope of the audit. These were removed from consideration. The audit of the hiring processes was completed for the remaining 272 appointments.

For each of the 272 appointments, we made findings on the qualifications of the individual appointed and the fairness of the recruitment and selection process. With respect to the process, where we made a preliminary finding of "merit not applied," the deputy minister or organization head responsible for the appointment was provided with the opportunity to review the draft report and provide additional or clarifying information.

All deputy ministers and organization heads received a final report for each appointment audited within their organization. They were encouraged to share the results with the hiring managers responsible for the appointment.

At the audit's conclusion, we completed a comprehensive analysis and made recommendations. These overall findings were reported to the Legislative Assembly in January 2025 and were published on the Office's website.

Qualifications of Individuals Appointed

In all but 11 cases (4%), the individual appointed met the qualifications specified as required for the position at the time of appointment. This rate is consistent with the audit year prior.

For six of these exceptions, we made a finding of "qualifications not demonstrated." This means that insufficient evidence was provided to show that the appointees were qualified.

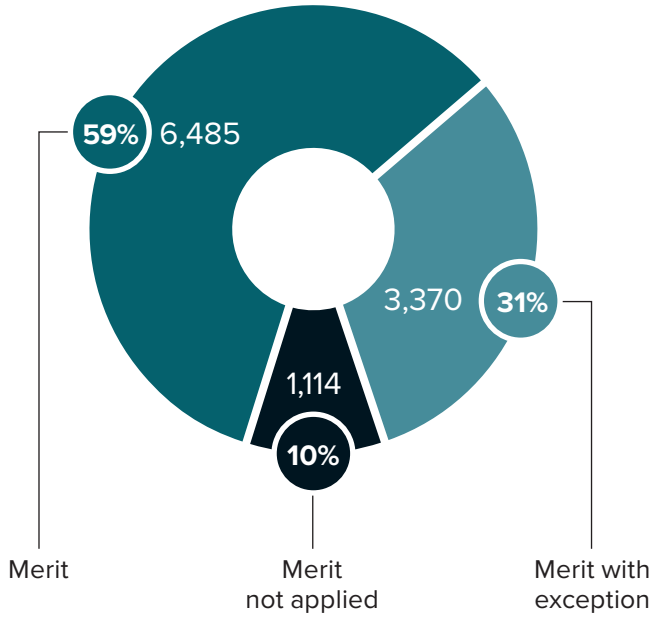
For five appointees, we also made a finding of "not qualified":

- Two met neither the mandatory education nor experience requirements;
- Two did not meet the experience requirements; and
- One did not meet the posted educational requirements.

There was no evidence that any of the 272 appointments audited were the result of patronage.

Recruitment and Selection Process

2023/24 Overall Recruitment and Selection Process Findings with Extrapolations to the Overall Population



Changes in Merit-based Hiring

"Merit" findings decreased by 5% since last year from 64% to 59%.

This year's audit cycle saw a considerable **increase in the number of "merit not applied" findings** over previous audit cycles. Previous rates were between 2% and 6%; however, this year experienced an increase to 10%. This extrapolates to **1,114 appointments** where the hiring process had an error with a **known negative impact**, compared with 2022/23 findings, which extrapolated to 622 appointments.

"Merit with exception" findings increased by 1% since last year from 30% to 31%.

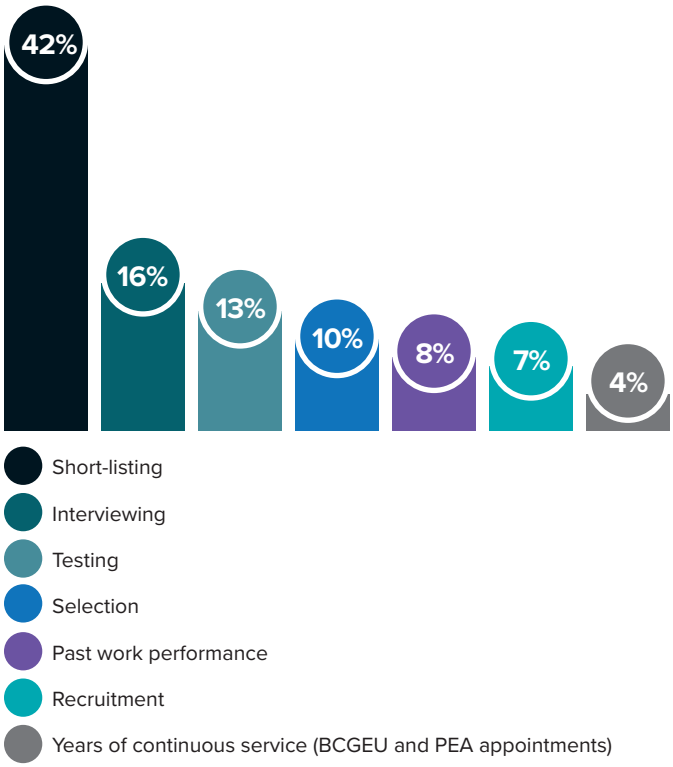
When our findings are extrapolated to the adjusted total population (11,467) of BC Public Service appointments for the 2023/24 fiscal year, it is estimated that:

- **6,485 (59%)** of appointments were error free **("merit" finding)**.
- **1,114 (10%)** of appointments had an error or errors with a known negative identifiable impact **("merit not applied" finding).**
- **3,370 (31%)** of appointments had an error or errors with no identifiable negative impact **("merit with exception" finding).**

The errors in each audit are identified and reported out by the category or stage of the process in which they occurred. Some appointments had only one error, whereas others had multiple errors in one or more categories.

Illustrated below are the number of appointments with errors in each of the competition stages as a percentage of all appointments audited.

Percentage of Audited Appointments with Errors per Category



Audit Observations

Overall, comparing these findings to 2022/23, we observed:

- a significant increase in errors at the short-listing stage, with the percentage almost **doubling** from the previous audit cycle;
- an increase in errors at the interviewing and testing stages; and
- a minor decrease in errors in the past work performance stage.

The errors that were most frequent and had the greatest negative implications for applicants resulted from either simple administrative mistakes or errors in judgment by the hiring panel.

With respect to fair hiring principles, we observed that open and transparent processes continue to be a cornerstone of hiring for organizations who hire under the Act, as is the use of objective and relevant means of assessment. Reasonable decision-making and the fair and consistent treatment of applicants continue to pose the greatest risk to merit-based hiring.

Of Note

In this year's audit cycle, the number of overall errors increased significantly, and short-listing was noted as a particular area requiring improvement.

- The number of **short-listing errors almost doubled** from the previous year's audit cycle.
- Most short-listing errors resulted from hiring panels either:
  - assessing qualifications inconsistently, or
  - lessening mandatory qualifications after posting.

These errors can result in unqualified candidates advancing and qualified candidates being eliminated.

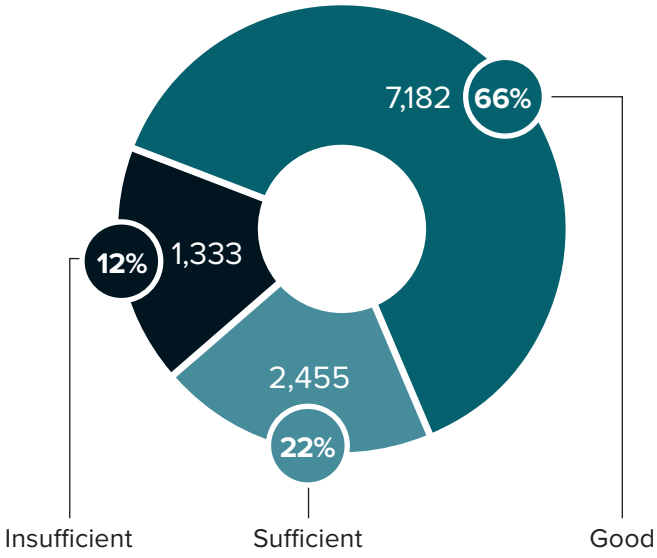
Similar to the last audit cycle, the most frequently cited error at the interview and testing stage was missing or unclear marking criteria. The lack of clear marking criteria increases the risk of candidates advancing in the competition without demonstrating they possess the mandatory requirements, or, potentially, of qualified candidates being eliminated.

Documentation

As illustrated below, the audit determined that overall, the quality of competition documentation was:

- stable in competitions with "good" findings (66% last and this audit year);
- slightly improved in competitions with "sufficient" findings (21% to 22%); and
- slightly worse in competitions with "insufficient" findings (13% to 12%).

2023/24 Overall Documentation Determinations with Extrapolations to the Overall Population



Recommendations

2023/24 Audit Recommendations

Based on the findings and the most significant issues identified through the 2023/24 Merit Performance Audit, the Merit Commissioner made five recommendations to deputy ministers and organization heads in the *2023/24 Merit Performance Audit Report*. These recommendations are intended to guide feedback and training for delegated hiring managers to strengthen merit-based hiring. We recognize that assistance by the BC Public Service Agency and/or an organization's internal human resource teams may be necessary to support implementation.

1. Educate hiring managers about how to conduct short-listing fairly, consistently, and in accordance with the mandatory posted education and experience job requirements.
2. Review all job requirements criteria (qualifications) used for short-listing and assessment prior to posting a competition to ensure relevancy and accuracy for the role being filled.
3. Define "equivalent qualifications" in competitions where they may be accepted (education and/or experience) in the job posting.
4. Improve competition documentation for "Expressions of Interest" (EOI) competitions where the appointment term is greater than seven months.
5. Ensure that predetermined, detailed, and substantive marking criteria with a corresponding rationale to support all decisions in the assessment processes are documented when assessing candidates' knowledge, skills, and abilities.

Audits: What Lies Ahead

Plans for the Audit Program

The future of the merit performance audit program includes new reporting, improved communications, accessibility, and a special study and guidance on the short-listing stage of hiring.

- Having updated the random sampling approach this past year, the Office looks forward to reporting out on the results of its more robust stratified sampling.
- The Office will continue to find ways to communicate results and guidance more effectively with organizations. This includes exploring changes to the ratings system used for the audit findings.
- The Office has committed to increasing accessibility in all areas of its work, including the merit performance audit program. As part of its commitment to accessibility, the Office published the Office of the Merit Commissioner Accessibility Plan online. One of the key goals in this three-year plan is to identify opportunities to enhance the accessibility of the methods the Office uses to report its results and findings. Two key actions to do so are:

    a. To put an accessibility lens on any proposed changes to the audit cycle and to technologies used by the Office.

    b. To review the Office of the Merit Commissioner's commonly used reporting tools to identify changes needed to be more accessible (for example, to follow the BC government's accessibility guidelines for business documents. These include reports for:
        i. organization heads,
        ii. hiring managers, and
        iii. the public.

    Prioritizing accessibility is our responsibility under the *Accessible BC Act.* More than that, it is integral to the principles by which we conduct our work and the professional values that guide how we do that work.

- The Office will be conducting a special study of short-listing in hiring. Short-listing is the stage early in the hiring process where applications are reviewed to determine which candidates meet the minimum requirements for a job (usually education and experience). It determines who can proceed to the next phase of the competition. This special area of focus has emerged in the 2023/24 audit because of an increased number of short-listing errors. The special study will examine current and historical data to observe short-listing trends and error types over time.
- Following the special study, the Office will produce a guidance document to help organizations and hiring managers understand and avoid common short-listing errors.

2024/25 Merit Performance Audit

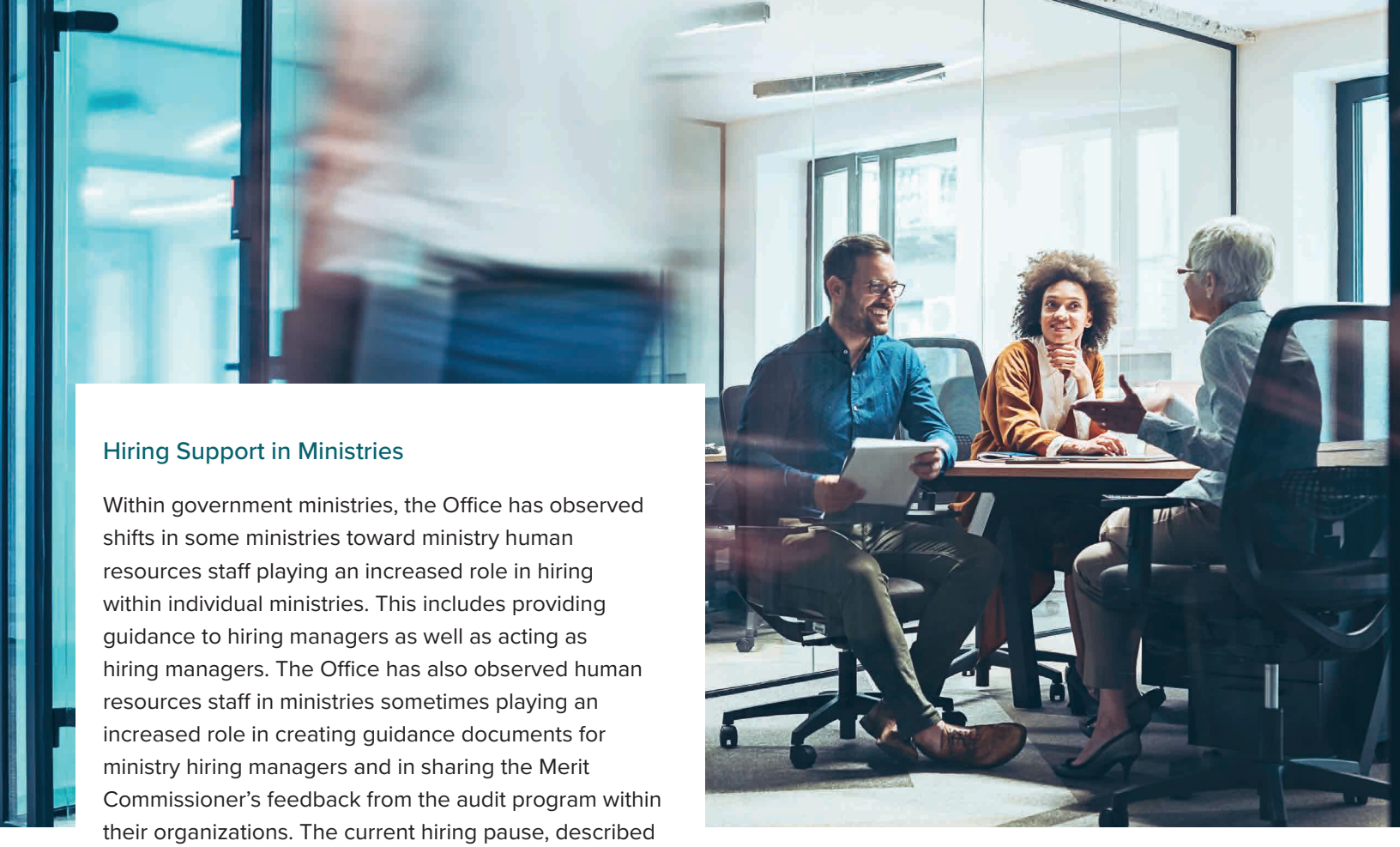
- The 2024/25 audit of appointments made from April 1, 2024 to March 31, 2025 is currently underway.
- Random samples of appointments are being drawn for each quarter.
- Audits of 133 appointments were completed for the first two quarters, and the respective reports were provided to deputy ministers and organization heads in March 2025.
- Audits of the remaining appointments drawn from the last two quarters of this fiscal year will be completed over the summer and the respective reports provided to deputy ministers and organization heads in the fall of 2025.
- We intend to publish a comprehensive report, including the analysis and summary of the overall audit results, in December 2025.

> Random auditing of government hiring becomes even more important in the face of change.

Hiring in Interesting Times – Changes in the Hiring Landscape

British Columbians deserve fair hiring practices for public service jobs. The merit performance audit program is an important tool to keep government's eyes open to whether hiring practices are improving or whether changing contexts are bringing new challenges for hiring managers.

The Office continues to observe and consider changes that may be impacting public service hiring in British Columbia. For example, the Office is paying close attention to who is providing hiring support in ministries, to the evolution of the use of AI in government hiring, and to inclusive hiring practices.



Hiring Support in Ministries

Within government ministries, the Office has observed shifts in some ministries toward ministry human resources staff playing an increased role in hiring within individual ministries. This includes providing guidance to hiring managers as well as acting as hiring managers. The Office has also observed human resources staff in ministries sometimes playing an increased role in creating guidance documents for ministry hiring managers and in sharing the Merit Commissioner's feedback from the audit program within their organizations. The current hiring pause, described below, has the potential to further increase the role of ministry human resources in hiring.

AI in Hiring

Artificial intelligence (AI) continues as a relatively new phenomenon impacting many facets of work, including hiring. Hiring managers, candidates, and human resources departments are in the process of learning what is possible, determining what is fair, and setting or understanding policy expectations for the use of AI in hiring. The current landscape includes a diversity of behaviours by applicants and hiring managers as well as diverging views of best practices.

Inclusive Hiring Practices

Inclusive hiring practices and diversity in hiring continue to evolve as organizations seek to widen their pools of qualified job applicants. The Merit Commissioner has observed more efforts by organizations to explore inclusive hiring practices. The Merit Commissioner also recently released a special study on inclusive hiring practices in 2024 that helps to better clarify how merit and inclusivity can work together to help foster a potential workforce that best represents all British Columbians who we serve.

New Insights via Reduced Ministry Hiring

Other changes to government ministry hiring are also underway.

In recent months, the deputy minister to the Premier announced a series of hiring pauses in government ministries.

- In December 2024, competitions for BC government ministry jobs were largely restricted to internal (BC Public Service employee) candidates only.
- In February 2025, this hiring pause was extended further to limit the number of government positions being filled.
- As of February 13, 2025, all hiring in BC Public Service government ministries requires final approval by the Head of the BC Public Service before ministries may proceed with hiring.

This new direction was implemented as part of a response to ongoing fiscal constraints and the unknown impacts of U.S. tariffs on British Columbia. As of the time this report was being written, in order to be approved for posting, positions were required to be clearly essential to delivering core government programs and services.

These pauses will impact the types of hiring competitions to be audited in the coming months and therefore provide opportunities for new insights into government hiring.

Impacts of Reduced Hiring on the Audit Program

Because of the current hiring pause, the next random selections for the annual merit performance audit program will likely contain a higher proportion of "expression of interest" competitions (EOIs). These are hiring competitions that are limited to specific work teams or ministries, rather than being advertised centrally to all ministry employees and the public through the website of the Public Service Agency that typically provides hiring support.

Two years ago, the Merit Commissioner noted poor audit results for EOIs. In the *2022/23 Merit Performance Audit Report*, the Merit Commissioner recommended that organizations "ensure the hiring processes and documentation for 'expression of interest' competitions are approached with the same rigour as for any other competition."

In meetings with organization heads over this last year, the Merit Commissioner has been reinforcing this recommendation and will carefully observe the future audit results to determine whether improvements can be seen.

The next random selections for the annual merit performance audit program will also likely contain a higher proportion of competitions for jobs in core government deemed "essential". As per the current hiring approval process, these are the only types of jobs being approved for hiring during the pause. This can provide a unique line of sight into merit-based hiring for these specific types of positions.

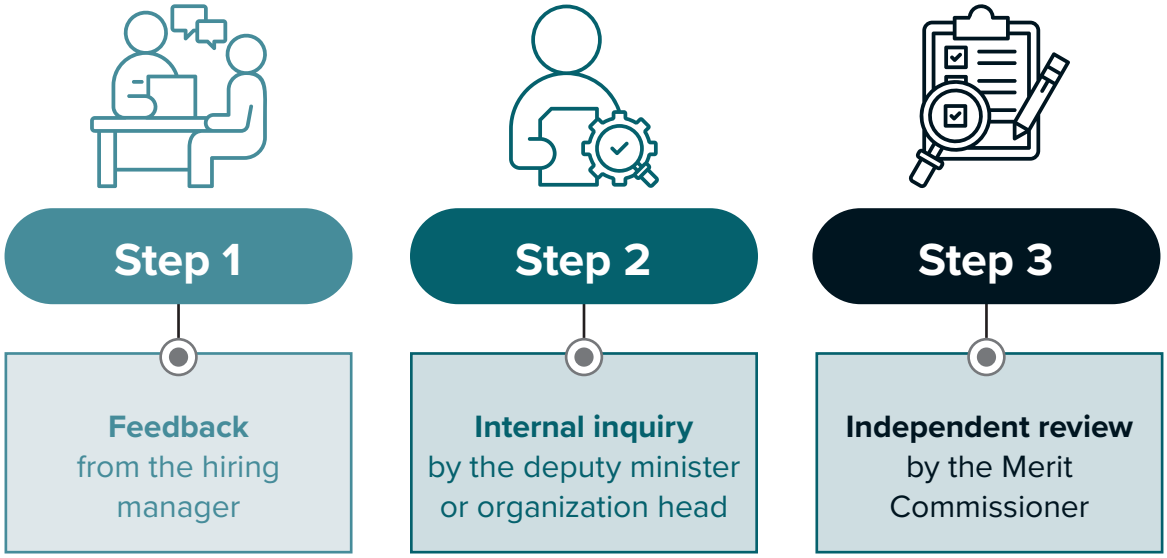
The hiring pause may also have a range of other impacts, either during the pause (such as more lateral transfers) or after the pause is ended (a rush to fill vacant positions). The Merit Commissioner's audit program will be poised to observe and report on the application of merit through any potential changes.

It is anticipated that the overall volume of hiring within ministries will decrease from previous levels while the pause is in effect. However, current representational auditing levels will continue and therefore provide greater insights into specific hiring practices in next year's merit performance audit report.

Staffing Reviews: Answering the Call for Fairness Investigations

The *Public Service Act* provides employee applicants who are unsuccessful in an eligible competition with the right to request a review of the appointment decision. Eligible competitions include those for permanent positions and temporary assignments greater than seven months.

There is a three-step staffing review process, which an employee may initiate when notified of a competition outcome.



At this time, under the Act, a review by the Merit Commissioner is available only to employees who are applicants for positions within a collective agreement bargaining unit.

If an employee proceeds to the third step, the Merit Commissioner may conduct an independent review of the grounds of concern in the hiring process. For each review, the Office does the following:

We examine:

- The aspects of the hiring process that are related to the employee's grounds for concern.
- The relevant evidence contained within the competition file.
- Information obtained through discussions with the employee requesting the review, the panel chairperson, and, where necessary, other relevant individuals such as hiring panel members.

We consider:

- The application of relevant legislation, policy, and provisions of collective agreements.
- Whether the aspects under review meet the principles of merit-based hiring:
  - Open and transparent processes
  - Relevant job-related assessments
  - Reasonable decisions
  - Fair and consistent treatment

The Merit Commissioner decides whether to:

- **Uphold** the appointment decision where the grounds comply with the requirements of section 8(1) of the Act, or
- **Direct a reconsideration** of the appointment decision where the review determines that aspects of the process identified by the requestor do not comply with the requirements of section 8(1) of the Act.

The Merit Commissioner's decision is final and binding.

The Merit Commissioner's internal target to issue decisions is within 30 days after the Office receives all documents necessary to conduct the review.

Results: 2023/24 Staffing Review Report

In July 2024, we published *Report on Staffing Reviews 2023/24* on our website. This report outlined the steps in the staffing review process and provided a brief overview of the staffing review activity that occurred at Step 2 (internal inquiry) and a more detailed examination of the staffing review activity that occurred at Step 3 (review).

In 2023/24, 25 requests were submitted to the Merit Commissioner. Of those, one was subsequently withdrawn and eight were determined to be ineligible. The remaining 16 were found eligible for a review.

Most of the 16 eligible requestors had concerns about the interviewing and testing stage(s) of the hiring process. Some of the concerns included the marking of responses, the interview format, and the relevancy of the questions asked during the interview or written assessment. Grounds related to years of continuous service and administrative matters were also raised, but less frequently.

There were several concerns brought forward that were outside the scope of the Merit Commissioner's statutory responsibilities. These included concerns relating to:

1. the successful candidate being delegated supervisor tasks prior to the competition;
2. the introduction of a new ground that had not been raised with the organizational head during the internal inquiry step of the process;
3. conflicts of interest due to outstanding grievances regarding labour relations issues;
4. past hiring processes; and
5. discrimination related to differing political views.

Of the 16 staffing reviews conducted, after a thorough review, the Merit Commissioner's decision was to dismiss the request for review in 14 instances and to direct reconsiderations for the other two.

Whenever a review results in a reconsideration, it highlights the fundamental importance of constructing well-designed assessment processes and providing fair and consistent treatment to candidates.

The flaws identified in the first review related to the past work performance process. The panel's approach to marking the referees' information across candidates showed inequitable and inconsistent interpretation of information. In the other competition, the reconsideration decision found that the written assessment unfairly advantaged one candidate as they had received the same assignment in a previous competition.

On average, it took 30 days for the Merit Commissioner to complete each of the 16 reviews once the competition file was received.

The number of reviews requested was less than 1% of the eligible appointments made within the BC Public Service over the same fiscal year. Although low, this rate is consistent with previous years. With a small number of reviews, it is not possible to identify any systemic problems; however, the information in the report will provide insight into areas of concerns for employees and provide hiring managers with potential opportunities to improve their hiring practices.

Preview: 2024/25 Staffing Reviews

Thus far in 2024/25, the Merit Commissioner has received 18 requests for review of appointments. The requests were for competitions within 11 different ministries or organizations. Six requests were ineligible:

1. One requestor was in an excluded competition,
2. One requestor was not a government employee,
3. Three requestors had not received an internal inquiry decision, and
4. Another did not meet the legislative timelines for a Step 3 review.

As a result, the Merit Commissioner has undertaken 12 reviews to date.

Grounds for review in this fiscal year included:

- Concerns that merit was not fairly assessed in the competition.
- The short-listing process was flawed.
- The written test was not open and transparent, objective, or appropriately marked.
- Interview questions were distributed earlier to some candidates than others.
- Past work performance was not objectively or fairly assessed.
- The notification process of the competition outcome was improper.

By the end of the fiscal year 2024/25, the Merit Commissioner had issued decisions for 11 staffing reviews.

- In 10 cases, after a thorough review, the Merit Commissioner's decision was to dismiss the request for review.
- In one case, the deputy minister or organization head responsible for the competition was directed to reconsider on the basis that an aspect of the selection process related to the employee's grounds did not comply with section 8(1) of the Act.

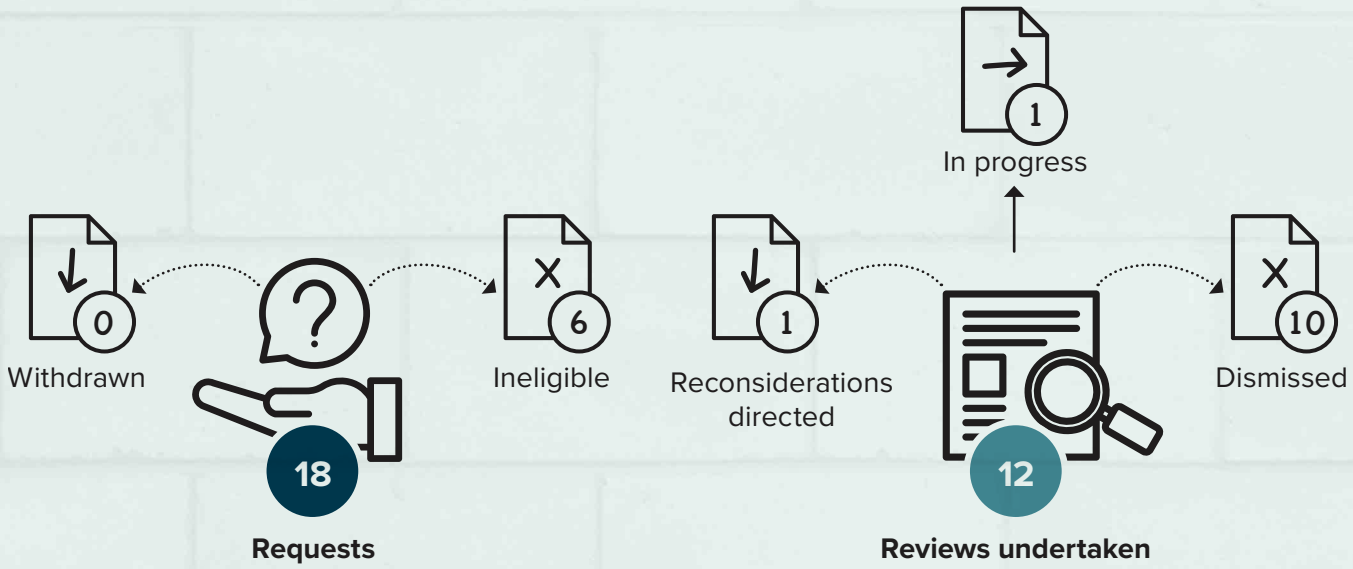
Detailed reports with reasons were provided to the employee who submitted the request and the responsible deputy minister or organizational head.

An analysis of the staffing reviews conducted in 2024/25 will be undertaken, and a summary report is expected to be published in the summer of 2025.

The Future of Staffing Reviews

The Merit Commissioner is committed to all employees' access to the staffing review process. Accessibility means, in part, that employees are adequately informed of their rights to staffing reviews and that they receive meaningful feedback.

The staffing review process provides employees with a mechanism to ensure a fair process. This fosters accountability for organizations in the hiring processes they undertake. The Merit Commissioner looks forward to talking with government about legislative reform opportunities to enhance accountability and accessibility when a Merit Commissioner review finds serious underlying defects in a hiring process.



Dismissal Process Reviews

The *Public Service Act* states that the Merit Commissioner "is responsible for monitoring the application of government practices, policies and standards to eligible dismissals" and may note particular instances or identify persistent patterns of related non-compliance as well as make recommendations in relation to just cause dismissal processes.

The dismissal process review purpose is to determine whether the dismissal process adhered to all necessary practices, policies, and standards. The purpose is not to determine whether the action met the legal standard for a just cause dismissal.

The application of the principles of natural justice and procedural fairness to all just cause dismissal decisions is important not only to the individuals affected by the decision, but also to the larger interest in the proper and fair administration of public services. The Merit Commissioner dismissal process reviews evaluate whether the principles of natural justice and procedural fairness are applied to all eligible just cause dismissal decisions.

Reviews of eligible just cause dismissal processes provide:

- Independent assurance that dismissal processes adhere to all necessary practices, policies, and standards.
- Oversight of government processes and actions.
- Increased accountability.

The reviews undertaken are done carefully and thoughtfully against each aspect of the dismissal process. The Merit Commissioner will observe and report on any aspect that is considered non-compliant, as well as make related recommendations to improve future dismissal processes.

The current human resources policy "Termination for Just Cause" embodies the related practices and standards for dismissals in the BC Public Service. This policy includes two administrative due process checklists for included (bargaining unit) and excluded (non-bargaining unit) employees, as well as procedural steps for review and approval. The policy also includes an investigation best-practice protocols checklist. As this is the standard to which the BC Public Service holds itself accountable, it also forms the basis of the Merit Commissioner's review of dismissal processes.

The Office considers all dismissal process documentation and relevant information to conduct a full review. The general process for conducting reviews of dismissal processes is illustrated on the preceding page.

The Merit Commissioner has reviewed 104 eligible dismissal files since April 1, 2018, not including files related to the COVID-19 vaccination policy. These reviews have enabled the Merit Commissioner to report observations and make recommendations on an annual basis regarding organizational processes and practices. In addition, the Merit Commissioner and the BC Public Service Agency meet to discuss the observations and recommendations in detail, to further facilitate improvements.

What's Next?

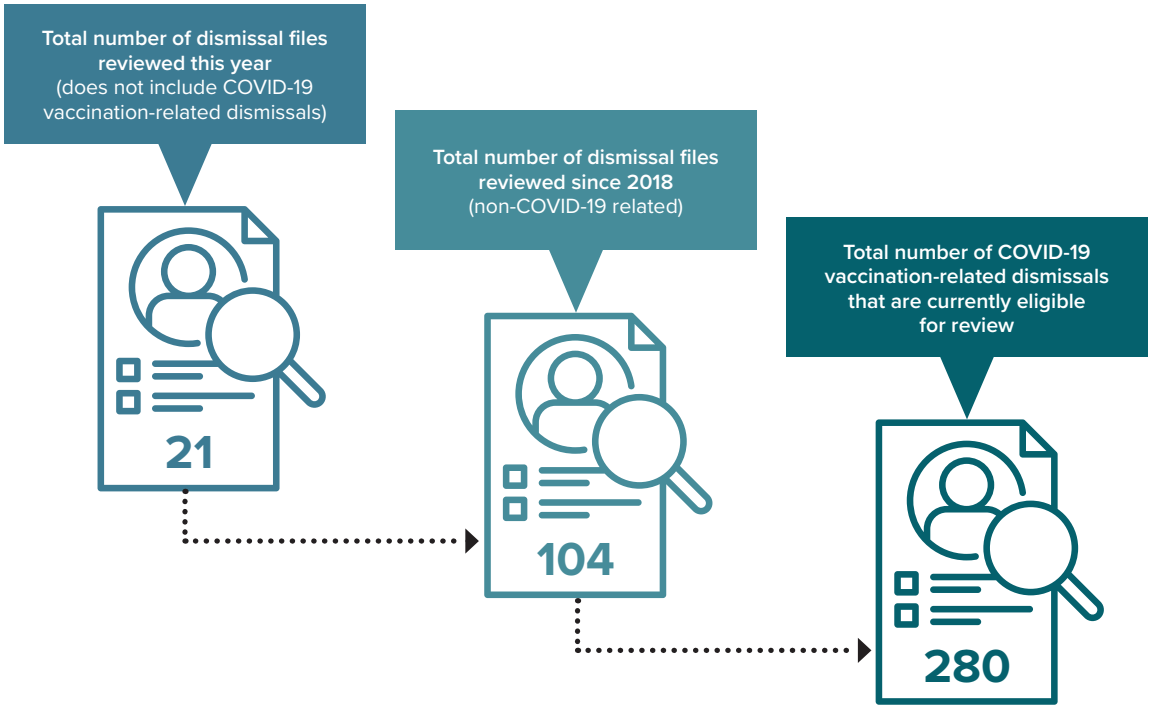
In November 2023, the Special Committee to Review Provisions of the *Public Service Act* made three recommendations to the Legislative Assembly for amendments to the Act. Their report recommended that:

1. The Act be amended to enable the Merit Commissioner to compel unions, courts, judicial tribunals, and quasi-judicial tribunals to confirm whether there is an active case in an individual's name for the sole purpose of determining a reviewable dismissal's eligibility for review.
2. The Act be amended to clarify that employees appointed under section 27 (1) of the *Administrative Tribunals Act* are eligible for dismissal process reviews.
3. The Act be amended to clarify that it is not a waiver of legal advice privilege to share dismissal files, including legal material, with the Merit Commissioner.

The Merit Commissioner supports these proposed legislative changes. When completed, they will support the Merit Commissioner in continuing to conduct reviews in a fair, fulsome, and timely way. They will also create efficiencies for the BC Public Service Agency when providing the Merit Commissioner with materials needed for the reviews.

The Merit Commissioner has communicated with the Minister of Finance and the BC Public Service Agency deputy minister in support of these amendments, offering assistance and expressing the hope for these amendments to be made as soon as practicable.

Results for 2024/25



Eligible or not Eligible?

Just cause dismissals are considered "reviewable" as per s.5.11 of the *Public Service Act*. Reviewable files are not immediately eligible for review. The Merit Commissioner must follow the eligibility criteria set out in the Act.

Dismissal processes become eligible after all avenues of redress or recourse have expired or been completed. This allows employees' rights to grievances and other proceedings to proceed without any potential interference from Merit Commissioner review.

- If there is no challenge to a dismissal, the process becomes eligible for review 12 months following the dismissal.
- If the employee chooses to challenge the dismissal, the process becomes eligible for review six months after all redress or recourse proceedings are complete.

This means that if a former employee files a grievance, takes the employer to court, and/or files a human rights complaint, the dismissal file becomes eligible for review six months after the latest of those is complete.

In last year's annual report, the Merit Commissioner identified a challenge with assessing the eligibility of a group of dismissal process files related to the BC government's former COVID-19 vaccination policy. At that time, the BC Human Rights Tribunal (BCHRT) had a significant backlog of complaints. The backlog was impacting the tribunal's ability to notify the BC Public Service Agency (BCPSA) in a timely way that complaints had been filed. In fact, the BCHRT backlog was more than 12 months – that is, more than the time period after which just cause dismissals are typically eligible for Merit Commissioner review. A risk arose that the Merit Commissioner could receive dismissal files for review from the BCPSA where, in fact, a complaint had been filed with the BCHRT but, due to the backlog, the BCHRT had not communicated that information to the BCPSA.

Such delays impact the Merit Commissioner's ability to evaluate dismissal processes and report out on them in a timely fashion. The BCHRT delays created uncertainty for the review timelines for the COVID-19 vaccination-related dismissals.

At the time of writing this year's annual report, the BCHRT has reported some progress in clearing its backlog at the screening stage. Therefore, the Merit Commissioner is hopeful to soon have greater certainty about the eligibility of all 318 dismissals.

One of the recommendations made by the Special Committee to Review Provisions of the *Public Service Act* in 2023 would help avoid such uncertainty and delay in the future. The recommendation was:

> "amending the [Public Service] Act to enable the Merit Commissioner to compel unions, courts, and other judicial bodies to confirm whether there is an active case in an individual's name" to "provide the Merit Commissioner with certainty that a dismissed employee has concluded all avenues of redress and recourse and that their case is thereby eligible for a dismissal process review" *(Report On Dismissal Process Reviews By The Merit Commissioner)*.

The Merit Commissioner will continue to work with government to pursue amendments to the *Public Service Act*.

COVID-19 Vaccination-Related Dismissals

In the BC Public Service, as a result of policy decisions surrounding the vaccination status of public service employees, 318 just cause dismissals occurred. At this time, most of the 318 dismissals are eligible for Merit Commissioner review.

The dismissal processes for these eligible files are being analyzed by the Merit Commissioner.

In the spirit of the Act and to maintain the integrity of the intended legislated process, the Merit Commissioner will not report publicly on the results of the analysis of the COVID-19 vaccination-related dismissal processes until all potential litigation has been concluded as per s.5.12(3) of the Act.

Analysis of the findings will be reported in the Merit Commissioner's annual report once all potential litigation processes have been concluded for all 318 files.

The Merit Commissioner's review of these files to date has resulted in findings and observations that have been shared with the BCPSA.

Results of Other 2024/25 Dismissal Process Reviews

In 2024/25, the Merit Commissioner continued to review all eligible dismissals (except for those relating to COVID-19 vaccination status). This past year, the Merit Commissioner reviewed 22 dismissal files that were unrelated to COVID-19 vaccination status.

- Four additional files were also eligible; however, they were still being prepared for review as of March 31, 2025.
- One additional file became eligible for review but was not provided in time to be included in this year's analysis.

In one case, the dismissal appears to have been based on the outcome in two separate investigations, but materials from only one investigation were provided. The materials from the other investigation have been requested and will be included in next year's review.

Noted Improvements

Overall, the files reviewed this year demonstrate that thorough analyses were undertaken by the responsible parties before recommendations to terminate the employees were made to the deputy minister or equivalent. In addition, due process is being followed, with process steps being completed, interviews being fairly conducted, and employees having full and fair opportunities to respond to issues.

In this year's review, improvement was noted in the following area, which had been flagged in previous reports.

- Continued improvement in the documentation of consultation, review, or recommendations concerning the suspensions (with or without pay) occurring as part of the investigation or prior to the termination.

The timeliness and organization of the documentation and required reporting supplied by the BCPSA continue to be excellent.

Opportunities for Improvement

In the files reported on this year, no new issues arose that have not been reported on in previous years.

This year's review found circumstances where there were opportunities for improvement. These were not sufficient to result in the fairness of the dismissal process being compromised, and not an indication of a lack of due process; rather, they are spaces for organizations to improve over time.

It is recognized that, given the lag between the conduct of a dismissal process and the review, any practice changes recommended as the result of Merit Commissioner review would not happen immediately. We anticipate that our recommendations will be reflected in files generated after the reports in which we have provided the feedback to the BCPSA.

Undocumented Process Delays

- This year's review found two files with delays in part of the process where the delay was not explained in the materials provided.
- Explanations were provided for delays in the process for four files.
  - In those four cases where an explanation was provided for the delay, there was no due process issue.

Information for Legal Counsel

In last year's annual report, the Merit Commissioner noted that it may be advisable for legal counsel to be provided with a summary of other available relevant material and documents, including those documents that were available to the investigator, so that legal counsel can assess whether a review of such documents would assist with their analysis.

- In this year's review, the same issue arose in some of the files reviewed.

Other Documentation Gaps

In the 22 files, two files contained minor gaps in documentation:

- In one case, a suspension letter was not on file.
- In one case, the file does not contain analysis regarding the decision to suspend the respondent pending investigation.

As in previous years, the Merit Commissioner will continue to meet with the BCPSA to provide detailed feedback on the files reviewed throughout the year. The purpose of these meetings is to support ongoing efforts by the BCPSA and its associated organizations, to provide a high standard of administrative fairness in all aspects of processes that may lead to dismissals for just cause from the public service. The Merit Commissioner looks forward to these discussions as well as to working with government on changes to the *Public Service Act* to facilitate the efficient sharing of materials between the Office and government.

Office of the
Merit Commissioner
Upholding Fair Hiring in the BC Public Service

At a Glance

400

Our office met with over 400 employees this year to discuss and clarify merit-based hiring

30

The Merit Commissioner met with over 30 organization heads

272

Our office audited 272 randomly selected hiring appointments

197

Total number of errors in this year's audit cycle, an increase of 51 over the year prior

18

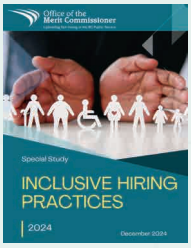
Staffing reviews requested

11

Eligible reviews completed

4

Four information reports were completed for public review, available on our website



Special study on inclusive hiring, also available on our website

11,467

Number of appointments made in the public service that were in scope for our audits

96%

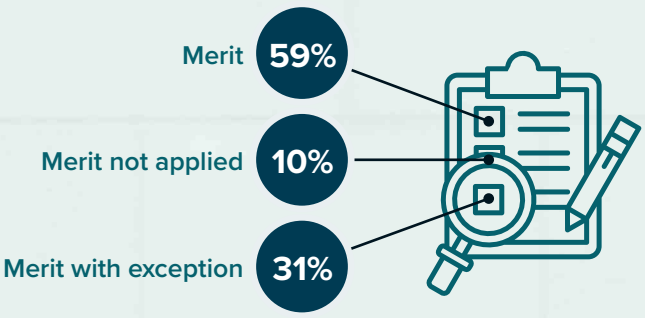
Over 96% of candidates appointed clearly demonstrated the appropriate qualifications for the role to which they were appointed

A first! – completed the merit performance audit report with data collected in our new database system

NEW

New – developed the Accessibility Plan 2025–2028

2023/24 Overall Recruitment and Selection Process Findings



Budget

The Office's budget and expenditures for the **2024/25** fiscal year are shown below by expenditure type. In April 2025, the Merit Commissioner met with the Select Standing Committee on Finance and Government Services to review results of the Office's work over the previous year, establish priorities for the year ahead, and review budget requirements for the next fiscal year.

The Office was allocated a budget of **$1,697,000 for fiscal 2025/26**. Details of this budget allocation are shown below.

Budget and Expenditures

	Approved budget 2024/25	Projected expenditures 2024/25 as of April 10	Approved budget 2025/26
Salaries & benefits	950,000	883,321	966,000
Travel expenses	17,000	2,844	17,000
Operating expenses	524,000	518,103	538,000
Professional services	176,000	224,400	176,000
Total	**1,667,000**	**1,628,668**	**1,697,000**

APPENDIX A: Organizations Subject to Oversight by the Merit Commissioner

(As of March 31, 2025)

Ministries[1]

Agriculture and Food
Attorney General
Children and Family Development
Citizens' Services
Education and Child Care
Emergency Management and Climate Readiness
Energy and Climate Solutions
Environment and Parks
Finance
Forests
Health
Housing and Municipal Affairs
Indigenous Relations and Reconciliation
Infrastructure
Jobs, Economic Development and Innovation
Labour
Mining and Critical Minerals
Post-Secondary Education and Future Skills
Public Safety and Solicitor General
Social Development and Poverty Reduction
Tourism, Arts, Culture and Sport
Transportation and Transit
Water, Land and Resource Stewardship

Statutory Offices

Auditor General
Elections BC
Human Rights Commissioner
Information and Privacy Commissioner
Ombudsperson
Police Complaint Commissioner
Representative for Children and Youth

Courts of British Columbia[2]

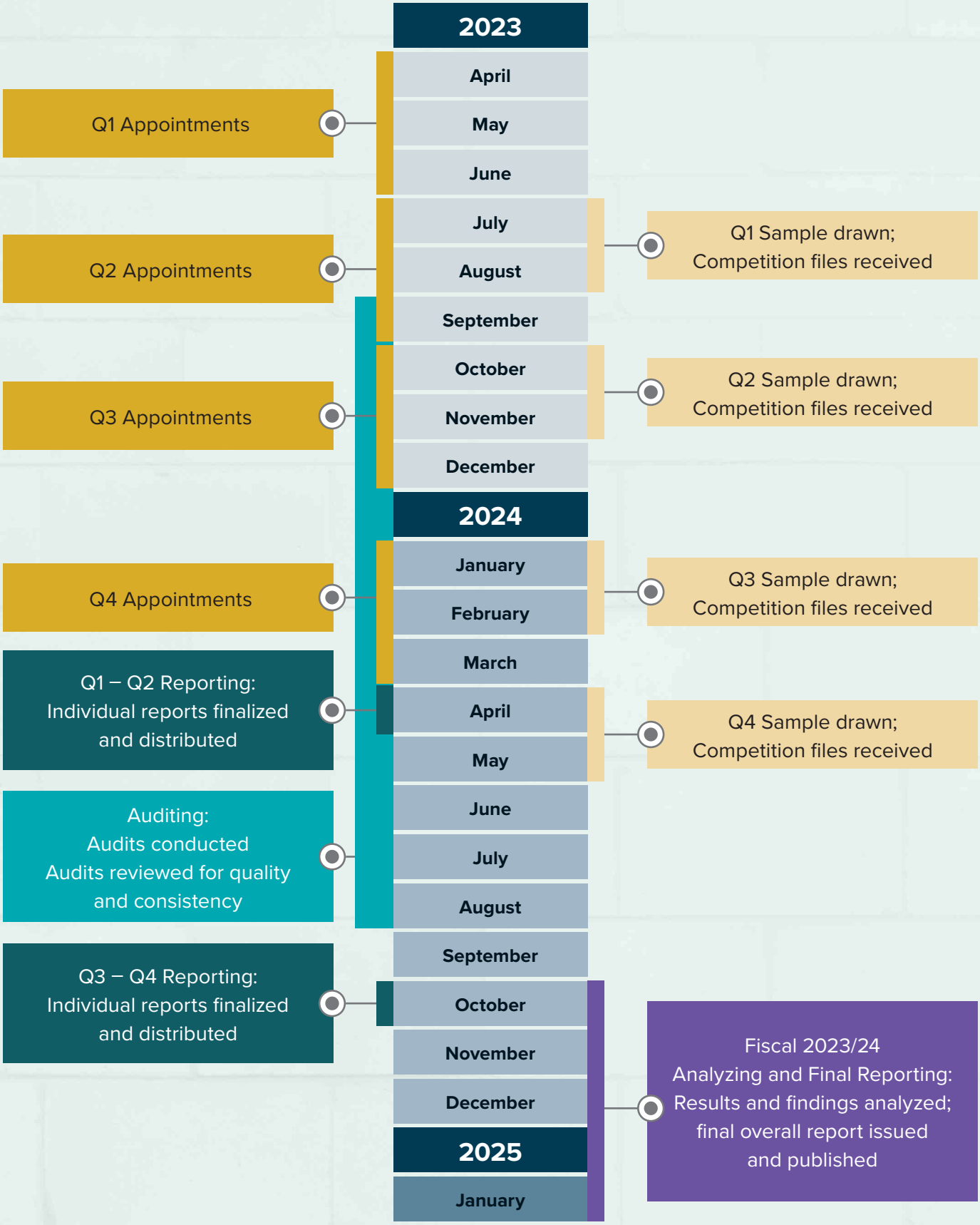
BC Court of Appeal
Provincial Court of BC
Supreme Court of BC

Other Public Sector Organizations

Agricultural Land Commission
BC Athletic Commissioner
BC Container Trucking Commissioner
BC Farm Industry Review Board
BC Human Rights Tribunal
BC Pension Corporation
BC Public Service Agency
BC Review Board
Building Code Appeal Board
Civil Resolution Tribunal
Commission of Public Inquiry
Commissioner for Teacher Regulation
Community Care and Assisted Living Appeal Board
Creston Valley Wildlife Management Authority
Destination BC
Employment and Assistance Appeal Tribunal
Energy Resource Appeal Tribunal
Environmental Appeal Board
Financial Services Tribunal
Forest Appeals Commission
Forest Practices Board
Health Professions Review Board
Hospital Appeal Board
Independent Investigations Office
Industry Training Appeal Board
Islands Trust
Mental Health Review Board
Motor Vehicle Sales Authority of BC
Office of the Premier
Passenger Transportation Board
Property Assessment Appeal Board
Public Guardian and Trustee
Public Sector Employers' Council Secretariat
Royal BC Museum
Safety Standards Appeal Board
Seniors Advocate
Surface Rights Board
Workers' Compensation Appeal Tribunal

1. Ministry names are current as of publication.
2. Only roles that are hired under the *Public Service Act* are subject to Merit Commissioner oversight.

APPENDIX B: Merit Performance Audit Timeline



British Columbians deserve fair hiring practices for public service jobs. The Merit Commissioner made five recommendations in the *2023/24 Merit Performance Audit Report* to guide feedback and training for delegated hiring managers to strengthen merit-based hiring. Investments now in feedback and training for hiring managers can improve the fairness, transparency, consistency, and integrity of merit-based hiring in the BC Public Service.

Office of the
Merit Commissioner
Upholding Fair Hiring in the BC Public Service

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