

**CEP**  
**RECONSIDERATION PROCESS**

August 21, 2008

## Acronyms

AP	Advance Payment
CARS	Computer Assisted Research System
CEP	Common Experience Payment
DR	Daily Register
ER	Enrolment Return
IRS	Indian Residential School
NAC	National Administration Committee
QR	Quarterly Return
RECON	Reconsideration
SA	Indian Residential Schools Settlement Agreement

## CEP Reconsideration Process

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# 1 Executive Summary

Former Indian Residential School students who have received a Common Experience Payment (CEP) and have been denied in whole or in part, may apply to have the decision reconsidered by Indian Residential Schools Resolution Canada. CEP recipients can initiate a reconsideration of their claim by filling out a reconsideration form and mailing, faxing or e-mailing it to the CEP Response Centre, or by calling the CEP Response Centre directly.

It is important to note that applicants do not need to provide additional information in order to have their file reconsidered. However, we encourage applicants to provide any information they may have that might help researchers to confirm residence and years of residence. There is space on the reconsideration form for additional information, or it can be provided by telephone to the CEP Response Centre.

Following reconsideration, if the applicant still disagrees with the decision that has been made he/she has the right to appeal to the National Administration Committee (NAC). The NAC oversees the administration of the Indian Residential Schools Settlement Agreement (SA). Additional details on this process will be made available following reconsideration.

Applications for schools that are not recognized under the Settlement Agreement will not be reviewed as part of the reconsideration process. Former students who would like to apply to have a school added to the list can do so by submitting a request to the Settlement Agreement web site.

To be eligible for reconsideration, the former student for whom the application is made must have:

- Have applied for CEP
- Have applied for reconsideration within six months from the date of the decision denying their CEP Application in whole or in part
- Resided at a recognized Indian Residential School(s) and was alive on May 30, 2005, OR,
- Resided at the Mohawk Institute Residential Boarding School in Brantford, Ontario between 1922 and 1969, and was alive on October 5, 1996.

## 2 Definition of Terms

Ancillary Documents:	All other Student Records that are not considered Primary Documents are considered Ancillary Documents.
Applicant	A former student applying for a CEP, including those represented by a Personal Representative as defined in the SA.
Assessment	Assessment refers to the determination of an application, whether resulting in approval or denial of the application.
Attendance:	The Applicant attended the educational program at the school, participated in activities at the IRS (although not a student there), or ate lunch at the IRS. Attendance neither confirms nor negates residency.
Document Gap:	A period of one or more Unconfirmed Years for which there are incomplete Primary Documents or for which the Primary Documents do not apply to the Applicant, as in the case of Applicants who were not Status Indians (e.g. non-status Indian, Métis, Inuit, and non-Aboriginal).
Eligible Year:	A School Year, or part thereof for which an Applicant's Residence is confirmed.
Ineligible Year:	A School Year for which an Applicant's Residence has not been confirmed.
Middle-Year Indicator	Probability distribution model used to infer the likelihood that an Applicant should appear on Primary Documents had they been in Residence at any time.
Primary Documents:	A document is considered primary if the document was created for the purposes of being a complete list of all status residential students and subject to audit by the Federal Government. These documents are Quarterly Returns and Enrolment Returns.

Quarterly Returns ("QRs") were intended to be comprehensive lists of all (status) students who Resided at the IRS, and as such, they are the primary documents used for Assessment of Residence. They were filed for calendar quarters ending on March 31<sup>st</sup>, June 30<sup>th</sup>, September 30<sup>th</sup> and December 31<sup>st</sup>. They listed the students who were in Residence in order to obtain the per capita grants paid to IRSs. Usually, the students are listed with their registration number, their band and date of birth; often, their date of admission is also noted.

Effective September 1971, Enrolment Returns ("ERs") replaced the QRs; they were issued twice a year, in March and September, but had essentially the same purpose. Primary Documents are considered to be complete if there are full QRs or ERs for all the School Years that the Applicant requests. Primary Documents were used by most IRSs and principally used for former students who were status. Persons who were not Status Indians may not have been reported in the same manner.

Some Quarterly Returns also list day school students (or students who received lunches at the IRS), but they are identified separately from the resident students.

Reasoned Assumption:	<p>Refers to the situation where Assessment of Residence is not possible due to Document Gaps, but through use of contextual information and based on the totality of the information available, conclusions can be drawn.</p> <p><i>e.g., Where Assessment of Residence is not possible due to Document Gaps, but the Applicant was found to have attended the IRS, and it has been confirmed that the specific IRS did not have day school facilities for the specific period, the Trustee will make the Reasoned Assumption that the Applicant was Resident at the IRS while he or she attended.</i></p>
Residence:	The Applicant resided overnight at an IRS for one or more nights in a School Year and may have attended classes at the IRS, a public school or a federal day school.
School Year:	A School Year is defined as September 1 <sup>st</sup> of any given year to August 31 <sup>st</sup> of the following year.
Student Records:	Any records or documents that identify one or more former IRS students by name that may assist with the Assessment of an Applicant's Residency and/or duration at an IRS. These records may include Primary, Ancillary or other types of documents.
Unconfirmed Year	A School Year for which the Applicant has applied for CEP but for which Residence has not been determined.

### 3 CEP Process Flow

The CEP is a lump-sum payment that recognizes the experience of residing at an IRS, and its impacts. Upon Assessment, each eligible former student who applies for the CEP will receive \$10,000 for the first School Year or part thereof of Residence plus an additional \$3,000 for each subsequent School Year or part thereof after the first School Year (subject to deduction if the Applicant received an Advance Payment ("AP")). All former students who resided at an IRS who were alive on May 30, 2005 will be eligible for the CEP. Those eligible include but are not limited to First Nations, Métis, and Inuit former students.

The process begins with collecting Applicant information, confirming its completeness and performing a preliminary assessment by verifying the Applicant's identity against the required identity documents.

The Trustee will implement an escalating Assessment process for assessing the eligibility of Applicants. This Assessment process will assess two elements: Residence at an IRS, and duration of Residence. This process relies on the available records which are more complete for some categories of Applicants than others. Therefore, it is important for the Applicant to self-identify on the application form that they were Status, non-Status, Métis, Inuit or non-Aboriginal while at IRS to ensure proper Assessment of their application form.

In cases of Personal Representatives applying on behalf of former students, and where basic information is not available from the former student (e.g., name of school), the Trustee will communicate with the Personal Representative to seek specific information that will assist in the validation of identity and/or Assessment of Residency.

The Trustee will also quality control a random sample of all CEP applications to ensure the accuracy of the CEP research process and results. The files to be quality controlled will be randomly selected and the results verified by research prior to forwarding findings to the Applicant. The planning assumption for the sample amount has been set at 10% of all applications but will be raised or lowered based on a more detailed statistical analysis to ensure the appropriate sample. Quality control reports, including any variance to the 10% sample, will be provided to the Trustee and to the Court Appointed Monitor.

#### STAGE 1: CARS

Initial processing of applications will be performed by CARS. For School Years where all Primary Documents are available, CARS may Assess CEP applications without requiring manual involvement. In the cases where there are Document Gaps, Assessment of applications by CARS will be based on Interpolation or using the Middle-Year Indicator.

#### STAGE 2a: Manual Review

Generally, where CARS cannot Assess and/or Document Gaps exist, manual review will result.

Assessment by manual review will involve:

1. Analysis of Ancillary Documents and additional information that CARS did not consider (e.g. a date of admission on a later Primary Document), including information obtained through other Applicants when authorized);
2. Reasoned Assumption where Assessment of Residence is not possible due to Document Gaps, but a Reasoned Assumption can be made based on contextual information from the totality of the information available;
3. Where the analysis of the Ancillary Documents and additional information warrants, Interpolation will be applied; and/or,
4. Mathematically-based Inferences can be made to calculate the duration where Residence is confirmed and either a start or end date is confirmed.

## STAGE 2b: Request for Additional Information

The Trustee intends to seek documentation and/or information from Applicants that will enable Assessment of eligibility in instances where there is a complete gap in the Student Records or Residence cannot be Assessed after manual review. Inference, Interpolation and Reasoned Assumptions are considered. Where information provided by Applicants can be verified against time-specific information known about each relevant IRS (e.g. the Applicant is able to provide the name(s) of their dorm supervisor(s), or name(s) of other staff and/or students who were at the IRS at the same time and this is corroborated by the historical records), such supplementation would permit Assessment at this stage to be performed according to the same standards used for Stages 1 and 2a. This process will be applied where the Student Records are incomplete or Residence cannot be Assessed so that the benefit of the doubt will be given to the Applicant in Assessment of Residency. Any/All information provided orally (over the phone, to call centre agents in the CEP Response Centre) by a CEP Applicant or his/her Estate or Representative, cannot be incorporated into research products related to IAP/ADR.

## STAGE 3: Reconsideration

Applicants will be able to initiate Reconsideration of their application in instances when their application is denied, in whole or in part, whether they are able to provide additional information or documents or not.. Additional information could be another name to search against available records, or the provision of documents that put the Applicant at an IRS during their cited time period. Every Applicant (with the exceptions noted below in Stage 4) has the right to Reconsideration so long as they are able to initiate their request before the CEP period has expired.

## STAGE 4: Appeal

Applicants who have been denied their application, in whole or in part, after reconsideration may appeal to the National Administration Committee ("NAC") for a determination. Applicants may not appeal to the NAC unless reconsideration has occurred.

All Applicants will have the right of appeal except in cases where:

1. The Applicant has not applied for and received a decision on reconsideration;
2. The school for which they have applied is not an IRS as defined in the SA; or,
3. The person for whom the application is made died prior to May 30, 2005 or, for Cloud Class Members died prior to October 5, 1996.

An appeal to the NAC of a decision by the Trustee may be brought as of right within 12 months of the date upon which the Applicant received the decision denying their reconsideration request. Appeals to the NAC may be brought after that period only with leave of the court. The appeal procedure shall be in writing. The NAC will not hold oral appeals. An Applicant shall not be entitled to more than one appeal in respect of an Application, except where a file has been affected by an amendment to the CEP process.



## 4 CEP Validation Principles

The principles by which CEP validation will be conducted are as follows:

1. Validation is intended to confirm eligibility, not refute it;
2. Validation must accommodate the reality that in some cases records may be incomplete;
3. Validation must be based on the totality of the information available concerning the application;
4. Inferences to the benefit of the Applicant may be made based on the totality of the information available concerning the application;
5. If information is ambiguous, interpretation should favour the Applicant;
6. This principle (6) shall apply to Applicants who identify themselves as having been status Indians at the time of residency in a residential school. The absence of such an Applicant's name from the lists comprising all status Indian residential students in a given year at the school in question shall be interpreted as confirmation of non Residence that year. An Applicant whose application is denied on this basis may seek reconsideration based on the provision of further information;
7. Where an application is not accepted in whole or in part, the Applicant will be advised of the reasons and may seek reconsideration based on the provision of additional information that relates to the rejection, including evidence that may be provided by the Applicant personally which may include:
  - photographs;
  - other documentary evidence of a connection with the school;
  - affidavit evidence, including but not limited to, the affidavits of other students, school or Residence employees, Aboriginal leaders or others with personal knowledge relating to the Applicant's Residence at the school;
  - an affidavit from the Applicant confirming Residence by reference to corroborating documents and/or objective events;
8. An application will not be validated based on the applicant's bare declaration of Residence alone.

## 5 Reconsideration Process

Once a Common Experience Payment application is processed, applicants receive a detailed letter explaining the result of their assessment, as well as the reasons for denial, and how to proceed if they do not agree with the Trustee's decision.

This process is called Reconsideration. Every Applicant has the right to Reconsideration, except cases where:

- The school for which they have applied is not an IRS as defined in the SA; or,
- The person for whom the application is made died prior to May 30, 2005 or, for Cloud Class Members, prior to October 5, 1996.

Reconsideration will be initiated by the Applicant. As per the CEP Validation Principles 7 and 8, an Applicant will be given an opportunity for reconsideration when their application is denied in whole or in part.

Applicants do not need to provide additional information in order to have their file reconsidered. However, applicants are encouraged to provide any information they may have that might help researchers to confirm residence and years of residence.

Examples of such information could include:

- additional names or nicknames that the Applicant may have used while at IRS;
- photographs;
- other documentary evidence of a connection with the school;
- affidavit evidence, including but not limited to, the affidavits of other students, school or Residence employees, Aboriginal leaders or others with personal knowledge relating to the Applicant's Residence at the school
- an affidavit from the Applicant confirming Residence by reference to corroborating documents and/or objective events.

An application will not be approved based on the Applicant's bare declaration of Residence alone.

The Trustee will review any and all information and documents provided by the Applicant. New information will be reviewed in the context of all available information. Where a clear discrepancy arises between the new information provided and other material previously reviewed such that there is a balanced case supporting either approval or rejection, the Assessment will be made in favor of the Applicant.

Applicants dissatisfied with the outcome of their request for reconsideration rendered by the Trustee, will have the right to appeal the decision to the National Administration Commission (NAC).

### **Information Intake / Processing**

Reconsideration will involve the intake of new and additional information in both written form and orally through the IRSRC Response Centre. Applicants have access to the Reconsideration Request Form on the Trustee's website. Requests for Reconsideration and additional information will be received by the Trustee through the following avenues:

1. Via Mail (including internal mail, courier, etc)
2. Via Fax
3. Via E-Mail
4. Via Response Centre

The requests for reconsideration and information received by the Trustee, will be tracked, monitored and managed in an efficient and time sensitive manner by following the Reconsideration Document Management Procedures developed by the Trustee, to ensure that the complexity of the issues have been captured and considered. The requests will be processed by order of date received to ensure fairness and transparency. Also, priority will be given to elderly applicants requesting reconsideration.

Information provided orally to the IRSRC Response Centre will be documented during the conversation with the applicant. This information will be recorded in SADRE and transferred to the Trustee upon completion of the phone call. The oral information provided by the applicants in the CEP process is to be withheld from information provided by Canada to the IAP Secretariat and the conversation will not be used by Canada in the IAP Process

### **Priority and Timelines**

In an effort to ensure fairness and transparency while balancing the urgency associated with the most elderly, reconsideration requests will be processed based on the following priority:

1. Elderly (where the Applicant was 65 or older as of May 30, 2005);
2. In order of date received, while at the same time dedicating a small team to address the files that can be processed quickly (ie. quick hits).

It is important to note that although some requests may be processed within a few days, on average, the majority of files will be processed within 90 days. At the same time, some files will be extremely complex and may take up to 160 days in order to be processed.

If after 90 days, the Trustee still has not rendered a decision, a system's flag will trigger a letter that will be sent to the Applicant notifying them that the Trustee is still working on their file and additional time is required.

## **6 Documents Provided by Applicants Which Might Be Used to Confirm Residence**

These documents will be examined in order to evaluate if they can confirm either Residence or Attendance, depending on the context. These records are reviewed with the totality of findings and contextual knowledge about the IRS, and the Applicant's information is incorporated into the assessment. For example, if it is known that there were no day school students present during the Applicant's time at an IRS, a document need only show Attendance at the IRS. Many of the types of records listed have been provided by Advance Payment ("AP") Applicants. This list is not meant to be exhaustive.

- Documents from other government sources, which reference Applicant's place of Residence being an IRS (Children's Aid Society records, RCMP records on truancy, Social Services records, etc.)
- Counsellors' monthly reports
- Medical records, physical exams
- Newsletters, yearbooks, journals
- Photographs (sent with enough contextual info on photo or archival description itself [e.g., name of student and date clearly listed], and always reviewed alongside other documents and knowledge about the school)
- Student Records
- School Ledger
- Vocational Class Lists
- Correspondence (from school, government, student, or parents in which date and/or postage is present)
- Class reports
- Transportation Lists
- Contemporaneous secondary source documents (articles from local newspapers)
- Census records
- Band Membership Lists
- Inuit Disc List
- Affidavit evidence, including but not limited to, the affidavits of other students, school or Residence employees, Aboriginal leaders or others with personal knowledge relating to the Applicant's Residence at the school
- An affidavit from the Applicant confirming Residence by reference to corroborating documents and/or objective events

Applicants providing one or more of the documents listed above in support of their Reconsideration request but which also concerns, covers or mentions other former students, wherein acquisition of such records would assist the Trustee in supplementing incomplete record collections, will be asked if he or she consents to have such documents used by the Trustee and IRSRC to confirm the residence of those other former students. If the answer of the Applicant is positive, then such documents will be added to the Ancillary Documents database and used to confirm residence as applicable.

## **7 Guidelines to Assess Applicant's Documents**

Documents provided by Applicants will be analyzed by the Trustee. The content of the document is equally important as the type of document provided. Ultimately, final decisions are within the Trustee's authority, subject to appeal to the NAC and the court.

The following guidelines, though neither exhaustive nor universally applicable, are meant to give an overview of the type of information that will be looked for, in order to assess whether or not the new document will confirm Residence for the School Year(s) in question:

- Does the document speak specifically to Residence at the IRS, rather than just Attendance?
- What is the source of the document? Is it an original copy or a certified copy provided by another level of government, Church, or perhaps a Band or Community Repository?
- Does the document list the Applicant's name?
- Does the document list the name of the IRS?
- Does the document contain a contemporaneous reference to the date?
- If the document was created after the time period it covers, was it created prior to commencement of negotiations for the SA?
- If the document does not specify Residence on its own, can it be reviewed in light of IRS-specific knowledge (e.g. does the Trustee know there were no day students at the IRS, when the document was created) to confirm Residence?
- If the document does not specify Residence on its own, can it be reviewed in light of information provided by the Applicant and by other applicants (e.g. does the Trustee know that the Applicant's home was too far from the school in question to allow for Attendance as a day student?) to confirm Residence?

## 8 Reconsideration Assessment Process

Prior to reviewing any additional information provided by an applicant, the original research findings will be revisited in SADRE.

The School Attendances Analysis tab will be reviewed to determine whether the original assessment of the file was done by CARS, or by a manual researcher in either Stage 2a or Stage 2b, and on what date the application was originally assessed.

If the original research was conducted manually, the reconsideration assessment will be conducted by a different researcher, wherever possible and practical.

The researcher will determine if the application was originally assessed prior to the release of CARS v.2 and/or prior to the implementation of Streamlined Research procedures for Stage 2a Assessment.

A review of all CARS decisions, application of Interpolation and/or Inference models, reasoned assumptions or notes which indicate the basis of the original assessment, in whole or in part will be performed. This analysis will ensure the application is subjected to the current research protocols and standards for assessment.

A new instance will be opened in SADRE School Attendances Analysis tab, and a new search will be performed using the manual CARS interface.

A search of ancillary records (using manual CARS interface, research databases, and/or review of other records in the possession of the Trustee) will be performed. Particular attention will be paid to locate and review records received after the application was originally assessed, including records received through ongoing document collection and through the reconsideration process itself.

The researcher will check SADRE to determine if additional documents or information have been provided by the applicant. The researcher will review scanned images of all such documents in SADRE.

Documents provided by the applicant will be reviewed to assess eligibility for any years which have not been assessed through the review of original research findings and the review of ancillary records (*see also Section 7: Guidelines to Assess Applicants Documents*).

Where additional information is provided by the applicant (verbal information provided to the CEP Response Centre over the phone and/or statement notes about the applicant's time at the IRS submitted on the Reconsideration form), assessment will be performed according to the same standards used in Stages 1, 2a, and 2b.

In instances where there is a complete gap in the student records, or where residency cannot be assessed after review of original research findings, the review of ancillary records or of documents provided by the applicant, a review of any/all additional information provided by the applicant will be performed.

A piece of information provided by the applicant which can be verified against time-specific information known about each relevant IRS (e.g. the applicant is able to provide the name(s) of their dorm supervisor(s), or name(s) of other staff and/or students who were at the IRS at the

same time and this is corroborated by the historical records), would permit assessment at this stage to be performed according to the same standards used for Stages 1 (CARS) and 2a.

Assessment of a piece of information and this process of review is only applied where the student records are incomplete or residence cannot be assessed so that the benefit of the doubt will be given to the applicant in assessment of residency.

Wherein any portion of the application is deemed eligible for payment after this review, the School Attendances Analysis Tab will be updated to generate a supplemental payment. Service Canada will then process the supplemental payment. After reconsideration is complete (whether a supplemental payment was approved or not) Service Canada will send a letter which advises the applicant of the outcome of the reconsideration process, and of the opportunity to appeal the decision.

If the full assessment of the application is not complete after these steps are performed (e.g. applicant provided information pertained to IRS “x” only, where records are complete and the application was fully assessed, but additional information is required for IRS “y” in order to complete the reconsideration process), the researcher will request a “follow-up” applicant contact, using the SADRE communications tab to provide more specific instructions to the CEP Response Centre agents in order to guide the applicant to provide information that may assist in the assessment of eligibility.

## **9 Reasons for Denial of Payment at Reconsideration**

Based on the rules set out in this document, an application may be denied, in whole or in part, if one of the following is found:

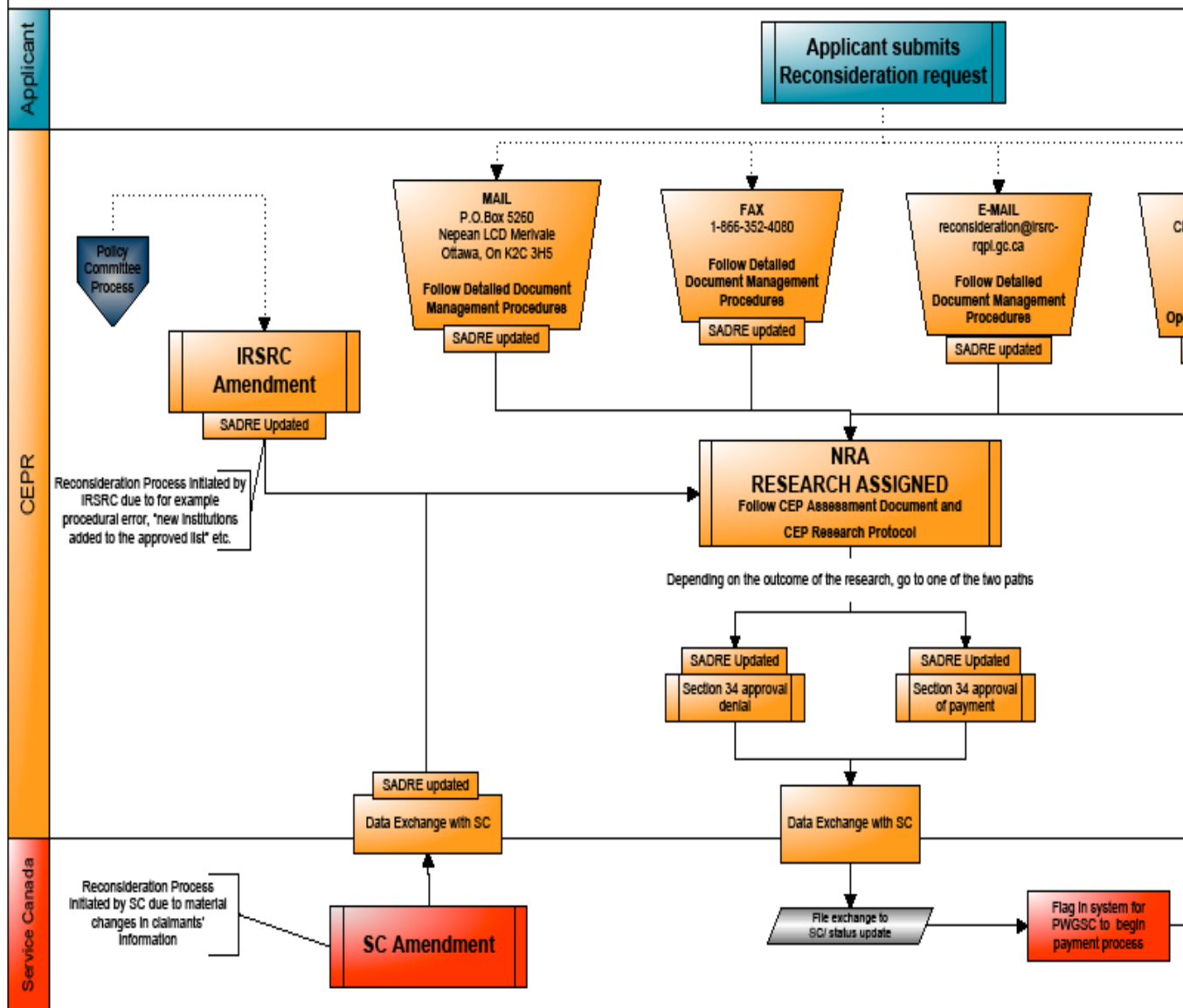
- The Applicant's Residence could not be confirmed.
- An Applicant who was a Status Indian is not found on documents but the Primary Documents are complete (or sufficiently complete) for all School Year(s) requested.
- The Applicant applied for a school that is not an IRS.
- The Applicant submitted multiple application forms. The duplicate(s) will not be approved.
- The IRS was not open during the time periods specified by the Applicant.



## **Appendices**

## Appendix A – CEP Reconsideration Workstream

Draft IRSRC CEP  
Workstream 4 Reconsideration DRAFT



## **Appendix B – Reconsideration Form - sample**



Indian Residential Schools  
Resolution Canada

Résolution des questions des  
pensionats indiens Canada

### **CEP – Request for Reconsideration**

CEP Transaction ID		WIID	
Last Name		Given Names	
Nicknames or other traditional names not indicated on your application		Date of Birth	
Indian Residential School(s) at which you lived		Years lived there	
Years confirmed		Years denied	

If you wish to apply for a reconsideration of your CEP application, please provide any additional information that might help us confirm that you lived at the Indian Residential School(s) indicated on your application form.

Please mail completed forms to:  
Common Experience Payment Response Centre  
P.O. Box 5260  
Nepean LCD Merivale  
Ottawa, ON K2C 3H5  
(or) Fax: 1-866-352-4080  
(or) E-mail: [reconsideration@irsr-rqpi.gc.ca](mailto:reconsideration@irsr-rqpi.gc.ca)

