



Office of the  
Merit Commissioner

Service Plan

Fiscal Years

2024/25 – 2026/27

Submitted to  
The Select Standing Committee on Finance and Government Services  
Legislative Assembly of British Columbia

September 29, 2023



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## Overview

This Service Plan highlights the work completed by the Office of the Merit Commissioner (the Office) over the past year and progress on key commitments. It also identifies opportunities for the coming years.

In May 2023, the Speaker was presented with the Office's *2022/23 Annual Report*. That report included summaries of the results of the 2022/23 Merit Performance Audit of 269 appointments to and from within the BC Public Service, consideration of 18 requests for staffing reviews, and the results of 17 dismissal process reviews.

Priorities will remain the core lines of business: auditing appointments, conducting staffing reviews, and reviewing eligible dismissal processes. To encourage system improvement and uphold fair hiring, the Office will provide relevant and timely feedback on hiring processes to deputy ministers, organization heads, the BC Public Service Agency, managers, and employees. Findings related to dismissal processes will be reported to the Legislative Assembly.



## Responsibilities

All appointments to and from within the BC Public Service must be made on the principle of merit. Merit means that appointments are made on the basis of an assessment of competence and ability to do the job and are not influenced by patronage. The role of the Merit Commissioner is to provide independent oversight of these appointments. This oversight role applies to appointments made in accordance with section 8 of the *Public Service Act* (the *Act*).

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 provides independent oversight of the processes related to just cause dismissals from the BC Public Service. This role is defined in section 5.11 of the *Act*.

The Merit Commissioner has four specific responsibilities under the *Act*:

- To monitor the application of merit by conducting random audits of appointments and reporting the audit results to the deputy ministers or heads of the organizations in which the appointments were made;
- To provide a review of the application of merit as the final step in a staffing review process for bargaining unit positions;
- To monitor the application of government practices, policies and standards to just cause dismissals by conducting reviews of eligible dismissal processes; and
- To report annually to the Legislative Assembly on the application of the merit principle and the conduct of dismissal processes.

The Merit Commissioner may also undertake special audits or studies of systemic issues related to areas where there may be potential risk to merit-based hiring.

The Office provides credible and relevant information about hiring on which employers may act to produce positive changes. This supports the long-term goal of building public confidence and a strong consensus that the BC Public Service is qualified and hired fairly according to the principle of merit. The Office provides information related to the conduct of just cause dismissals to assure the Legislative Assembly, and ultimately the public, that all appropriate and necessary steps have been followed prior to the dismissal of a public servant. The results of these post-termination reviews will also enable the employer to improve practice where necessary.

An overview of the Office's structure is provided in Appendix A.



## Context

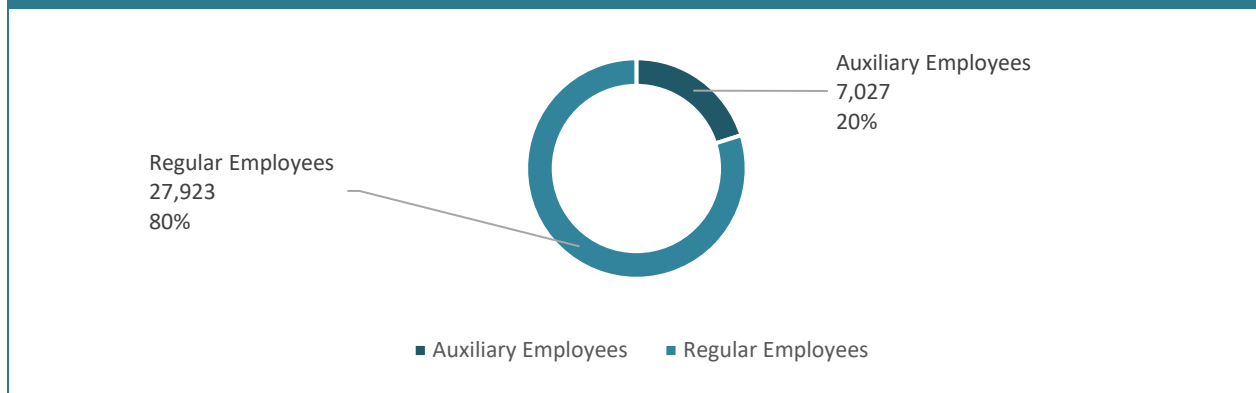
### Oversight of Merit-based Hiring

#### BC Public Service Workforce

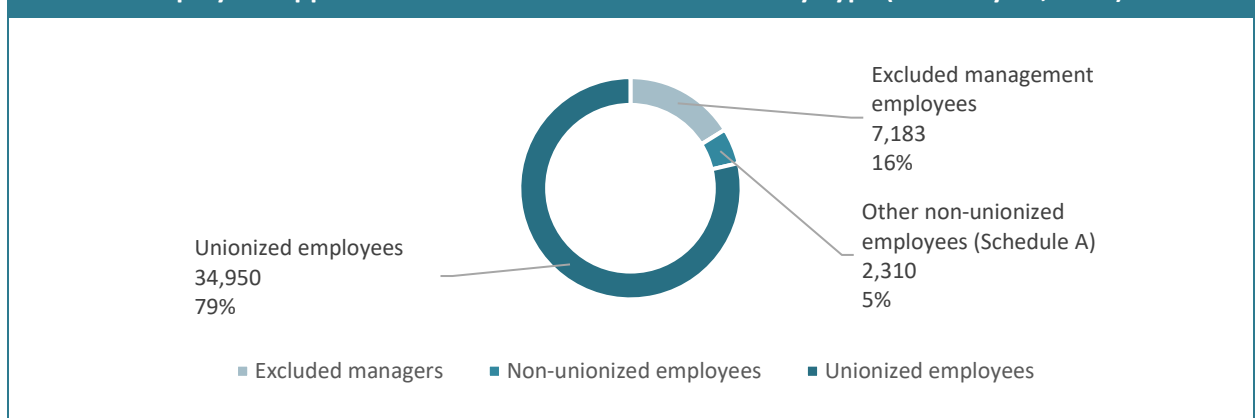
As of July 28, 2023, there were 44,935 employees in the BC Public Service, which is an increase of 3,042 employees since September 2022. These employees work in ministries and other organizations across the public service. A complete list of organizations subject to hiring oversight by the Merit Commissioner appears in Appendix B.

Employees are appointed under the *Act* on a regular (permanent or temporary) or auxiliary (temporary) basis. They may be unionized, excluded management employees or other non-unionized employees. The distribution of the population by these categories is shown below in Charts 1 and 2.

**Chart 1 – Employees Appointed Under the *Public Service Act* – By Status (as of July 28, 2023)**



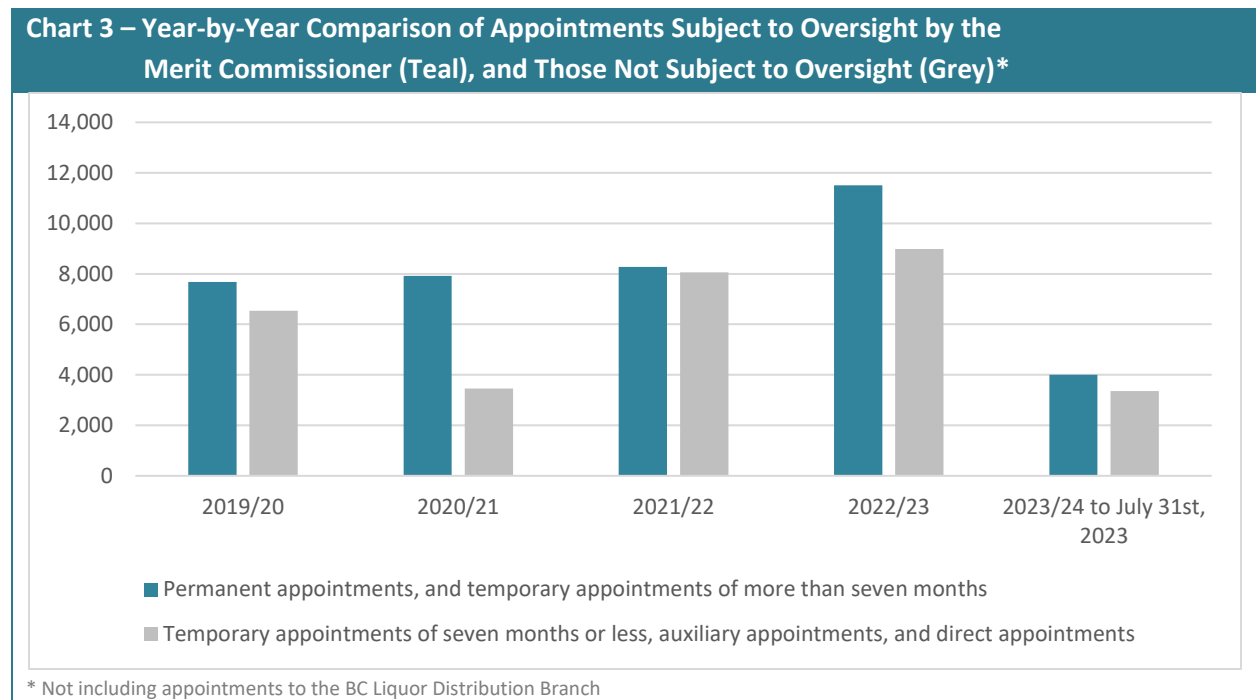
**Chart 2 – Employees Appointed Under the *Public Service Act* – By Type (as of July 28, 2023)**





## Appointment Activity

The Office audits appointments to and from within the BC Public Service that are made under section 8 of the Act. Chart 3 shows the total numbers of these appointments, by appointment type, for the last five years.





## Indicators of Merit-based Hiring

Merit-based hiring requires the commitment of all public servants. The framework shown in Chart 4 provides an overview of indicators of merit-based hiring.

Chart 4 – Indicators of Merit-based Hiring		
	Indicator	Office of the Merit Commissioner Related Responsibilities
<b>Hiring Practices</b>	Hiring practices are transparent, fair, and equitably applied; decisions are reasonable	<ul style="list-style-type: none"> <li>• Conduct merit performance audits, special audits and studies, and report results</li> <li>• Carry out individual staffing review investigations as appropriate</li> <li>• Increase awareness of merit-based hiring practices by reporting out to organizations and to the public</li> <li>• Provide comment and/or recommendations on hiring practices to organizations</li> </ul>
<b>Workplace Culture</b>	<p>Organization heads are seen and believed to be committed to merit-based hiring</p> <p>Managers and supervisors uphold merit in hiring</p> <p>Use of the staffing review process</p> <p>Employee responses to staffing related questions on work environment surveys</p>	<ul style="list-style-type: none"> <li>• Report audit findings to organizations</li> <li>• Monitor organizational responses to audit and review findings</li> <li>• Perform individual audits and report findings</li> <li>• Conduct individual staffing review investigations and report findings</li> <li>• Provide clear and easily accessible information for employees</li> <li>• Monitor and report review process usage</li> <li>• Analyze related responses</li> <li>• Carry out special studies</li> </ul>
<b>Regulatory Framework</b>	<p>BC Public Service hiring complies with hiring policy, legislation and relevant collective agreement provisions</p> <p>Organization heads and hiring managers are aware of hiring policy, legislation and relevant collective agreement provisions</p>	<ul style="list-style-type: none"> <li>• Report annually on the status of BC Public Service hiring to the Legislative Assembly and the BC Public Service Agency</li> <li>• Publicly report on merit performance audit, special audits and studies, and staffing review findings and recommendations</li> </ul>



## Oversight of Just Cause Dismissal Processes

The responsibility conferred upon the Merit Commissioner in April 2018 relates to the review of BC Public Service just cause dismissal processes. The legislation requires that a review of the process resulting in a dismissal for just cause occur only after all avenues to challenge that decision have been exhausted, and a set time period has elapsed. Given these parameters, the workload associated with actual process reviews is variable. The number of dismissals that may occur cannot be predicted, just as it cannot be predicted what, if any, avenue of redress may be pursued and when such action might be completed.

The legislation does not specify how the Merit Commissioner should conduct the reviews or the number of dismissal processes that must be reviewed; however, in order to provide a robust baseline for comparison going forward, up to this point, all eligible dismissals have been reviewed. For dismissals arising from the BC Public Service COVID-19 vaccination policy requirements, a sample of the total will be assessed. Reviews are based on an established protocol which considers best practice, relevant legislation and policy guidelines.

### Indicators of Proper Process Related to Just Cause Dismissals

Chart 5 – Indicators of Proper Process related to Just Cause Dismissals		
	Indicator	Office of the Merit Commissioner Related Responsibilities
<b>Dismissal Processes</b>	Dismissal processes adhere to government practices, policies and standards, and follow established protocols	<ul style="list-style-type: none"><li>• Conduct reviews of eligible dismissal files to assess compliance</li><li>• Identify any gaps in compliance and any systemic issues</li><li>• Report annually to the Legislative Assembly on overall results of these reviews and make broad recommendations as appropriate</li></ul>
<b>Workplace Culture</b>	Organization heads and the BC Public Service Agency apply good practice in the conduct of just cause dismissals	<ul style="list-style-type: none"><li>• Make broad recommendations to the BC Public Service Agency where it is identified that improvements to practice could be made</li></ul>
<b>Regulatory Framework</b>	Dismissal policies are consistent with government processes and standards	<ul style="list-style-type: none"><li>• Report annually on the results of monitoring the application of government practices, policies and standards respecting eligible dismissals to the Legislative Assembly</li></ul>





## Performance Measures and Targets

The Office establishes and publishes performance measures and targets in a number of areas, holds itself accountable for respecting and achieving these targets, and examines practices and procedures regularly with a view to continuous improvement.

### Merit Performance Audit

The goal of the annual merit performance audits is to have a sufficiently robust sample size that allows the audit results to be confidently generalized to the population of all appointments made within the same time period.

Detailed audit results are reported to deputy ministers, heads of organizations, and the Agency Head. Summary results are contained in the Merit Commissioner’s annual report to the Legislative Assembly which is publicly available on the Office’s website. Analyses and a final report are also made available on the website.

Performance Measures	Target and Results					
	2021/22		2022/23		2023/24	2024/25
	Target	Results	Target	Results	Target	Target
Generalizable audit results	Simple random sampling	Simple random sampling	Simple random sampling	Simple random sampling	Simple random sampling	Simple random sampling
Confidence level	95%	95%	95%	95%	95%	95%
Margin of error	6%	6%	6%	6%	6%	6%
Report audit results to organization heads and the BC Public Service Agency within six months of audit period	September 2022	September 2022	September 2023	Expected October 2023	September 2024	September 2025
Publish annual audit findings within four months of reporting individual results	November 2022	November 2022	November 2023	Expected December 2023	November 2024	November 2025



## Staffing Reviews

It is important to both the employee who requests the Merit Commissioner to undertake a review of an appointment decision and the employer that a thorough review takes place, and a timely decision is rendered.

Performance Measures	Target and Results					
	2021/22		2022/23		2023/24	2024/25
	Target	Results	Target	Results	Target	Target
Complete reviews within an average of 30 days	30 days	28 days	30 days	34 days	30 days	30 days

## Dismissal Process Reviews

The results of the dismissal process reviews are reported annually. This year, the performance measure was changed from “all” to “selected” eligible dismissal processes to prepare for the upcoming volume related to vaccine mandate dismissals.

Performance Measures	Target and Results					
	2021/22		2022/23		2023/24	2024/25
	Target	Results	Target	Results	Target	Target
Conduct reviews of selected eligible dismissal processes	100%	100%	100%	100%	100%	100%
Report activities annually to Legislative Assembly	May 2022	May 2022	May 2023	May 2023	May 2024	May 2025



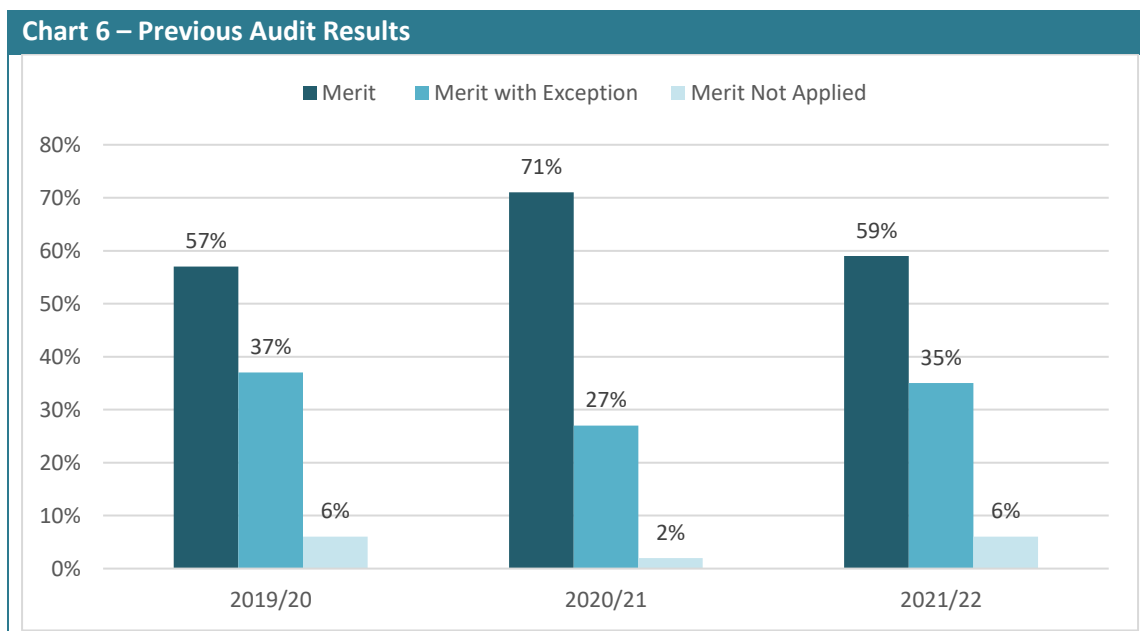
## Progress on Key Commitments

### Merit Performance Audit

For 2022/23, an audit was undertaken of 269 appointments, where findings could be generalized to all appointments of the same type across the BC Public Service for that fiscal year. The appointments were selected randomly from organizations across the public service and from all employee groups and levels.

Organization heads will receive detailed reports and the Agency Head will receive the overall results of the audit in October 2023. The overall report of the analyses of audit results and recommendations to address identified areas of weakness or concern is planned to be provided to the Legislative Assembly and released publicly in December 2023.

Chart 6 reflects the merit performance audit results for the past three reported audit cycles.





## Staffing Reviews

During the 2022/23 fiscal year, the Merit Commissioner received 20 staffing review requests. Two requests were ineligible. Of the 18 reviews completed, seven resulted in a directed reconsideration of the appointment. In the other 11 reviews, the appointment decision was upheld.

The most frequent grounds for review involved the interviewing and testing stage of the hiring process. The concerns regarding this stage included technical difficulties experienced both before and during an interview, the marking of responses, the questions asked during the interview, and the amount of time allocated for the interview. There were also several grounds that have been raised related to the panel not adequately assessing one or more of the factors of merit, particularly experience. A few concerns questioned the fairness of the short-listing process, past work performance assessment, and the fairness of the competition process. There were also a few concerns brought forward that were outside the scope of the Merit Commissioner's statutory responsibilities. These include concerns related to discrimination, past hiring processes, employee or labour relations issues, and the introduction of a new ground that had not been raised to the organizational head at the internal inquiry step of the process.

Four of the seven reconsiderations directed by the Merit Commissioner were from the same competition. The flaws that were identified involved technical issues where candidates received the pre-interview materials late. The other three reconsideration decisions found that the short-listing approach was not consistent.

The average time taken to complete the reviews and respond to the requests was 34 days following receipt of the required documentation. Individual decisions were rendered between 22 and 49 days from receipt of the appointment documentation.

There is no way of predicting the number or complexity of staffing reviews received in a year. For the current fiscal year, the Office had received 9 requests for review as of September 27<sup>th</sup>, 2023.

## Dismissal Process Reviews

A report to the Legislative Assembly on the files reviewed was included in the *2022/23 Annual Report* released in May 2023.

In 2022/23, a total of 17 dismissal process reviews were conducted. Overall, processes complied with the application of government practices, policies, and standards. There were some circumstances where there were opportunities for improvement, but which were not sufficient to result in the fairness of the process being compromised.



## Resolve Database Implementation

The Office of the Merit Commissioner has recently implemented a new customized database system to support its annual audit of public service hiring. The implementation was the culmination of work beginning in February 2022. The new database replaces a legacy system, is more responsive to auditor needs, and provides enhanced reporting capabilities.

## Priorities for Fiscal 2024/25

The following sections detail the 2024/25 priorities for the Office. In addition, the Office will be dedicating resources to the continuous improvement of the new database system.

### Merit Performance Audit 2023/24

An audit of appointments made in 2023/24 has commenced and a random sample of appointments made throughout the province is being audited. The sample will be drawn from appointments made in all organizations and across all occupational groups, including bargaining unit and excluded management positions. The sample size is fixed to a robust value to not only ensure results are valid and generalizable, but also to enable efficient management of the audit activity and associated costs. The 2023/24 audit will be composed of a fixed sample size of 284 (71 appointments per quarter). The results from this audit are targeted to be reported in the fall of 2024.

### Staffing Reviews

The Office gives priority to conducting staffing reviews when requested. Only unsuccessful employee applicants for bargaining unit positions are eligible to request a review by the Merit Commissioner. As the appointments of the successful candidates to the positions in question are normally not confirmed until the Merit Commissioner's decision has been received, the Office makes every effort to respond to requests for review within a 30-day timeframe.

### Dismissal Process Reviews

The Office's past practice has been to review all eligible dismissal processes. However, given the large number of dismissals related to the COVID -19 vaccination policy, the Office is considering options to review a strategically limited sampling number of these files as they become eligible for review. The Office will continue to review the available selected dismissal process files which are provided by the BC Public Service Agency on a regular and efficient schedule dependent on file eligibility. The 2023/24 Annual Report will include the findings and any recommendations for reviewed files.



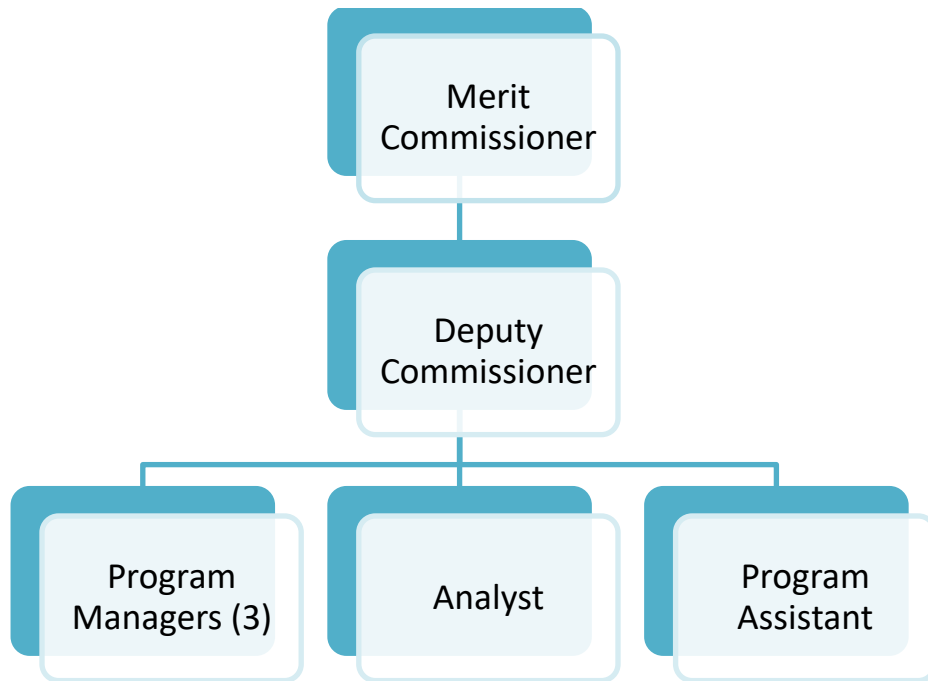
## **Special Audits and Studies for Fiscal 2024/25 and Beyond**

The Office will continue to focus its resources on its mandated responsibilities of conducting merit performance audits, staffing reviews, and reviews of dismissal processes. The results of these core activities will guide the Office in determining where special audits or studies may be appropriate to address potential areas of risk to merit-based hiring or dismissal processes. While outside the mandate of merit-based hiring, the Office of the Merit Commissioner will begin to explore a special study on the demonstrable elements of diverse and equitable hiring practices in the public service environment. While these observable elements and practices would not impact the findings of merit-based hiring processes, they have been clearly highlighted as important fundamentals when attracting, creating, and maintaining a civil service that best represents the citizens they serve.



## Appendix A

### Office Structure





## Appendix B

### Organizations Subject to the Merit Commissioner's Oversight of Appointments

(As of March 31, 2023)

#### Ministries

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

#### Independent Offices

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

#### Courts of British Columbia

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

#### Other Public Sector Organizations

Agricultural Land Commission  
BC Farm Industry Review Board  
BC Human Rights Tribunal  
BC Pension Corporation  
BC Public Service Agency  
BC Review Board  
Civil Resolution Tribunal  
Community Care and Assisted Living Appeal Board  
Destination BC  
Employment and Assistance Appeal Tribunal  
Environmental Appeal Board  
Financial Services Tribunal  
Forest Appeals Commission  
Forest Practices Board  
Health Professions Review Board  
Hospital Appeal Board  
Independent Investigations Office  
Islands Trust  
Mental Health Review Board  
Office of the Premier  
Oil and Gas Appeal Tribunal  
Passenger Transportation Safety Board  
Property Assessment Appeal Board  
Public Guardian and Trustee  
Public Sector Employers' Council Secretariat  
Royal BC Museum  
Safety Standards Appeal Board  
Skilled Trades BC Appeal Board  
Surface Rights Board  
Workers Compensation Appeal Tribunal