



Refugee Hearing Preparation

A Guide for Refugee Claimants

Metro Vancouver, BC
2019

English

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Canada will give you refugee protection if the reasons you are fleeing your country meet the requirements of Canadian refugee law.

This Guide will help you to understand:

- how you start a refugee claim
- the legal definitions of refugee protection
- your hearing preparation deadlines
- the kind of evidence you should give to the IRB
- how to prepare for your hearing
- where to find important hearing preparation resources
- what will happen at your hearing

Important first steps:



Find legal help now!

Make every effort to get a good lawyer (counsel)

to help you with your refugee claim. If you cannot pay for a lawyer, apply for legal aid. Phone or visit Legal Services Society (LSS) now (see page 9)!



Start preparing now!

Start gathering documents and evidence

to prove your story is true and that you genuinely need Canada's protection. Have all your documents translated into English or French as soon as possible. If you qualify for legal aid, LSS will pay for translations of essential documents required for your hearing, up to a limit.

Acronyms found in this Guide

BOC: Basis of Claim

CBSA: Canada Border Services Agency

CIC: Citizenship and Immigration Canada is now named IRCC – Immigration, Refugees and Citizenship Canada

DFN: Designated Foreign Nationals

IRB-RAD: Immigration and Refugee Board of Canada – Refugee Appeal Division

IRB-RPD: Immigration and Refugee Board of Canada – Refugee Protection Division

IRCC: Immigration, Refugees and Citizenship Canada

LSLAP: Law Students' Legal Advice Program

LSS: Legal Services Society (legal aid)

NDP: National Documentation Package

UNHCR: United Nations High Commissioner for Refugees

Refugee Protection Overview



You may have lived through a frightening experience or faced serious injustice in your country of origin. Or, you may be afraid to return to your country because it is dangerous or difficult to find work. These facts do not mean that you will automatically qualify for refugee protection.

To get refugee protection, you must show you meet the legal definition for a “Convention Refugee” or a “Person in Need of Protection.” You will learn more about legal definitions later in this Guide. You must also show that you are telling the truth. You can do this by gathering evidence and by being clear and detailed about what happened to you.

The **Immigration and Refugee Board of Canada – Refugee Protection Division (IRB-RPD)** will decide if you qualify for refugee protection.

I When you ask (“apply”) for refugee protection in Canada, you “make a refugee claim.” To succeed in your refugee claim, you must show that you are either a “Convention Refugee” or a “Person in Need of Protection.” The legal definitions of these terms are found in sections 96 and 97 of Canada’s *Immigration and Refugee Protection Act* (see pages 20–21 of this Guide).

You will have a refugee hearing where your request for protection will be decided. At your refugee hearing, an IRB-RPD decision maker, called the Presiding Member, will consider your oral testimony, the testimony of your witnesses, your Basis of Claim Form (BOC), and any other evidence submitted to decide if you qualify for refugee protection.

Documents that will be considered at your hearing include:

- your Basis of Claim (BOC) Form
- all Immigration, Refugees and Citizenship Canada (IRCC) application forms
- any documents you filed as evidence
- documents from IRCC and CBSA, including notes from your interviews with them
- the IRB-RPD’s National Documentation Package (NDP – see page 18)
- the visa application that you signed before getting your visa for Canada, if you applied for a visa
- your passport and the stamps in it that show your international travel record, if you have a passport
- copies of ID documents that you submitted to IRCC or CBSA

Three important things to know about Canada's refugee protection system:

1 *Canada's refugee protection system allows individuals who meet basic eligibility requirements to make a refugee claim.*

Most claimants are eligible for a work permit and basic health services while they are waiting for their hearing.

Important change in eligibility requirements (June 21, 2019): People who have applied for refugee protection in the United States, Australia, Great Britain and New Zealand (other countries may be added to this list in the future) before arriving in Canada are not eligible to make a refugee claim. This includes people who applied between April 8 and June 21, 2019, unless there has already been a hearing or a decision on the refugee claim. CBSA will invite people who are not eligible to make a refugee claim under this rule to apply for a Pre-removal Risk Assessment (PRRA). There will be a PRRA hearing unless the application can be approved without a hearing.

2 *Three different government institutions are involved in the refugee claim process.*

Each institution plays a different role in your refugee claim process and has different contact information. If you change your address or phone number, you must contact each institution separately with your new information.*



IRB-RPD: The Immigration and Refugee Board of Canada – Refugee Protection Division



IRCC: Immigration, Refugees and Citizenship Canada



CBSA: Canada Border Services Agency

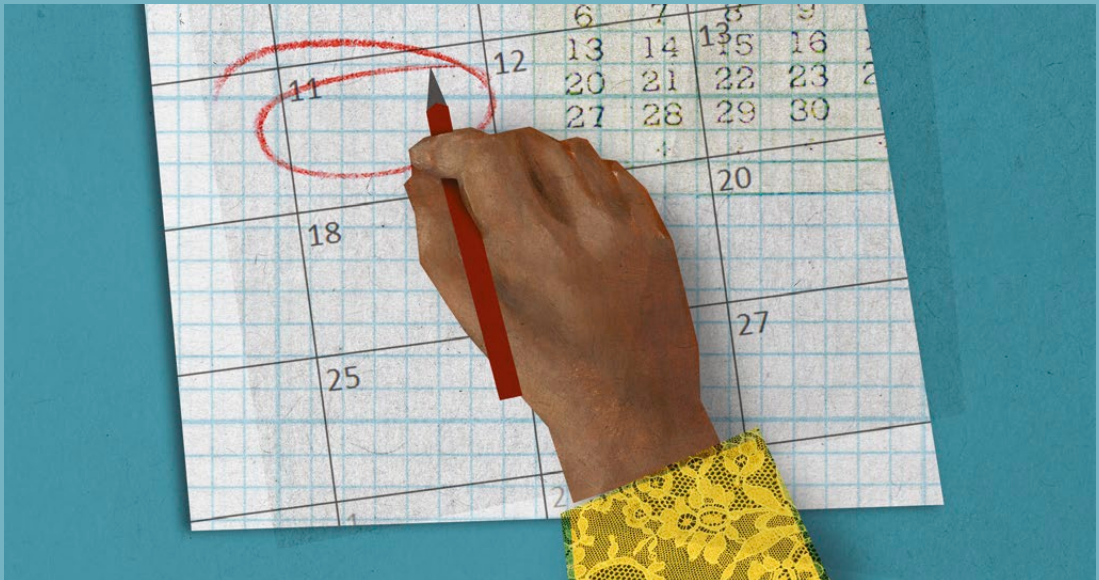
3 *Less complex refugee claims may be selected by the IRB-RPD for the file review process (no hearing required) or a short (2 hour) hearing.*

See pages 40–41 for more information. Submit evidence supporting your claim early!



See page 43 for addresses and more details.

Timeline and Important Dates



The IRB schedules refugee hearings in the order they are received, with some exceptions (people in detention, etc.)

Refugee claimants who have not had a hearing, and who filed claims prior to December 15, 2012 (known as legacy claims) should telephone the IRB-RPD (1-833-534-2292) to have their hearings scheduled.

On the next two pages, look carefully at the 2 timelines. Select the timeline that applies to you. Where you see a blank box, write in your important dates.



I claimed at an airport, seaport, or land border crossing

**Your
eligibility
interview
date**

- Complete your Eligibility Interview.
- Receive your Basis of Claim (BOC) Form.
- Receive a document that says your claim has been sent to the IRB and a *Refugee Protection Claimant Document*.

My eligibility interview date:

Day 10

Deadline for giving your contact information to CBSA and the IRB-RPD. This includes: address, telephone number, fax number (if any) and email address (if any).

Day 15

Deadline for submitting your BOC Form to the IRB-RPD.

My BOC Form deadline:

**10 days
before
hearing**

Deadline for submitting your witness list and all your documents to the IRB-RPD.

My documents deadline:

**Your
hearing
day**

Your refugee hearing. You will receive a hearing notice from the IRB-RPD when they are able to schedule your hearing.

My hearing date:



If you entered Canada at a place other than an official port of entry and come to the attention of CBSA before making your refugee claim, an officer will instruct you how and where to complete the process.



Do not miss your BOC Form deadline or your hearing!

If you do, you must attend a “special hearing” at the IRB-RPD where your claim may be declared abandoned. If your claim is declared abandoned, you will likely be sent back to your country and you will not be able to make another refugee claim in Canada in the future. Occasionally, claimants can persuade the RPD to reopen a claim, but that is very difficult to do. **(Note: “special hearing” date(s) are listed on your “Notice to Appear for a Hearing,” the same document that has your refugee hearing date on it. Do not confuse the two dates.)**



How can I replace my lost, destroyed, stolen or expired Refugee Protection Claimant Document?

Go to your local IRCC office with an identity document (if you have one) and 2 photos.



I claimed (or will claim) at an IRCC office inside Canada.*

Before you go to IRCC:

- Download your application forms from www.canada.ca/en/immigration-refugees-citizenship/services/application/application-forms-guides/apply-refugee-protection-canada.html.
- You will need to complete between 5 and 7 forms, depending on whether you have a lawyer and how many family members you have. You must complete a BOC Form and IRCC application forms for each family member.
- Visit IRCC (Monday to Friday, preferably before 10:00 am) to submit all your forms and obtain a date for your Eligibility Interview.

Vancouver IRCC Office: 1148 Hornby Street, Vancouver BC
Hours: Monday to Friday, 8:00 am – 4:00 pm



Important: If you have not yet started your refugee claim, contact a lawyer or Legal Services Society (LSS) now!

A lawyer can help you:

- *prepare for your Eligibility Interview*
- *fill out your forms*
- *start preparing for your refugee hearing*

Your eligibility interview date

Receive a document that says your claim has been sent to the IRB and a *Refugee Protection Claimant Document*.

My eligibility interview date:

10 days before hearing

Deadline for submitting your witness list and all your documents to the IRB-RPD.

My documents deadline:

Your hearing day

Your refugee hearing. You will receive a hearing notice from the IRB-RPD when they are able to schedule your hearing.

My hearing date:

If your BOC deadline falls on a Saturday, Sunday, or holiday, it is changed to the next working day. For example, if Saturday, May 7th is 10 days before

your hearing, your deadline for filing documents is Monday, May 9th.

Getting Legal Counsel



It is a very good idea to have a lawyer. The refugee definitions are complex, and gathering appropriate evidence is difficult.

Lawyers can advise you on the legal meanings of “Convention Refugee” or a “Person In Need of Protection” and which parts of the definitions apply to you. They can help you understand what parts of your experience are relevant and important to include in your BOC Form. They can advise you about what evidence you should gather to support your case. A lawyer can also represent you at your hearing.

Try to get a lawyer before starting your refugee claim. If you have already made your claim and do not have a lawyer, make every effort to contact one. Make sure your lawyer is available for your hearing date.

Contact Legal Services Society (LSS) as soon as possible and apply for legal aid. If you are eligible for legal aid, LSS will pay a lawyer to represent you.

If LSS decides that you do not qualify for legal aid, you can ask for a review of the decision. If you still do not qualify, there may be other legal clinics that can help you. A settlement agency (see page 44) can refer you to other resources in your community.

You may also hire a lawyer or an immigration consultant. If you hire a lawyer, make sure he or she is a certified member of The Law Society of British Columbia. You can check at the Law Society website: www.lawsociety.bc.ca/apps/lkup/mbrsearch.cfm or telephone the Law Society at 604-669-2533. If you hire an immigration consultant, make sure they are a certified member of "The Immigration Consultants of Canada Regulatory Council" (go to www.iccrc-crcic.ca for a list of certified members).

If you cannot find a lawyer to help you, you must complete your own BOC Form and represent yourself at your hearing. You may also have someone you trust assist you for free.

Legal Services Society (LSS)

To apply for legal aid:

Phone: 604-601-6076 or
1-888-601-6076 (no charge)

or

Visit: Suite 400–510 Burrard Street Vancouver, BC
V6C 3A8

Free Legal Advice Clinics:

Law Students' Legal Advice Program (LSLAP)

Phone: 604-822-5791

Access Pro Bono Society

Phone: 604-878-7400

Toll-free: 1-877-762-6664

READY Tours

Learn about the hearing process in person and see inside a real hearing room.

Phone: 604-328-3132

Email: READY@refugeeclaim.ca

www.refugeeclaim.ca/ready-tours

ISSof BC Legal Advocacy Program

Provides free legal advice and representation.

2610 Victoria Drive

Phone: 604-684-2561 Ext. 1624

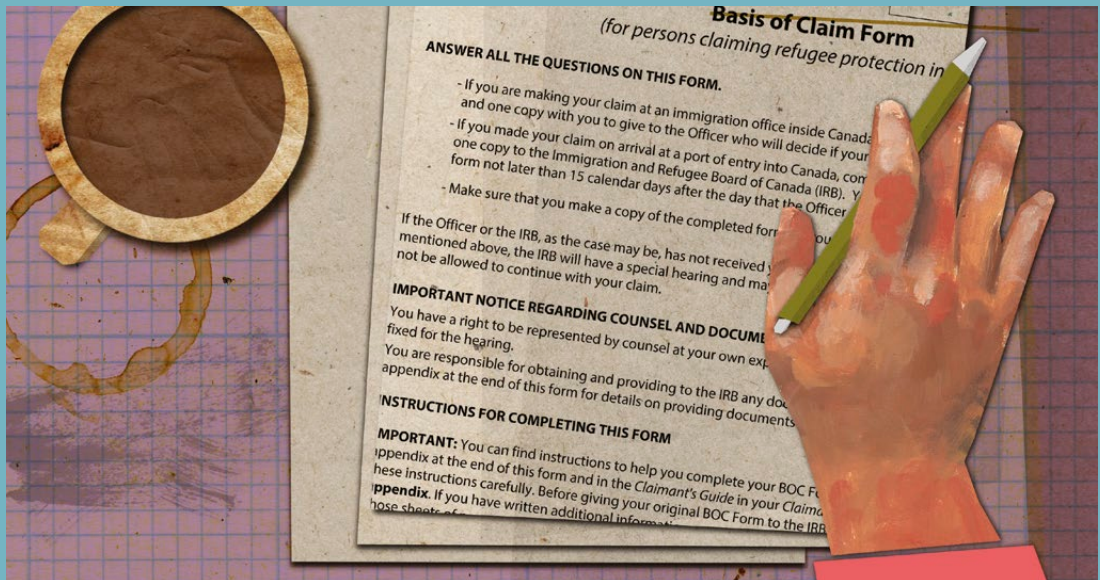
<https://forms.office.com/Pages/ResponsePage.aspx?id=PvAlsU14Kk-1YmUuoUwl2c6zHqIQNyNJoafN942eCCdUOVdRSzE2U1ZPVFJUSkFKSFg5RUNCOTcyOS4u>

? I don't have a lawyer yet, and I am not prepared for my hearing. Can I postpone my hearing date?

The IRB-RPD expects you to be prepared for your hearing on the scheduled date. If there are exceptional circumstances why you need to change your hearing date, you can write the IRB-RPD a letter asking for a postponement. If you do not get an answer to your request before the hearing date, you must go to the hearing or your claim will be considered abandoned (see page 40). If you find a lawyer after you have been given a date for your hearing, make sure he or she is available on your hearing date.

! Remember, this is your claim for refugee protection. If you miss a deadline, your claim may be declared abandoned. Even if you have a lawyer, you should be personally active in preparing documents, gathering evidence and witnesses, and preparing to testify.

Completing Your Basis of Claim (BOC) Form



Your Basis of Claim (BOC) Form is the most important document in your refugee claim. In your BOC Form, you will provide details about who you are and the reasons why you are seeking protection in Canada. A Member of the Immigration and Refugee Board of Canada – Refugee Protection Division (IRB-RPD) will use the information in your BOC form, together with your testimony and other evidence, to decide if you are a “Convention Refugee” or “Person in Need of Protection.” You will be asked questions about your BOC Form at your refugee hearing.

Try to get a lawyer to help you with your BOC Form and other forms. If that is not possible, try to get a lawyer to advise you on what information is needed before you start (see pages 9 and 44). If you hire a lawyer, your lawyer will hire an interpreter to help you complete your BOC. It is important for you to understand the legal issues that the IRB-RPD Member will consider before you fill out your BOC Form.

The information you provide in your BOC Form must be as **accurate and complete as**

possible. If information in other documents – for example your visa application – was incorrect, discuss this with your lawyer and put the correct information in your BOC Form. Do not guess at an answer. If you do not know the answer to a question, explain that you do not know. Be honest. If you do not understand a question, ask a lawyer to explain it. Your refugee claim could be rejected if you provided false or misleading information or hide important information.

When you complete your BOC, remember to:

- Read the sections in this Guide called “Legal Definitions” and “Legal Issues.” These sections will help you understand how to complete your BOC Form (see pages 19–27).
- Complete your BOC Form in English or French. If you have difficulty writing in these languages, contact an organization that assists refugee claimants (see page 44). To download the BOC go to: www.irb-cisr.gc.ca and search “BOC.”
- Answer all questions. Do not leave any blanks. If you do not know the answer to a question, write “I DO NOT KNOW.”
- Write “n/a” (“not applicable”) if a question does not apply to you.
- Understand each question before answering it.
- Write your answers neatly or complete the form on a computer.
- Use additional sheets of paper if there is not enough space on the form to answer the questions completely.
- **If you are in detention, write that you are detained**, that the conditions in detention have made it difficult for you to complete the form, and that your answers might not be complete and accurate. Write this on the last page of your BOC, near your signature.
- If you are not sure about dates or other information, you should say this in your BOC Form. Only give an exact date if you are certain about the date.
- Review your BOC Form for accuracy and compare it with your IRCC forms to ensure that the information is consistent and accurate in all your forms.
- If you used an interpreter, ask your interpreter to read your BOC Form back to you in your language.



- Ask the interpreter to sign your BOC Form on page 10.
- When you are certain that the information is correct, sign the declaration on page 10 of the BOC Form. If you do not have enough time to give many details or review your BOC Form carefully before signing, write this on your BOC Form.
- Complete a separate BOC Form for each family member claiming refugee protection in Canada.

If you don't have legal help:

- If possible, hire a lawyer who practices refugee law to review the form.
- Review the Claimant's Guide on the IRB website for detailed instructions (go to: <https://irb-cisr.gc.ca> and search "Claimant's Guide").
- Attend a READY Tour (see page 9).

Other application forms:

In addition to the BOC Form, you must also complete the following IRCC forms

- | | |
|---------------------------------------|---|
| • Document Checklist | • Schedule 12 – Additional Information
– Refugee Claimants Inside Canada
(Claimants may apply for a work permit on this form, see page 40.) |
| • Generic Application Form for Canada | |
| • Additional Dependants/Declaration | |
| • Schedule A – Background/Declaration | • Use of a Representative (if you have a lawyer or immigration consultant) |

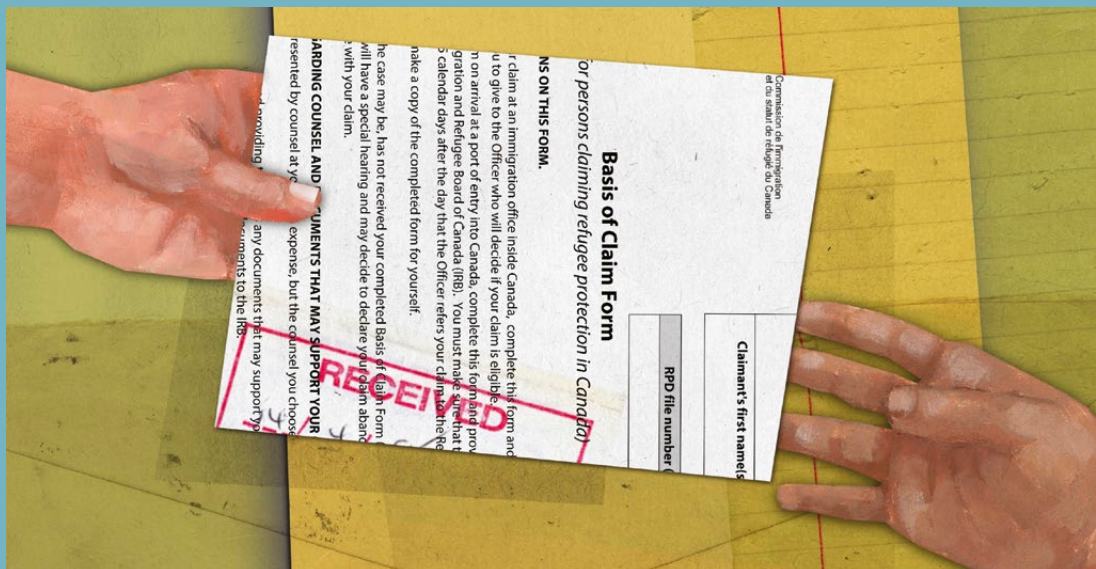
Find the forms and instructions on how to complete them, at www.canada.ca/en/immigration-refugees-citizenship/services/application/application-forms-guides/applying-refugee-protection-canada.html.

? Do I need to complete and submit a BOC Form for each of my children?

Children 6 years old or younger who are claiming refugee protection with a parent must complete sections 1a–1g on page 2 of the BOC Form only.

The form must be signed by the child's parent or Designated Representative (see page 40). Children 7 to 17 years old who are claiming refugee protection with a parent must complete the entire BOC Form. The BOC Form must be signed by the child's parent or the Designated Representative.

Submitting your Basis of Claim (BOC) Form



Review your BOC Form carefully with your lawyer before you submit it. Be sure it is complete and accurate, and that you understand what is written in it. If you are completing the BOC Form by yourself, ask a lawyer or legal advice clinic to review your form to make sure it is clear and includes all important details.

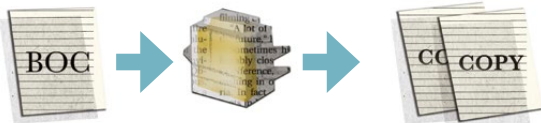
- ! Be sure to keep a copy of your BOC Form, and every other document or form that you submit.

How, when and where you submit your BOC Form will depend on where you make your refugee claim.

A. If you claimed at an airport, land border, or seaport:

You have 15 days from the date you are given a BOC Form to submit it to the IRB-RPD. If your deadline falls on a Saturday, Sunday, or holiday, it is changed to the next working day (Monday–Friday). Check your timeline on page 6.

1



Make 2 photocopies of your completed, original BOC Form.

2



Submit your original BOC Form and 1 copy to the IRB-RPD in person or by courier. **Do not send your BOC Form by regular mail.** If you have less than 20 pages in total, you can submit it by fax (604-666-3043).

IRB-RPD

300 West Georgia Street, Suite 1600
Vancouver BC, V6B 6C9

3



Keep 1 copy of your BOC Form for your own records. If you submit your original BOC Form in person, ask the IRB-RPD to stamp your copy “RECEIVED” as proof that you submitted your original. If you **courier** your BOC Form, keep the receipt as proof. If you **fax** the BOC Form, keep the sheet that says that the fax was sent successfully.



What if I cannot complete my BOC Form on time?

If you cannot meet your BOC Form deadline because of an emergency, write to the IRB-RPD at least 3

working days before your BOC Form deadline to ask for more time. If you do not receive a reply, submit your form on the original deadline, even if it is not finished. Include a letter explaining to the IRB-RPD why you could not complete it on time.

B. If you claim at an IRCC office inside Canada:

Complete the BOC Form and all the other applications with your lawyer, if you have one.

1

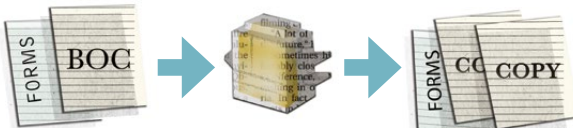


Illustration showing a stack of forms labeled 'BOC' and 'CC COPY' with arrows indicating a process flow.

Make a photocopy of your completed, original BOC Form and all IRCC application forms for you to keep for your records.

2



Illustration showing a stack of forms labeled 'BOC' and 'CC' along with four small photo icons.

Take your BOC Form, your IRCC application forms, and 4 photos of each family member who is included in your refugee claim to the IRCC office (see page 7 for the IRCC address).

For photo instructions, go to www.canada.ca/en/immigration-refugees-citizenship/services/application/application-forms-guides/guide-5746-applying-refugee-protection-within-canada.html#appendixA.

(When you submit your forms, an IRCC officer will tell you a date to return for an Eligibility Interview to determine whether you are eligible to make a refugee claim in Canada. At that interview, if the officer decides you are eligible, your case will be sent to the IRB-RPD.)

3



Illustration showing a passport and a BOC Form.

When you submit your forms to IRCC, bring your passport or other identity document. IRCC will keep the original document, and give you a certified photocopy.

If you have other supporting documents ready at this time, translate them into the language you choose for your hearing (English or French). Make copies of your supporting documents and submit 1 set to IRCC with your BOC Form. Keep 1 set for your own records. Make sure your lawyer has a chance to review all documents before you take them to IRCC.

? What if I forgot something or made a mistake on my BOC Form?

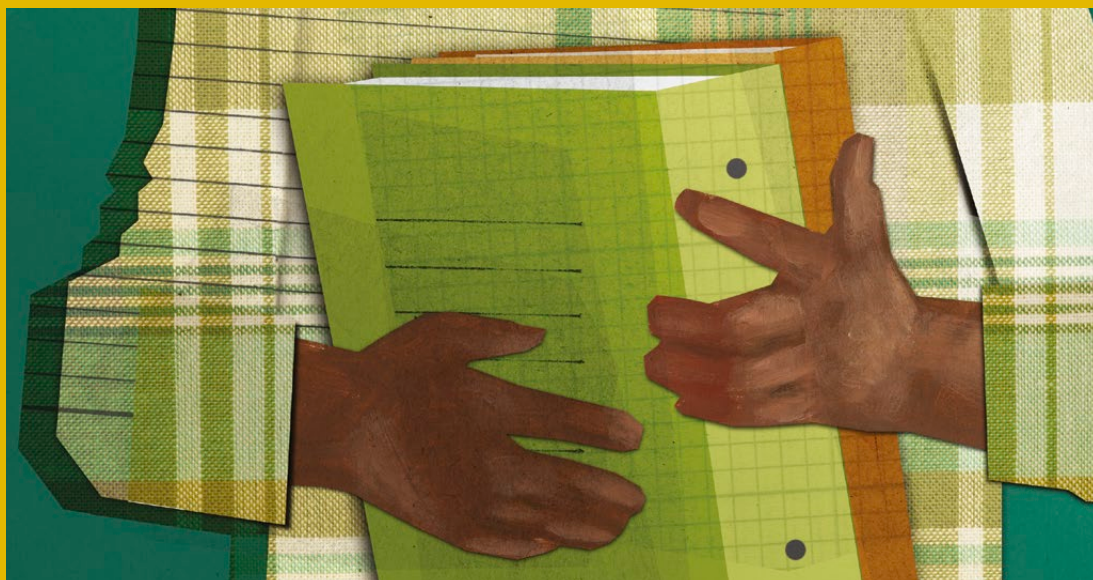
You or your lawyer should contact the IRB-RPD! Follow these steps:

- Make the change on your copy of the BOC Form and underline it. Then sign your name and date each page where you have made a change.
- Write a letter explaining why you made these changes. Write, "These changes are complete, true,

and correct, and I understand that the declaration is of the same force and effect as if made under oath." Sign and date your letter.

- Submit 1 copy of the original pages and the changed pages with your letter to the IRB-RPD at least 10 days before your hearing.
- Keep a copy for your own records.

Gathering Evidence: Overview



It is important to gather evidence that supports your claim. This means collecting as many documents as you can that show you are telling the truth about what happened to you in your country. These documents also help the IRB-RPD Presiding Member understand the human rights conditions in your country that are relevant to your claim. **All documents must be translated into English or French before you give them to the IRB-RPD.**

Start gathering supporting evidence now! If you have a lawyer, ask what specific evidence you need for your claim and keep the lawyer updated about what documents you have received. Make sure you give the lawyer enough time to review the evidence and get it translated.

In general, you must provide two kinds of supporting evidence.

1 Evidence that is specific to your claim:

a This type of supporting evidence shows that you are personally at risk. For example:

- Are there photographs, letters, videos, emails, or other documents that show the problems you had? Get them!
- Did you go to the police or another government agency for help? Get a copy of the police report or other proof of your visit.
- Did you get medical help? Get your hospital or doctor's records.
- Are there news articles about people who are connected to your case? Get them!
- Are there people who witnessed what happened to you? Ask them to write what happened and send it to you. If possible, ask this person to swear (declare) their statement is true in front of a lawyer or notary.
- Are there people who have experienced problems that are similar to yours? Ask them to describe their experiences in writing. If possible, ask this person to swear their statement is true in front of a lawyer or notary.
- Is your claim based on your religious identity or membership in a political party or other group? Get documents that show your membership.
- Has your mental health suffered because of what happened to you? Get a report from a doctor or psychologist in Canada which documents your health problems. It can take a long time to get the report, so make an appointment as soon as possible. If it's not possible to get the report before your hearing, write to the IRB-RPD to explain that you are trying to get a report, what efforts you have made to get the report before the hearing, and the date that you expect the report will be ready. Ask the IRB-RPD to postpone the hearing until you receive the report. *The IRB-RPD may tell you that you must proceed with the hearing on the scheduled date.* If so, be sure to describe your mental health problems at the hearing, and explain how they affect your memory and your ability to describe what has happened to you.



? Do videos, websites, or other electronic documents need to be translated?

Yes! All evidence that you obtain must be translated into English or French. Videos must be transcribed. Translation can be very expensive. If you can't afford to translate everything, choose the most important

documents. Tell the IRB-RPD in writing that you have other documents that you could not afford to translate. Take them to the hearing and explain to the Presiding Member what the documents show. (See page 29 for more information about translations.)

b You will also need identity documents to prove your citizenship and to support your explanation of why you are at risk in your country (see page 23 for examples). If you obtain identity documents after your eligibility interview, you must send copies of your identity documents to the IRB-RPD as soon as possible.

2 Evidence of human rights conditions in your country:

This type of evidence includes reports from well-respected sources that document human rights abuses, political events, and other news that relate to your claim.

For example:

- The IRB-RPD's National Documentation Package (NDP) for your country can be found at: www.irb-cisr.gc.ca (search "NDP" and select your country).

The NDP for your country is produced by a research unit of the IRB-RPD. It contains documents that describe the conditions in your country and is divided into sections. Read the sections that apply to you. The Presiding Member at your hearing will use the information in these documents to help him or her make a decision on your claim. *Many of the reports in the NDP may be over a year old. You should provide updated reports where possible.*



- Recent reports from human rights organizations (e.g. Amnesty International, Human Rights Watch), United Nations reports, U.S. State Department Country Reports, news articles, or videos showing human rights abuses in your country. Some of these reports can be found in the NDPs mentioned above, but you should see if there are more recent reports.
- Articles and reports from newspapers and human rights organizations in your country.
- You may submit a maximum of 100 pages about country conditions to support your refugee claim. If you need to submit more than 100 pages you must make an application to the IRB with an explanation of why each additional document is important to your refugee claim. The NDP for your country is automatically included in your refugee claim so you do not need to copy and submit those articles to the IRB-RPD.

? What if I cannot get some documents before my hearing?

You should explain at your hearing why you could not get them. Describe the efforts you made (emails,

letters, courier, phone calls,) and the dates on which you tried to get them. Bring copies of these emails, letters or courier slips to your hearing.

Gathering Evidence: Legal Definitions



To be successful at your refugee hearing, you must provide evidence that shows you meet every part of the legal definition of either "Convention Refugee" or "Person In Need of Protection" as defined in the Immigration and Refugee Protection Act. The IRB-RPD will consider which definition applies to you when assessing your claim. If you are a citizen or permanent resident of more than one country, you must show that you are at risk in each country. The following pages will help you understand what factors the IRB-RPD Presiding Member will consider during your hearing, and what type of evidence you should gather for each definition.

For examples of evidence, see pages 17, 18 and 23–27 of this Guide.

"Convention Refugee" Definition

(See Section 96 of the Immigration and Refugee Protection Act)

To meet the definition of "Convention Refugee," you must show that you meet all six parts of the definition below:

Do you meet this part of the definition?

What pieces of evidence can you gather to show that you meet this part of the definition?

- 1 If I return to my country, there is a serious possibility I will face persecution
(Legal Issue: Persecution),
and
- 2 this persecution is based on my:
race / religion / nationality / political opinion
/ or membership in a particular social
group*
(Note: The term "social group" refers to many
kinds of groups, including groups based on
gender, sexual orientation, disability, family,
trade unions etc.),
and
- 3 I am genuinely afraid to return to my country
(Legal Issue: Subjective Fear),
and
- 4 I have good reason to be afraid based on the
situation in my country,
and
- 5 my government cannot protect me
(Legal Issue: State Protection),
and
- 6 I cannot live safely in any other part of the
country or it is not reasonable for me – given
who I am – to move to another part of the
country.
(Legal Issue: Internal Flight Alternative).

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see page 41


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see page 24


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see page 26


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see page 26



* If you are a woman you may want to read the guidelines about the special kinds of persecution that women face.

UNHCR guidelines:
www.refworld.org/pdfid/3d36f1c64.pdf

IRB guidelines: <https://irb-cisr.gc.ca>
(search: Chairpersons Guideline 4)

If you are gay or lesbian or transgendered, you may want to read the guidelines on persecution based on sexual orientation:

UNHCR guidelines: www.unhcr.org/509136ca9.pdf

IRB Guidelines: <https://irb-cisr.gc.ca>
(search: Chairperson's Guideline 9)

"Person in Need of Protection" Definition

(See Section 97 of the Immigration and Refugee Protection Act)

To meet the definition of "Person In Need of Protection," you must show that Part 1 OR 2 below is true for you:

Do you meet this part of the definition?

What pieces of evidence can you gather to show that you meet this part of the definition?

1 If I return to my country, I am likely to face torture by the authorities in my country.

☐


OR

2 If I return to my country, I am likely to face risk to my life, or risk of cruel and unusual treatment or punishment,
and

☐


a my government cannot protect me
(Legal Issue: State Protection),
and

☐
 see page 26

b I cannot live safely in any other part of my country or it is not reasonable for me – given who I am – to move to another part of my country
(Legal Issue: Internal Flight Alternative),
and

☐
 see page 26

c this risk is specific to me and NOT shared by the general population in my country
(Legal Issue: Generalized Risk),
and

☐
 see page 25

d this risk is NOT because my country wants to punish me for committing an act which is a crime in Canada
(Legal Issue: Fear of Prosecution, not Persecution),
and

☐


e this risk is NOT because of inadequate medical care in my country.
(You may get protection if you can show that you are being denied medical care because of discrimination.)

☐


Gathering Evidence: Legal Issues



Some of the legal issues that may be addressed at your refugee hearing are:

- Identity
- Credibility
- Subjective Fear
- Generalized Risk
- State Protection
- Internal Flight Alternative
- Legal Residence in Another Country

Each of these legal issues connects to a different part of the legal definition of "Convention Refugee" or "Person in Need of Protection."

On the following pages, carefully read the description of these legal issues. Under each issue, list the pieces of evidence that you will gather to address that issue.

- ! Get advice from a lawyer about what legal issues will be most important in your claim.

Identity

You must show the IRB-RPD that you are who you say you are. This includes your identity as a citizen or a permanent resident of your country or countries of residence. It may also include your affiliation with a particular religion or ethnicity, your professional, political, or union membership, your sexual orientation, or your membership in another kind of social group. If you cannot obtain documents confirming an aspect of your identity that is relevant to your claim, you will have to explain why at your hearing.

You could be detained if you have no identity documents or if CBSA wants to determine whether your identity documents are genuine.

Examples of evidence:

- to prove you are a citizen of your country: passport, national identity card, military service, marriage certificate, school transcripts
- to prove your religious affiliation: baptismal certificate, letter from your religious leader
- to prove your political or professional affiliation: membership card, letter from organization, transcripts proving professional training, diplomas
- to prove your sexual orientation: letter from a community group, partner, or family member. These witnesses should give as many details as they can to show how they know you are part of the LGBTQ community



My evidence:

Credibility

You must show the IRB-RPD that you are telling the truth about your experiences. To decide if you are telling the truth, the IRB-RPD will compare the information on your BOC Form, your oral testimony at your hearing, news stories and human rights reports, and the testimony of other witnesses to make sure they are consistent. If there are contradictions that you cannot explain, the IRB-RPD may decide that you are not credible. You can support your credibility by gathering documents that confirm specific details of your story are true. Unfortunately, we often have trouble remembering details, of our own experiences as well as the experiences of others. If you ask other people to testify at your hearing, explain to them why their testimony is relevant to your claim. Explain to them that the IRB-RPD Member will decide whether they

are credible, based on whether there are contradictions within their own evidence or contradictions between their evidence and yours.

Examples of evidence:

- country reports showing human rights abuses that are similar to, or confirm, those in your claim
- medical/hospital records or receipts
- police reports
- photographs showing injuries
- sworn statements from witnesses
- a letter from your doctor in Canada confirming scars or injuries



My evidence:



Subjective Fear

To meet the definition of “Convention Refugee” you must show that you have a genuine fear of persecution in your country of origin. To decide whether your fear is genuine, the IRB-RPD considers questions such as:

- a. Did you return to your country of persecution after you left?

(Legal Issue: Re-availment)

- b. Did you pass through another safe country (for example, the USA) on your way to Canada, but not make a refugee claim there?

(Legal Issue: Failure to Claim Elsewhere)

- c. After you experienced persecution in your country, did you stay in your country even though you had the opportunity to leave sooner?

(Legal Issue: Delay in Departure)

- d. Did you wait for a while before making a refugee claim after you arrived in Canada?

(Legal Issue: Delay in Claiming)



If your answer to any of these questions is “yes,” you will likely be asked to explain the reasons at your hearing. Gather evidence to support your explanation. Think about how you will explain the decisions you made. Be

prepared to explain to the Presiding Member why you didn't leave right away or why you didn't claim refugee protection sooner. Did you hope the situation in your country would

change? What were the challenges in leaving your country? Why didn't you make your claim as soon as you arrived?



My evidence:

Generalized Risk

You must show that the risk you face is personal and not the same general risk that everyone else in your country faces. This means that if you come from a country where there is a lot of violence, you will need to show why you, personally, are at risk.

If you come from a country where there is civil war, you should read the IRB guidelines on civilians fearing persecution in civil war situations: www.irb-cisr.gc.ca (search "civilian facing persecution"), to understand how you can show that you qualify for protection in a situation where many people are at risk.

If you fear violence from criminal gangs, you may want to read the UNHCR's "Guidance Note on Refugee Claims Relating to Victims of Organized Crime": www.refworld.org (search "refugee claims victims of organized crime").

Examples of evidence:

- any notes or recordings of phone messages you have received that contain threats of violence against you
- sworn statements from friends or other witnesses confirming that you, or others in a similar situation, have been the victims of violence
- photographs showing injuries or damage, medical records confirming treatment in your country, police reports from your country
- documentary evidence to show that you face a personal risk.



My evidence:

State Protection

You must show the IRB-RPD that your government cannot or will not protect you. The IRB-RPD assumes that your government can protect you unless you provide evidence that convinces them otherwise.

If you tried to get protection from authorities in your country but did not receive it:

- explain exactly what you did and how the authorities responded
- try to get documents showing that you sought protection
- try to find reports from your country showing that the authorities cannot or will not protect people in your situation

If you did NOT seek protection from authorities in your country:

- you must explain why and provide supporting documents to show that it would have been unreasonable for you to do so

Examples of evidence:

- country reports showing lack of police protection and/or corruption
- reports you made to the police
- sworn statements from people who are in a situation similar to yours and whom the authorities did not protect



My evidence:



Internal Flight Alternative (IFA)

If the IRB-RPD decides that it would be reasonable for you to live in another part of your country, your claim will not be accepted.



If this issue is addressed at your hearing, the IRB-RPD will tell you the specific region where they believe you could live safely.

You must provide evidence that:

- a. you cannot live safely in this other region, or
- b. it would be unreasonable for you to try to live in this other region (given your age, gender, or particular circumstance), or

- c. there is no way to get to that region, because it is inaccessible due to: war, natural disaster, or another reason.

Examples of evidence:

- documents showing that you tried to get away from the problem by moving to another part of your country
- reports that show the problem you face exists throughout the whole country. For example, the people who want to harm you operate all over the country, or the discrimination you fear exists in all parts of your country
- reports about your country that show why someone like you would have difficulty

living in another part of your country. For example, reports that describe the culture in your country and show why it would be hard for someone like you to move to

another region. You may also show that the area has been affected by civil war or natural disaster or other serious problems.

Note: It is NOT enough to say that you do not know anyone in another region of your country, or that you do not have a job in that area. After all, many refugee claimants do not know anyone or have work in Canada when they arrive. You must give a better reason than this.



My evidence:

Legal Residence in Another Country

If you are a citizen or permanent resident of more than one country, you must show that you are at risk in each country. Canada will only protect you if you meet the definition of a refugee or protected person *in each country* in which you have a right to live. If Canada finds that you are at risk in one country, but can live safely in another country, your claim will be denied.



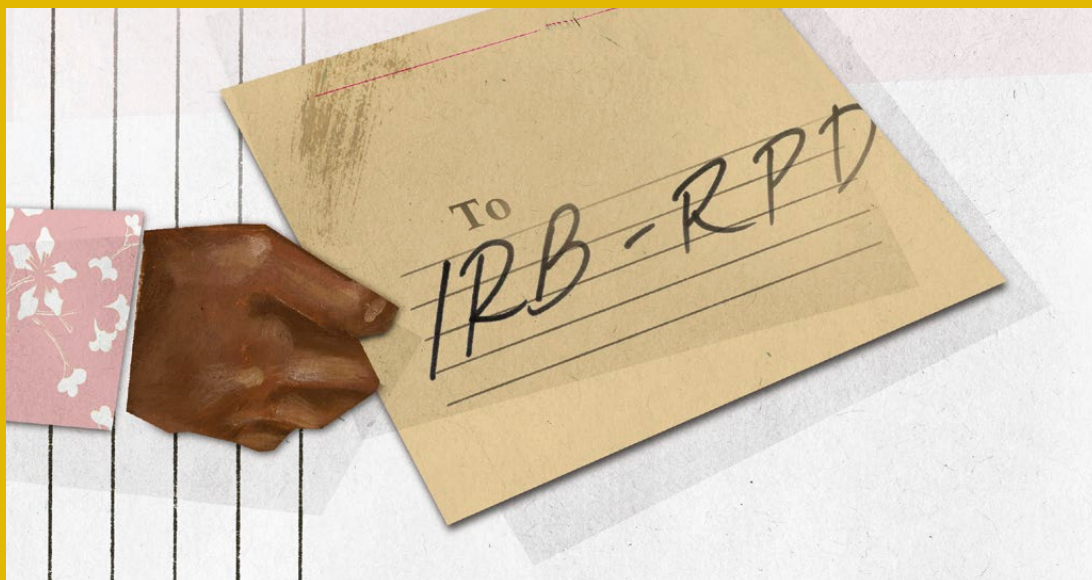
Examples of evidence:

- If you have the right to live in more than one country, you may face similar or different types of risk in each country. Think about the kind of risk you face in each country, and submit as much evidence as you can of that risk.
- It may be that the IRB-RPD thinks you have the right to live in another country, but you do not believe that to be correct. If you used to be a citizen or permanent resident of another country but have lost that right, give the IRB-RPD a letter or document from the government of that country which shows that you no longer have the right to live there.
- If you were born in a country but never acquired citizenship in that country, give the IRB-RPD a copy of the citizenship law for that country. (Usually you can find this on the internet.)



My evidence:

Submitting Your Evidence



All your evidence must be translated into English or French and submitted to the IRB-RPD at least 10 DAYS before your hearing. If you have a lawyer, they will submit documents on your behalf. Make sure you give the lawyer enough time to review the evidence and get it translated before the deadline for giving it to the IRB-RPD. If you do not have a lawyer, follow steps 1–10 on the next page.

You must give the IRB-RPD the names of your witnesses 10 days before your hearing. Please see pages 34 and 37 for more information about witnesses.



Do not miss this deadline!

To submit documents and evidence that support your claim, follow these steps:

1 Translate your documents into French or English. For each document, include a translator's declaration with:

- the translator's name and signature
- the original language and dialect
- a statement by the translator that the translation is accurate

2 Print, scan, or photocopy your documents onto 8.5 x 11 inch, letter-size paper. Typed documents must be at least size 12 font.

3 Put your documents together (to make one larger document) and number the pages from first to last (1, 2, 3, 4, 5...).

4 Add a cover page with your name and address, the date, your IRB-RPD file number, a list of all your documents and their page numbers.

5 Make 2 photocopies of your document package (one for the IRB-RPD and one for your own records).

6 If the Minister's Counsel (a representative from CBSA or IRCC) will participate in your hearing, you must also make a copy of your document package for them. You will know if the Minister's Counsel is participating in your hearing because they will send you a notice at least 10 days before the hearing.

7 Submit one copy of your document package to the IRB-RPD in person or by courier. If you choose to send it by mail, be sure to mail the package at least 17 days before the hearing, to ensure time for delivery. Your document package must be received by the IRB-RPD 10 DAYS before your hearing. If your package has less than 20 pages, you can send it by fax.

IRB-RPD
300 West Georgia Street, Suite 1600
Vancouver, BC V6B 6C9
Phone: 604-666-5946 Fax: 604-666-3043

Monday to Friday 8:00 am – 4:00 pm

8 If you submit your documents in person, ask the IRB-RPD to stamp the copy you are keeping "RECEIVED" as proof that you submitted your documents. If you submit by **courier**, keep the receipt as proof. If you submit by **fax**, keep the sheet that proves the fax was sent successfully.

9 If the Minister's Counsel is participating in your hearing, submit one copy of your document package to CBSA or IRCC (whichever agency will be participating in your hearing). The address for CBSA or IRCC will be on the Notice of Intervention which the Minister sends you. Also, write a letter to the IRB-RPD telling them that you have sent a copy to CBSA or IRCC.

10 Bring all paperwork related to your claim, including originals and copies, to your hearing.

? Do I need a certified translator to translate my documents?

Certified translators are best, but not required. If you cannot pay for a professional translator, you can have someone else you trust (preferably not a relative) translate your documents for you. This person must sign a translator's declaration.

? What if I cannot get an important document until after my document deadline or after my hearing?

Write to the IRB-RPD and tell them. When your document arrives, submit it as soon as possible. Explain why the document is important to your case and what efforts you made to get the document on time.

Staying Healthy as You Prepare

// Before my hearing I worried a lot and I couldn't sleep.
Waiting was very stressful. //

—Saman, former refugee claimant



For most people, the time before their hearing is very difficult. See what these other refugee claimants did to stay healthy.

"I tried to relax and think I would be okay."

–Ahmed

"I tried to remember as much as I could about what happened to me. The more I tried to remember, the more details came back to me."

–Benoit

"I talked to my family on Skype."

–Mohamed

"I went swimming and did other types of exercise."

–Victoria

"I went to the READY Tour to see the hearing room and learn how the hearing will be"

–Antonella

"I imagined seeing myself sitting in the hearing room, answering the difficult questions."

–Maria

"I tried to stay busy. I took English classes and went to the community centre."

–Dawit

"I found a volunteer job, and that kept me busy and made me feel normal."

–Tefaye

"I worked hard on my case gathering as much evidence as possible. This made me feel like I was doing something useful."

–Claude

"I looked at web sites and found information about the hearing process."

–Jagathragavan

"When I was walking, I would practice answering questions."

–Sara



What I do to stay healthy:

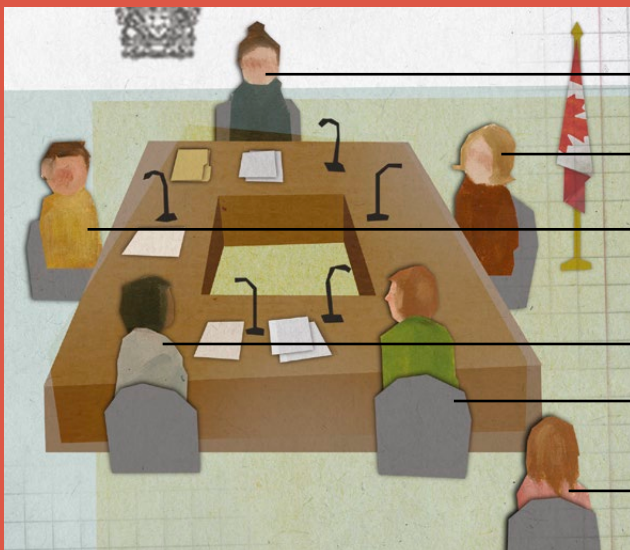
Your Hearing Day

Your hearing is the central event of your refugee claim process. You may have many questions as you prepare for your hearing day.

Where will my hearing be? Immigration and Refugee Board – Refugee Protection Division
300 West Georgia Street, Suite 1800
Vancouver BC

When should I arrive? At least 15-30 minutes before your scheduled hearing time. This gives you time to find the hearing room, speak with the interpreter to make sure you understand each other, use the washroom, and get yourself organized. If you have observers or witnesses, they should arrive at least 15 minutes before the hearing.

Who will be at my refugee hearing?



Presiding Member
(Role: Makes the Decision)

Interpreter
Present if needed (Role: Neutral)

Minister's Counsel
A Representative from CBSA or IRCC is sometimes present. If so, they will tell you before your hearing. (Role: argues against you)

Your Lawyer
(Role: advocates for you. See page 9 if you don't have a lawyer.)

You

Observers

You may invite a friend or family member. A representative of the United Nations High Commissioner for Refugees (UNHCR) may attend your hearing.

How long will my hearing be? Usually about 3.5 hours. If your claim is being heard with other members of your family or if you have special needs, it may last a full day.

What will happen at my hearing?

1. **Introductions:** The Presiding Member will introduce everyone in the room and explain the hearing process to you. You will be asked to affirm to tell the truth. If you want to swear on a Holy Book from your religion, bring one to the hearing room.
2. **Exhibit List:** The Presiding Member will give an “Exhibit Number” to all the documents that have been filed in evidence. Make sure you have a copy of every document on the Exhibit list, and ask the Member for a copy of any document you don’t have. The Member will also look at the original documents that you bring to the hearing.
3. **Questioning:** The Presiding Member, the Minister’s Counsel (if present), and your lawyer (if you have one) will ask you questions about your history, your documents and the legal issues that are important to your case.
4. **Witnesses:** If you have witnesses, they will speak next. Witnesses will have to stay outside the hearing room until it is time for them to give evidence (see page 34).
5. **Comments:** At the end of your hearing, the Presiding Member will give your lawyer or you an opportunity to explain in your own words why you think the evidence shows that you meet the definition of “Convention Refugee” or “Person in Need of Protection.”
6. **Decision:** The Presiding Member may make a decision orally at the end of the hearing, or they may take more time and send you the decision in writing. In both cases, you will receive a “Notice of Decision” in the mail.

There is usually a short break about halfway through the hearing, when you can use the bathroom or get a drink.

What does it mean if the Minister’s Counsel (a representative of IRCC or CBSA) participates at my hearing?

The Minister’s Counsel (a representative of CBSA or IRCC) may participate in your refugee hearing. You will know before your hearing if the Minister’s Counsel will be involved, because they will send you a Notice of Intervention. The Notice will tell you whether the Minister will be present at the hearing or will only file documents. **READ THE DOCUMENTS CAREFULLY** – the Minister may argue that the documents show that your story is not true.

If the Minister's Counsel participates (intervenes) in your hearing, he or she will argue that you should not be given refugee status. The Minister's Counsel may oppose your claim for many reasons: they think you are not telling the truth, they have questions about your identity, they think you have committed a crime or belong to a terrorist organization, or for some other reason. You should ask the Minister why they are participating in your hearing if this has not been explained to you.

What do I need to bring to my hearing?

Bring your BOC Form, all your original identity documents and other evidence that you have submitted to CBSA, IRCC or IRB-RPD. Also bring any documents that the government sent you since your arrival in Canada.

Is my hearing confidential?

All refugee hearings are confidential. This means that all persons present in the hearing room, including the interpreter, cannot share information about your claim with any other person.

What if I do not understand something the interpreter says or I think the interpreter made a mistake?

If you think the interpreter may have made a mistake or you do not understand something that has been said during the hearing, tell the Presiding Member. If observers think the interpreter has made a mistake, they should tell your lawyer during the break or at the end of the hearing. If the interpreter makes a mistake interpreting something you say, repeat your original words or repeat the same idea using different words until you are satisfied with the interpretation. If you are still not satisfied with the interpretation, tell the Presiding Member.

Can I bring witnesses?

Yes. Your witnesses can participate in person, by telephone or by video. You will need to tell the IRB-RPD in writing that you are calling witnesses at least 10 days before your hearing. You must give the IRB-RPD (and Minister's Counsel, if they are participating) the witness' contact information, how the witness knows you (family, friend, community organization), how their evidence is relevant to your case, whether they will testify by telephone or in person, and how long you think they will testify. If you are calling an "expert witness", you will also have to provide information about the witness' qualifications. Witnesses participating in person will sit outside of the hearing room until it is time for them to speak. If your witness will be testifying by telephone you must bring a pre-paid phone card to the hearing to pay for the long distance call.

Can I bring friends?

Yes. Unless they have been named as witnesses, they will not be allowed to speak at the hearing, even if they have knowledge about your case. They will have to sign a form on the day of your hearing, stating they understand your hearing is confidential.

What does it mean if they tell me I am “excluded”?

It means that the IRB-RPD believes that you do not qualify for refugee protection, even though you may be at risk in your home country. For example, you may be excluded if you have committed a serious crime outside of Canada, or if there is another country where you can live safely with rights similar to a citizen. Exclusion is very serious. You will usually be told whether exclusion is an issue in your case before the hearing starts. If the IRB-RPD tells you that exclusion is an issue at the hearing, you should ask for an adjournment (a new hearing date) so that you have time to gather evidence and prepare legal argument to respond to their concerns.

Do I need to bring my children to my hearing?

If you have children who are included in your refugee claim, you will need to bring them with you to your hearing if they are 12 or over so that they can be introduced to the Presiding Member. Children 12 and older will usually be asked to leave the hearing room after they are introduced. If a Presiding Member wants you to bring your children under 12 to the hearing, they will send you a special letter. After the children have been introduced at the hearing, the Presiding Member will likely ask your children to leave the hearing room. Bring someone with you who can look after your children until your hearing is finished.

What should I wear?

On your hearing day, wear clothing that lets you feel comfortable, calm, and presentable. Your clothing should be clean and neat and allow you to feel like yourself, while showing that you recognize the importance of this day.

Is my hearing recorded?

Microphones in the hearing room record your hearing. If you get a negative decision you will be sent a copy of the recording. You can use the recording to show what was said at the hearing if you decide to appeal.

What if I feel upset or start to cry?

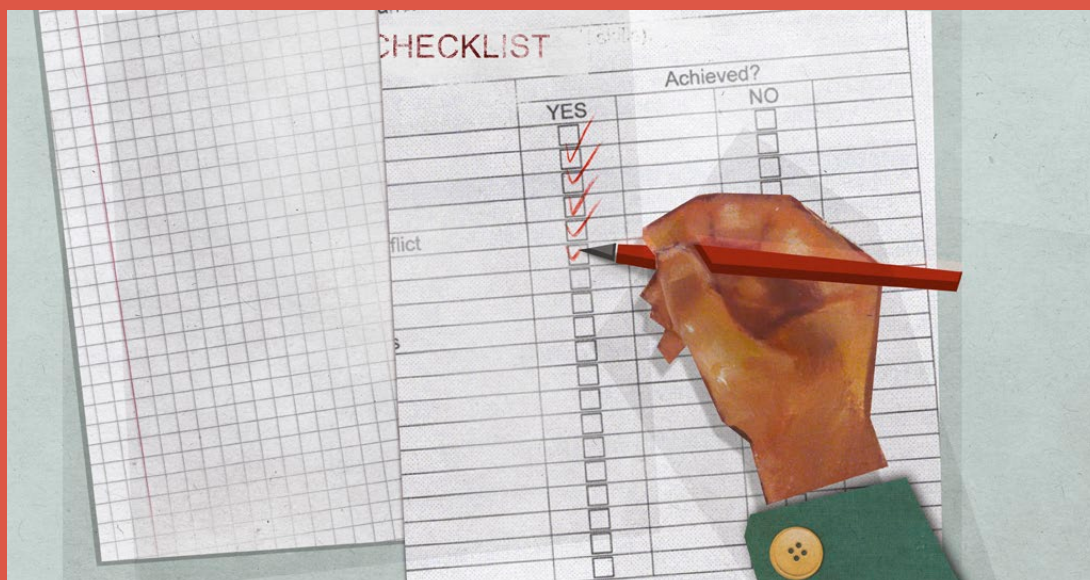
Don't worry. Many people cry in their refugee hearing. If you start to feel upset at any time during the hearing, you can take steps to calm yourself. For example:

- take 3 or 4 deep breaths
- ask for water
- ask for a short break



Remember, this is YOUR day. Do whatever you need to do to be as comfortable and relaxed as possible.

Hearing Preparation Checklist



Use the following checklist to help you prepare for your hearing. Review the checklist with your lawyer, if you have one.



- ☐ I have met with my lawyer (if I have one) and am well prepared for my hearing day.
- ☐ I have attended a READY Tour (see page 9), understand the hearing process and the layout of the hearing room, and know who will be at my hearing.
- ☐ I have translated into English or French, and submitted to the IRB-RPD, all my identity documents and relevant evidence (e.g. documents, videos, articles, etc.) at least 10 days before my hearing.
- ☐ If new incidents occurred or new evidence became available, even if it is less than 10 days until my hearing, I have translated the new documents into French or English and submitted them along with an application to the IRB explaining why the documents are late and why they are important to my case.

- ☐ If the IRB-RPD sent me any instructions requesting additional documents, I have submitted them. If I cannot obtain the requested documents, I am able to show what efforts I made to get them.
- ☐ I have re-read my BOC Form, checking that the information is correct and complete. If I found errors or missing details I have notified the IRB-RPD and my lawyer, if I have one.
- ☐ I have reviewed the legal definitions of “Convention Refugee” and “Person in Need of Protection” (see pages 20–21), and the legal issues that are most important to my refugee claim (see pages 23–27).
- ☐ I have all the paperwork for my refugee claim ready to take with me to my hearing (original identity documents, original copies of evidence I have submitted, a copy of my BOC and IRCC forms, and copies of all communication and documents from CBSA, IRCC, and IRB-RPD).
- ☐ I gave the IRB-RPD the names and contact information of witnesses who will testify in person or by telephone at least 10 days before my hearing (see page 34). I have told my witnesses what will happen at my refugee hearing, and why their evidence is important to my claim. I have also explained that the Presiding Member, a Minister’s Representative (if they are participating) and my lawyer may ask them questions to see whether their evidence is credible and consistent with my information. I made sure that my witnesses know the time, date, and location of my hearing. I have purchased a pre-paid long-distance calling card with enough time on it for my witnesses to be interviewed.
- ☐ I know I am allowed to bring an observer (friend, family, support person) to my hearing to support me. If I have decided to invite an observer, I have advised them of the time, date, and location of my hearing.
- ☐ I have arranged for childcare, if I have children. I know that the IRB-RPD Member has to see my children who are 12 and over at the beginning of the hearing.
- ☐ I am prepared for my hearing. I am able to explain why I am afraid to return to my country and have practiced answering questions with my lawyer, a family member or a friend.

? What if I need to change my hearing date or time because of an emergency?

You or your lawyer must:

- tell the IRB-RPD in writing at least 3 working days before your hearing
- give the IRB-RPD 3 other possible dates and times for your hearing that are within 10 working days of your original hearing date
- submit a medical certificate from your doctor, if your reason is medical; if you cannot obtain a medical certificate, you must include a letter explaining why you could not obtain one

If you do not receive a response from the IRB-RPD you *must* go to your hearing on the original date. If you do not go, you will have to attend a “special hearing” on the date indicated on your “Notice to Appear for a Hearing.” At your “special hearing,” your case may be declared “abandoned.” Also, If the Minister’s Counsel (a representative from IRCC or CBSA) participates in your hearing, you must send them a copy of your request. In your letter to the IRB-RPD, you must explain when and how you gave a copy to IRCC or CBSA.

After Your Hearing



Positive Decision:

If you receive a positive decision and the Minister does not appeal it within 15 days, you may apply to IRCC for permanent residence in Canada. You may include your spouse and eligible children inside and outside of Canada in your application.

Some groups of people may be told that they are Designated Foreign Nationals (DFN). If you are a DFN, you will need to wait 5 years before you can apply for permanent residence. CBSA or IRCC will inform you before the hearing if you are a DFN (see page 40).

Do not travel outside Canada before speaking to a lawyer. If you need to travel outside of Canada you should apply for a Refugee Travel Document. The application for the document can be found at www.ppt.gc.ca. Click on "Find a Form" and select one of the "Travel Document Applications."

Negative Decision:

If you receive a negative decision, talk to a lawyer about different options available to you:

- You may choose to leave Canada voluntarily, or
- If you are eligible to appeal, you may appeal the decision to the Immigration and Refugee Board of Canada – Refugee Appeal Division (IRB-RAD), or
- If you are not eligible to appeal, you may apply to the Federal Court for a Judicial Review of the decision.

If you appeal the negative IRB-RPD decision to the IRB-RAD:

- You will need to find help from a lawyer because the process is very complicated and time-consuming.
- You must apply to the IRB-RAD *within 15 days* of receiving your “Notice of Decision.” After this, you will have a further 15 days to “perfect” (complete) your appeal.
- If you received a negative decision on your refugee claim from the IRB-RPD you can request the opportunity to attend an IRB-Refugee Appeal Division Information Session by contacting: READY@refugeeclaim.ca as soon as you have received the negative decision.
- You are permitted to stay in Canada until a decision is made on your IRB-RAD Appeal.
- In most cases, there will not be a hearing. The appeal decision will be based on your written evidence and arguments and should be sent to you by mail.
- If the IRB-RAD denies your appeal, you may apply to the Federal Court for Judicial

Review. You are permitted to remain in Canada until a final decision is made on your Judicial Review application.

If you are not eligible to appeal to the IRB-RAD and you apply to the Federal Court for Judicial Review of the negative IRB-RPD decision:

- You will need to find help from a lawyer because the process is very complicated and time-consuming.
- You must apply to the Federal Court *within 15 days* of receiving your “Notice of Decision.”
- If you are called in by CBSA for removal procedures, you must inform your lawyer immediately. You may have to apply to the Federal Court for a “stay” (stop) of your removal so that you can remain in Canada while you wait for the Judicial Review decision.

For Federal Court addresses go to:
www.cas-satj.gc.ca/en/operations/locations.shtml

For information about appeals at the IRB-RAD go to:
www.irb-cisr.gc.ca/Eng/RefApp/Pages/RefApp.aspx



Am I eligible to make an Appeal to the IRB-RAD?

It is very important that you speak to a lawyer to determine if you are eligible to appeal a negative decision of the IRB-RPD to the IRB-RAD (Refugee Appeal Division). If you are not working with a lawyer, try to get advice from a lawyer or law student at one of the free legal advice clinics listed on page 44 of this Guide.

Some refugee claimants, such as those who are Designated Foreign Nationals, and claimants whom the IRB-RPD have said have “Manifestly Unfounded” claims or claims with “No Credible Basis” are not eligible to appeal at the IRB-RAD.



What is the difference between an Appeal and a Judicial Review?

In an Appeal, the decision maker is a member of the IRB-RAD and can make a new decision on your claim. In a Judicial Review, the decision maker is a Federal Court judge who can only decide whether the Presiding Member at your hearing made a legal error in making their decision. If the judge decides there was an error, your claim will be sent back to the IRB-RPD for a new hearing.

If you are eligible to appeal to the IRB-RAD, you must complete your appeal before you can apply for a Judicial Review.

Definitions

Abandoned claim:	If you miss your BOC deadline or your hearing, the IRB-RPD may declare your claim “abandoned.” This means that you will not be allowed to continue with your claim or make another claim in the future. If your claim is declared “abandoned” you can apply to have it re-opened, but this is a very difficult application to win.
Designated Foreign National (DFN):	A person who arrives in Canada as part of a group of people that the Canadian Government identifies as an “irregular arrival.” DFNs have special rules that apply to their claim process and to their detention.
Designated Representative:	A person chosen by the IRB-RPD who is responsible for protecting the interests of a child under 18 years old or an adult who cannot understand the refugee process on their own. This person is usually a parent, but can be another family member, a friend or a social services worker.
Excluded person:	A person who cannot be considered a “Convention Refugee” or a “Protected Person.” For example: • a person who has committed a serious crime outside of Canada • a person who has the right to permanent residence or citizenship in another safe country
File review process:	This refers to claims that can be decided without a hearing. The IRB-RPD will notify you if you are being considered for this process.
Persecution:	In general, persecution refers to serious harm that threatens or violates human rights and that is repeated or persistent in nature. The legal definition is complicated and it is recommended that you consult a lawyer to know how the definition applies to your claim. Torture, beatings, death threats, forced sterilization, forced female circumcision, forced marriage, imprisonment for non-violent political activities, and rape are examples of persecution.

Short hearing:	Two hour hearings may be scheduled by the IRB-RPD when the IRB believes there are only one or two issues, apart from the claimant's credibility, that need to be reviewed to be able to make a decision on the claim.
Special hearing:	A hearing to decide if your refugee claim will be declared "abandoned." You must attend a "special hearing" if you miss the deadline for submitting your BOC Form or if you do not attend your refugee hearing. Dates for your "special hearings" are listed on the "Notice to Appear for a Hearing" that you receive at the beginning of your refugee claim.
Vulnerable person:	A vulnerable person is someone who, for a very particular reason, would struggle with a regular hearing and needs special changes. They may be vulnerable because of illness, or age, or because their experiences have been so traumatic that they have trouble describing what happened. What kind of changes can you ask for? For example, if you know you become overwhelmed and confused, you may ask for frequent breaks. If you are a woman who has experienced sexual assault or other problems that would be hard to describe to a man, you may ask for a female Presiding Member and female interpreter. If you are traumatized by past events, you can ask for a Presiding Member who is especially sensitive to the effects of trauma. If you are a vulnerable person, you or your lawyer should tell the IRB-RPD immediately. Let the IRB-RPD know what changes to the hearing process would make it easier for you to present your case. In some cases, it is helpful to support your request with a letter from a doctor. If the IRB-RPD decides that you are vulnerable, they will make special arrangements to make it easier for you to testify.

Government Institutions



Three government institutions are involved in the refugee claim process: the IRB-RPD, IRCC, and CBSA. *If you change your address or phone number, you must **contact each institution separately** with your new information.* When you write to the IRB-RPD, include your name and your IRB File Number or your Client ID (UCI). When you write to IRCC or CBSA, include your name and Client ID (also known as UCI). The Client ID or UCI can be found on your Refugee Protection Claimant Document.



Immigration and Refugee Board of Canada – Refugee Protection Division (IRB-RPD)

Role in your claim process:

- reviews your Basis of Claim (BOC) Form
- conducts your refugee hearing
- decides whether your refugee claim is accepted or rejected
- provides orientation to the refugee hearing through the READY Tour

Contact information:

300 West Georgia Street, Suite 1600
Vancouver BC, V6B 6C9

Office hours: 8 am – 4 pm, Monday to Friday

Telephone: 604-666-5946 or 1-866-787-7472

Fax: 604-666-3043

Website: www.irb-cisr.gc.ca

The IRB change of address form can be found at: www.irb-cisr.gc.ca (search for “Notification of Client Contact Information”). It can be submitted in person, by mail or by fax.

Immigration, Refugees and Citizenship Canada (IRCC)

Role in your claim process:

- processes your application to begin a refugee claim (from within Canada) and decides if you are eligible to make a claim
- if you are eligible, passes your claim information to the IRB-RPD
- may oppose your claim by sending written documents or a representative, called the Minister’s Counsel, to argue against you at your hearing

Additional responsibilities:

- processes work permits and Interim Federal Health Insurance

Contact information:

1148 Hornby Street
Vancouver BC, V6Z 2C3

Office hours: 8 am – 4 pm, Monday to Friday

IRCC Call Centre: 1-888-242-2100

Website: www.cic.gc.ca

To change your address on-line with IRCC:
www.canada.ca (search: ircc web form)

Canada Border Services Agency (CBSA)

Role in your claim process:

- processes your application to begin a refugee claim at a Port of Entry (border, seaport, or airport) and decides if you are eligible to make a claim
- if you are eligible, passes your refugee claim information to the IRB-RPD
- may oppose your claim by sending written documents or a representative, called the Minister’s Counsel, to argue against you at your hearing

Additional responsibilities:

- controls Canada’s borders and decides who can enter Canada and who must leave
- arranges your removal from Canada, if you receive a negative decision on your refugee claim
- has the right to detain you if they cannot confirm your identity, if they believe you may be a danger to Canadian society, or if they believe you are not going to comply with one of Canada’s immigration laws. (If you are detained, you have the right to a lawyer and a hearing will be held to discuss your release.)

Contact information:

Library Square, 7th Floor
300 W. Georgia Street
Vancouver BC, V6B 6C9

Office hours: 8 am – 4 pm, Monday to Friday

Telephone: 1-800-461-9999

Website: www.cbsa-asfc.gc.ca

Refugee Hearing Related Services for Claimants

Legal Advice, Representation and Education

Legal Services Society

604-601-6076 or 1-888-601-6076 (free call)
510 Burrard Street, Suite 400, Vancouver
Provides free legal representation, including BOC preparation, to eligible refugee claimants.

READY Tour

604-328-3132
www.refugeeclaim.ca (register on-line)
The IRB-RPD presents an information session about the refugee hearing in a hearing room of the Refugee Protection Division.

University of Ottawa Refugee Assistance Program (UORAP)

www.ccrweb.ca/en/uorap
Provides on-line resources to assist claimants in gathering evidence to support a refugee claim.

Law Students' Legal Advice Program

604-822-5791
Provides free legal advice and representation.

Access Pro Bono Society

604-878-7400 or 1-877-762-6664 (free call)
Provides free legal consultations.

ISSof BC Legal Advocacy Program

2610 Victoria Drive
604-684-2561 Ext. 1624
<https://forms.office.com/Pages/ResponsePage.aspx?id=PvAlSUI14Kk-1YmUuoUwI2c6zHqIQNyNJoAFN942eCCdUOVdRSzE2U1ZPVFJUSkFKSFg5RUNCOTcyOS4u>
Provides free legal advice and representation.

Settlement and Hearing Support Services

Settlement Orientation Services (SOS/ISSofBC)

2610 Victoria Drive, Vancouver
604-255-1881
www.sosbc.ca
#301-10334 152A Street, Surrey
604-683-1684
www.issbc.org/welcome-centre-surrey

Mennonite Central Committee

660-East 51 Ave, Vancouver
604 325 5524

Vancouver Association for the Survivors of Torture (VAST)

2610 Victoria Drive, Vancouver
778 372-6596
vast-vancouver.ca
referrals@vast-vancouver.ca

Rainbow Refugee

Qmunity (LGBTQ)
1170 Bute Street, Vancouver
www.rainbowrefugee.ca
info@rainbowrefugee.ca

OPTIONS Community Services

#4 – 13634 104 Ave, Surrey
604-954-0482

InAsMuch Community Society

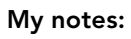
108A-32883 South Fraser Way, Abbotsford,
604-309-6661
hello@inasmuch.ca

MOSAIC

7134 King George Blvd., Surrey
778-591-9334 Ext 190
5575 Boundary Rd., Vancouver
604-254-9626 Ext 1011

BC211

www.bc211.ca
211 (free call)
Provides general information, referrals to agencies, safe shelter support, food clothing and transportation



My notes:

[illegible]



Please visit www.refugeeclaim.ca to read this Guide
(Metro Vancouver, BC) in:

- English
- French
- Spanish
- Simplified Chinese
- Arabic
- Farsi
- Sorani Kurdish
- Turkish

Thanks to the generosity of project partners:



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SETTLEMENT
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UNHCR
The UN Refugee Agency

And to the many experts (refugees, lawyers, service providers, others) who energetically and thoughtfully gave time, feedback, and creativity to develop and refine the RHP Guide, thank you.



The Kinbrace community welcomes refugee claimants.
We provide housing, education, and support.



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