

ONTARIO COALITION OF SERVICE PROVIDERS FOR REFUGEE CLAIMANTS R.A.D. APPEAL GUIDELINES

The following guidelines provide steps that can be taken by refugee houses/NGO staff to assist refugee claimants in submitting an appeal to the Refugee Appeal Division at the Immigration and Refugee Board when legal representation cannot be secured due to recent legal aid funding cuts.

- 1) Explain recent changes in obtaining legal aid services for RAD appeals and other immigration applications to client, as well as the general process of what a RAD appeal submission entails.
- 2) Discuss the client's financial situation regarding feasibility of paying for legal representation (dependent on circumstances), and determine if the client would otherwise be financially eligible to apply for legal aid certificate (prior to recent service cuts).
- 3) If the client likely would have been financially eligible prior to legal aid service cuts, contact Legal Aid Ontario and request to apply for a certificate for a RAD appeal at the Immigration and Refugee Board (although LAO is no longer issuing certificates for this, it is important that the request is formally made).
- 4) Assist client with registering for a *RAD Orientation Session* organized by the RAD-IRB and the Ontario Coalition of Service Providers for Refugee Claimants, or arrange for a conversation with RAD-IRB staff.
 - Both the orientation session and the conversation with RAD-IRB staff are held at the Immigration and Refugee Board office in Toronto, and can assist rejected claimants in preparing to navigate the RAD process.
 - The FCJ Refugee Centre can also arrange for a conversation over the phone with RAD-IRB staff if the appellant is outside the city of Toronto.
- 5) Contact the Refugee Law Office (Toronto, Hamilton, Ottawa) to request intake for assistance with submitting a RAD appeal at the Immigration and Refugee Board.
- 6) Contact local community legal clinic(s) to request intake for legal representation to submit a RAD appeal at the Immigration and Refugee Board.
 - Please consult a list of legal clinics to verify those assisting with RAD appeals, and confirm if the legal clinics applies a geographic catchment area for taking cases.
 - If a local area legal clinic(s) does not work, contact student legal clinics.
 - If no assistance can be obtained at legal clinics, contact refugee service providers or other pro-bono law services that you may know.
- 7) If no legal representation has been secured/agreed to after conducting aforementioned steps, assist client with submitting 'Notice of Appeal' form to the IRB, which is due 15 days after negative RPD decision has been received (also remember that the 'Appellant's Record' is due 30 days after negative RPD decision has been received). Alongside the 'Notice of Appeal' include a support letter from the assisting refugee house/NGO explaining the following:
 - That the appellant wishes to proceed with her/his appeal.

- That the appellant has attempted to access legal representation through the following channels (Legal Aid Ontario, Refugee Law Office, Community Legal Clinics, etc.) but has been unable to do so because of the recent funding cuts to Legal Aid Ontario.
 - That the 'Appellant's Record' is going to take additional time to put it together due to the lack of legal representation, and an extension of time for the 'Appellant's Record' to be submitted is required.
 - That your organization will continue to assist the appellant in seeking legal representation for assistance in submitting her/his 'Appellant's Record'.
- 8) If the RAD-IRB does not grant an extension of time to submit the 'Appellant's Record', and the RAD appeal cannot be submitted within the required 30-day timeline, but the appellant wishes to proceed with her/his appeal, follow-up written communication should be submitted from the appellant or the assisting NGO to the IRB (before the 30-day deadline) indicating:
- That the appellant intends to proceed with her/his RAD appeal, but they are unable to meet the 30-day deadline without access to legal representation.
 - That a formal 'Application for an Extension of Time' will be submitted alongside their 'Appellant's Record' (when the appeal is completed), outlining the reasons that the 30-day deadline could not be met given circumstances outside of their control.
- 9) Alternatively, if the RAD-IRB grants an extension of time to submit the 'Appellant's Record', but the appeal cannot be submitted within the extended timeline, follow-up written communication should be submitted from the appellant or the assisting NGO to the IRB (before the extended deadline passes) indicating:
- That the appellant intends to proceed with their RAD appeal, but they are unable to meet the extended deadline without access to legal representation.
 - That a formal 'Application for an Extension of Time' will be submitted alongside their 'Appellant's Record' (when the appeal is completed), outlining the reasons that the extended deadline could not be met given circumstances outside of their control.
- 10) If the appellant cannot obtain legal assistance to complete her/his appeal, the FCJ Refugee Centre is willing to guide and support unrepresented appellants to put together their own 'Application for an Extension of Time' and their 'Appellant's Record'.
- RAD-IRB staff, in collaboration with the FCJ Refugee Centre, is willing to train Refugee Coalition members and other community-based organizations on how to guide and support unrepresented appellants.
- 11) If/when any correspondence is received back from the IRB, please inform members of the Refugee Coalition's Legal Aid Subcommittee so they can remain updated on how RAD Appeals for unrepresented appellants are being responded to.

These are first steps that refugee houses/NGOs may consider taking while we work to better understand the immediate implications that service cuts to Legal Aid Ontario will have on refugee claimants in Ontario (and specifically the RAD appeal process at the IRB). Going forward, we will work to develop additional capacity and establish new processes/partnerships to ensure that refugee claimants without access to legal representation have as much information and support available to them as possible as they navigate the refugee determination system.