

ONTARIO COALITION OF SERVICE PROVIDERS FOR REFUGEE CLAIMANTS R.P.D. PREPARATION & REPRESENTATION GUIDELINES

The following guidelines provide steps that can be taken by refugee houses/NGO staff to assist refugee claimants in preparing for and representing themselves at the Refugee Protection Division of the Immigration and Refugee Board when legal representation cannot be secured due to recent legal aid funding cuts.

- 1) Before you start providing any information, guide and support to Refugee Claimant(s) about the Refugee Hearing Process, please prepared yourself the following resources as well as, give them to the refugee claimant seeking guides. The resources are:
 - i. CLEO: Refugee Claim Flowchart:
<https://refugee.cleo.on.ca/en/refugee-claim-flowchart>
 - ii. CLEO: Claiming Refugee Protection in Canada:
<https://refugee.cleo.on.ca/en/claiming-refugee-protection-canada>
 - iii. CLEO: Refugee Protection Hearing:
<https://refugee.cleo.on.ca/en/refugee-protection-hearing>
 - iv. Kinbrace: Preparation for the Refugee Hearing (different languages) www.kinbrace.ca/rhp-guide/update
 - v. Have your staff go through the self-guided UORAP training:
<https://refugee.cleo.on.ca/en/uorap>
- 2) Explain that due to the recent changes in legal aid funding, it is not possible to obtain a legal aid certificate for preparation and representation for a refugee claim hearing at the RPD-IRB.
- 3) Determine if the legal aid certificate was issued prior to April 15, 2019, and if client would be financially and/or merit eligible to keep the legal aid certificate for the refugee hearing.
- 4) Assist client with registering for an updated version of the *Ready Tour Orientation Session* organized by the RPD-IRB, the Refugee Law Office and the Ontario Coalition of Service Providers for Refugee Claimants, and the Refugee Hearing Program run by Matthew House Toronto (mock hearing preparation program).
 - The *Ready Tour* session for claimants will be held at the Immigration and Refugee Board offices in Toronto, and in the near future, at other locations in partnership with assisting refugee service providers in the City of Toronto. The Refugee Coalition and the RPD-IRB are also collaborating to deliver *Ready Tour* sessions outside the City of Toronto.
 - Refugee service providers may also try to arrange for a conversation over the phone with RPD-IRB staff (particularly if the claimant is outside the City of Toronto).
 - If additional support is still required, the FCJ Refugee Centre may be available to guide and support unrepresented claimants to prepare for and represent themselves at their refugee hearing.
- 5) Contact local community legal clinic(s) to request intake for legal representation for a refugee claim hearing at the Immigration and Refugee Board.
 - Please consult a list of legal clinics to verify those assisting with refugee claim representation, 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.

- 6) If the claimant(s) is facing compelling vulnerabilities (check refugee law criteria) contact the Refugee Law Office (Toronto, Hamilton, Ottawa) to request intake for assistance with refugee claim preparation and representation at the Immigration and Refugee Board.
- 7) Discuss the client's financial situation regarding feasibility of paying for legal representation (dependent on circumstances). If it is feasible to pay a lawyer, provide a list of lawyers and provide applicable information regarding lawyers that are accepting installments, etc.
- 8) If no legal representation has been secured/agreed to after conducting aforementioned steps, ensure that the claimant is connected with a refugee service provider to receive important information about the following:
 - The refugee claim process;
 - Preparation for refugee hearing, particularly the collection of evidence.
 - Assistance with critical settlement supports (housing, work permits, medical referrals, education, basic needs, etc.).
- 9) If the claimant receives a hearing date from the RPD-IRB, but they are still not able to provide payment for legal representation, and they have been unsuccessful in obtaining a lawyer/legal assistance through the aforementioned steps, the assisting refugee house/NGO can submit a support letter to the RPD-IRB explaining the following:
 - That the claimant wishes to proceed with her/his refugee claim.
 - That the claimant 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 claimant will require additional time additional time to prepare for their RPD hearing due to the lack of legal representation.
 - That your organization will continue to assist the claimant in seeking legal representation for assistance with their refugee claim hearing at the RPD-IRB.
- 10) If the RPD-IRB does not grant a postponement for the refugee claim hearing, and the claimant cannot adequately prepare to represent themselves at their RPD-IRB hearing, follow-up written communication should be submitted from the claimant or the assisting NGO to the IRB (at least a week prior to the RPD hearing) indicating:
 - That the claimant intends to proceed with her/his refugee claim, but they are unable to adequately prepare without access to legal representation.
 - That if the RPD-IRB proceeds with the scheduled refugee claim hearing, it should be noted on the record that the claimant does not wish to represent themselves, but is being forced to self-represent due to circumstances beyond their control.
 - That the RPD-IRB should consider how the claimant's access to justice is being impeded in this particular situation as they proceed with the refugee claim hearing.
- 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 RPD refugee claim hearings for unrepresented claimants 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 RPD hearing representation for unrepresented claimants). 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.