

THE REFUGEE CLAIM PROCESS



**FCJ
REFUGEE
CENTRE**

TOOLKIT



**The Law
Foundation
of Ontario**

Advancing access to justice

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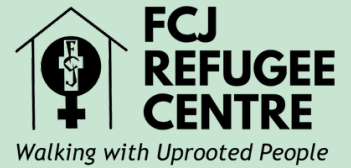
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Disclaimer: The following is for informational purposes only and does not constitute legal advice.

OVERVIEW



About this Toolkit

This toolkit is designed to help frontline workers navigate the refugee process and provide support to refugee claimants. The toolkit focuses on the front-end refugee process, including the crucial differences between Port of Entry and Inland claims.

Who We Are?

FCJ Refugee Centre serves refugees and others at risk due to their immigration status and welcomes anyone asking for advice, counsel, and support regarding these issues. We address systemic issues that newly arrived refugee claimants face in Canada including lack of resources, marginalization, and discrimination.

Countless people are touched by our services. Some become residents at one of the houses and use our refugee settlement services, while some only use the Centre's refugee protection services.

IMPORTANT INFORMATION

ABBREVIATIONS

BOC: Basic of Claim

CBSA: Canada Border Service Agency

IRCC: Immigration Refugee and Citizenship Canada

DCO: Designated Country of Origin

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

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

DEFINITIONS

Basis of Claim Form (BOC Form):

The most important form in the refugee claim process. Here claimants provide basic information about themselves and have a chance to explain why they are claiming refugee protection in Canada.

Convention Refugee:

Convention refugees are people who are outside their home country or the country where they normally live, and who are not able to return because of a well-founded fear of persecution based on a “Convention Ground” – race, religion, nationality, membership in a particular social group and political opinion.

Inland Office:

Any office of Immigration, Refugees and Citizenship Canada (IRCC) or the Canada Border Services Agency (CBSA) inside Canada.

Legal Aid:

A service offered by some provincial and territorial governments, whereby a government agency may pay certain legal fees of individuals who do not have sufficient funds to pay for a lawyer themselves.

IMPORTANT INFORMATION

Member:

The Refugee Protection Division (RPD) or Refugee Appeal Division (RAD) decision-maker who decides whether your claim will be accepted.

Minister's Participation:

When the Minister of Public Safety or the Minister of Immigration, Refugees and Citizenship decides to participate in your claim and becomes a party in the refugee protection process. A representative from the Canada Border Services Agency (CBSA) or Immigration, Refugees and Citizenship Canada (IRCC) (Minister's counsel) acts for the Minister before the Refugee Protection Division (RPD).

Abandoned Claim:

If you do not do everything necessary for the Refugee Protection Division (RPD) to make a decision on your claim, the RPD may declare your claim abandoned, meaning you lose the opportunity to have your claim assessed. This can happen if you do not provide your BOC form on time, if you fail to attend your hearing without providing notice, or if you do not contact the RPD when you are asked to do so.

Port of Entry (POE):

An airport, a seaport or a Canada-United States border crossing.

Refugee Appeal Division (RAD):

The Division of the IRB that decides appeals of decisions made by the Refugee Protection Division (RPD). In most cases, the RAD will proceed without a hearing, on the basis of the documents provided by the parties and the RPD record.

Refugee protection:

The protection given by Canada to a Convention refugee or a person in need of protection.

Refugee Protection Division (RPD):

The division of the Immigration and Refugee Board of Canada (IRB) that hears claims for refugee protection made in Canada and decides whether to accept them.

THE REFUGEE PROCESS

INLAND REFUGEE CLAIM

This process is for those who are already inside Canada and want to initiate a refugee claim; in practice, this means individuals who have entered Canada under some other immigration status (tourist visa, study permit, etc.), and people who have crossed into Canada in between official ports of entry.

PORT OF ENTRY REFUGEE CLAIM

These are refugee claims that are initiated at an official Port of Entry; in practice, this is usually either at Canada's land border with the US, or at an airport.

COMPONENTS OF A REFUGEE CLAIM

The Basis of Claim form (BOC) includes basic information about the Claimant and their family, and the reasons they are seeking refugee protection. This is usually accompanied by a Narrative (see below)

NARRATIVE AND EVIDENCE

This is a detailed story setting out why the Claimant is in danger in their country of origin and why they are seeking refugee protection in Canada.

IRCC PORTAL/FORMS

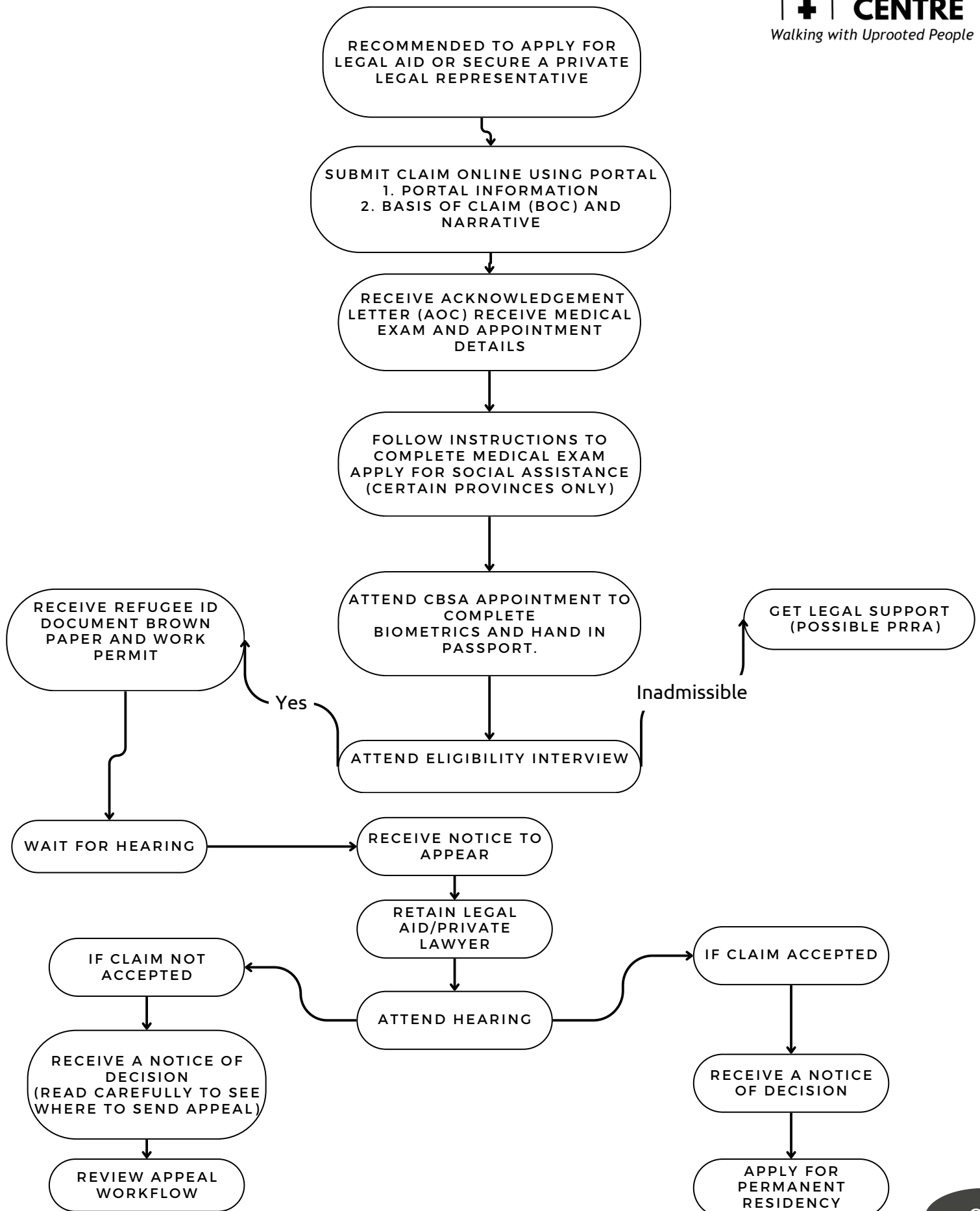
The [IRCC portal](#) is where you input general background information. In some cases, you may be asked to complete paper forms instead of the portal (these are known as the Generic, Sched. 12 and Sched. A forms).

If you wish to complete paper forms instead of portal, contact:
IRCC.RefugeePortalExemptionExemptionPortailRefugies.IRCC@cic.gc.ca



Make sure to tick the work permit box when filling out the portal!

Inland Refugee Claims Workflow



SPECIAL TIPS OF INLAND CLAIM

Please Note: An inland claim is not initiated until the portal and attached docs have been submitted:

- BOC/Narrative, as well as passport scan and Use of Representative form (if working with a lawyer/consultant)

Important

Claimants have 90 days to submit a claim once it has been opened on the Portal. After this, the claim will be deleted for privacy reasons. However, claimants may begin a new claim. While there is no hard deadline for submitting inland claims, excessive delays may cause issues

After Submitting the Portal

Claimants will receive an acknowledgment letter (which serves as a temporary ID), as well as instructions on medical exams (which must be completed within 30 days)

Inland Claimant Application Process: The Eligibility Interview

- The Claimant will be contacted by IRCC to attend an in-person biometrics appointment and eligibility interview with IRCC (sometimes there are two separate appointments).
- It usually takes at least a couple of months to get a date for an eligibility interview, but this can vary.
- At the eligibility interview, IRCC will confirm that the Claimant is eligible to continue with their claim (in practice, this usually means confirming the claimant does not have a record of serious criminality and has not made a previous refugee claim).

After Completing the Eligibility Interview

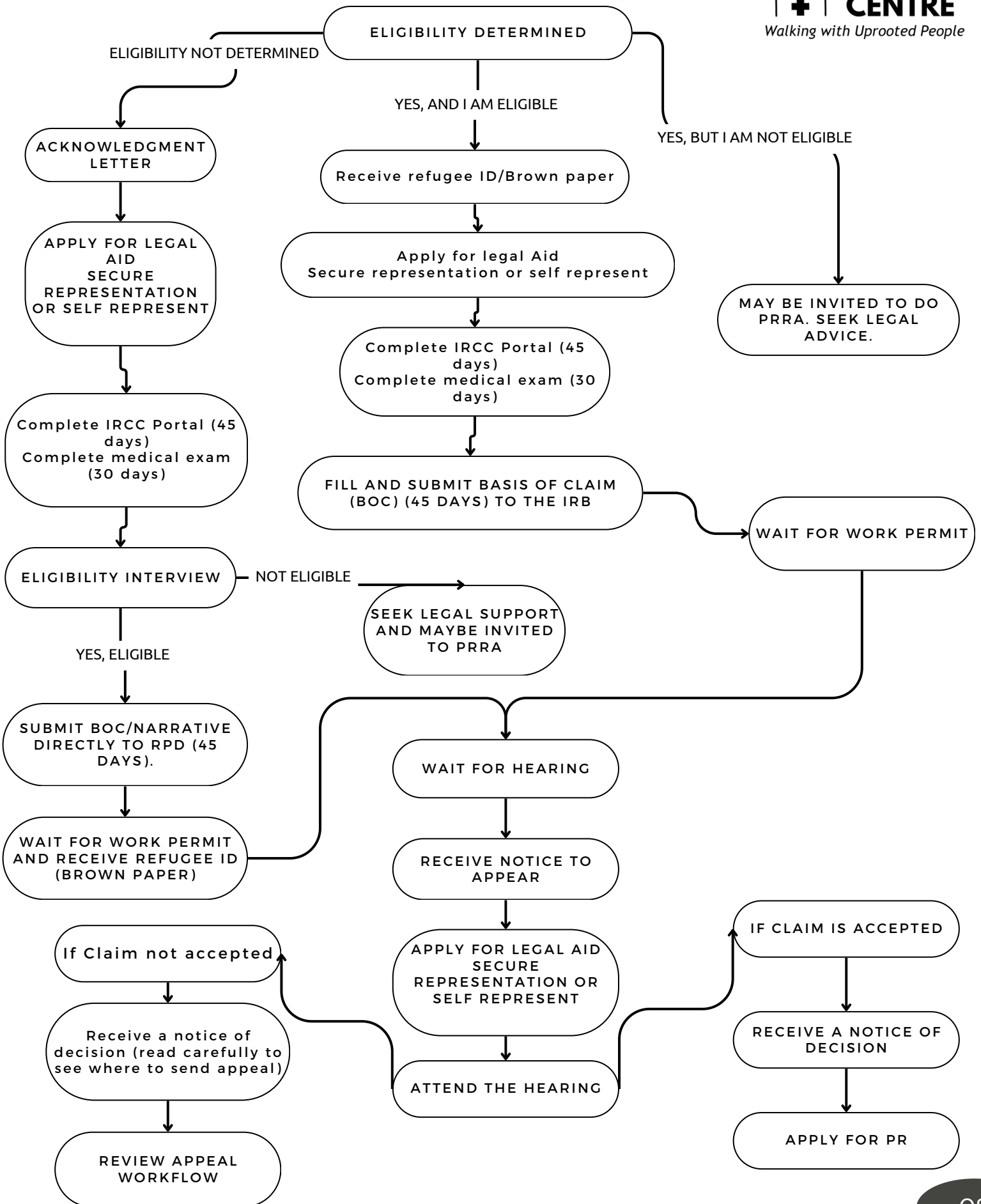
If the Claimant is found ineligible:

- The claimant may be invited to do an “enhanced” PRRA.

If the Claimant is found eligible:

- Receive Brown Paper and confirmation of referral to IRB.
- Wait for RPD to schedule a hearing.

Port of Entry Refugee Claims Workflow



PORT OF ENTRY ONE TOUCH PROGRAM

- **OneTouch** was launched by the Canada Border Services Agency (CBSA) at the end of 2022 and is aimed at streamlining the refugee process.
- It is slowly being introduced across Canada.
- Under OneTouch, eligibility is determined at the Port of Entry, so long as there are no concerns about the claimants' identity, they are not inadmissible to Canada, and they can provide CBSA with contact info.
- When Eligibility is determined the claimant is issued a Refugee Protection Claimant Document (aka the "Brown Paper").
- The claim is forwarded to the IRB-RPD.

Pending tasks:

- Submission of the Basis of Claim (BOC) form and narrative to the IRB (must be done within 45 days).
- Completion of the IRCC portal/eApp is required within 45 days (although claimants may request an extension)
- Medical exam needs to be completed within 30 days

PoE Refugee Claims

(eligibility determined at PoE but not via OneTouch):

- This is increasingly rare but still happens to Claimants crossing into Canada at Rainbow Bridge, Niagara Falls.
- These Claimants have eligibility confirmed at the PoE and receive their Brown Paper. They also complete the paper forms (Generic, Sched A, and Sched 12) and are not required to complete the portal.

To do:

- Complete Medical Exam (30 days)
- Submit BOC/narrative directly to IRB (45 days)
- Wait for the work permit

PORT OF ENTRY CLAIM

Safe Third Country Agreement (STCA)

The STCA is a treaty between Canada and the United States

Main Principle

- Refugees must seek protection in the first country they arrive in (Canada or the US).

Expansion to Irregular Border Crossings

- After March 2023: Expanded to include irregular crossings, e.g., Roxham Road.

Application Timeline

- The STCA applies to refugee claims made less than 15 days after entering Canada between official ports of entry. If you file a refugee claim in your first 14 days, you will be removed.

STCA Exemptions

- Qualifying Family Members in Canada
- Unaccompanied Minors with no parent/legal guardian in the US or Canada
- Valid Canadian Visa holders
- Nationals from Visa-Exempt Countries for Canada but not for the US
- Subject to the Death Penalty

Family Member Exception: Definitions

- Spouse, Legal Guardian, Child, Parent, Sibling, Grandparent, Grandchild, Uncle/Aunt, Nephew/Niece, Common-law Partner, Same-sex Spouse.
- Claimants must bring evidence to establish qualifying relationships.

PORT OF ENTRY CLAIM

For PoE claimants whose eligibility is not determined at PoE, the following steps have been taken

- Issuance of the Acknowledgment of Claim Document (AOC).
- Distribution of documents required for the medical examination.
- Collection of biometrics and seizure of passport.

Actions required:

- Fill out the IRCC portal: CBSA will provide written instructions along with a QR Code. This must be completed within 45 days, though an automatic 30-day extension is currently provided. If further extensions are necessary, contact CBSA directly.
- Schedule and complete the medical exam within 30 days. Await the work permit and invitation to eligibility interview.
- Following the deferred eligibility interview, claimants are issued their Refugee Protection Claimant Document (Brown Paper).
- The claim is then forwarded to the Immigration and Refugee Board.
- Claimants are required to submit their Basis of Claim (BOC) form to the IRB within 45 days. Extensions may be granted on request

PREPARING FOR THE HEARING

Let's break it down: Preparing to tell your story

Check and Reflect:

- Begin collecting Evidence; this could include personal evidence (text messages, photos, police reports, or medical documents) and country condition evidence (newspaper articles, reports from NGOs).
- Reflect on whether the evidence supports the narrative: Does the personal evidence make the events in your narrative more likely to be true? Does your experience fit with what's happening back home as explained via country condition documents?
- Show your fear is real: Through your actions and choices, illustrate your genuine fear for your safety.

Critical Questions to Ponder:

- Protection at home: Can your country keep you safe? If not, why? Police interactions: Did you seek help from law enforcement? What happened? If you didn't, why not?
- Future safety concerns: Why do you believe the police won't be able to protect you going forward?
- Relocating internally: What makes moving within your country not a viable option for safety?
- The fear of moving: Share why relocating within your country still leaves you in fear.
- Living elsewhere: Explain why settling in another part of your country isn't just impractical but impossible.

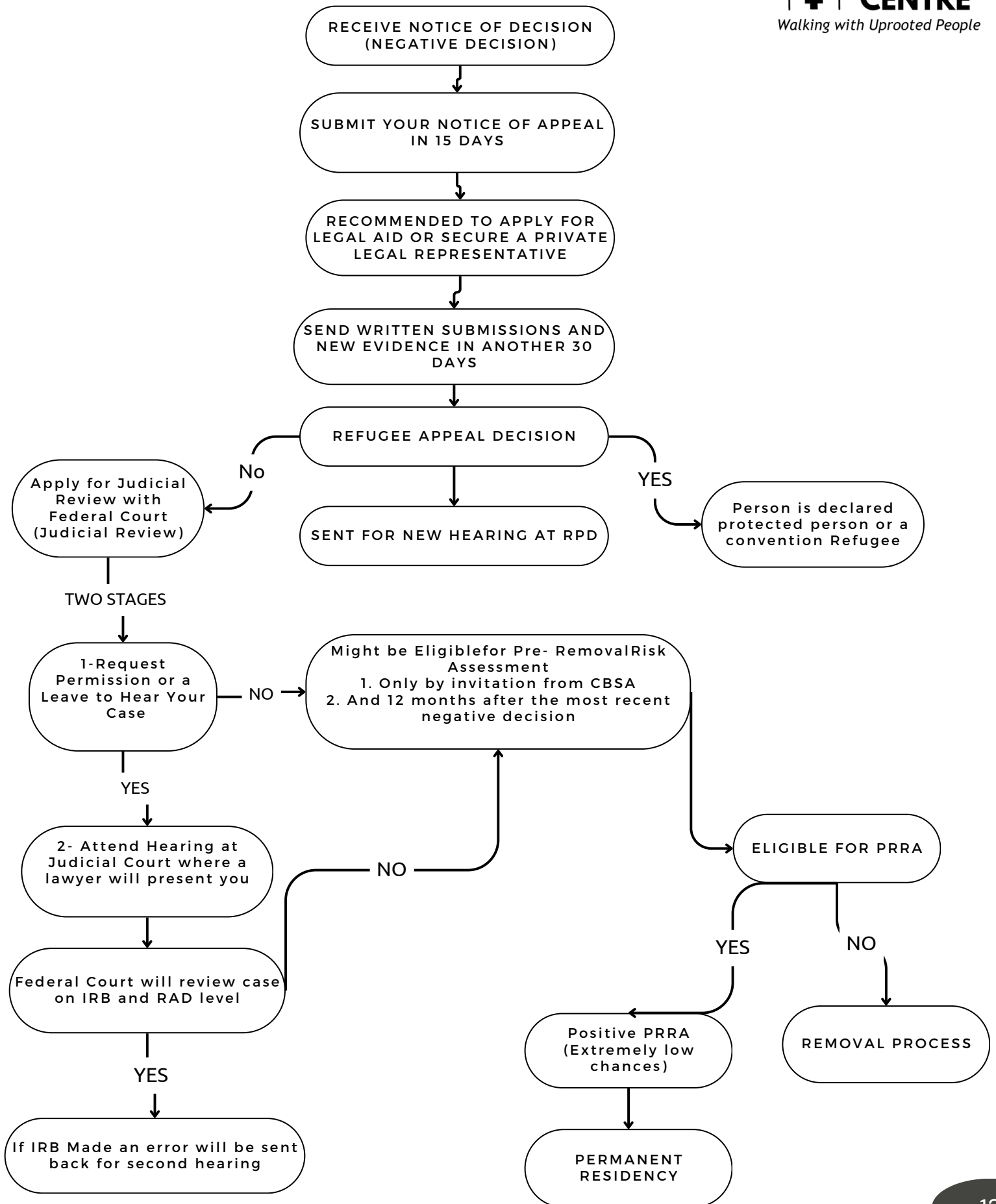
Refreshing Your Story: Sometimes, updates are necessary. Here's why:

- Spotting errors: Found a mistake? Be ready to explain and correct it. New developments: Events might unfold that change your situation. Examples include threats or harm to loved ones, or activities in Canada that could increase your risk if you return.
- Learning from others: Discovering someone else's similar plight can shed new light on your own.

How to Update:

- Marking changes: Clearly show what you're adding or removing from your story. Strike through deletions, and underline additions.
- Authorize it: Sign and date any pages with changes. Include a signed declaration at the end.
- Interpreter's touch: If you worked with an interpreter, their declaration needs to be signed off too.
- Keep it clear, concise, and compelling. Your story is important, and presenting it effectively can make all the difference.

Appeal Process Workflow



Navigating the aftermath of a negative refugee claim

- Securing refugee status in Canada can present challenges. If you find yourself facing a denial of your refugee claim, it's crucial to understand the avenues available for recourse. This guide aims to outline potential steps you can take following a refusal. Immediate legal consultation is advisable upon receiving a negative decision notice.

Overview:

- Understanding the Implications of a Refugee Claim Denial by the Immigration Refugee Board (IRB)
- Exploring Your Options after a Refugee Claim Denial by the IRB Appealing to the Refugee Appeal Division
- Seeking Judicial Review
- Applying for a Temporary Residence Permit
- Undergoing a Pre-Removal Risk Assessment (PRRA)
- Filing for Humanitarian and Compassionate Consideration
- Implications of a Refugee Claim Denial by the Immigration Refugee Board (IRB)
- A denial from the IRB signifies that they have not granted you refugee status for various possible reasons.

Reasons for IRB claim denial may include:

- Lack of credibility in your claim
- Inability to verify your identity
- Failure to establish a well-founded fear of persecution
- Not seeking assistance from local authorities where feasible
- Existence of a safer location within your home country where you could reside

Navigating after a refugee claim rejection by the IRB

Options Post-Rejection:

- Refugee Appeal Division (RAD): You can appeal to the RAD within 15 days of receiving your rejection. The RAD reviews the IRB's decision and can either uphold it, overturn it, or send it back for reconsideration. You must submit your appeal record within 30 days of the rejection. Legal help is crucial here.

Exclusions:

- Access to RAD is not available for certain categories like Designated Foreign Nationals or those with claims considered unfounded. This also applies to those who crossed from the USA and made a refugee claim at the border.

Judicial Review:

- If the RAD or IRB denies your claim, you can request a judicial review by the Federal Court within 15 days of notification. This process includes a preliminary assessment (leave stage) and, if granted, a hearing. A successful review can lead to a re-evaluation by the IRB.

Pre-Removal Risk Assessment (PRRA):

- Available if you face removal, a PRRA assesses new or ongoing risks if returned to your country.

Application is initiated by a CBSA officer, and you have 15 days to apply once given the form, plus another 15 days for evidence submission. Acceptance allows you to stay in Canada and apply for permanent residence.

REFUGEE APPEAL DIVISION

Key Points

- **Timelines:** Strict deadlines apply. For RAD appeals and judicial reviews, action must be taken within 15 days of rejection. For PRRAs, deadlines apply upon receipt of the application form from CBSA.
- **Legal Representation:** It's advisable to have legal representation, especially for judicial reviews and when navigating the appeal process.
- **Restrictions:** Not everyone is eligible for each option, especially for PRRAs, which has specific criteria including a 12-month wait period after a negative decision, unless conditions in your country significantly deteriorate.

Understanding your options and the importance of timely and appropriate legal action can guide you through the process following a rejected refugee claim by the IRB.

WORK PERMIT

Eligibility for a Work Permit Explained:

- Eligible Refugee Claimants: You can obtain a work permit if your claim is currently seen as eligible (and even some amid eligibility finalization—details below).

Appeal Stage Claimants:

- If you've faced rejection but are appealing to the Refugee Appeal Division, waiting on a Federal Court's judicial review, or have a Pre-Removal Risk Assessment (PRRA) on hold, you're not covered and you have to pay the fee.

Positive Outcomes:

- Anyone with a favorable result from a judicial review, a Refugee Appeal Division decision, or a PRRA gets the green light.

Special Circumstances:

- If you're under an unenforceable removal order, including those ineligible for initial claims but can apply for PRRA, or if your claim was denied but you're from a country Canada typically doesn't send people back to, you qualify.

Humanitarian Considerations:

- Those accepted on humanitarian and compassionate grounds or through in-Canada spousal sponsorship are also entitled to a work permit.

Steps to obtain the first Work Permit

- Request for Work Permit: Initiate your application by requesting a work permit.
- Complete the Portal Application: Ensure your application is fully submitted through the designated portal.
- Submit Biometrics: Provide your biometric details as part of the application process.
- Undergo a Medical Exam: Complete the necessary medical examination to meet the health requirements.
- Determine Eligibility: Once all the above steps are fulfilled, your eligibility can be assessed, often through a virtual process.

Renewing work permits and continued right to work

- It is important to apply to renew the work permit before it expires. The work permit will continue to need to be renewed until the person has become a permanent resident.
- Note: As long as the person applies to renew the work permit before the previous work permit expires, the person retains the legal right to work, even if the new work permit has not yet been issued.

IMPORTANT INFORMATION

Change of Address

- Make sure to keep your address up to date with IRCC to ensure that your work permit and other documents arrive on time.
- Web form Link – <https://secure.cic.gc.ca/enquiries- renseignements/canada-case-cas-eng.aspx>
- In the text box the Claimant must input the information that needs to be updated, the Claimant must make sure to explain what they are updating (i.e. Address, phone number, etc.)
- The Claimant must input the requested information in the Applicant Information Section
- If the applicant is the enquirer, select the applicant option in the first box and all information will follow

Legal Aid

- Refugee claimants are recommended to seek legal counsel, as the process is complicated and the stakes are very high. Legal counsel can be found through legal aid offices when applicable or through other legal clinics and community resources. If clients have enough financial resources, they can secure representation privately.
- Many claimants will need to seek legal aid to cover the costs of being represented by a lawyer. Legal aid is a provincial jurisdiction and it can vary significantly between each province.

IFHP and Medical Care

- Refugee claimants often struggle to get health care services, because service providers do not recognize IFHP, or do not want to provide services to clients covered by IFHP. NGOs can play an essential role in advocating to health care service providers to give services to refugees.
- Note that IFHP will not reimburse fees already paid. NGOs can advise/assist claimants to call a health care provider ahead of time to ensure they accept IFHP coverage before attending an appointment
- The coverage ends when you have a positive or negative decision regarding your claim. In case negative and you still appeal you have coverage.

ADDITIONAL INFORMATION

VIRTUAL REFUGEE HEARING ORIENTATION: READY TOUR

As a refugee claimant, you have the chance to join the IRB–RPD Virtual Ready Tour. These tours offer a unique opportunity to connect with Refugee Protection Division (RPD) officers, who will guide you through the process of your upcoming refugee hearing and how to prepare for it effectively. Ready Tours are organized twice a month, ensuring ample opportunity for participation.

How to register:

- Please click [here](#) to see the next Virtual Ready Tour available and fill in and send us the registration form.
- You will receive a confirmation email with the date and the time of the Ready Tour you are registered for.
- The Virtual Ready Tour is facilitated in English. If you need an interpreter, please let us know in the register form the language you need support with.

VIRTUAL REFUGEE APPEAL ORIENTATION: RAD INFO SESSION

Rejected refugees have an opportunity to learn about the refugee appeal process before the Refugee Appeal Division (RAD) through sessions facilitated by RAD officers. The RAD VIRTUAL INFO SESSION provides the Appellant with a FREE opportunity to be better prepared for the presentation of their refugee appeal. Officers from the RAD facilitate the sessions providing detailed information on the steps to follow to appeal a negative decision. Beside the group sessions, the facilitators will hold a one-on-one session with persons who are unrepresented and need advice on how to file an appeal and what information is required in the Appeal Record.

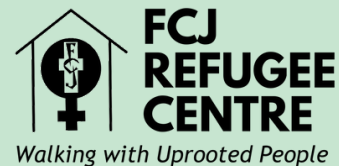
Who can participate:

- Rejected refugees
- Refugee claimants waiting for their refugee hearing
- Refugee claimants waiting for a decision

How to register:

- Please [check the calendar](#) to see the next Refugee Appeal Virtual Info Session available and fill in and send us the register form.
- You will receive a confirmation email with the date and the time of the Refugee Appeal Virtual Info Session you are registered for.

CONTACT US



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 **WEBSITE:** WWW.FCJREFUGEECENTRE.ORG

**If you need to apply for a Humanitarian and Compassionate application,
please visit our website and contact the FCJ Refugee Centre.
We will assist you with the application process.**

<https://www.fcjrefugeecentre.org>