

# Refugee Appeal Division (RAD) merit assessment

Lawyers must use this form to provide an opinion regarding the legal merits of a Refugee Appeal Division (RAD) appeal. LAO does not require a detailed opinion letter.

As a member of the Refugee and Immigration-Appellate roster, you undertake to request funding only in circumstances where legal merit is evident and the cost would be borne by a reasonable person of modest means.

## Basic information

Lawyer's name:

Client's name:

RAD certificate number:

## Case-specific information

Is the appeal filed by the Minister to challenge a positive RPD decision?	Yes	No
---	-----	----

If yes, merit is presumed. Complete this "Case-specific information" section and attach documents as noted on the last page of this form and submit.

Do you confirm the client is eligible to appeal a Refugee Protection Division decision to the Refugee Appeal Division and is not barred (e.g. Manifestly Unfounded Decision, No Credible Basis Decision, Port of Entry Safe Third Country claim)?	Yes	No
---	-----	----

Has a RAD notice of appeal been filed?	Yes	No
--	-----	----

If no, when is the deadline to file the notice of appeal?

Has the appeal already been perfected?	Yes	No
--	-----	----

If yes, please forward a copy of the factum along with this merit assessment.

If no, when is the perfection deadline?

Note: If an extension of time is required from the RAD because a deadline has been missed, explain the merits in this assessment.

Has the RAD granted or dismissed the appeal?	Granted	Dismissed	No decision
--	---------	-----------	-------------

If coverage is issued for the appeal, will you be the lawyer of record?	Yes	No
---	-----	----

If no, in whose name should this certificate be issued?

---

## Merit assessment

In assessing merit, it is extremely important that you consider the “client of modest means” test: i.e., is there sufficient legal merit and likelihood of success that a client of modest means would pay for these services. LAO is an agency with limited resources, and to meet its mandate of providing services for the vulnerable, it must ensure that funding is not provided to cases that lack legal merit, and have little chance of success.

With this context in mind, do you recommend that Legal Aid Ontario fund the RAD appeal?	Yes	No
---	-----	----

If no, explain:

If yes:

The grounds for the assessment are set out in the attached factum.

OR

Please check which of the following grounds apply:

1. The tribunal erred in assessing credibility
2. The tribunal ignored or misconstrued relevant evidence
3. The tribunal misstated the applicable standard of proof
4. The tribunal misstated the relevant considerations under s. 96 or s. 97
5. The tribunal incorrectly determined that the risk was general not personal
6. The tribunal failed to apply the gender guidelines
7. The tribunal misstated or improperly applied the state protection test
8. The tribunal improperly applied the change of circumstances doctrine
9. Tribunal erred in the application of exclusion principles
10. Tribunal erred in no credible basis finding
11. The tribunal erred in finding the claim to be manifestly unfounded
12. The tribunal failed to assess applicants' claims individually
13. The decision violates the *Charter*
14. The tribunal erred in its IFA analysis
15. Natural justice was violated because interpretation was deficient
16. Natural justice was violated because the board member's conduct gave rise to a reasonable apprehension of bias
17. Natural justice was violated because there was ineffective assistance by counsel
18. Natural justice was violated because other procedural irregularities occurred

In the space below provide details on each ground you have identified above. Please also provide details on any other ground of appeal not listed above which you will advance. If an extension of time is required to file a notice of appeal or perfect the appeal, please explain the circumstances and merits of obtaining an extension.

Do you anticipate that new evidence will be available?

Yes

No

If yes, please specify what this new evidence is, and why it could not reasonably have been produced at the hearing:

---

## Request for transcripts / transcriptions

Transcripts are not required to perfect your appeal. The IRB has indicated that the recording of the hearing is a part of the record, and if the appellant refers to specific parts of the recording, the RAD panel is required to listen to the parts as requested.

Given the limited funds available for RAD matters and the costly nature of transcripts, please consider whether or not the transcript in whole or in part is needed to support the appeal.

LAO coverage maximum = \$500

Are you requesting transcript coverage? Yes      No

If yes:      **Cost per page:**

Rate (max \$3.20/page):      /page.      Est. number of pages:

**Cost per minute:**

Rate (max \$2.13/page):      /min.      Est. time of recording:

Provide detailed reasons why the transcript is required. (e.g., what information is contained in transcript in support of the appeal)

If you are requesting coverage that exceeds the \$500 maximum, either on a cost per page or cost per minute basis, please explain why:

---

## Submitting the form

Please attach:

- A copy of the BOC including the narrative and any amendments
- A copy of the RPD decision
- A copy of the factum, if the appeal has been perfected
- A copy of the Minister's appeal materials, if this concerns a Minister's appeal
- A copy of the RAD decision, if a decision has been made
- A copy of the Federal Court decision, if this is for a RAD redetermination
- Any other key document that assists LAO to make a decision

I confirm that I did not receive a private retainer or fees for disbursements to provide this opinion.

I certify that the information included in this form is complete, true, and accurate

Name:

Date:

Signature:

Please use *Legal Aid Online* to submit this form and any attachments through the portal under the Certificate Amendment / Authorization page.

--	--	--

Personal information contained on this form is collected under the authority of the *Legal Aid Services Act, 2020* and will be used for the purpose of delivering legal aid services under the *Legal Aid Services Act*.

Questions about this collection should be directed to the Privacy and Access to Information Officer at [fippa@lao.on.ca](mailto:fippa@lao.on.ca) or 1-800-668-8258.



**LEGAL AID ONTARIO**  
**AIDE JURIDIQUE ONTARIO**