

Judicial Review (JR) merit assessment

Lawyers must use this form to provide an opinion regarding the legal merits of a judicial review application. 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:

JR certificate number:

Case-specific information

Is the client currently residing in Ontario?	Yes	No
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Is the judicial review filed by the Minister to challenge a decision that was made in the client's favour?	Yes	No
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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.

If this is a judicial review of a Refugee Protection Division (RPD) decision, do you confirm the client is not eligible to appeal the Refugee Protection Division decision to the Refugee Appeal Division and is barred (e.g. Manifestly Unfounded Decision, No Credible Basis Decision, Port of Entry Safe Third Country claim)?	Yes	No
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What type of decision is being challenged?

Refugee Protection Division (RPD) decision

Refugee Appeal Division (RAD) decision

Humanitarian and Compassionate (H&C) decision

Pre-Removal Risk Assessment (PRRA) decision

Danger opinion decision

Immigration Appeal Division (IAD) decision

Immigration Division (ID) decision

Decision of an officer on eligibility to make a refugee claim

Other (please specify). Note: Other decision types under the IRPA are eligible for JR coverage only in extraordinary circumstances. Provide complete details in this merit assessment.

Has an application for leave been filed?	Yes	No
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If no, when is the deadline to file leave?

Has the leave application already been perfected?	Yes	No
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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 Federal Court because a deadline has been missed, explain the merits in this assessment.

Has the Federal Court granted or dismissed leave?	Granted	Dismissed	No decision
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Has the Federal Court granted or dismissed the judicial review?	Granted	Dismissed	No decision
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If coverage is issued for the judicial review, will you be the lawyer of record?	Yes	No
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If no, in whose name should the 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 this judicial review? 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 Officer incorrectly applied the legal criteria for humanitarian and compassionate consideration
2. The best interests of the child were not reasonably considered
3. The tribunal erred in assessing credibility
4. The tribunal ignored or misconstrued relevant evidence
5. The tribunal misstated the applicable standard of proof
6. The tribunal misstated the relevant considerations under s. 96 or s. 97
7. The tribunal incorrectly determined that the risk was general not personal
8. The tribunal failed to apply the gender guidelines
9. The tribunal misstated or improperly applied the state protection test
10. The tribunal improperly applied the change of circumstances doctrine
11. The tribunal failed to assess applicant's claims individually
12. The decision violated the *Charter*
13. The tribunal erred in the application of exclusion principles
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
19. The tribunal erred in finding the claim to be manifestly unfounded

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

Is there a reasonable likelihood of success if a *de novo* hearing/
reconsideration is ordered by the Federal Court?

Yes

No

If no, explain:

Submitting the form

Please attach:

- A copy of the written decision which is the subject of the judicial review
- A copy of the factum, if leave has been perfected
- A copy of the leave order or judicial review decision, if leave or the JR have been decided
- For a Minister's JR, a copy of the Minister's materials filed

Please also provide the following as applicable:

- A copy of the BOC including the narrative and any amendments
- A copy of any previous RPD or RAD decision referred to in the decision under review
- If the case being reviewed was an H & C, a copy of the written submissions made and the H & C decision
- If the case being reviewed was a PRRA, a copy of the PRRA submission and a copy of the PRRA decision
- In any other case, a copy of the underlying submissions and a copy of the tribunal's decision.
- Any other key document that assist 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.

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



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