

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:

Solicitor #:

Client's name:

CLT number:

Client's opinion certificate number:

Case-specific information

Is the client currently residing in Ontario?	Yes	No
Has the client been in Ontario for more than 12 months?	Yes	No
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

What decision are you seeking to challenge?

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

Other (please specify)

Has an application for leave been filed? Yes No

If yes, when is the record due?

If no, when is the deadline for filing leave?

Has the leave application 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 date?

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

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

Has the Federal Court granted or refused leave? Granted Refused

What was the date of the decision?

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.

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

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.

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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