

# Request for discretion: Refugee law

In some cases, where exceptional circumstances can be demonstrated, a discretionary increase in payment of an account may be granted where an account has exceeded the tariff maximum for the certificate. If your account exceeds the tariff maximum, and you want to apply for discretion, fill out this form and include it when submitting the account.

Account date:

Date of request:

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## Requestor information

### Lawyer information

Name:

Solicitor #:

Phone:

Email:

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## Client information

Name:

Certificate #:

Names of  
co-accused /  
other parties:

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## Request details

### Request type

What type of request are you submitting?      New discretion request

                                 Retroactive discretion request

If this is a retroactive discretion request for an account already settled, enter the account number below. Submit the request using the *Legal Aid Online* electronic document submission or LAOiFax process.

LAO account number:

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### Authorizations

Have you sought all necessary district office authorizations?      Yes      No

If no, please do so before submitting any accounts by contacting your district office.

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### Circumstances

The Legal Aid Tariff reflects the fees customarily paid by a reasonable privately paying client of modest means. These fees apply for all legal aid services, except in exceptional cases. Should your account exceed the tariff maximum and you wish Legal Aid Ontario to consider paying the account as billed with discretion, please explain the exceptional, factual and legal circumstances of your case based on the following factors (click all that apply):

#### Results obtained

Successful refugee claim (IRB success rate of 20% or less)

#### Complexities

Exclusion

Multiple countries of citizenship

Novel claims (e.g.: Transgendered)

Ministerial intervention

## **Other regulatory factors**

Contributions of the applicant or other contributors

Amount of time realistically set aside in anticipation of a lengthy trial or hearing which time was not otherwise filled by the lawyer

## **Relevant factors**

Minor

Domestic violence

Mental illness

Illiteracy

Expert witness

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## Case details

Please provide case details and the factual circumstances that support the specific factors for discretion selected in the section above. Attach any attach relevant documents to support your discretion request.

**Note:** if the certificate authorized an opinion letter, please attach.

**Note:** Discretionary increase request include detailed reasons outlining the exceptional circumstances of the case which justify a discretionary increase and should address the period of service of the specific account. Attaching copies of earlier opinion letter rendered in the matter can be helpful.

The onus is on counsel to establish exceptional circumstances. This means that LAO can only pay discretion once counsel has been able to establish that there are exceptional circumstances in the case that would warrant an increased fee. For instance, when stating that a client has special needs, please describe, in one or two paragraphs, how these special needs impacted the proceeding and increased the time counsel was required to spend on the case.

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## Director General exception request

Are there any other discretion factors not articulated in the above criteria?

Yes

No

If yes, provide details below:

**Note:** This request is to be used rarely and only in circumstances when counsel can clearly demonstrate that the exception circumstances test has been met.

**Note:** The Director General has authority to determine whether a discretion request based on factors not included in the clarified discretion guidelines the meets exceptional circumstances test and is eligible for discretion consideration. Counsel should, however, limit requests for a DG except in few and limited circumstances, such as preparation of submissions on Federal Court questions for certification.

For more information on discretion requests see the Legal Aid Ontario Tariff & Billing Handbook.

For assistance in completing this form please contact the Lawyer Service Centre via 1-866-979-9934 (toll free).

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

Name:

Date:

**Please attach the completed form to your online account.**

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 payment of accounts, investigations, and the administration of 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.



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