

**Questions and Answers on the provision of immigration and citizenship information and advice by NGOs/SPOs (in relation to section 91 of the *Immigration and Refugee Protection Act* and section 21.1 of the *Citizenship Act*)**

**Who can provide paid immigration or citizenship advice?**

In order to provide immigration or citizenship advice or representation “for consideration”, an individual must be authorized under section 91(1) of the *Immigration and Refugee Protection Act* (IRPA) or section 21.1 of the *Citizenship Act*. This includes:

- A lawyer who is a member in good standing of a law society of a province or a notary who is a member in good standing of the Chambre des notaire du Québec;
- Any other member in good standing of a law society of a province or the Chambre des notaires du Québec, including a paralegal; or
- A member in good standing of the body designated by the Minister of Immigration, Refugee and Citizenship to regulate consultants (the Immigration Consultants of Canada Regulatory Council or ICCRC).

**Can paid NGO/SPO employees provide immigration or citizenship advice?**

Paid NGO/SPO employees must be authorized under section 91(1) of IRPA or section 21.1 of the *Citizenship Act* in order to provide immigration or citizenship advice or representation.

Paid NGO/SPO employees are not allowed to provide immigration or citizenship advice or representation unless they are a member of a Canadian provincial/territorial law society, the Chambre des notaires du Quebec or the ICCRC. This is regardless of whether or not the organization paying the employee receives funding from IRCC and regardless of whether the organization or employee receives a fee from the client.

The ultimate goal is to protect clients and to ensure that those providing advice have the level of expertise necessary to assist in often complex immigration and citizenship matters.

**What type of assistance can paid NGO/SPO employees provide?**

While paid employees cannot provide immigration or citizenship advice, they can provide immigration or citizenship information, including administrative help. Some organizations have been seeking clarity on the difference between immigration and citizenship information and immigration and citizenship advice. What constitutes information versus advice will depend on the particular situation. Examples of information versus advice – including some scenarios – are provided in this document.

**My organization provides immigration/citizenship information to its clients/members - is funding available from the Government of Canada to help cover costs associated with giving this information?**

IRCC will not be providing funding for the provision of immigration or citizenship information.

**What type of immigration or citizenship information (including administrative help) can paid NGO/SPO employees provide?**

*\*Note that the examples are for illustrative purposes only and do not cover every possible scenario. What constitutes information versus advice will depend on the particular situation. It is the responsibility of organizations and their employees to ensure that their paid employees are in conformity with the legislation and – when needed – organizations should seek legal counsel.*

- direct someone to the IRCC website to find information on:
  - citizenship and immigration programs
  - application forms, or
  - authorized representatives
- help someone to use a computer to view, upload, download and/or print electronic documents from the IRCC website
- provide administrative support in completing IRCC application forms:
  - transcribing responses and information provided by an applicant into IRCC application forms (employees should not guide clients on how to answer questions, including editing or making suggestions)
  - translating a document or providing a verbal translation for someone
- provide services such as:
  - travel arrangements
  - couriers medical services (i.e. medical exams, DNA testing)
- Provide international students with information on how to select their courses or register
- conduct job interviews

**What type of assistance are paid NGOs/SPO employees prohibited from providing if they are not authorized?**

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- provide advice on which citizenship or immigration option(s) to pursue

- provide advice on how to respond to questions on an application form
- communicate with IRCC and the Canada Border Services Agency (CBSA) on a client's behalf (except for direct translation of a client's written or spoken submissions)
- represent a client in a citizenship or immigration application or proceeding
- represent a client in a Labor Market Impact Assessment (LMIA)
- advertise that they can provide citizenship or immigration advice or representation for consideration

### **Scenario 1**

Jose is a foreign national who has lived and worked in Canada for the past two years. He has a passport and a valid work permit. He would like to apply to become a Permanent Resident. Jose has obtained the appropriate application form, but he is having difficulties understanding certain sections of the form and needs help with translation. Jose goes to a local NGO and asks for assistance. The NGO employee meets with Jose and helps with translating the application form and transcribing Jose's responses word for word. The employee does not provide any advice to Jose, such as which program to apply to.

Is the employee allowed to provide this type of immigration assistance?

Yes. In this scenario, the paid employee is providing information only - Jose knew which program he wanted to apply to and which form to complete. The employee simply translated the information on the form and transcribed Jose's responses.

### **Scenario 2**

Myriam is a Canadian citizen. Her mother lives in Sénégal and Myriam would like to sponsor her. Myriam plans to complete a Sponsorship Undertaking form but is having trouble finding the form. Myriam visits an NGO to seek help finding the form. The paid NGO employee points Myriam to the IRCC website and shows her where to find the Sponsorship Undertaking form. The employee also prints the form for Myriam.

Is the employee allowed to provide this type of immigration assistance?

Yes. In this scenario, the paid employee helped Myriam find the form and printed it for her.

### **Scenario 3**

Alexander would like to become a Permanent Resident but is unclear on the steps required to become one. Alexander received advice from his friends, but he would like to speak to someone about the options available to him. He visits an NGO and asks for help. The employee points Alexander to the IRCC website and shows him where the application forms are found. Through their discussions, the employee advises Alexander on his best options for becoming a Permanent Resident. The employee also provides advice on how to respond to questions on the application form.

Is the employee allowed to provide this type of immigration assistance?

No, the employee is not be allowed to provide this type of immigration assistance unless the employee is authorized under section 91 of IRPA. In this scenario, the employee is providing immigration advice to Alexander. While the employee can point Alexander to the IRCC website, including where to find forms, the employee is not authorized to provide advice to Alexander on his best options for becoming a Permanent Resident or on how to respond to questions.

#### **Scenario 4**

Carmen is a foreign national who has lived and worked in Canada for the past three years. Carmen would like to know how to become a Permanent Resident. She visits an NGO to ask for advice on which applications to complete. The paid NGO employee – who is also a member in good standing of the Immigration Consultants of Canada Regulatory Council (ICCRC) – meets with Carmen. The employee points Carmen to the IRCC website, explains the options available to Carmen and makes recommendations to Carmen on which program to apply to.

Is the employee allowed to provide this type of immigration assistance?

Yes. In this scenario, the paid employee is authorized to provide advice to Carmen because the employee is a member in good standing with the ICCRC. In this scenario, it would also be necessary for the employee to advise Carmen of their membership in the ICCRC.

Note: If the paid employee was not a member in good standing of the ICCRC (or a member in good standing of a law society of a province, or a notary) the employee would not have been allowed to provide this type of immigration assistance.

#### **Scenario 5**

Nima is a Canadian Permanent Resident through the Government-Assisted Refugee Program. Nima has a sister living outside of Canada. Nima visits a SPO because she would like more information on how to find a sponsor for her sister. A paid SPO employee reads the information off the website to Nima concerning the types of sponsorship options that are available and points Nima to the guides and forms which explain the requirements for each program. The employee also provides some assistance with translation. The employee and Nima complete the form together - the employee translates questions and transcribes Nima's answers. The employee does not provide advice to Nima on how best to find a sponsor for her sister.

Is the employee allowed to provide this type of immigration assistance?

Yes. In this scenario, the employee is providing immigration information to Nima by pointing her to the IRCC website and offering translation. While the employee reads the types of sponsorship options available, the employee does not provide advice on how best to find a sponsor.

## Scenario 6

Yara is a refugee who has been living in Canada for less than a year. Yara has a husband and children living outside of Canada. She has heard about the One-Year Window for sponsoring her family. Yara visits a SPO to seek more information on the One-Year Window. A paid SPO employee points Yara to the One-Year Window of Opportunities Provisions section of IRCC's website, reads the information in this section to Yara and points Yara to the One-Year Window Instructions Guide and form. The employee also provides some assistance with translation. In addition, Yara asks the employee for assistance completing the One-Year Window application form.

The paid employee and Yara complete the form together – the employee provides assistance by transcribing Yara's responses word-for-word onto the application form. The employee did not provide advice on how to respond to the questions.

Is the employee allowed to provide this type of immigration assistance?

Yes. In this scenario, Yara already knew which option she was interested in applying to and the employee provided immigration information (by pointing Yara to the relevant section on the website, the guide/form, as well as assistance with translation and transcribing responses).

## Scenario 7

Peter is a refugee living in Canada. Peter has a common law partner and two children living outside of Canada. Peter would like to bring his family to Canada but is unsure how to proceed. He visits a SPO to seek advice on how best to get his family to Canada. After asking Peter a number of questions about his situation the paid SPO employee advises Peter on options and advice on how to complete forms.

Is the employee allowed to provide this type of immigration assistance?

No, the employee is not allowed to provide this type of immigration assistance unless the employee is authorized under section 91 of IRPA (i.e. a member in good standing of a provincial law society, the Chambre des notaires du Quebec or the ICCRC). In this scenario, the employee assessed Peter's particular situation and provided personalized advice.

## Scenario 8

Farid is a refugee who would like to privately sponsor his wife and child. However, Farid did not declare his wife or child in his initial application to Canada, based on advice he received in a refugee camp. Farid visits a SPO for advice on the best avenues to bring his wife and child to Canada. While the paid SPO employee has views on how Farid could proceed, the employee tells Farid that she's not authorized to provide immigration advice.

The employee points Farid to IRCC's section of the website, which outlines who is authorized to provide immigration advice or representation.

Is the employee allowed to provide this type of immigration assistance?

Yes, the paid employee recognized that Farid was seeking immigration advice and that she is not authorized to provide advice. The employee therefore pointed Farid to the IRCC section of the website (i.e. provided information) which outlines who is permitted to provide paid immigration advice.

### **Scenario 9**

Sabrina has been living in Canada as a Permanent Resident for many years. She visits a SPO for administrative support for her citizenship application form. She has a medical ground which could be a barrier to Sabina to meet the Canadian citizenship requirements. The employee helping Sabrina at the SPO is aware that there is a waiver program on compassionate grounds under the Minister's discretion and Sabrina's case may be eligible for receiving a waiver for Citizenship Grant. The employee points to the relevant portion of the IRCC website regarding waivers, without providing an assessment of whether Sabrina would likely be granted an exception.

Is the employee allowed to provide this type of citizenship assistance?

Yes, the employee is permitted to provide this type of information, without providing an assessment of whether Sabrina would likely be granted the exception or not.

### **Scenario 10**

Onur is a Permanent Resident in Canada and he has a son who is under 18 years old. Onur went to a SPO to learn about their services for immigrants and found that the SPO provides administrative support services for completing citizenship application forms. Onur decided to seek the SPO's administrative support for completing his and his son's citizenship application form. It appears that Onur's son will be 18 year old in about two weeks and the fees for citizenship application will change once the son turns 18 years old. The employee points Onur to the IRCC website section regarding fees, as well as provides administrative support in completing the applications.

Is the employee allowed to provide this type of citizenship assistance?

Yes, the employee provided citizenship information by pointing Onur to the IRCC website section regarding fees, as well as providing administrative support.

### **Scenario 11**

Kim is a Permanent Resident in Canada. He meets all Canadian citizenship requirements and he would like to apply to become a Canadian citizen. Kim has obtained the appropriate application form and collected all supporting documentation required. He is, however, having some difficulties understanding certain sections in the form and

needs help with translation. Kim goes to a SPO and asks for assistance. A paid SPO employee helps with translating the application form and transcribing Kim's responses word-for-word. The employee does not provide any advice to Kim on his Citizenship application.

Is the employee allowed to provide this type of citizenship assistance?

Yes, in this scenario, the SPO's paid employee is providing information only. The employee simply translated the information on the form and transcribed Kim's responses.

### **Scenario 12**

Daouda is a Permanent Resident in Canada and he wants to apply for Canadian citizenship. He is collecting all required supporting documentation for his citizenship application, but he is unsure if he is required to provide proof of income tax along with his citizenship application. Daouda visits a SPO to seek help finding the appropriate information. The paid SPO employee points Daouda to the IRCC website and shows him where to find the information for the requirements of citizenship application and the instruction guideline. The employee also prints the guideline for citizenship applicants from the IRCC website.

Is the employee allowed to provide this type of citizenship assistance?

Yes. In this scenario the paid employee provided information to Daouda and did not provide any advice.

### **Scenario 13**

Maya is a Permanent Resident in Canada. Maya came to Canada as an international student and she became a Permanent Resident less than three years ago. Maya wants to apply to become a Canadian citizen, however, she is having some difficulties understanding whether she meets the residency requirement before she submits her citizenship application. She decides to visit a SPO for help. An employee of the SPO listens to Maya, directs her to the IRCC website on the citizenship requirements for a Permanent Resident. The employee provides administrative assistance to Maya by entering information provided by Maya into the physical presence calculator on the IRCC website to determine whether or not she meets the physical presence requirement.

Is the employee allowed to provide this type of citizenship assistance?

Yes, the paid employee provided Maya with information by directing her to the IRCC website and providing administrative support by pointing her to the use the physical presence calculator on the IRCC website.