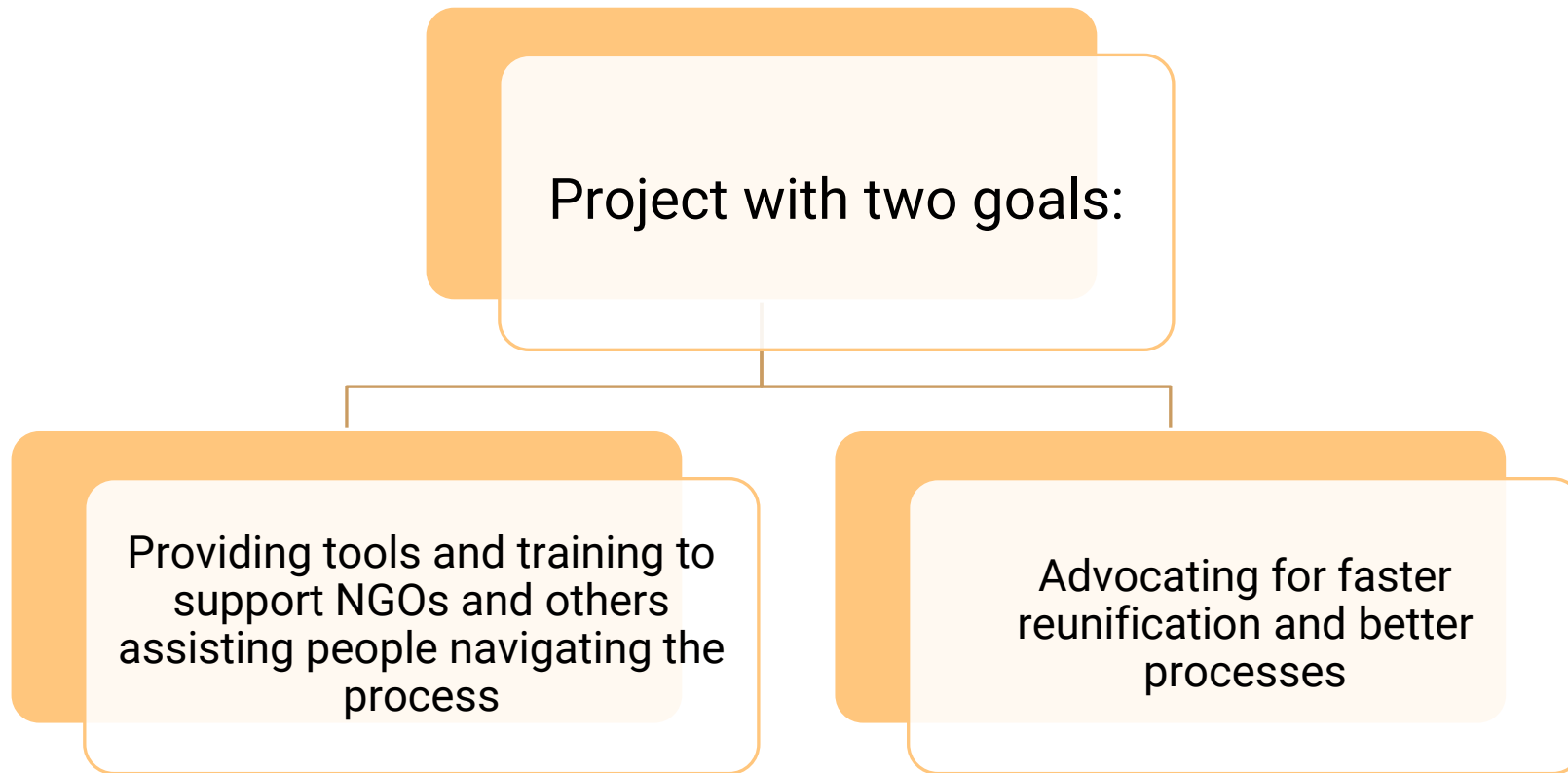




One Year Window Applications: the basics

24 SEPTEMBER 2024

Refugee Family Reunification Project



Webinar on basics of One Year Window Applications

- Basics only!
- We will ask your input on most useful topics for follow up sessions
- Question period after presentation
- Recording of session will be available + we will send the slides

Thanks to the Atlantic Region Association of Immigrant Serving Agencies (ARAISA) for hosting the webinar!

Our presenters

Janet Dench, Refugee Family Reunification Project

Michelle Ndizeye, RSTP Trainer for Ottawa and Northern Ontario

Tim Burnham, RSTP Trainer for New Brunswick and PEI

Heather Neufeld, Heather Neufeld Law, Ottawa

Contacts

Refugee Family Reunification Project:

refugeefamilyreunification.ca

Refugee Sponsorship Training Program (RSTP): www.rstp.ca

Heather Neufeld Law: heather@heatherneufeldlaw.com

Our webinar co-hosts

Olivia Finnamore, ARAISA

Ekaterina Pak, RSTP

Mahi Khalaf, ISS of BC

What is One Year Window of Opportunity (OYW)

Allows a refugee to apply to reunite with immediate family members within one year of the refugee becoming a permanent resident.

Applies to:

- Government-assisted refugees
- Privately sponsored refugees
- People accepted as Protected Persons in the claim process in Canada (less frequent)

Overview of OYW process

- Refugee submits application online (through the IRCC permanent residence portal)
- Resettlement Operations Centre in Ottawa (ROC-O) reviews the application for basic eligibility (including review of sponsorship undertaking for sponsored refugees)
- Eligible application sent to the visa office overseas for eligibility and admissibility:
 - Is the family relationship established?
 - Medical exam
 - Criminality and security checks (biometrics if over 14 years)
- If approved, visa office requests passport to issue visa, or may issue Single Journey Travel document (if family member outside country of origin)

Quebec process

- Applicants in Quebec submit their application to Quebec government (MIFI) and must receive approval from Quebec
- More details on Quebec process in French-language session

Resources

IRCC

- [Application package](#) (includes checklist)
- [Guide](#), revised July 2024

Information on [Quebec process](#)

[RSTP video](#) on OYW applications through the portal

Which family members may be included?

- “Family member” = spouse or common-law partner, dependent children and dependent children of dependent children
- Must have been declared as family members in the application of the refugee
- Unmarried children under 22 years
- Unmarried older children who are dependent on parent due to a physical or mental condition

Must have been declared?

- Family member must have been declared by refugee before travelling to Canada
- Declaring at airport on arrival is not sufficient
- But baby born to spouse after arrival can be included as dependent of spouse

Family members need not be refugees

- OYW applications are to reunite family members of a refugee
- The family members do not need to be refugees themselves
- Family members can be processed while still in the home country

Dependent children: lock-in date

Children over 22 years may still qualify if they were under 22 at the [lock-in date](#):

- For GARs: Date of referral to IRCC from UNHCR or other referral agency
- For PSR: Date IRCC receives a complete application for permanent residence, together with a complete sponsorship undertaking (for Quebec, date Quebec receives undertaking application)
- For Protected Persons: Date refugee claim was made

Ceasing to be family members

The family member must continue to qualify as a family member throughout the processing of the OYW application.

- A child who marries or enters into a common-law relationship no longer qualifies
- If the couple divorces, the spouse no longer qualifies

Establishing relationships

- Where there is a marriage certificate and birth certificates of good quality – generally straightforward
- For common-law relationships, need to complete: [IMM 5409 – Statutory Declaration of Common Law Union](#)
- IRCC proactively asks for other proofs of relationship – they want as much information as possible available when officer decides if relationship is established
- DNA testing is often required for children if no birth certificate or birth certificate issued long after birth. IRCC will send a letter with instructions to do DNA testing

Financial support: GARs versus PSRs

- Family members of Government Assisted Refugees are eligible for Resettlement Assistance Program support – see [guidelines](#)
- Family members of Privately Sponsored Refugees must be supported by their sponsors – OYW calculation form is included in the [RSTP February 2021 bulletin](#)

Processing issues

Applying through the portal

- Since September 16, 2024 applications must be made online, through the IRCC permanent residence portal
- The application is made by the principal applicant (refugee in Canada)
- RSTP video on the portal:
<https://www.youtube.com/watch?v=qqeFoGJ4QxE>
- IRCC [guide](#)

Submitting the application – tips!

- Try to submit the application early – once it gets close to the one year deadline there is a risk of missing the deadline
- Make sure that the application is complete, including all required documents – if IRCC returns it as incomplete, it may be too late for the one year deadline.
- Take care with the email address given for communications – it must be accessible and be checked regularly by the applicant.

Communicating with IRCC – ROC-O

As explained in the [guide](#), applicants should email IRCC.INROCO-CORORI.IRCC@cic.gc.ca

- any changes in contact information or in situation (e.g. birth of child)
- to ask about status in case of excessive delay
- to inform IRCC about an urgent situation (e.g. family member is facing refoulement) – put “Urgent” in subject line
- As directed in the [guide](#), put in the subject line: Principal applicant
Family name, first name, G number

Communicating with visa office

After the family members' applications are sent to the relevant visa office, communications (submission of documents, requests for extension) generally need to be sent via the IRCC webform.

Go to [IRCC web form: Contact us online](#), answer the questions and eventually you can choose the relevant visa office. For example, for Nairobi, you get taken to:

<https://secure.cic.gc.ca/enquiries-renseignements/canada-case-cas-eng.aspx?mission=Nairobi>

Dealing with IRCC correspondence

- IRCC often sends template emails asking for things – sometimes things already submitted or not relevant. Don't panic! Re-send documents
- IRCC generally sets **deadlines** for responding – sometimes unrealistic. Always send a request for extension before the deadline
- IRCC sends a **Procedural Fairness Letter** (PFL) when they think the applicant has failed to meet a request or they are preparing to refuse. It is important to respond – for example, send or re-send the document requested. If IRCC is preparing to refuse – for example, officer is not satisfied that relationship is established, refer for legal support

Issues relating to children: principal applicants

- If a parent is applying for several children and the children are not accompanying the other parent, each child will be a principal applicant.
- Each child must have a separate portal application.
- Instructions are sometimes unclear – they may indicate that something is required only for persons over 18 but also that it is required of all principal applicants.

Issues relating to children: parental consent

- If a child under 18 is not joining both parents in Canada, start preparing early for addressing parental consent. It will be necessary to provide:
 - [Declaration from Non-accompanying Parent/Guardian for Minors Immigrating to Canada IMM 5604](#) (needs to be notarized), or
 - Death certificate of other parent, or
 - Full custody order
- See [slides from webinar on parental consent](#) (a resource is also being prepared)
- Refer to lawyer if none of the above can be provided

Issues relating to children: separated children

- CCR has an arrangement with IRCC to expedite family reunification applications involving children overseas who are under 18 and are separated from both parents.
- In cases where CCR has requested an intervention, **processing is significantly faster!**
- Requests for intervention must be submitted to CCR by an NGO worker, sponsor or lawyer (once the OYW application is submitted).

For more information: <https://ccrweb.ca/en/expediting-family-reunification-separated-children>

Overseas processing issues

- Biometrics
- Medical exams

In some countries, IOM will take care of organizing medical exams and biometrics.

In other countries, the family will need to make an appointment with a [panel physician](#) and do biometrics through a [Visa Application Centre \(VAC\)](#)

Family members of resettled refugees are covered by immigration loans

More complex issues

Exit issues

- Sometimes difficult to leave the country of origin (for example, Eritrea). Family may need to find way to leave country and complete processing from another country
- Even processing may be difficult in certain countries (for example, Afghanistan, Iran)
- Exit visas can be challenging for people in third countries – may help to be registered as refugee

Exemptions from requirements

- Officers have discretion to waive certain legal requirements on **humanitarian and compassionate** (H&C) grounds – for example, the requirement to provide consent from non-accompanying parent
- A request for an H&C exemption usually requires detailed submissions – consult a lawyer!
- Exemptions are more likely to be granted if request is for a minor exemption /someone who nearly qualifies (e.g. child just over 22 years at lock-in date)

Undeclared family members

- Declaring at airport on arrival is not sufficient!

Options for undeclared family members

- It is possible to apply for OYW with H&C submissions explaining why undeclared. The IRCC officer has discretion to accept or refuse. (Chances may be better if declared at airport)
- Family Class application is alternative – pilot project exempts them from Excluded Family Member rule: See <https://ccrweb.ca/en/pilot-excluded-family-members-practical-information>

Seeking legal advice

When should you consult a lawyer?

- When the rules or normal process are not going to work (for example, when parental consent is going to be a challenge)
- When a procedural fairness letter is received saying that the officer intends to refuse the application
- Whenever things look like they might be problematic in a particular case, consult early – it is always better to put forward the best information and arguments before a decision is made

Finding a lawyer

- Some organizations have an in-house lawyer or a relationship with a lawyer they can consult
- Some legal clinics may help – check their intake criteria
- In Ontario, many of the community legal clinics can help

Frequently asked questions

Can you include de facto family members?

No, OYW is only for family members as defined in the regulations

De facto family members (such as a 25 year old single daughter or grandparent who lives with the family) do not qualify for OYW

Can the family members apply for a visitor visa while application in process?

- Legally, yes, a person can have both applications in process at the same time.
- In practice, though, it will be refused. Officers can only issue visitor visas when they are sure the person will leave Canada at the end of the visit. Officers will almost always assume that family members of refugees will not leave Canada after a visit.

Question period +
Identifying priorities for
follow up sessions

Continuing the conversation on OYW

- Possible **listserv** on refugee family reunification processing issues - please complete this [short survey](#)
- Ongoing **committee to discuss OYW applications**, particularly for those working with GARs?
- Follow up **webinars**?
 - Using the portal
 - Undeclared family members
 - Establishing relationships
 - General processing challenges