

CAPIC's Feedback to IRB Designated Representative Quality Assurance Framework

The Canadian Association of Professional Immigration Consultants (CAPIC) is pleased to provide feedback about the IRB's complaint process concerning Designated Representatives.

We have reviewed the Quality Assurance Framework and Complaint Form with referring to s. 167(2) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (IRPA), the applicable provisions of the rules of the four Divisions of the Board, the Code of Conduct for Designated Representatives (the Code), the Designated Representative Competency Profile, and the Designated Representative Guide.

Below is CAPIC's feedback for the Board's consideration.

Feedback

1. Regulatory check

The following provisions of the rules of the three Divisions confer the termination of designation power to the IRB where a designated representative is no longer suitable:

- S. 50 of the *Immigration Appeal Division Rules*, SOR/2022-227,
- S. 20(8) of the *Refugee Protection Division Rules*, SOR/2012-256, and
- S. 23(9) of the *Refugee Appeal Division Rules*, SOR/2012-257.

S. 18, which prescribes DRs, of the *Immigration Division Rules*, SOR/2002-229 (ID Rules), is silent on the termination of designation power. The ID Rules have two sections on DRs, and another section, s. 19, prescribes the requirements for being designated.

S. 18: If counsel for a party believes that the Division should designate a representative for the permanent resident or foreign national in the proceedings because they are under 18 years of age or unable to appreciate the nature of the proceedings, counsel must without delay notify the Division and the other party in writing. If counsel is aware of a person in Canada who meets the requirements to be designated as a representative, counsel must provide the person's contact information in the notice.

2. Article-by-article feedback

Article 1.1:

Recommend adding “ethical” before competent, as both Articles 1 and 6 of the Code place it as an obligation for DRs.

Article 1.2:

- (1) Recommend adding “enhance” or “ensure” before “quality of their services” at the end of the Article for two reasons: (i) “quality of their services” seems not to be compatible with “prevent, detect, and correct,” and (ii) we assume that “prevent, detect, and correct issues concerning the DR conduct” is the means, and it is to achieve the ends “quality of their services.”
- (2) Recommend adding the “[f]ollow-up action taken by the IRB...” prescribed in Article 5 before “as part of the Quality Assurance Framework....” because this is a component of the Quality Assurance Framework.

Article 5:

- (1) Recommendation (1) for Article 1.2 applies to the first line of Article 5.

Article 6.1:

Recommend specifying “a person” by adding “prescribed in Article 6.2” after it to make the meaning precise.

Article 6.5:

- (1) As the complaint and internal review processes are discrete, we assume “review process” herein refers to the review process in the complaint process. To avoid confusing “review process” herein with the “internal review process,” we recommend adding “of a complaint process” for clarity.
- (2) CAPIC seeks clarity about the two stages in a complaint process: Investigation and review processes in terms of process. First, more clarity may need to be provided as to how these steps are carried out. Second, will the DR who is the subject of a complaint process have an opportunity to respond to preliminary findings during the investigation process? Again, more clarity may be needed on this process.

Article 6.6:

See the feedback on Article 6.5.

Article 8:

Recommend specifying “a review” by adding “internal” before it for precision, as by context, we assume “a review” herein refers to “an internal review” prescribed in Article 7, not the “review” within a complaint process prescribed in Articles 6.5 and 6.6.

CAPIC appreciates the opportunity to provide feedback and recommendations for the noted issues.

About CAPIC

The Canadian Association of Professional Immigration Consultants (CAPIC) is the professional organization representing the interests of Canadian Immigration Consultants. The organization advocates for competency, ethical conduct, and consumer protection in the immigration consulting industry. CAPIC's mission is to lead, connect, protect, and develop the profession, serving the best interests of its nearly 5000 members. It is the only association recognized by the Government of Canada as the voice of Canadian immigration and citizenship consultants. CAPIC is a major stakeholder consulting with federal and provincial governments and their respective departments on legislation, policy, and program improvements and changes.

Contact Us:

www.capic.ca

Hui Zhang, RCIC-IRB, CAPIC Lobby and Policy Research Coordinator:
stakeholders@capic.ca