

COVID-19: PERMANENT RESIDENT (PR) STATUS WITH HUMANITARIAN & COMPASSIONATE CONSIDERATIONS (August 28, 2020)

This information is solely for informational purposes. We urge you to consult with us if you have any specific legal questions about a client's situation.

H&C	HARDSHIP
<p>An H&C application is one where the applicant petitions Immigration, Refugees and Citizenship Canada (IRCC) to be granted permanent resident (PR) status in Canada based on humanitarian and compassionate grounds.</p> <p>The IRCC decision-maker will decide to grant PR status based on the concern to promote the applicant's human welfare and because the applicant's situation evokes the sympathy of the decision maker.</p> <p>The decisions for H&C applications are "discretionary".</p> <p>For an H&C application the immigration officers are the decision-makers and they have a certain amount of freedom when they decide if an application will be denied or approved.</p>	<p>An H&C applicant must show the hardship they would face if they were to return to their country or origin or habitual residence.</p> <p>Examples of hardship:</p> <ul style="list-style-type: none"> ▪ Insecurity in country of origin or habitual residence. ▪ Poor healthcare system or inaccessible health care. ▪ Gender based discrimination. ▪ Poverty. ▪ Abusive practices or customs. ▪ Hardships that are included in the definition of a Convention Refugee or protected person. (Not evaluated in the same manner as a refugee claim.)
WHEN TO CONSIDER AN H&C APPLICATION	BEST INTEREST OF THE CHILD
<p>Individuals may want to consult a legal professional for an H&C if:</p> <ul style="list-style-type: none"> ▪ They have been living/working in Canada for a while. ▪ Their children attend school/daycare in Canada. ▪ They have solid ties to your community. ▪ They have a serious medical condition ▪ They were denied refugee/protected person status. ▪ They fear what may happen if they return to their country of origin. ▪ They do not qualify under any other immigration stream. ▪ Canada has become their home. ▪ They have family in Canada ▪ They have maintained legal status while in Canada 	<p>IRCC must consider the best interests of any child in an H&C application that would be directly affected by the decision regardless of where that child lives or was born and regardless of whether or not the child is a biological child, a relative or other.</p> <p>Things to consider when analyzing the best interest of the child:</p> <ul style="list-style-type: none"> ▪ The amount of time the child has been in Canada. ▪ The impact of the decision on the child's education. ▪ The child's age. ▪ The child's ties to their country of origin. ▪ The child's physical, emotional and mental wellbeing. ▪ Gender issues in the child's country of origin/residence. ▪ Relationship between the child and the applicant.

ESTABLISHMENT	SUPPORTING DOCUMENTS
<p>An applicant must demonstrate to the decision-maker how well they are established/settled in Canada proving that they are so well established in Canada that they would face significant hardship should they be forced to leave.</p> <p>How to prove establishment:</p> <ul style="list-style-type: none"> ▪ Number of months/years living in Canada. ▪ Reason for being in Canada in the first place. ▪ Working or going to school in Canada. ▪ Canadian born children. ▪ Family members who live in Canada. ▪ Volunteer work in Canada. ▪ Membership in faith or social groups. ▪ Fluency in French or English. ▪ Property/assets owned in Canada. ▪ Level of education. ▪ Skills & training acquired in Canada. 	<p>The H&C process is solely “paper/electronic document” based so there will be no testimony heard, nor will there be an interview process.</p> <p>An H&C application requires multiple supporting documents to succeed.</p> <p>Examples of supporting documents:</p> <ul style="list-style-type: none"> ▪ Proof of educational and employment history. ▪ Letters of support from counselors, psychologists, therapists. ▪ Medical records. ▪ Bank records. ▪ Police reports. ▪ Court documents. ▪ Photographs proving ties to Canada. ▪ Letters of support from friends and family. ▪ Country reports to prove hardships in country of origin. ▪ Certificates and Diplomas. ▪ Registration/membership forms. ▪ Report cards. ▪ Children’s drawings.