

STEPS TO JUSTICE

Immigration Law

An OJEN facilitator's guide demonstrating a CLEO public legal information resource.



ONTARIO JUSTICE EDUCATION NETWORK
RÉSEAU ONTARIEN D'ÉDUCATION JURIDIQUE



CLEO

Community Legal Education Ontario
Éducation juridique communautaire Ontario



About this workshop guide

This workshop guide is a collaboration between the **Ontario Justice Education Network (OJEN)** and **Community Legal Education Ontario (CLEO)**. OJEN's Steps to Justice workshops introduce audiences to common legal problems and familiarize them with a specific area of law. Using hypothetical scenarios, workshop participants explore a legal topic by navigating the practical step-by-step information on CLEO's Steps to Justice website. They learn how to use the website to find legal information, including the forms, self-help guides and referral information for legal and social services which may be helpful in working through a future legal problem.

This workshop guide was written for use in Ontario high school classrooms, but can be used (or modified) for other audiences. For more information on how to use this workshop guide, please check out our short training video available on the OJEN website ojen.ca/steps-to-justice-workshops-training-video.

OJEN is a charitable, non-profit, public legal education organization. We develop innovative educational tools that introduce young people to the justice system, help them understand the law, and build their legal capability. We partner with schools and community organizations across Ontario to prepare young people to manage the legal problems that will arise in their lives. For more information on OJEN, please visit ojen.ca.

We gratefully acknowledge the support of law students who have contributed to this workshop guide through the Osgoode Public Interest Requirement (OPIR) at Osgoode Hall Law School and through placements with Pro Bono Students Canada (PBSC). We would also like to thank the high school students who provide us with their perspectives and feedback on this resource as OJEN summer interns through the Law in Action Within Schools (LAWS) Summer Job Program.

Any legal information in this resource is intended for general educational purposes and should not form the basis of legal advice of any kind. Individuals seeking specific information about their legal problem should always consult a lawyer.

For over 45 years, **CLEO** has developed clear, accurate, and practical legal rights education and information to help people understand and exercise their legal rights. We produce print and online resources, including the Steps to Justice website, the Family Law Guided Pathways, and CLEO Connect which has information and supports for community organizations. For more information on CLEO, please visit cleo.on.ca.

STEPS TO JUSTICE IMMIGRATION LAW OVERVIEW

Activity (minutes)	Content
Warm-up (5)	<ul style="list-style-type: none"> • Clarify differences between criminal and civil law. • Group quiz on domestic abuse and family violence (Slides 2-6). • What are the major areas covered by immigration law? (Slide 7).
Hook (5)	<ul style="list-style-type: none"> • Advance to Slide 8 and read the demonstration scenario out loud. • Encourage participants to identify potential legal issues in the scenario. • Switch to Slide 9. Explain that the Steps to Justice website is a tool that can help people understand what they need to do when they have legal problems like this one. The group will next use it to answer questions related to the scenario.
Introduce Steps to Justice (10)	<ul style="list-style-type: none"> • Distribute the student handout, "Scenario 1: Demonstration." • Advance to Slide 10. Read the questions about the demonstration scenario out loud. • Pull up the Steps to Justice website on the display screen. • As a group, use Steps to Justice to find answers to the questions about the demonstration scenario on the slide. • Use different searching options (sub-topics, front page keyword search, and header menu) and introduce the actual "steps" to follow. Use the presenter's notes on where to find the information included in this guide for support. • Ask if anyone has questions.
Group work (25)	<ul style="list-style-type: none"> • Advance to Slide 11. • Divide participants into groups and cue them to pull up Steps to Justice on phones/computer and to start on the "immigration law" legal topic. • Give each group a scenario worksheet (scenarios 2-5). • Each group needs at least one device with internet to complete their worksheet. • Circulate and support the groups as needed.
Discussion (15)	<ul style="list-style-type: none"> • Each group has 3-5 minutes to explain their scenario and what they have learned through their investigation. Participants should refer to the completed worksheet for support. • Address questions and issues arising from their reporting.
Application (Optional)	<ul style="list-style-type: none"> • Advance to the final slide. • Since the group has practiced using the Steps to Justice website, the presenter may introduce a more complex scenario. • Participants should comment on it reflecting what they have just learned. • As a group, use the website to answer the scenario questions. • Facilitator's notes are included in this guide to support discussion.



Immigration Law

TRUE OR FALSE



1. Immigrants and refugees are basically the same thing.

F – Immigrants choose to leave their countries to settle somewhere else. Refugees are people who face serious persecution or violence and are forced to flee to protect their safety.

2. Wow, all the Canadian political parties are awful! Good thing I'm a permanent resident – that means I can vote for the burrito party in the next federal election!

F – Permanent residents of Canada have many of the same rights as Canadian citizens, but only citizens can vote in a federal election.

3. It's freeeeeeeezing! I want to spend the winter with relatives in Trinidad. But if I spend the whole winter outside of Canada, I'm going to lose my permanent resident status.

F – The general rule is that over a period of 5 years, you must be in Canada for **at least 2 years**. That's the same as 730 days. The 730 days do not have to be one after the other. And part of a day counts as a full day.

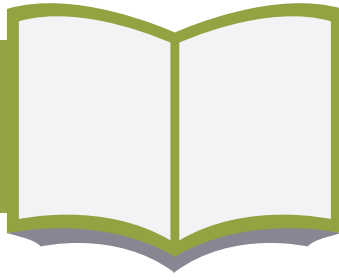
4. I'm SO lucky to have a Canadian spouse. Now I can travel with them without losing my status because that would count towards my mandatory 2 years in Canada!!

T – You can include time you spent outside Canada when you were travelling with your spouse or common-law partner if they are a Canadian citizen.

5. I have my test to become a Canadian citizen next week, so I'm studying everything about Tim Horton's, hockey and beavers – that should cover all their questions, right?

F – The citizenship test includes questions about Canadian geography, history and politics.

Facilitator's Package Scenarios



Start on the Steps to Justice question, "I'm a permanent resident of Canada. Should I apply to become a citizen?" under **Canadian citizenship**. Follow the steps from the landing page to answer the questions. The relevant steps are listed in brackets following the question.



Scenario 1: Demonstration

I always believed that once I get the permanent resident status, I will have the same rights as any other Canadian. But someone told me that since I am a permanent resident, I can be forced to leave Canada no matter how long I've lived here. Is it better if I apply for citizenship?

Start on the Steps to Justice topic, "Canadian citizenship" with the question, "I'm a permanent resident of Canada. Should I apply to become a citizen?"

- What are some of the different rights that permanent residents have compared to Canadian citizens? (Landing page and Step #1)
- What are some reasons why the government could force a permanent resident to leave the country? (Step #2)
- What are the only two reasons for removing someone's Canadian citizenship? (Step #2)
- What are the risks that come with applying for Canadian citizenship? (Step #3)
- Can you be a citizen in another country and still apply for Canadian citizenship? (Step #4)

Discussion

Permanent residents don't have the same rights as Canadian citizens. For example, Canadian citizens are allowed to vote, but permanent residents are not. Permanent residents can be forced to leave the country if they commit certain crimes or belong to criminal organizations, or for other security reasons. Canadian citizens cannot lose their citizenship unless they gave false information or withheld information when they applied for their citizenship. There are some exceptions to this rule, but they only apply to people who have dual citizenship and who are convicted of security offences or of fighting against Canada in an armed conflict, like a war.

There are risks associated with applying for citizenship. The application process means the government looks closely at what you have been doing leading up to the application. If they find that you have not met the residency requirements or have misrepresented facts, you could lose your permanent resident status. Also, if you are a refugee you can lose your protected status if the government finds that you have travelled to the country you fled from. Any of these reasons could lead to loss of status or removal from Canada.

Finally, Canada allows its citizens to hold two citizenships, but not all countries do. This means that you might risk your citizenship in your home country if you immigrate to Canada and become a Canadian citizen. Immigrants should know the laws in their country of origin.



Scenario 2

I am 16 and I just came to Canada from Brazil with my family. I don't speak English very well and I don't speak French at all. Someone told me you need to be able to speak and read both of these languages to become a Canadian citizen. Does this mean I can't become a citizen?

Start on the Steps to Justice topic, "Canadian Citizenship" with the question, "I can't pass the citizenship test or speak and understand English or French well enough. Can I become a citizen?"

- What are the requirements for citizenship? (**Landing page**)
- Can this person become a citizen? (**Landing page, Step #1**)
- What can you do if you can't meet some of the requirements? (**Steps #2 and #3**)
- How can I prove that I really can't meet the requirements? (**Step #3**)
- Do you believe it's fair to require people to speak/understand English or French to be eligible to become a Canadian citizen? (**opinion question**)

Discussion

There are general rules to become a citizen. You must already be a permanent resident, and if you're between the ages of 18 and 54, you need to prove that you can understand spoken English or French well enough, **and** know enough about Canada. The person in this scenario is 16, so they would not have to meet these requirements.

To avoid having to meet the requirements, you can wait till you're 55 years old to be exempted from them. You can also ask the IRCC (Immigration, Refugees, and Citizenship Canada) for a **waiver** to excuse you from the requirements for **compassionate reasons**. There are many different valid reasons why you might need this waiver – for example, if you have a learning disability, or have never attended school, or cannot afford language classes. You need to be able to show evidence of these reasons to get the waiver. Also, IRCC can find ways to help (like getting an interpreter, or taking the test orally, if it's the writing part that is too difficult). Sometimes it's important to show that you tried to learn English or French before getting a waiver. You might have to take the citizenship test at least 2 or 3 times before IRCC considers giving you a waiver.



Scenario 3

I have permanent resident status in Canada. I was at a party last night with some friends and things got a little out of hand. Everyone was drunk and some guys annoyed me, so I got into a fight. Then I heard shots being fired, a few people got hurt and someone died. Everyone involved in the fight is being charged and questioned. I am so scared – am I going to lose my status?

Start on the Steps to Justice topic, “Keeping your permanent resident status” with the question, “I’m a permanent resident and I’ve been charged with a crime. Will I be forced to leave Canada?”

- When could someone lose permanent resident status because of a crime they committed or participated in? (**Landing page**)
- What is considered a “serious crime”? (**Landing page**)
- What is the first thing this person should do? (**Step #1**)
- What are the rights a permanent resident has when charged with a crime? (**Step #2**)
- Can you become a Canadian citizen to avoid getting deported because of being charged with a crime? (**Step #3**)

Discussion

You can only lose your status and be deported if all of these things are true:

- A criminal court finds you guilty and convicts you of a serious crime
- Canada Border Service Agency takes steps to revoke your status and force you to leave Canada
- These steps lead to a deportation order being issued against you
- You don’t have the right to appeal the deportation order, or you have already had an appeal that failed

The definition of a “serious crime” is important. A crime is considered serious if the maximum sentence that the law says you can get is of 10 years or more in prison (even if your sentence is shorter) **or** you receive a sentence of more than six months in prison. So for example, if you get 2 months in prison, and the maximum you could’ve gotten was 5 years, then it is not a serious crime. Understanding how immigration law and criminal law mix is complicated, so the first thing someone in this situation should do is get legal advice. A lawyer can help ensure that your rights are protected, including the right to a fair trial in a criminal court and the right to a lawyer to represent you. You **can** apply for Canadian citizenship while charged, but you will not qualify if the crime you are charged with is an indictable (more serious) offence.



Scenario 4

Last summer was great - I went back home to India! I have been a permanent resident in Canada for about 5 years, so I had not seen my family in a long time. I stayed there for 3 months. But when I came back to Canada, I was stopped at the airport and told that I may have stayed outside the country for too long. Should I worry? Will I lose my permanent resident status?

Start on the Steps to Justice topic, “Keeping your permanent resident status” with the question, “I spent time outside Canada. Could I lose my permanent resident status?”

- How much time does a permanent resident have to spend in Canada? (**Landing page**)
- How do I prove that I am a permanent resident when I come back to Canada after traveling?
- Can I exceed the time spent outside Canada if it's for work? (**Step #2**)
- Can I count the time spent outside Canada with my spouse who is Canadian? (**Step #2**)
- What can I do to be allowed to travel as much as I want? (**Step #3**)

Discussion

You must spend a certain amount of time in Canada to keep your permanent resident status. This is called a residency obligation. The general rule is that over a period of 5 years, you must be in Canada for at least 2 years. That's the same as 730 days. The 730 days do not have to be one after the other and part of a day counts as a full day. When you come back to Canada, you will have to show your Permanent Resident Card or Permanent Resident Travel Document to prove your status.

The 730 days can also include time spent outside Canada because you were (1) working as a full-time employee of a Canadian business, or (2) working as a full-time employee of the government of Canada or a Canadian province or territory. But you will have to show that (1) the employment is only temporarily outside Canada, and (2) work with the same employer will continue in Canada when you return.

You can include time spent outside Canada if you travel with a spouse or partner if they are a Canadian citizen working full-time for a Canadian government or a Canadian business.

To be able to stay outside Canada as long as you want, you should consider becoming a Canadian citizen. If you're a Canadian citizen, it does not matter how much time you spend outside Canada. You don't lose your citizenship just because you're away, and you always have the right to return to Canada.



Scenario 5

I have been living in Canada and working to save money to bring my family here too. I really don't have any idea about Canadian immigration laws, though. I definitely can't afford an expensive lawyer. Where can I get the legal help I need?

Start on the Steps to Justice topic, "Getting legal help in immigration law" with the question, "Where can I get legal advice and help with a problem about immigration status in Canada?"

- Who can give me legal help? (Landing page and Step #1)
- What are some of the topics they can help with? (Step #2)
- What should I do before I talk to an immigration professional? (Step #2)
- Will I qualify for help from a legal clinic? (Step #3)
- What are my options if I can't afford a lawyer? (Steps #3 - #5)

Discussion

Immigration law is complicated so it's easy to make mistakes when you don't know the law. It is important to get help from someone who is:

- Trained and knows the law
- Authorized to give you the legal help you need
- Honest and trustworthy

That person is called an **authorized representative**. They must be a lawyer or a paralegal licensed by the Law Society of Ontario (LSO), or an immigration consultant registered with the Immigration Consultants of Canada Regulatory Council (ICCRC).

These people can help you find out about things like:

- Immigration status
- Rights based on your immigration status
- Options if your status is at risk
- Options for applying for another status

- Bringing family members to Canada
- Chances of success of an application
- What evidence you need to bring to a hearing

When you talk to the lawyer or advisor, you need to prepare all your questions and any related documents beforehand. You need to talk openly with your lawyer so that they can provide you with the appropriate advice.

If you can't afford a lawyer, legal clinics might be able to help. Not all of them deal with immigration questions, but many do. To qualify for help:

- Your legal issue must be one the clinic deals with
- You must live in the area the clinic serves
- Your income and assets can't be worth more than a certain amount

There are other options depending on your income, such as Legal Aid, law society referrals, or a non-profit organization like "JusticeNet", all of which provide service for people with lower incomes.



Display: Large Group Practice Scenario 6

I am the mother of two kids. We came to Canada a couple of weeks ago to visit the country but I want to stay here because it's unsafe for me to go back. I have been involved in a lot of anti-government political activities, and my family has received anonymous threats about them.

There is no help from the government. In fact, I am really worried that if I go back to they will put me in prison because I was advocating for democracy. Freedom of expression is not really allowed, especially if I'm criticizing the leader and his corrupt government.

I am worried for my safety and the well-being of my kids. What can I do to stay in Canada? I heard about something called a humanitarian and compassionate application - what is that? Could it help me?



Scenario 6: Focus Questions

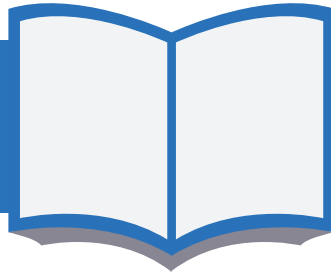
Students can draw from their learning to identify potential legal issues and questions to investigate. The facilitator should pull out questions that establish the general legal rules around applying for permanent residency in Canada, as well as how these might be different in the case of H&C applications. Discussion should touch on the application process and the kinds of circumstances and experiences that support these applications.

Start from the topic “Domestic violence – What if I’m worried about my child’s safety when they’re with my partner?” Consider question lines like:

- How do permanent applications usually work?
- How does an H&C application work?
- What needs to be done before submitting the application?
- What are some reasons that would help support an H&C application?
- What are some examples of hardship that IRCC might consider?
- What factors affect a child’s best interests?

Participant Handouts

Scenarios



Scenario 1 Worksheet: Demonstration

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Scenario 2 Worksheet

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