

Know your rights: Migrant Rights and Immigration Laws

Spousal or Partner Sponsorship

WHAT IS SPOUSAL OR PARTNER SPONSORSHIP?

- Common way that people obtain permanent residence status is through being sponsored by a spouse or partner who is either a Canadian citizen or permanent resident.
- This sponsorship can be done either inside and outside Canada and even if the sponsored spouse or partner does not currently have legal status in Canada.

WHO MAY APPLY?

- Sponsors must be 18+, not on social assistance (aside from disability), and sign an undertaking that promises to pay back any social assistance received by the sponsored person for 3 years after they get permanent residency.
- A person may not be able to sponsor if they have been recently sponsored within 5 years, they are still under an undertaking from a previous sponsorship, have existing sponsorship or child support debt, or they have been convicted of crimes of a violent and/or sexual nature.
- The sponsored person needs to be either a spouse, common-law partner, or conjugal partner:
- A spouse is a partner that is married in a legally valid marriage. Same-gender marriages are recognized by IRCC.
- A common-law partner is a partner that has continuously lived together with the sponsor in a marriage-like relationship for at least 12 months.
- A conjugal partner is a partner living outside Canada in a marriage-like relationship with the sponsor for at least 12 months but cannot live together because of risk of persecution.

HOW MUCH DOES IT COST?

- The application costs for a spousal or partnership sponsorship are \$1,050.
- Dependent children may also be included in a spousal/partner sponsorship application and cost \$155 per child..
- A sponsored spouse or partner may also be able to apply for an open work permit while the sponsorship application is being processed – this costs \$255.
- If you are unable to do a spousal sponsorship, you may consider an H&C application. If you are a victim of family violence, you may also apply for a family violence Temporary Resident Permit (TRP).

HOW LONG WILL IT TAKE?

- The processing for spousal/partner sponsorships can vary quite a bit. On average, IRCC takes around 1 year to process spousal/partner sponsorships from start to finish, but could take longer depending on the complexity of the case.





WHAT CAN YOU DO TO PREPARE YOUR APPLICATION?

- You will need to prove to IRCC that your marriage or partnership is both **genuine** and **not entered into primarily for immigration purposes**.
- You can begin to prepare documents and evidence of your relationship immediately, even if you are still consider whether or not to apply, this includes:
 - ➔ For spousal sponsorship, you will need to produce a valid **marriage certificate** or proof of marriage registration.
 - ➔ Proof you live together:
 - ✓ Joint rental agreement or joint ownership of home;
 - ✓ Joint responsibility of utilities payment;
 - ✓ Government ID or other documents showing same address;
 - ➔ **Proof of genuine relationship:**
 - ✓ Letters, printed texts, emails or chats to each other;
 - ✓ Photos taken together (e.g. travel, meals, social functions, etc.);
 - ✓ Proof of visitation (e.g. plane tickets, passport pages);
 - ✓ Proof of financial support (e.g. gifts, purchases, transfer payments);
 - ✓ Tax returns filed together;
 - ✓ Timeline of key events in your relationship (it is important that both you and your spouse/partner talk about this together and are familiar with the same timeline);
 - ✓ Letters from friends and family that know and can attest to your relationship;
 - ✓ Documents and evidence of any children you have together.
 - ➔ **Proof sponsored person doesn't need social assistance (recommended):**
 - ✓ Bank and financial documents that show your assets;
 - ✓ Letter from employer on letterhead that indicates your title, job duties, hours, pay, when you started, etc.



Note: There is no minimum income requirement for spousal sponsorship, but being employed and paying tax would strengthen the application.



KEEP YOUR RECORDS:

- Make copies or scans of your documents before giving them to a legal representative and keep them in a safe place. Use folders and dividers so you can easily find what you might be looking for when you need it and/or consider uploading them online for storage.

REQUEST FOR IN-PERSON INTERVIEW:

Generally, interviews are not conducted. However, if the officer has some doubts about the application or finds some inconsistencies, you and your spouse/partner may be invited to attend an in-person interview.

The purpose of the interview is generally to determine the genuineness of the marriage/partnership and to ensure that the primary purpose of the relationship is not immigration. Questions are usually asked to confirm details of your application and several different details of the relationship. Since a genuine marriage/partnership is culturally and socially relative, keep in mind that some IRCC officers may be comparing your case to an ideal of a Western-style marriage/partnership in which the relationship is based on love, romance, incremental progression and interdependence, and culminates in a wedding ceremony.



HOW TO PREPARE FOR AN INTERVIEW?

- You may feel nervous about the interview. However, understanding what to expect and preparing for it is helpful. Prepare to discuss private and intimate relationship issues in detail with the immigration officer. The officer may ask further questions depending on your answers. You or your spouse may be asked to do the interview together or separately.

Prepare for an interview by:

1. Reviewing the application forms and documents (and remember key dates and documents) because the officer often asks questions regarding the documents.
2. Prepare with your spouse before the interview and review key dates and events so that you both recall roughly the same narrative.
3. Answer the questions with your heart and feelings (e.g. show how much you love your spouse, feel committed in the moment).
4. Stay calm even the officer is intimidating and ask you difficult questions
5. Make sure you understand the interpreter and understand questions. Ask to repeat the question when you do not understand the question or do not know the answer. If you do not know the answer, it is better to say you do not know or cannot remember than to make something up.





HERE ARE SOME SAMPLE INTERVIEW QUESTIONS:

1. When, where and how did you meet your spouse?
2. How did your relationship develop after the first day?
3. What does your spouse do for a living?
4. What type of music does your spouse enjoy listening to? What kind of books do you read?
5. Describe the wedding ceremony? Who attended the wedding? How long was your honeymoon?
6. What are the names of friends and relatives of your spouse?
7. Can you show photos, text message, phone-bills, emails between you and your spouse?
8. Have you been on any trips together? When? Where? What did you do?

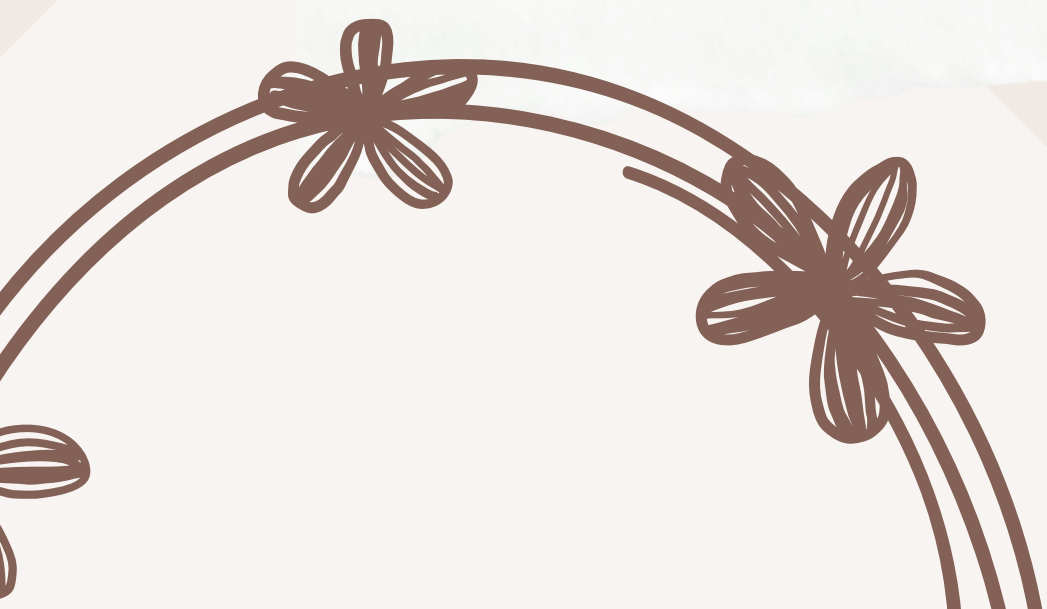


TEMPORARY RESIDENT PERMIT (VALID 6 MONTHS OR LONGER)

- Because a sponsor and their partner must continue to be in a relationship during the course of the sponsorship in order for the application to continue, this creates a power imbalance that may result in or worsen situations of interpersonal abuse or exploitation.
- If you are in an abusive relationship, you may be able to apply for a Temporary Resident Permit. This may be very important if you are thinking about leaving the abuser but are scared about the immigration consequence. Although you do not have to testify against your abuser, you may be asked a lot of detailed questions and asked to provide evidence related to the abuse (e.g. medical reports, police reports, support letters from counsellors and community organizations).
- A woman might also qualify for a Temporary Resident Permit because of family violence if she has made or was planning to make an H&C application.

Notes:

- If your refugee claim was rejected and it has been less than a year since the final decision, you cannot apply for a Temporary Resident Permit.
- Children Aid Society may get involved if the children may be impacted by the domestic violence.





Frequently Asked Questions (FAQ):



Q: What if I am experiencing domestic abuse and violence? Will my sponsorship be taken away if I report the violence or leave my relationship?

A: It is possible that the sponsor will withdraw the sponsorship and/or refuse to submit the papers in the first place. In such a case, there is a special Temporary Resident Permit for Family Violence that the sponsored person may apply for. The victim of abuse may also apply for an open work permit at the same time. There is no fee.

As noted above, although you do not have to testify against your abuser, you may be asked a lot of detailed questions and asked to provide evidence related to the abuse (e.g. medical reports, police reports, support letters from counselors and community organizations).

Q: Why does the IRCC require me to attend an in-person interview?

A: Generally, IRCC only requires partners to attend in-person interviews if they have some serious concerns about whether the relationship is good faith. In some circumstances, they may ask other factors that may lead to a rejection, such as medical conditions, past criminal records, or past sponsorship undertakings.

Q: What do I do if my sponsorship application is rejected?

A: It is recommended that you obtain professional legal help at this point if you did not have it before. If your spousal/partner sponsorship application is rejected, the sponsor may (in most cases) appeal the decision to the Immigration Appeal Division up to 30 days after receiving the refusal letter. If that appeal is refused, you may file a judicial review to Federal Court within 15 days of receiving the appeal decision.

Q: IRCC suspects our relationship is not genuine, what can I do?

A: There are many things that you can do to demonstrate that your relationship is genuine. Being prepared is the most important thing. Work with your partner to assemble a timeline of your relationship, with all of the important events, dates, descriptions. Carefully assemble relationship support evidence as mentioned above. Obtain as many support letters as possible and take lots of pictures as a couple with friends and family. A good legal representative (or support person) can walk you through questions about your relationship so that you may practice answering to ensure there are no major differences in story. You should practice answering these questions both together and alone.

Q: How many appeals can I do?

A: Generally for each application, you can only do one appeal to the Immigration Appeal Division and if they refuse the appeal, you can judicial review to Federal Court (and may appeal a negative decision further up in that case).

Q: I have my sponsorship application submitted and have received an open work permit. Can I work in the sex industry or massage parlours?

A: The immigration regulations prohibit migrants from working in sex and erotic industry. Generally, the IRCC interprets this extremely broadly to also include people working in massage parlours. Thus, there is a risk that people may lose their work permit even if they have an otherwise open work permit.

Q: What can I do if I am asked to leave Canada to wait for my outland spouse sponsorship?

A: An inland sponsorship application is different from an outland sponsorship. If you had an inland sponsorship processing and you had to leave Canada, your inland sponsorship will be canceled and you will need to reapply all over again with an outland spousal/partner sponsorship while you are outside Canada.



Stories



Fa Fa

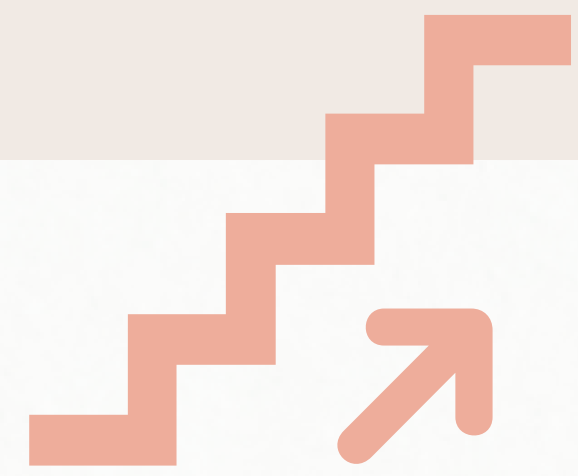
Fa Fa failed her refugee claim and she was worried that she had to leave Canada. She hoped that she would get the status by spousal sponsorship. She married a man but her husband kept threatening her and asking for money from her. Additionally, she found out that her husband was bankrupt, receiving social assistance, and got his permanent residency also by sponsorship 2 years ago and was thus not eligible to sponsor her. As a result, Fa Fa was issued a departure order and forced to leave Canada.

Lin

Lin came to Canada with a visitor visa but her visa renewal application was rejected. An agent helped her to arrange a marriage and she paid \$20,000 for the assistance. An immigration officer requested an in-person interview. Her spousal sponsorship was rejected because immigration suspected it was not a genuine marriage, since Lin could not provide detailed information about her relationship with her husband and there were a lot of inconsistencies between her account and her husband's. She was issued an order to leave Canada.



Next steps/resources



Find a legal professional

(free legal services for low income people with eligible legal issues):

- Chinese and Southeast Asian Legal Clinic (service in English, Mandarin, Cantonese): 416-971-9674, www.csalc.ca
- Find a legal clinic near your home
- <https://www.legalaid.on.ca/legal-clinics/>
- Legal clinic for self-identified women, non-binary, intersex and 2 spirit people who experienced violence
 - Barbra Schlifer Commemorative Clinic:
www.schliferclinic.com
- Call Legal Aid Ontario (you can ask for an interpreter):
1-800-668-8258
 - If you are eligible, you may apply for the Legal Aid Ontario to pay for your legal representation (e.g. for refugee claim and H&C application etc)
<https://www.legalaid.on.ca/services/how-do-i-apply-for-legal-aid/>
- If you are a refugee or detained by immigration, you may reach out to Refugee Law Office
<https://www.legalaid.on.ca/services/help-with-immigration-or-refugee-problems/>
- You can also hire a local immigration lawyer or consultant to assist you

*** Connect with community groups that assist migrants.



Apply or check current processing times:

- <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/family-sponsorship/spouse-partner-children.html>
- Connect with community groups assisting migrants
- Further resources:
 - **IRCC sponsorship guide:**
<https://www.canada.ca/en/immigration-refugees-citizenship/services/application/application-forms-guides/guide-5289-sponsor-your-spouse-common-law-partner-conjugal-partner-dependent-child-complete-guide.html>
 - **Parkdale video on sponsoring your spouse, partner or dependent child:** https://www.youtube.com/watch?v=m9_IK5J25Wk
 - **CSALC guide on family sponsorship:**
<https://csalc.ca/family-class-sponsorship/>

Connect with community groups that assist Chinese/Asian migrants.

- Chinese Canadian National Council (Toronto Chapter)
www.ccnctoronto.ca 416-596-0833
Wechat: ccnctoronto
- Butterfly (Asian and Migrant Sex Workers Support Network)
www.butterflysw.org 416-906-3098
- Friends of Chinatown Toronto
<https://linktr.ee/FOCT>
- Lesbond: Asian Queer Women Migrant Support Project
lesbondinfo@gmail.com
<https://www.facebook.com/AsianQueerWomenMigrantsInCanada>
- Ontario Hong Kong Youth Action (OHKYA)
<https://ohkya.com>

Partner organizations:



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This document provides general information. Talk to your lawyer if you want legal advice specific to your situation.