



Code of Conduct for Members of the Immigration and Refugee Board of Canada

June 1, 2008
Disponible en français

A. INTRODUCTION

Purpose

1. The Code establishes the standards of conduct that govern the professional and ethical responsibilities of members of the Immigration and Refugee Board of Canada (IRB) as decision-makers of a quasi-judicial administrative tribunal.
2. The Code is intended to supplement, and should be read in conjunction with, any applicable conduct requirements that are established from time to time for either public servants or Governor in Council (GIC) appointees, and set out in the *Immigration and Refugee Protection Act* (the Act) or other legislation, guidelines, codes, policies or other instruments. The Code should also be read in conjunction with any applicable conduct requirements that are established from time to time by professional regulatory bodies.

Application

3. The Code applies to all full-time and part-time members of the IRB, whether they are public servants appointed under the *Public Service Employment Act* or GIC appointees.
4. The Code is effective from June 1, 2008 and replaces all previous versions of the *Code of Conduct for Members of the Immigration and Refugee Board*.

Scope

5. The standards of conduct set out in the Code are based on and recognize two fundamental principles: (i) that public confidence and trust in the integrity, objectivity and impartiality of the IRB must be conserved and enhanced; and (ii) that independence in decision-making is required.
6. The Code is based on the IRB's dedication to the following values – honesty, good faith, fairness, accountability, dignity, respect, transparency, openness, discretion, cultural sensitivity and loyalty.
7. These standards address members' responsibilities to the tribunal itself, including colleagues and staff, to the parties who appear before them, and to the public.
8. Members are expected to comply with the standards of conduct set out in the Code. Although the Code cannot anticipate every possible situation, in all cases, members are expected to act honestly and in good faith, in a professional and ethical manner.

Administration

9. The Chairperson is responsible for the administration of the Code, including any matters regarding its interpretation. Members are accountable to the Chairperson for their compliance with the Code.
10. Member managers shall promote awareness of and compliance with the Code by members.
11. Members are encouraged to bring to the Chairperson's attention as soon as practicable the conduct of another member that is not in compliance with the Code, if such conduct may threaten the integrity of the IRB.
12. Any question regarding the interpretation or application of the Code may be directed by members who are public servants to their Director General, and by members who are GIC appointees to the Director, GIC Secretariat Services, or successor in title.

B. MEMBERS' RESPONSIBILITIES TO THE TRIBUNAL

Compliance with Laws

13. Members shall comply with the provisions of the Act, all applicable regulations and rules established under the Act, and all other relevant legislation and policy instruments that apply to their work and the work of the IRB.

Consistency

14. Members, in their decision-making, have a responsibility to support the institutional interest of the IRB in ensuring the consistency of its decisions, while recognizing that no improper influence may be brought to bear upon their adjudicative independence.

Communications

15. Members shall not disclose or make known any information of a confidential nature that was obtained in their capacity as a member. This means disclosure outside of the IRB to other government departments or agencies or to the general public, as well as disclosure within the IRB to members or staff where such disclosure is not operationally required.
16. Members shall not communicate with the news media or publicly express any opinion regarding: (i) any matter relating to the work of the IRB; or (ii) any other matter that may create a reasonable apprehension of bias. Inquiries from the media or members of the public shall be referred to the IRB office responsible for communications with external stakeholders.

17. Subject to the exception noted in section 18, members shall not communicate with other government departments or agencies, or elected officials or their staff, regarding: (i) any matter relating to the work of the IRB; or (ii) any other matter that may create a reasonable apprehension of bias. Inquiries shall be referred to the IRB office responsible for communications with external stakeholders.
18. Members may communicate with other government departments or agencies regarding a matter relating to the work of the IRB when the communication is carried out in accordance with the member's official duties.
19. The responsibilities set out in sections 15-17 do not limit any rights or obligations that members may have or are subject to under any applicable legislation, guideline, code, policy or other instrument.

Expertise

20. Members have a responsibility to maintain a high level of professional competence and expertise required to fulfil their duties and responsibilities. Members are expected to pursue the development of knowledge and skills related to their work, including participation in ongoing training provided by the IRB.

Collegiality

21. Members have a responsibility to perform their duties in a manner that fosters collegiality among members and with staff and to treat them with courtesy and respect. Members are expected to assist their colleagues through the respectful exchange of views, information and opinions.

C. MEMBERS' RESPONSIBILITIES TO THE PARTIES

Conduct of Hearings

22. Members shall conduct hearings in a courteous and respectful manner while ensuring that the proceedings are fair, orderly and efficient.

Natural Justice

23. Members shall comply with all procedural fairness and natural justice requirements. Members are expected to approach each case with an open mind and, at all times, must be, and must be seen to be, impartial and objective.

24. Members shall disqualify themselves from any proceeding where they know or reasonably should know that, in the making of the decision, they would be in a conflict of interest, or that their participation may create a reasonable apprehension of bias. In such a case, they shall immediately inform their manager and provide the reason for their self-disqualification.

Equality and Accommodation

25. Members shall exercise their duties without discrimination. Members must take reasonable measures to accommodate all participants so that they may participate effectively in a proceeding. Members are expected to take into account social and cultural differences and to respect human rights.

Communications with Participants in a Proceeding

26. Unless permitted under the Act, members shall not communicate directly or indirectly with any party, counsel, witness, interpreter or other non-IRB participant appearing before them in a proceeding, except in the presence of all parties or their counsel, if such communication may create a reasonable apprehension of bias.

27. Members shall not, during the course of a proceeding, have any social contact with a party, counsel, witness, interpreter or other non-IRB participant, if such social contact may create a reasonable apprehension of bias.

Decision-Making

28. Members shall make each decision on the merits of the case, based on thorough preparation, the assessment of evidence properly before the member and the application of the relevant law. The relevant law consists of the Act, the *Canadian Charter of Rights and Freedoms*, other relevant legislation, regulations, legal principles, including the principles of natural justice, and relevant case law. Decision-making responsibility shall not be delegated.

29. Members shall not be influenced by extraneous or improper considerations in their decision-making. Members shall make their decisions free from the improper influence of other persons, institutions, interest groups or the political process.

30. Members are expected to render their reasons in accordance with any standards that may be established by the IRB regarding quality decision-making and timeliness.

31. Members have a responsibility to consider the privacy interests of individuals in the conduct of proceedings and the writing of decisions, ensuring that decisions contain only the personal information that is necessary to explain the reasoning of the decision.

D. MEMBERS' RESPONSIBILITIES TO THE PUBLIC

Integrity

32. Members shall conduct themselves with integrity and avoid impropriety, or the appearance of impropriety.

Conflict of Interest

33. Members shall arrange their private affairs in a manner that will prevent them from being in a conflict of interest, as set out in the applicable legislation, guideline, code, policy or other instrument established for public servants or GIC appointees respectively.

Bias

34. Members shall conduct themselves in a manner that will not cast doubt on their ability to perform their duties objectively.

Gifts or Other Advantages

35. Members shall not accept gifts or other advantages, including hospitality or other benefits, as set out in the applicable legislation, guideline, code, policy or other instrument established for public servants or GIC appointees respectively.

Outside Activities

36. Members may take part in outside activities that are not inconsistent or incompatible with their official duties and responsibilities, or that do not cast doubt on their ability to perform their duties objectively. Outside activities means activities outside of a member's official duties in which they participate in their personal capacity, such as conferences and training seminars, volunteer activities, teaching assignments, non-political fundraising, public speeches and interviews.

37. Members shall obtain any required prior written approval for such outside activities, as set out in the applicable legislation, guideline, code, policy or other instrument established for public servants or GIC appointees respectively.