



What you should know about admissibility hearings

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If the Canada Border Services Agency (CBSA) believes there's a reason you don't have the right to be in Canada, you may be ordered to appear for an admissibility hearing. Admissibility hearings are held by the Immigration Division (ID) of the Immigration and Refugee Board of Canada (IRB). The following information will help you understand the admissibility hearing process and what to expect.

The IRB's role in admissibility hearings

The IRB is independent of the CBSA. A member of the ID will decide if you are inadmissible. If you are inadmissible, you'll be ordered to leave Canada. If you are in another country, you will not be allowed to enter Canada. However, you may still have options that could allow you to stay or enter.

You should know: The person in charge at your hearing is the **ID member**, also called the **member**.

You should know: Following your hearing, the member's decision will be either that the CBSA is correct, and you are inadmissible to Canada, or that the CBSA is incorrect, and you are not inadmissible to Canada.

What happens after you have been ordered to appear for an admissibility hearing

Before the hearing, the CBSA will send you a package of documents outlining why they believe you are inadmissible. This package will include documents they want the ID to consider at your hearing.

You'll receive a notice from the ID with details about the date and time of your admissibility hearing. This is your **Notice to Appear**. Read this notice carefully.

There are different ways to have your admissibility hearing

Virtual

All IRB hearings are scheduled as virtual hearings. If you don't have access to a suitable room, the right technology, or you have concerns about participating virtually, you can connect from an IRB office using an IRB computer.

See the quick tips we've prepared to help you get ready for your virtual hearing: <https://www.irb-cisr.gc.ca/en/information-sheets/Pages/quick-tips-virtual-hearings.aspx>.

In person

You may also request an in-person hearing. You can find instructions for making requests in the ID section of the IRB's practice notice on scheduling of virtual and in-person hearings: <https://www.irb-cisr.gc.ca/en/legal-policy/procedures/Pages/practice-notice-scheduling-virtual-in-person-hearings.aspx#s13>.

If you are in detention and want an in-person hearing, you can ask your counsel (if you are represented) or an officer where you are being detained (if you are not represented).

Preparing for an admissibility hearing

Interpretation

If you would like to have an interpreter in your own language at the hearing, tell the ID right away. We can provide an interpreter to translate for you at your hearing. Your Notice to Appear includes contact information and important instructions on interpreters.

Representation at an admissibility hearing

Although you can represent yourself at your hearing, you may want to hire counsel to help you. Only certain people can receive payment for acting as counsel, such as lawyers, registered immigration consultants or Quebec notaries. You are responsible for paying your counsel.

If you don't have enough money to pay for counsel, you may be able to get free legal help. Some provinces and territories offer free legal aid to people who are eligible.



Find contact information for legal aid offices in British Columbia, Alberta, Manitoba, Ontario, Québec, and Newfoundland and Labrador: <https://www.irb-cisr.gc.ca/en/legal-policy/legal-concepts/Pages/legal-aid-office.aspx>.

A friend, family member or community support person may also act as counsel if they're not receiving payment for their help. If you are in detention, ask an officer where you are being detained to help you contact legal aid or other counsel.

If you decide to hire counsel or to have someone else help you, you should do so as soon as possible. You can ask the ID for more time to find counsel, but the ID may decide you have to proceed without counsel if you have not planned for representation early enough. Your Notice to Appear includes contact information and important instructions on counsel.

Evidence

You may be asked to give evidence at your admissibility hearing. Evidence can be documents you provide, or oral testimony you or other witnesses provide at the hearing.

Copies of documents must be provided to the CBSA and the ID at least **5 days** before your hearing and must be in either English or French. The CBSA must also send you a copy of the evidence they want to use at your admissibility hearing at least **5 days** before the hearing.

See the ID Rules to learn more about how to prepare and present documents: <https://laws-lois.justice.gc.ca/eng/regulations/SOR-2002-229/page-2.html#h-691479>.

Witnesses

You may invite witnesses to speak at your admissibility hearing. You must tell both the ID and the CBSA about any witnesses at least **5 days** before the hearing. Your Notice to Appear includes contact information and important instructions on witnesses.

See the ID Rules to learn more about the rules for witnesses: <https://laws-lois.justice.gc.ca/eng/regulations/SOR-2002-229/page-2.html#h-691526>.

Pre-hearing conference

The ID may schedule a pre-hearing conference to get additional information and discuss your case. Your Notice to Appear will give details about the date and time of the pre-hearing conference.

What happens at an admissibility hearing

1. The ID member is in charge of the hearing. The member will start by introducing everyone and explaining what's going to happen. If you have asked for an interpreter, the member will check that you and the interpreter understand each other.
2. After the introductions, each side will take turns presenting its case to the member. You may be called as a witness and asked questions. The CBSA representative, your own counsel and the member can all ask you questions.
3. A CBSA representative will explain to the member why the CBSA believes you are inadmissible to Canada.
4. You or your counsel will then be asked to respond. If you disagree with the CBSA's position, you or your counsel can explain why.
5. CBSA will then be allowed to reply to what you or your counsel said.
6. If there are witnesses to give information, the CBSA representative, you, your counsel, or the member may ask them questions.

When you'll receive a decision

After hearing from both sides, the member will make their decision. The member's decision will be either:

1. the CBSA is correct, and you are inadmissible to Canada, or
2. the CBSA is incorrect, and you are not inadmissible to Canada

The member will usually give their decision and reasons at the end of the hearing. If not, the IRB will send you a copy of the decision and the reasons by email or mail after the hearing.

What happens if the member decides you are not inadmissible

If the member decides that you are not inadmissible, you'll receive a favourable decision. You may be allowed to enter Canada or stay here for a period of time. If you receive a favourable decision, you should contact the CBSA for information on next steps. The CBSA may appeal this decision to a separate division of the IRB, the Immigration Appeal Division (IAD). If the CBSA does this, you'll be informed and you'll be able to participate in the IAD hearing.



What happens if the member decides that you are inadmissible

If the member decides that you are inadmissible, you'll receive a removal order. There are 3 types of removal orders:

- departure orders
- exclusion orders
- deportation orders

Which type of removal order you receive depends on why you are inadmissible.

See Removal from Canada and removal orders to learn more about the different types of removal orders: <https://www.cbsa-asfc.gc.ca/security-securete/rem-ren-eng.html>.

A removal order says that you must leave Canada, but you may still have other options that could allow you to stay. You may have the right to appeal to the IAD, or you can file an application at the Federal Court challenging the ID's decision. You may wish to get legal advice about how to do this, and you must file either application quickly.

Important notice

This guide provides general information about the admissibility hearing process. It is not intended or provided as legal advice. For more information on the admissibility hearing process, please consult the *Immigration and Refugee Protection Act*: <https://laws-lois.justice.gc.ca/eng/acts/I-2.5/index.html>, *Immigration and Refugee Protection Regulations*: <https://laws.justice.gc.ca/eng/regulations/SOR-2002-227/index.html> and the *Immigration Division Rules*: <https://www.laws-lois.justice.gc.ca/eng/regulations/SOR-2002-229/index.html>.