

IP 9 – Use of Representatives

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Updates to chapter

Listing by date:

Date: 2011-12-13

Changes were made throughout IP 9 to reflect the passage of Bill C-35, *An Act to Amend the Immigration and Refugee Protection Act*, and the replacement of the Canadian Society of Immigration Consultants (CSIC) with the Immigration Consultants of Canada Regulatory Council (ICCRC) as the organization designated to regulate immigration consultants

- The name of the manual was changed by removing “Paid or Unpaid” from the title
- All references to CSIC membership as the definition of being authorized to act as an immigration consultant have been replaced to show that the ICCRC is now the designated regulatory body for immigration consultants, and that ICCRC membership is now required for someone to qualify as an authorized immigration consultant.
- Section 3 was updated to reflect the passage of Bill C-35
- Section 5 was updated to reflect the passage of Bill C-35
- Section 6 was expanded and clarified
- Section 7 was updated to reflect the passage of Bill C-35
- The Appendices were updated with up-to-date Web links and other minor changes

Date: 2008-10-07

Minor changes and clarifications have been made throughout IP 9. The highlights include:

- Changes were made in order to bring IP 9 up-to-date regarding the end of the transition period for unauthorized immigration consultants. The letters provided in Appendices B to G have also been updated.
- Changes were made to reflect the creation of Operational Management and Coordination (OMC).
- All references to the Public Rights Administration Directorate (PRAD) have been replaced with *Access to Information and Privacy Acts* (ATIP).
- [Section 3, Table 1](#) has been expanded to include more relevant Acts and Regulations.
- [Section 3.1, Table 2](#) has been reworked to clarify the difference between the IMM 5475 – Authority to release personal information to a designated individual and the IMM 5476 – Use of a Representative.
- [Section 3.2](#), important instructions have been added to provide guidance when documenting the IMM 5475 and IMM 5476 authorizations in our systems. Standardized documentation of these authorizations is now mandatory.
- [Section 5.2](#), the definition of “paid representative” has been revised to further explain the time-of-payment issue.
- [Section 7.2](#), several changes and clarifications were made throughout this section.
- [Section 9.2, Table 3](#) has been reworked.
- Section 10, the CIC Investigation Process chart and Section 10.2 have both been removed. These issues are currently under discussion and new instructions will be posted as soon as they are available.
- [Section 10.4](#), information has been added regarding the *Privacy Act*.
- [Appendix A](#), contact information and URLs have been updated.

For further information, please contact the Immigration Representatives mailbox at: SecretariatConsultants@cic.gc.ca.

IP 9 – Use of Representatives

1. What this chapter is about

This chapter provides policy and procedural guidelines for implementing the Act and Regulations on the use of representatives, by persons who are the subject of proceedings or applications pertaining to immigration and refugee matters. The original Regulations came into force on April 13, 2004. Subsequent changes to the Act and Regulations came into force on June 30, 2011.

These guidelines should be used by officers of Citizenship and Immigration Canada (CIC) and the Canada Border Service Agency (CBSA). As an independent organization, the Immigration and Refugee Board (IRB) has its own policies and procedures regarding the use of representatives. Therefore, for the purpose of this chapter, the terms “office” and “officer” refer to the CBSA or CIC.

2. Program objectives

Representatives can play a constructive role in assisting applicants with immigration and refugee matters. These representatives fall into two groups: individuals who receive some form of compensation for their services, and individuals who provide such services for free (these would typically be family members, friends, non-governmental and religious organizations, etc.)

Representatives who charge a fee or receive other forms of consideration for the provision of advice or representation with regard to an immigration application or proceeding must be registered with one of the regulatory bodies. These bodies are the Canadian provincial/territorial law societies, who regulate lawyers and (in some cases) paralegals, the *Chambre des notaires du Québec*, and the Immigration Consultants of Canada Regulatory Council (ICCRC).

The program objectives of the Regulations governing the use of representatives are:

- to ensure that all applicants are represented in a professional, ethical and lawful manner; and
- to preserve the integrity of Canada's immigration program.

The Regulations prescribe which immigration representatives may (or may not) represent or advise, for a fee or other consideration, a person who is the subject of either a proceeding or an application under the *Immigration and Refugee Protection Act* (IRPA). The Regulations restrict CIC, the CBSA and the IRB to only dealing with members in good standing of one of the regulatory bodies if the representative in question is receiving any compensation for their services, including payment.

Prior to the passage of Bill C-35, CIC, the IRB and the CBSA interpreted the Regulations to mean that representation or advice made to a client before an application was submitted to CIC did not apply. In other words, an applicant was only obliged to disclose the name of their representative (paid or unpaid) on the Use of a Representative ([IMM 5476](#)) form if the individual would be advising or representing them once the application was submitted to CIC (i.e., either at the time of submission or after).

However, with the passage of Bill C-35, the act of representing or advising a client now extends to all stages of an application, including providing representation or advice before the application is submitted. As a result, a Use of a Representative ([IMM 5476](#)) form must be provided with an application if an individual assisted or advised the client at any point in the immigration process.

3. The Act and Regulations

Bill C-35, *An Act to Amend the Immigration and Refugee Protection Act*, came into force on June 30, 2011.

The Act amended IRPA by making it an offence for anyone other than an authorized representative to represent or advise a client on an immigration matter for a fee or other consideration at any stage of an immigration application or proceeding. This includes the period before a proceeding begins or an application is submitted, meaning that anyone who provides immigration advice for compensation at the pre-application stage must be an authorized representative, as identified in section 91 of the Act.

Uncompensated third parties, such as family members and friends, can still act on behalf of an applicant.

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The Act also:

- Includes the creation of a specific offence with maximum fines of \$100,000 and/or imprisonment for up to two years upon conviction by indictment; and of \$20,000 and/or imprisonment for up to six months on summary conviction;
- Provides the Minister with the power, by regulation, to designate or revoke the designation of a body responsible for governing immigration consultants and to provide for transitional measures with respect to such a designation, or revocation of a designation;
- Authorizes the Governor in Council to make regulations requiring the designated body to provide the Minister with information regarding its activities. This information will be used to assist the Minister in evaluating: the effectiveness of the body in ensuring the integrity of the immigration program; whether the designated body is regulating its members in the public interest; and whether its members are providing their services in a professional and ethical manner; and
- Includes a provision allowing the disclosure of information relating to the professional or ethical conduct of individuals to those responsible for governing or investigating that conduct.

Table 1

For information about	Refer to
Inadmissibility	
• Misrepresentation	A40
• Non-compliance with Act	A41
Representation or Advice Persons who may represent or advise Students at Law Agreement or arrangement with Her Majesty Designation by the Minister Penalties	A91
General Offences	
• Contravention of Act	A124(1)
• Counselling misrepresentation	A126
• Misrepresentation	A127(a) , A127(b)
• Penalties	A126
Applications	R10
• Form and content of application	R10(1)
• Required information	R10(2)
Return of an application	R12
Criminal activity under IRPA	ENF 2/OP 18

3.1. Required forms

A Use of Representative form ([IMM 5476](#)) must be submitted with an immigration application if the applicant used the services of a representative to help them prepare their application, or if the applicant wishes to appoint a representative to conduct business on their behalf with CIC or CBSA. All the information on the [IMM 5476](#) is mandatory unless the question clearly states "if applicable" or "if known." If any of the mandatory items are missing, CIC has the authority to return the application (see [Section 7.2](#)) with a letter explaining why (see [Appendix D](#)). To be complete, the form must be signed and dated by both the applicant and the representative.

The applicant can appoint only one representative per application. If more than one representative has been identified on one IMM 5476, CIC has the authority to consider the application incomplete and to return the application, as described in Section 7.2.

If an applicant has multiple immigration applications and is using a representative for each, the applicant must complete a separate IMM 5476 for each application. Immigration representatives are

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authorized to represent an applicant only on matters related to the specific application for which they have been authorized.

The forms required are shown in the following table:

Table 2

Form Title/Purpose	Form number
<p>Use of a Representative This form is used to appoint (or cancel the appointment of) a representative and to give CIC and the CBSA consent to disclose the applicant's personal information to that representative. The appointed representative can conduct business with CIC and the CBSA on the applicant's behalf.</p> <p>The IMM 5476 is available on the CIC website and through the CIC Call Centre.</p>	<p>IMM 5476</p>
<p>Instructions – Use of a Representative This form is the cover instruction page for the IMM 5476 form. IMM 5561 provides an applicant with a brief explanation about representatives and types of representatives as well as instructions on how and where to submit IMM 5476.</p> <p>The IMM 5561 is available on the CIC website and through the CIC Call Centre. The instructions are found under "How to complete the form."</p>	<p>IMM 5561</p>
<p>Authority to release personal information to a designated individual This form, from CIC's Access to Information and Privacy Division (ATIP), permits the designated individual to inquire about the status of an application and/or change the applicant's address. However, this individual cannot conduct business with CIC or the CBSA on the applicant's behalf.</p> <p>Please note that a completed IMM 5475 does not authorize CIC or the CBSA to send correspondence to the designated individual.</p> <p>For example, the IMM 5475 may be used if an applicant wishes to have their personal information disclosed to a designated person, other than their representative (for instance, to a friend or family member, the representative's assistant, another consultant during a temporary absence of the representative, etc.)</p> <p>The IMM 5475 is available on the CIC website and through the CIC Call Centre.</p>	<p>IMM 5475</p>

3.2. Entering the required information in FOSS, CAIPS and GCMS

Completed Authority to Release Personal Information to a Designated Individual ([IMM 5475](#)) and Use of a Representative ([IMM 5476](#)) forms must be documented in the appropriate system(s) as soon as possible upon receipt. The Call Centre, and sometimes other CIC and CBSA offices, need to be able to view this information in order to respond to inquiries from representatives and to take the necessary actions.

In the [GCMS System](#), the representative should be entered as a "party" in GCMS and associated to the applicable case. When a representative is encountered, their address and other contact information should be verified and updated in GCMS as required.

In the [FOSS system](#), the information should be input as a non-computer-based entry (NCB), type 23. This NCB has a validity period pre-set by the system.

In the [CAIPS system](#), the information should be entered in the case notes.

Details to be documented

Regardless of the system used, the following information must be entered:

- The type of authorization submitted by applicant (specify whether it is an Authority to Release Personal Information to a Designated Individual or a Use of a Representative);

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- The type of application to which this authorization is linked (as identified in Question 3 of the IMM 5476 form); and
- The name of the designated individual or representative, their mailing address and their telephone number.

Subsequent withdrawal of an authorization

The appropriate sentence should be entered within the original NCB, in the FOSS system, or in the case notes, for the CAIPS system:

- “The authority to release information on this application to the name of [enter the designated individual] was withdrawn on [enter the date the withdrawal was received at your office]”; or
- “The appointment of a representative on this application to the name of [enter the representative’s name] was cancelled on [enter the date the cancellation was received at your office].”

In GCMS, the representative should be disassociated from the case. Any applicable background information should be noted.

Note: If the authorization was never entered into FOSS, CAIPS, or GCMS please provide an explanation and add any other relevant information that you might have, such as the name of the representative or designated individual, that the client thought they had identified, and the application to which the authorization was to be linked. This information could become important later in the processing.

4. Instruments and delegations

Nil

5. Departmental policy

5.1. What the Legislation/Regulations accomplish

- They identify individuals who may represent or advise a client for consideration. These individuals, often identified as "authorized representatives," must be a member in good standing with a Canadian provincial/territorial law society, the *Chambre des notaires du Québec* or the Immigration Consultants of Canada Regulatory Council (ICCRC).
- They specify that a person receiving consideration, such as a fee, who is not an authorized representative may not provide immigration advice or representation at any stage of an application or proceeding.
- They instruct CIC and the CBSA to deal only with authorized representatives in cases where the representative receives consideration, such as a fee. This restriction also extends to other Federal Departments, such as the Human Resources and Skills Development Canada (HRSDC), but such interactions are beyond the scope of this manual.
- They require applicants using authorized representatives to submit the name of their authorized representative, the organization they are a member of, their identification or membership number, their telephone number and mailing address, and to identify whether they were compensated or uncompensated for verification purposes.
- They allow uncompensated representatives to represent and/or provide immigration advice at any stage of an application or proceeding.
- They permit applicants to continue to utilize paid services for administrative services such as translation and courier services.

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5.2. Compensated representatives

Representatives who wish to conduct business in connection with a proceeding or application under IRPA must be members in good standing of a Canadian provincial/territorial law society, the *Chambre des notaires du Québec* or the Immigration Consultants of Canada Regulatory Council (ICCRC) in order to charge a fee or be otherwise compensated for immigration and refugee advice and representation. Such individuals will be referred to as “authorized representatives” throughout this Manual.

CIC, the IRB and the CBSA are interpreting the Act and Regulations to mean that if immigration representation or advice is provided at any stage of a proceeding or an application, it is irrelevant **when** the applicant has compensated, or will compensate, their representative. The fact is that the representative is being compensated. Compensation includes payment or other forms of consideration such as goods or services, whether provided by the applicant **or** on behalf of the applicant.

Immigration Consultants of Canada Regulatory Council (ICCRC)

An independent, not-for-profit organization and self-regulating body, ICCRC operates at arm’s length from the Government of Canada. ICCRC is responsible for regulating the activities of immigration consultants who are its members and who provide immigration advice and representation.

Membership is granted only to those individuals who have demonstrated their knowledge and ability to advise and represent people who seek Canadian immigration. Members must demonstrate their good character and meet the Council’s membership standards (knowledge, ethics, and language requirements.)

To ensure the competent and professional conduct of its members, the Council has also developed stringent Rules of Professional Conduct by which all its members must abide.

For the ICCRC website address and contact details, see [Appendix A](#).

Lawyers and Quebec notaries

Lawyers and Quebec notaries are not required to become members of ICCRC, as they are regulated by their own law societies.

A law society’s mandate is to govern the legal profession and safeguard the public interest. It aims to ensure that clients are served by lawyers who meet high standards of learning, competence and professional conduct, and to uphold the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

A lawyer can be a member of any Canadian law society, and does not necessarily have to be registered in the province where their client is located in order to provide immigration advice or representation. In order to confirm if a lawyer is in good standing, it may be necessary to ask the lawyer which law society they are registered with.

For more information on sub-agents and employees of lawyers and consultants, see Section 5.4 below.

For website addresses and contact details, see [Appendix A](#).

Students-at-law

Students-at-law, as stated in [A91\(3\)](#), are deemed not to be in contravention of [A91\(1\)](#) as long as the student-at-law is acting under the direct supervision of a member in good standing of a provincial/territorial law society or the *Chambre des notaires du Québec* who is authorized to represent or advise the applicant. In other words, students-at-law may represent and/or advise, for consideration, a person who is the subject of a proceeding or an application under IRPA, provided that they are under the supervision of a Canadian provincial/territorial law society or the *Chambre des notaires du Québec*.

Students-at-law are authorized to complete and sign the [IMM 5476](#). Officers should verify students-at-law on the websites of the Canadian provincial/territorial law societies and Quebec notaries’ association. The Regulations apply to students-at-law in the same manner as they would to a lawyer.

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Paralegals

Bill C-35 amends IRPA to recognize paralegals as authorized representatives if they are a member in good standing of a Canadian provincial/territorial law society.

At the time of writing, only the Province of Ontario's law society, the Law Society of Upper Canada, admits paralegals as members in good standing.

If a paralegal is not a member in good standing of a law society, and is not a member in good standing of ICCRC, then they are not an authorized representative.

5.3. Uncompensated representatives

The primary objective of the Act and Regulations concerning the use of representatives is to protect applicants from exploitation and to safeguard program integrity. They are not intended to eliminate all traditional partners from playing a legitimate role.

Family, friends, and religious and non-governmental organizations (NGOs) who do not charge a fee or receive any other form of consideration for their services do not need to be members of a regulatory body to act as an immigration representative.

Family, friends, non-governmental and religious organizations

Family, friends, international agencies (e.g., United Nations High Commissioner for Refugees) and religious and non-governmental organizations play an important role for applicants who feel the need for support and advice. Family, friends, and international, religious and non-governmental organizations who **do not** charge fees or receive consideration for providing immigration advice or services can advise and represent applicants before CIC or the CBSA without being members of the ICCRC, a Canadian provincial/territorial law society or the *Chambre des notaires du Québec* at any stage of an application.

International organizations

Certain international organizations, such as the International Organization for Migration (IOM), provide a variety of services to clients. If the organization is providing services in accordance with an agreement or arrangement with the Government of Canada (see section 5.4 under "Entities under agreement with the Government of Canada"), or if no consideration is being provided for the provision of immigration advice or representation, then they are not in contravention of A91(1).

Pro bono work

CIC and the CBSA should not discourage *pro bono* work by authorized representatives (and students-at-law under a lawyer's supervision). *Pro bono* activity by lawyers, notaries and ICCRC members is often encouraged by their regulatory bodies.

If representatives who are providing *pro bono* services are members of a Canadian provincial/territorial law society, the *Chambre des notaire du Québec* or the ICCRC, it is irrelevant whether they are compensated or not; their regulatory body governs their conduct regardless of whether or not they are being compensated.

However, local offices should be mindful of *unauthorized* representatives who identify themselves as uncompensated on the Use of a Representative (IMM 5476) form and who submit a significant number of applications as *pro bono*. Note: If local offices have concerns about submissions from unauthorized representatives and whether or not they are truly *pro bono* submissions, they should refer to Section 10 of this manual for details on investigation procedures.

5.4. Other stakeholders

With the coming into force of Bill C-35, the prohibition against representing or advising persons for consideration — or offering to do so — has been extended to all stages in connection with a proceeding or application under the *Immigration and Refugee Protection Act*, **including before a proceeding has been commenced or an application has been made**. As a result, many stakeholders are now required to be members of a prescribed regulatory body if they wish to provide immigration services to their clients, when they were not obliged to do so in the past.

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However, it is important to understand that certain functions **are** permitted for individuals who are not authorized representatives. In general, if a person is providing services which do not involve advising or representing someone on an immigration matter, then he or she is not required to be an authorized immigration representative. Examples of services falling into this category would include:

- Directing someone to the CIC website to find information on immigration programs
- Directing someone to the CIC website to find immigration application forms
- Directing someone to an authorized immigration representative
- Providing translation services
- Providing courier services
- Providing medical services (i.e. medical exams, DNA testing)
- Making travel arrangements
- Advising an international student on how to select their courses or register
- Conducting a job interview

Examples of individuals who might provide such services may include translators, travel agents, recruiters, and agents. The key is that these people must **not** be providing immigration advice or representation to their client.

However, any person providing immigration advice or representation to a client for consideration must be an authorized representative to do so. Examples of advising and representation would include:

- Explaining and/or providing advice on someone's immigration options
- Providing guidance to a client on how to select the best immigration stream
- Completing and submitting immigration forms on a client's behalf
- Communicating with CIC and the CBSA on a client's behalf (except for the direct translation of a client's written or spoken submissions)
- Representing a client in an immigration application or proceeding
- Representing a client in an Arranged Employment Opinion or Labour Market Opinion application
- Advertising that they can provide immigration advice for consideration

These functions include making interventions on behalf of the applicant during processing, and requesting information about the progress of the application. In order to intervene and request information on behalf of the applicant during application processing, individuals who are receiving compensation must be members of one of the regulatory bodies.

Educational stakeholders in Canada

Educational stakeholders in Canada may include international student advisors, school administrators, churches and cultural organizations. Such stakeholders can provide students with administrative services, such as directing someone to the CIC website to find information on immigration programs and immigration application forms, provide translation services, etc. without any requirement to become authorized representatives.

However, if immigration advice or representation is given to the student by the stakeholder, and the stakeholder is being compensated for their services, then they must be authorized representatives.

Educational agents abroad

Educational agents, who are often engaged by Canadian educational institutions to assist their foreign students, typically charge a fee for their services up to and including sending a signed study permit application to the Canadian embassy. Under the Regulations, such agents must be authorized representatives if they provide immigration advice or representation to their clients, even if these activities occur prior to the submission of the application.

Similarly, agents who wish to represent students on immigration matters after their student applications have been submitted need to be authorized representatives.

Employment agents and recruiters

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Employment agents and recruiters are often engaged by companies who are seeking to fill job vacancies. Under the Regulations, an agent or recruiter who acts on behalf of a company to scout or interview job applicants, make offers of employment, and review job applications is not required to be an authorized representative.

However, employment agents or recruiters must be authorized representatives if they will provide immigration advice or representation to their clients, even if these services occur prior to the submission of the application.

These services would also include providing advice or representation in making applications for Labour Market Opinions (LMO) or Arranged Employment Offers (AEO) to HRSDC, as these applications are in connection with immigration applications.

Employees of lawyers and consultants

Employees of law firms or consulting companies who are not, themselves, members in good standing of a law society, the *Chambre des notaires du Québec* or the ICCRC are not authorized representatives; therefore, they cannot represent for a consideration clients at CIC and CBSA hearings or proceedings, including interviews.

However, following the submission of a Use of a Representative (IMM 5476) form it is acceptable for directly supervised employees to prepare documentation and correspondence on behalf of the authorized representative and to send this documentation to the CIC processing office. Under the provisions of their relevant professional codes of conduct the lawyer or the ICCRC member is accountable and responsible for their employee's actions and conduct. Written correspondence from employees of authorized representatives must:

- be prepared on the authorized representative's company letterhead;
- clearly indicate in the signature block that an employee is "acting under the direction of" the authorized representative;
- clearly indicate the name of the authorized representative and, if applicable, the name and the membership number of the regulatory body to which they belong.

Offices that allow for the pick-up of documents may continue to do so, provided the applicant has notified the office in writing that they have given this individual their permission to collect the document. Suitable identification is required at the time of pick-up in order for officers to adequately identify the designated individual. [Section 7.4](#) identifies written and oral office procedures for communicating with representatives.

Adoption agencies

Persons employed by an adoption agency who provide advice or representation prior to the submission of the immigration application, such as filling out forms or representing the applicant in their dealings with CIC, must be authorized representatives as these activities are directly related to the immigration application which will be submitted.

Live-in caregivers' agents

Live-in caregivers' agents who provide advice or representation related to the submission of the temporary foreign worker application, such as filling out forms or representing the applicant in their dealings with CIC, must be authorized representatives as these activities are directly related to the immigration application which will be submitted.

Entities under agreement with the Government of Canada

If an entity, or a person acting on its behalf, offers or provides immigration advice or representation which is consistent with an agreement or arrangement made between the entity and the Government of Canada then Section 91(4) of IRPA states that providing these services does not contravene section 91(1) of IRPA. This holds true **only if the services provided are consistent with the agreement / arrangement with the Government of Canada.**

Examples of groups which may fall into this category would include, at the time of writing, the International Organization for Migration (IOM) or certain service provider organizations which are specifically fulfilling their obligations as per the arrangement or agreement it has with Her Majesty in right of Canada.

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6. Definitions

Compensated Representatives	Individuals who are receiving consideration (typically in the form of payment) to provide advice or representation to someone on immigration matters.
Authorized Representatives	Individuals who are members in good standing of a Canadian provincial/territorial law society – including paralegals –, the <i>Chambre des notaires du Québec</i> , or the Immigration Consultants of Canada Regulatory Council (ICCRC); whether they are compensated or not.
Uncompensated Representatives	A family member, friend, member of an international, religious or non-governmental organization, or any other person who does not receive consideration for providing advice or representation on immigration matters.
Unauthorized Representatives	Individuals who receive consideration for advising or representing a client on immigration matters and who are <u>not</u> members of a Canadian provincial/territorial law society, the <i>Chambre des notaires du Québec</i> or the Immigration Consultants of Canada Regulatory Council (ICCRC).
Concealed Representatives	Individuals who provide advice or representation on immigration matters to a client for consideration and who do not submit an IMM 5476 declaring their professional relationship with the client.
Pro bono	Representing someone on a volunteer basis, without receiving any form of consideration.
Designated Individual	An individual who is not acting as a representative, but with whom the applicant permits CIC and the CBSA to share their personal information. This individual has the capacity to change the client's address and enquire about the status of the client's application (see Section 3.1). However, this individual cannot conduct business with CIC or the CBSA on the applicant's behalf.
Fee	Includes all types of fee arrangements, direct or indirect. Please note that disbursements such as travelling expenses to represent a client free of charge may, but do not necessarily, constitute a fee <i>per se</i> .
Consideration	Consideration is compensation or reward which is given or done in return for a service. Considerations are not necessarily in the form of payment, although money is the most common form of consideration. Any benefit which is given in return for a service is consideration, and can include personal services or material goods.

7. Procedure: Application processing

7.1. Processing applications which were received before October 29, 2011

Pursuant to subsection 91(5) of the IRPA, on June 30, 2011 the Minister designated the Immigration Consultants of Canada Regulatory Council (ICCRC) as the governing body for the regulation of immigration consultants. Effective this date, the Canadian Society of Immigration Consultants (CSIC) was no longer the governing body.

Members in good standing of the ICCRC are therefore recognized as persons who may represent or advise an applicant, for consideration, under paragraph 91(2)(c) of the IRPA.

As a transitional measure, the Minister indicated by regulation that all members in good standing of CSIC on June 30, 2011 were also, temporarily, deemed to be members of the ICCRC. This measure is to last for 120 days, until October 28, 2011. The transition period was put in place for the following reasons:

- To provide operational continuity for authorized immigration consultants and their clients.

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- To give CSIC members time to register with the ICCRC and become members in good standing of the new governing body.
- To give the ICCRC time to bring their operations online.

On October 29, 2011 the transition period will have ended, and CSIC members who were in good standing on June 30, 2011 will need to have formally registered with the ICCRC to continue to be recognized.

During the transition period between June 30, 2011 and October 28, 2011, a consultant who was a member in good standing of CSIC at the coming into force of the Bill on June 30, 2011 is deemed to be a member of the ICCRC. Such a consultant should be recognized by CIC during the transition period. As well, consultants who have applied to the ICCRC and have been accepted as members in good standing should also be recognized by CIC.

In this case, applications should be processed as per section 7.2 of this manual.

The ICCRC's membership list is posted on their website at www.iccrc-crcic.ca/home.cfm. The ICCRC membership list contains all deemed members during the 120-day transition period, as well as all other members in good standing.

If the consultant is listed on the ICCRC's website as not being a member in good standing for cause (i.e. if the consultant has been suspended or struck from the rolls for unethical behaviour) then the consultant is no longer a member in good standing of the ICCRC and should not be recognized by CIC.

Once the transition period has ended on October 29, 2011, only members who have formally applied to the ICCRC and have been recognized as members in good standing will be recognized as authorized immigration consultants by CIC.

If the application was received by a CIC office after Bill C-35 came into force, i.e. after June 30, 2011, and the consultant is not recognized, then the application may be returned to the client's attention along with the letter found in "Appendix C." A copy of the letter should also be sent to the consultant.

If it is not possible to return the application to the client (if, for example, no mailing address can be found for the client), then the application should be returned to the consultant, along with both copies of the letter.

If the application was received by CIC prior to the coming into force of Bill C-35, then processing should continue while the consultant's status is clarified. In this case, the letter found in "Appendix F" should be sent to the client, requesting that they clarify their consultant's status, with a copy sent to the consultant.

If the client responds to such a letter stating that their consultant is not an authorized consultant, or if there is no response at all, then CIC should no longer deal with the consultant. In such a case, the application should proceed as per section 7.7 of this Manual.

7.2. Processing applications received after October 28, 2011

On October 29, 2011 the transition period associated with the coming into force of Bill C-35 will have ended, and CSIC membership in good standing on June 30, 2011 will no longer grant deemed membership in the ICCRC. In order to be recognized as an authorized immigration consultant, a person must have formally registered with the ICCRC.

Complete application [R10(2)]

All applicants using a compensated or uncompensated representative must submit a Use of a Representative ([IMM 5476](#)) form.

R10 of the Regulations defines what constitutes a complete application. If the application provides all the necessary information required to satisfy R10, the application should be processed.

R10(2)(c.1), (c.2), (c.3) and (c.4) require that detailed information concerning representatives be provided, where applicable. An application is considered complete when it includes the representative's name, postal address and telephone number and, if applicable, the representative's fax number and e-mail address. The form must be signed, both by the applicant and by the representative. If the information is incomplete, the application will be returned as per R12. Returned applications are discussed later in this section.

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If a compensated representative is not a member in good standing of a Canadian law society, the *Chambre des notaires du Québec* or the ICCRC then the application is not considered complete. CIC has the authority to return the entire application package and fees, accompanied by the “unauthorized representative” letter (see [Appendix C](#)). The letter and the application should be sent to the applicant’s mailing address rather than the unauthorized representative’s address (unless the applicant’s personal address cannot be obtained).

CIC must be notified of any change of representative. Applicants can notify CIC by completing and submitting a new IMM 5476. To cancel the appointment of a representative without appointing a new one, applicants need to complete sections A, C and D of the IMM 5476. To revoke a representative and appoint a new one, sections A, B and D need to be completed, as the new appointment will cancel the previous one.

To prevent the problem of conflicting direction or information and to ensure that the authorized representative is at all times ultimately responsible for the file, only one representative may be named per application. If more than one authorized representative has been identified on the submitted IMM 5476, the applicant or the representative should be contacted by phone to discuss the situation and additional name(s) should be removed if possible. This is preferable to returning the application, as it gives the applicant an opportunity to rectify the problem. The applicant or representative’s decision to delete additional names from the IMM 5476 should be documented on the IMM 5476 and signed and dated by the CIC officer who was advised of the deletion. If the applicant/representative(s) cannot be reached, the application should be considered incomplete and returned as explained below.

Initial screening of applications

The following points should be verified:

- Compensated representatives must be members in good standing of a Canadian law society, the *Chambre des notaires du Québec* or the ICCRC.
 - ◆ The name of the representative and their unique identification number should be checked on-line to validate their status with the ICCRC or a Canadian provincial/territorial law society (see [Appendix A](#) for website information and [Appendix B](#) for membership number formats).

Since the ICCRC’s website is updated as members are added or removed, only those representatives whose names appear on the membership list(s) of the [ICCRC website](#) are considered to be members of the ICCRC. It should be noted that ICCRC membership may be revoked, suspended or reinstated. In all circumstances, the website is to be considered the final authority regarding the current status of ICCRC members.

Applicants and representatives have been instructed on the Instructions – Use of a Representative ([IMM 5561](#)) form, which accompanies the IMM 5476, to “print his or her name as it appears on the organization’s membership list”; however, not all representatives may do this. If the membership number identified on the IMM 5476 is valid, but the name associated with the number differs slightly, officers should verify the name with the designated organization (see [Appendix A](#)). However, if the name on the IMM 5476 is significantly different from the member’s name as it appears on the designated organization’s website, officers may return the application, explaining in the letter the reason for the return.

While it is not a requirement, ICCRC members may occasionally provide a copy of their Member Identification Card or Membership Certificate in an applicant’s application package.

- ◆ Please note that four Canadian provincial/territorial law societies (New Brunswick, Newfoundland and Labrador, the Yukon and the Northwest Territories) do not have membership identification numbers.

The Law Society of Yukon has roll numbers which are unique, like a membership number. In theory, at least, Yukon lawyers could interpret the membership number box on the IMM 5476 to also mean roll number, and fill it in. However, since roll numbers are not specified on the IMM 5476, it is at least conceivable that some lawyers might think that the box does not apply to them. Given the membership size of the Law Society of Yukon, rejecting forms which do not identify a roll number as incomplete under the [R10](#) definition is likely unwarranted. Officers

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should treat the Yukon in a similar manner as another province, such as New Brunswick, which does not have membership numbers.

The other law societies have a variety of membership number formats. For a list of membership number formats, see [Appendix B](#).

- ◆ ICCRC membership numbers contain an alphanumeric character followed by a six-digit number (for example, R041234).
- The representative needs to be identified by the name of an *individual* and not that of an organization. All regulatory bodies (Canadian law societies, the *Chambre des notaires du Québec* and the ICCRC) issue memberships on an **individual basis and do not offer corporate memberships**.
- The representative's mailing address and telephone number;
- Indication whether the representative is compensated or uncompensated.
- Both the applicant's and the representative's signatures with a date are mandatory on the IMM 5476.

It is not necessary to verify each application from a given representative, especially when the local office is familiar with the representative as an authorized member of one of the regulatory bodies. However, occasional verification that they remain a member in good standing is advisable. Some offices circulate a list of representatives they have constant dealings with.

Please note that an applicant can be represented by only one individual at a time per application. This is to prevent the possibility of conflicting directions on one application.

Returning an application

Applications from unauthorized representatives need to be returned so that these representatives and their clients are reminded that the government will deal only with authorized representatives when compensation is being given. It is necessary to present this message consistently in order to bolster our amended Regulations and further protect vulnerable clients.

Incomplete IMM 5476: If the IMM 5476 does not include all of the information required under [R10\(2\)](#), the entire application, the letter concerning an incomplete form (see letter template in [Appendix D](#)), and any attached fees should be returned, as should all subsequent incoming documents. The letter and the application should be sent to the applicant using the mailing address provided.

Unauthorized representative: If the compensated representative is not authorized, CIC has the authority to return the entire application to the home or mailing address provided by the applicant, stating that it could not be confirmed that the individual was an member in good standing of any of the designated bodies and, therefore, cannot represent the applicant (see letter template in [Appendix C](#)). It is preferable that the applicant's address be used, as there is no guarantee that the unauthorized representative will contact the applicant. However, there may be occasions when the only address available is that of the unauthorized representative. In this case, the application should be returned to the unauthorized representative.

Ministère de l'immigration et des communautés culturelles (MICC): The Regulations specify which compensated representatives can represent a client during the federal immigration process. Therefore, they do not directly affect the activities of the Quebec provincial immigration officers. However, should CIC receive an application that has been approved by the MICC, but has the name of an unauthorized compensated representative for the purposes of the federal immigration process, the office should return the application with the letter in [Appendix C](#).

Concern over use of a concealed representative

A concealed representative is an individual who acts on a client's behalf with CIC or the CBSA and who **does not submit an IMM 5476** declaring their professional relationship with the client [[R10\(2\)\(c.1\)](#), [\(c.2\)](#), [\(c.3\)](#) and [\(c.4\)](#)].

Officers could have concerns that an applicant is using a concealed representative when:

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- they receive an application form that does not include an IMM 5476, but gives an unauthorized immigration representative's address as the mailing address;
- an address search reveals multiple cases going to the same mailing address.

When an officer is satisfied, on the basis of specific evidence, that an applicant is concealing a compensated representative, the application can be returned to the applicant's home or mailing address along with the letter in [Appendix E](#) explaining the reason for the application's return.

To return an application in this manner, an officer must have credible evidence. Evidence could include confirmed information from the public, admission by the applicant, or confirmation as a result of an investigation. When returning the application it is preferable that the applicant's address be used, as there is no guarantee that the unauthorized representative will contact the applicant. However, there may be times when the only address available is that of the unauthorized representative. In this case, the application should be returned to the unauthorized representative.

See [Section 9](#) and [Section 10](#) for details on how to report concerns.

When an officer becomes aware of a number of applications being submitted by the same unidentified third party, either through evidence of the use of the same organization, style of presentation of the application, or contact addresses, then a program integrity review may be required. Other program integrity issues, such as the use of fraudulent documents, could also be involved. Officers should be guided by the same program integrity standards and procedures that are adhered to in administering all immigration programs.

Below are three scenarios and suggested courses of action for officers regarding concealed representatives:

- If there is no proof to support their concerns about the use of a concealed representative, officers should process the application.
- If there is substantive proof of a concealed representative, officers should return the application and the letter shown in [Appendix E](#) to the applicant's home address, if available. CIC and the CBSA need to communicate a consistent message that bolsters the Regulations to show that they are serious about not conducting business with unauthorized representatives.
- If there is substantive proof of the use of a concealed representative during processing, officers should refer to [ENF 2](#) to determine whether they meet the standard of proof and fairness required under [A40](#) in order to refuse an application on the basis of misrepresentation.

Family class applications

The Case Processing Centres (CPCs) will ensure that the sponsorship applications meet the requirements of [R10\(2\)](#). This includes verifying that the IMM 5476 is complete, if submitted. As part of the family class process, CIC may receive two separate IMM 5476 forms (one from the sponsor and one from the foreign national/applicant) per application.

Staff at CPC Mississauga are required to verify the sponsor's representative, and the visa office is required to verify the foreign national's representative, if different from the sponsor's representative. However, to assist the visa office, it is recommended that:

- GCMS notes or the Work in Progress (WIP) remarks reflect that the representative has been verified in the on-line database; and
- the IMM 5476, filled out by the foreign national, is forwarded to the visa office.

Family members of live-in caregiver applicants in Canada

Live-in caregivers submit applications to CPC Vegreville, which subsequently notifies the visa office to contact the family member(s) of the applicant to the Live-in Caregiver Program. If the family member chooses to retain a compensated representative, the representative would need to be authorized.

Extensions

An application for extension of status is a new application. These applications, therefore, require an IMM 5476 identifying a compensated or uncompensated representative (if a representative is counselling the applicant).

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7.3. Disclosure of personal information is case-specific

The Use of a Representative ([IMM 5476](#)) form has two purposes: (1) it designates a representative, and (2) it gives authority to disclose an applicant's personal information to that representative. However, the IMM 5476 needs to be linked to a specific application, as it gives authority to represent and disclose personal information concerning a specific application only.

If the applicant wants to disclose their personal information to an individual other than their representative, they should complete an [Authority to Release Personal Information to a Designated Individual \(IMM 5475\)](#) form (see [Section 3.1](#)).

7.4. Communication with representatives

Assuming that a client's representative has the appropriate authority to act on behalf of their client, the following principles are to be observed:

Written versus oral communication on files

- A professional, non-adversarial relationship must be maintained in which the office's fairness and objectivity cannot be called into question because of the appearance of conflict of interest or bias, either positive or negative.
- It is important to provide all applicants with the same service standards and courtesies, whether they have hired a representative or not. This ensures a level playing field between applicants who are represented and those who are not, and provides all applicants with equal access to our offices.
- Once the office is satisfied that a representative has been designated by the applicant, the office may respond to straightforward case status inquiries verbally or in writing. If there is any doubt as to a representative's identity, information should not be given over the telephone. Any complex or in-depth inquiry or discussion related to an individual case should be accepted and responded to in written form only.

7.5. Call Centre

Call Centre agents are mandated to only provide case-specific information on applicants being processed within Canada.

Case-specific information can be released to a representative or a designated individual on the telephone if that person has been permitted and appointed by the applicant in writing to receive information on the case. This individual will also be expected to answer specific client identifiers relating to the applicant. According to the *Access to Information Act* and the *Privacy Act*, if the information provided matches details in GCMS or FOSS/CRS, the Call Centre agent can release case-specific information to a third party in good faith. The applicant, and members of Parliament who are enquiring on behalf of the applicant, can also receive case-specific details about their file, on the condition that they provide the required client identifiers.

One of the biggest challenges for Call Centre agents lies not with the release of information, but the amendment of information currently on file by a third party, specifically change of address. Call Centre agents can allow a representative or designated individual to update a client's address if the applicant has permitted this individual in writing to receive information on the case. This decision is based on CIC recognizing that the designated individual can change a client's address electronically using CIC's Secure OnLine Services. This also resolves the challenge for a number of clients who face language barriers and who require assistance with providing their new address in French or English.

7.6. Refugee protection claimants

The IRB has their own requirements for dealing with representatives, including their own forms and their own policies and procedures. Completing CIC forms, like the IMM 5476, does not allow a representative to act as a representative with the IRB. For more information on the IRB, consult their website at: <http://www.irb.gc.ca>

Pre-Removal Risk Assessment (PRRA) applicants

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Pre-Removal Risk Assessment (PRRA) applicants who identify an unauthorized representative for the processing of their applications will be sent letters similar to that in [Appendix C](#). Applicants are given the option of retaining an authorized representative or continuing their processing as unrepresented. They will also be informed that no decision will be made on their application until 30 days following their PRRA notification (this is the due date for their written submissions). Should the applicant not respond in time to meet the deadline, they will be deemed to have indicated a wish to proceed as unrepresented and CIC will continue with the assessment of the application.

Should their application necessitate an oral hearing, they will not be permitted to be accompanied at the hearing by the unauthorized representative. The applicant has the option of submitting a new IMM 5476 at the time of the hearing or declaring a new individual as their authorized representative, as long as that representative meets the criteria set out in the Regulations. A new representative could be designated at a hearing if the original representative is on holiday, or cannot appear for various reasons, or if the original representative's membership was suspended.

7.7. Refusal to deal with a representative (case in process)

If it is discovered through a complaint and/or investigation (see [Section 9](#)) that the applicant is providing compensation for the services of an unauthorized representative **while the application is being processed**, the office must no longer conduct business with this individual unless they become authorized and a new [IMM 5476](#) is submitted.

The office must send the applicant a letter informing them that their representative is not authorized and that CIC will deal only with the applicant directly ([Appendix F](#) provides a sample letter). If the application contains a home mailing address for the applicant, this address should be used. If the office has no other way of contacting the applicant, the letter should be sent to the mailing address on file.

If officers obtain proof of the use of a concealed representative during processing, they may consider using their authority under [A40](#) to refuse the applicant for misrepresentation.

7.8. Loss of status [[R10\(2\)](#)]

Individuals whose applications are returned as per [R12](#) may lose their status (for example, temporary residents who wish to extend or vary the conditions of their stay as a visitor, worker or student). Regardless of the length of time remaining in which the applicant has status in Canada, if the application does not meet the requirements of the Regulations (including [R10](#)) it should be returned with a letter explaining the reasons for the return. It is the applicant's responsibility to ensure that their temporary resident status does not expire while they are in Canada.

When such an application is returned, *it is not considered to be in process*. Consequently, the foreign national does not benefit from the implied status provisions of [R183\(5\)](#) or [R183\(6\)](#).

Foreign nationals who have lost their temporary resident status for any of the reasons found in [A47](#) may, within the time frame prescribed by [R182](#), apply for restoration of their temporary resident status.

For more information on implied status, see [IP 6, Section 5.5](#); for information on restoration, see [IP 6, Section 5.7](#).

8. Procedure: Misrepresentation

[A127\(a\)](#) and [A127\(b\)](#) concerning misrepresentation state as follows:

No person shall knowingly:

- (a) directly or indirectly misrepresent or withhold material facts relating to a relevant matter that induces or could induce an error in the administration of this Act;
- (b) communicate, directly or indirectly, by any means, false or misleading information or declarations with intent to induce or deter immigration to Canada.

Examples of direct and indirect misrepresentation that might induce an error in the administration of IRPA are provided in [ENF 2/OP 18, Section 9](#), and include misrepresentations made by a consultant.

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Representatives who are members in good standing with their respective regulatory bodies and who have been found to have misrepresented a client or provided false information should also be reported to the local manager to determine if further investigation is warranted.

8.1. Misrepresentation

A permanent resident or a foreign national is inadmissible to Canada for misrepresentation pursuant to [A40\(1\)\(a\)](#) “for directly or indirectly misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of this Act.”

If the applicant fails to identify that their representative is not authorized, officers should be guided by the comments in [Section 9 of ENF 2/OP 18](#) concerning the high level of fairness and proof required in these circumstances, before commencing procedures for charging the client for misrepresentation pursuant to A40. An individual should always be given the opportunity to respond to concerns about a potential misrepresentation. It is also necessary to gauge whether, on a balance of probabilities, the applicant should have known that their representative was not authorized as defined in the Regulations. The standard of proof for inadmissibility based on alleged misrepresentation is based on a balance of probabilities and is a higher standard than that of reasonable grounds to believe.

With the standard of fairness to be applied in the case of this provision, an individual should always be given the opportunity to respond to concerns about a possible misrepresentation. The consequence to the applicant for a finding of misrepresentation is a period of inadmissibility of two years.

In addition to being inadmissible to Canada for a two-year period, the applicant may also be charged under the offences section of IRPA [[A126](#), [A127](#) and [A128](#)].

8.2. Counselling misrepresentation, misrepresentation, counselling offences

[A126](#) and [A127](#) make reference to counselling offences and include scenarios in which an applicant is indirectly misrepresented.

[A126](#) states:

Every person who knowingly counsels, induces, aids or abets or attempts to counsel, induce, aid or abet any person to directly or indirectly misrepresent or withhold material facts relating to a relevant matter that induces or could induce an error in the administration of this Act is guilty of an offence.

The same consideration outlined in Section 8.1 above, including the high level of fairness, should be applied to counselling misrepresentation.

If an office suspects that an immigration representative has committed a counselling offence, the office must follow the investigation process identified (see [Section 10](#)). If an immigration representative is found guilty of committing a counselling offence, they may be subject to the same penalties as the applicant who commits misrepresentation (see Section 8.1 above) in that they may be charged with an offence under IRPA. However, in addition to being charged with an offence under [A126](#), [A127](#) and [A128](#), the applicant may also be inadmissible to Canada for a two-year period pursuant to [A40](#).

9. Procedure: Complaints

The complaints and investigation processes (see [Section 10](#)) will be discussed individually; however, these two processes may intertwine as some complaints could lead officers to conduct an investigation. When officers have concerns that a representative’s conduct is affecting the program’s integrity, they should commence the investigation process.

Organizations such as the Canadian provincial/territorial law societies, the *Chambre des notaires du Québec* and the ICCRC are independent, self-regulating bodies whose mandates include consumer protection and ensuring the professionalism of their respective members. These bodies have their own complaints and discipline mechanisms and investigation procedures for members who breach their codes of professional conduct. Therefore, when clients want to lodge a complaint against a member who belongs to one of these designated organizations, officers should direct them to the respective regulatory body (see Section 9.2 below).

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Offices may also receive complaints about the actions of unauthorized individuals who receive compensation but do not belong to any of the regulatory bodies. These include concealed or “ghost” representatives, representatives who claim to be doing *pro bono* work yet may be receiving compensation, and representatives who may have had their membership suspended or revoked.

The purpose of the complaints processes is to identify how complaints from clients about authorized or unauthorized representatives should be reported and to whom.

9.1. Types of complaints

Officers could receive a variety of complaints. Table 3 below provides guidance on how officers should deal with the various types of complaints. Some examples of complaints include the following:

- misleading advertising;
- inappropriate behaviour by an immigration representative;
- immigration offences that involve criminality;
- professional and ethical misconduct by an authorized representative;
- misrepresentation;
- impersonation/identity theft;
- dissatisfaction with the Regulations concerning immigration representatives;
- dissatisfaction with the operational implementation of the Regulations concerning immigration representatives; and
- dissatisfaction with the [IMM 5476](#) or [IMM 5561](#) forms.

9.2. Handling complaints

This section outlines the steps officers should take when they receive a complaint. CIC and the CBSA need to remain at arm’s length from the Canadian law societies, the *Chambre des notaires du Québec* and the ICCRC, and, therefore, these Departments cannot mediate in disputes between clients and authorized representatives, nor should they communicate complaints directly to a regulatory body on the client’s behalf.

If a client complains to an officer, the officer should encourage the client to visit CIC’s Web page on this topic and to contact the respective regulatory body. This information can be found at <http://www.cic.gc.ca/english/information/representative/complaints.asp>.

The following table indicates who is responsible for handling various types of complaints.

Table 3

Complaint from a client about...	Action...
<ul style="list-style-type: none">• A lawyer or Quebec notary and their students-at-law, a paralegal regulated by a law society or ICCRC member.• Misleading advertising of an authorized representative (see subsection on misleading advertising below)	Direct client to the regulatory body to which the representative belongs (e.g., a Canadian provincial/territorial law society, the <i>Chambre des notaires du Québec</i> or the ICCRC).
<ul style="list-style-type: none">• A regulatory body (a Canadian provincial/territorial law society, the <i>Chambre des notaires du Québec</i> or the ICCRC)	Forward complaint to ImmigrationRepresentatives , (SecretariatonConsultants@cic.gc.ca).

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<ul style="list-style-type: none">• Non-ICCRC immigration consultants, including concealed representatives (see complaints against non-ICCRC immigration consultants and immigration consulting firms below).• An immigration consulting firm, applicable only when immigration consultant's name is unknown (see below: Complaints against non-ICCRC immigration consultants and immigration consulting firms)	<p>Direct client to:</p> <ul style="list-style-type: none">• inform the ICCRC (for future reference in case the individual eventually applies for membership);• file a complaint with the Canadian Council of Better Business Bureaus (http://www.ccbbb.ca/); and• contact local law enforcement, if necessary. <p>Also, forward complaint to ImmigrationRepresentatives, (SecretariatonConsultants@cic.gc.ca).</p>
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Misleading advertising

Misleading advertising by representatives should be pursued with the regulatory bodies that have established guidelines on advertising. Misleading advertising includes guaranteed acceptance of the application, declaration of a close or preferential relationship with a CIC office, or references to ICCRC membership without giving the individual names of the members.

If a complaint triggers an investigation, it is essential that officers retain a copy of the complaint/advertisement, as the relevant documentation may be required during the investigation process. Misleading advertising may be an IRPA offence as identified in [A127\(b\)](#), which states, "No person shall knowingly ... communicate, directly or indirectly, by any means, false or misleading information or declarations with intent to induce or deter immigration to Canada" It may also contravene IRPA as identified in [A91\(1\)](#), which states, "... no person shall knowingly, directly or indirectly, represent or advise a person for consideration — or offer to do so — in connection with a proceeding or application under this Act." Risk management and due diligence principles for document verification should continue to be applied.

Complaints against non-ICCRC immigration consultants and immigration consulting firms (applicable only when immigration consultant's name is unknown)

Officers should direct clients with complaints against concealed or unauthorized representatives and complaints against immigration consulting firms (only if immigration consultant's name is unknown) that are in Canada to the following organizations: (1) the ICCRC, for future reference in case the individual chooses to apply to become an authorized member (the ICCRC can be diligent in its checks and screening of new members); and (2) the Canadian Council of Better Business Bureaus (CCBBB), which may investigate complaints against an unauthorized representative's fraudulent activities. Clients also have the option of taking the non-authorized individual to small claims court at their own expense, and they may report their case to a local law enforcement agency, if necessary.

The CCBBB's contact information is:

Canadian Council of Better Business Bureaus
2 St. Clair Avenue East
Suite 800
Toronto, Ontario, Canada
M4T 2T5
Telephone: (416) 644-4936
Fax: (416) 644-4945
website: www.ccbbb.ca

9.3. Office concerns that may lead to further investigation

Some concerns that originate from clients may require further action by an office, even though the client has been referred to the appropriate regulatory body. This is essential when the complainant's allegations reveal that program integrity may be compromised. If officers have credible evidence, through a complaint or through their own discovery, of potential IRPA criminal offences or professional

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misconduct in a case or a series of cases, they should report the matter to their senior officer as per existing office procedures (see Section 10).

The following table identifies four examples of concerns that may require the local office to take further investigative action.

Table 4

Complaint concerning	Potential action
Misrepresentation	Misrepresentation process (Section 8)
Concealment	Concealed representative process (Section 7.2)
IRPA offence or criminal activity	Investigation process (Section 10)
Professional misconduct	Investigation process (Section 10)

10. Procedure: CIC office investigation process

Offices should continue to use their existing procedures for performing local investigations and to engage their local enforcement agencies. It is important that OMC at NHQ is kept informed of all major developments regarding investigations so that it can report on the effectiveness of the Regulations concerning authorized representatives.

Investigations could originate from a complaint (see Section 9.3) or an officer's concerns about maintaining program integrity standards. If a representative's actions constitute an IRPA offence and/or professional misconduct, it is necessary to determine whether the issue affects the integrity of the Regulations concerning immigration representatives.

If an officer becomes aware of an issue through a complaint, or notices common trends/patterns among immigration representatives that cause concern, they should raise the matter with their direct supervisor. If the supervisor determines that the concern is justified, they should consult their director to determine whether the issue warrants a local investigation. If the director, in consultation with the supervisor, confirms that the concern affects the integrity of the Regulations concerning immigration representatives, they may authorize a local investigation that involves allocating staff and resources to monitor, research and gather information about an individual or issue to prove that unscrupulous activity (whether criminal or involving professional misconduct) has occurred.

However, if the director and supervisor determine that the issue is of limited concern and does not affect the integrity of the Regulations, the representative's information should be filed for possible future reference and sent to OMC by e-mail at Fraud-Deterrence-Verifications@cic.gc.ca for tracking purposes.

When completing a local investigation, it is important to identify whether the representative is authorized or not. If the representative is unauthorized, only the IRPA offence investigation process may apply. However, if the representative is a member of one of the designated organizations, the person responsible for overseeing the investigation must determine whether it falls under the rubric of an IRPA offence (see Section 10.1 below) or professional misconduct (see Section 10.3 below).

10.1. IRPA offences

The examples of IRPA offences described in this section fall under both the *Criminal Code* and IRPA.

It is important to note that an investigation will only be initiated on the basis of information and circumstances that would lead an officer to believe that there has been a violation of the *Immigration and Refugee Protection Act* and Regulations. The Department's enforcement activities are both proactive, in preventing violations of the *Immigration and Refugee Protection Act* and Regulations, and reactive, in recognizing the constraints on a civilian organization with enforcement duties (see [ENF 7 Section 5.1](#)).

Types of immigration offences

Table 5

IRPA Offence	Refer to

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1) Contravention of Act	A124
2) Fraudulent documents	A122
3) Misrepresentation (civil)	A40
4) Counselling misrepresentation	A126
5) Misrepresentation (criminal)	A127
6) Counselling offence	A131
7) Organizing entry into Canada	A117
8) Trafficking in persons	A118
9) Crimes against humanity and war crimes	A35(1)(b)
10) Terrorism	A34(1)(c)
11) Representation or Advice	A91(1)

[A124\(1\)\(a\)](#) states:

Every person commits an offence who

(a) contravenes a provision of this Act for which a penalty is not specifically provided or fails to comply with a condition or obligation imposed under this Act.

Officers should be as specific as possible when identifying whether an individual has committed an offence under IRPA, as the particulars of the offence will help local law-enforcement authorities to prioritize the case.

For more information about offences under IRPA and inadmissibility, see [ENF 2/OP 18](#).

10.2. IRPA offence investigation process

The previous version of this section is obsolete. A new paragraph is being developed.

10.3. Professional and ethical misconduct

Professional and ethical misconduct means conduct in a professional capacity that tends to bring discredit upon the profession and might include the following:

- violating or attempting to violate the organization's or association's code of professional conduct;
- violating or attempting to violate a requirement of IRPA or its Regulations;
- being found guilty of an offence that is relevant to the member's suitability to practise;
- knowingly assisting or inducing an employee or agent to violate or attempt to violate a requirement of IRPA or its Regulations;
- stating or implying an ability to improperly influence a government agency or official;
- engaging in conduct that is prejudicial to the administration of justice; and
- Providing unprofessional and unethical representation or advice.

The office should continue to monitor applications received from any representative about whom they have specific concerns. Risk management and due diligence principles for document verification should be applied.

10.4. Professional and ethical misconduct investigation process

In cases of professional misconduct, the CIC office should perform a local investigation using current practices to compile evidence.

If the individual is an authorized representative with a regulatory body, the results of the investigation should be forwarded to the OMC. The Branch will review the investigation report, gather input from key stakeholders, such as Legal Services, the CBSA (if required), and determine the appropriate action.

IP 9 – Use of Representatives

Once a course of action has been established, OMC will notify the office of its decision and, if permitted under the provisions of the *Privacy Act* or IRPA/IRPR, will refer the case to the appropriate designated organization and provide follow-up.

Under [s. 8\(2\)\(m\)\(i\)](#) of the *Privacy Act*, CIC's Deputy Minister has the authority to approve the disclosure of instances of professional misconduct. Other agencies, such as the CBSA, may also utilize the *Privacy Act* to disclose such issues.

Each designated body (the Canadian provincial/territorial law societies, the *Chambre des notaires du Québec* and the ICCRC) has its own complaints and discipline process. Members of these designated organizations are subject to their principles and, thus, may be penalized pending the outcome of the designated organization's internal investigation.

10.5. Suspended or disbarred authorized representatives

Offices must continue to deal with the representative as long as they remain a member in good standing with their respective regulatory body.

If a representative is under investigation, offices must continue to conduct business with the representative until the investigation by the regulatory body has been concluded.

Suspended members are not considered to be in good standing for a specific period of time. If a member is suspended, the regulatory bodies normally require that the suspended member contact their active clients to inform them of their change in status. The client will then have the option of selecting a new representative by submitting a new [IMM 5476](#).

11. Procedure: Sharing information

Offices should continue to share information with key players and follow the process that they have used in the past when concerns regarding program integrity issues have arisen.

As suggested earlier in the chapter, the following steps should be taken regarding representatives:

- the office should encourage the applicant/client to contact the regulatory body directly about a complaint against one of its members;
-
- if an office shares additional information about an authorized representative with [ImmigrationRepresentatives](#) (SecretariatonConsultants@cic.gc.ca) then the branch will take appropriate action; and
- if there is a complaint against one of the regulatory bodies, the office should share the complaint with [ImmigrationRepresentatives](#) (SecretariatonConsultants@cic.gc.ca). The branch will follow up with Legal Services and the regulatory body to determine the appropriate action.

See [Section 10.4](#) for information on the *Privacy Act*.

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Appendix A Validating a representative

Consult the table below and the URLs provided to find a registered representative in good standing with the designated organizations.

If a member's name is not available on-line or if no on-line verification service is available please telephone or send an e-mail to the organization directly.

	Regulatory Body (Links to Homepage)	Contact Information	Frequency of Website Updates	Membership Validation Service (Member Lists)
	Immigration Consultants of Canada Regulatory Council	1100 Burloak Drive, Suite 300 Burlington, Ontario, Canada L7L 6B2 Telephone: 1-877-836-7543 Fax: 1-877-315-9868	When required	Website: http://www.iccrc-crcic.ca/home.cfm E-mail: info@iccrc-crcic.ca
Canadian Law Societies	Federation of Law Societies of Canada	World Exchange Plaza 45 O'Connor Street, Suite 1810 Ottawa, Ontario, Canada K1P 1A4 Telephone: (613) 236-7272 Fax : (613) 236-7233	N/A	Website: http://www.flsc.ca/en/lawSocieties/Web_sites.asp E-mail: info@flsc.ca
	Law Society of British Columbia (English only)	845 Cambie Street Vancouver, British Columbia, Canada V6B 4Z9 Telephone: (604) 669-2533 TTY: (604) 443-5700 Toll free (in province): 1-800-903-5300 Fax: (604) 669-5232	Daily	Website: https://www.lawsociety.bc.ca/apps/lkup/mbrsearch.cfm E-mail: memberinfo@lsbc.org
	Law Society of Alberta (English only)	Suite 500, 919-11th Ave. SW Calgary, Alberta, Canada T2R 1P3 Telephone: (403) 229-4700 Toll free (in province): 1-800-661-9003 Fax: (403) 228-1728	When required	Website: http://www.lawsociety.ab.ca/extra/lawyer_directory.aspx E-mail: http://www.lawsociety.ab.ca/email/email_department_membership.aspx
	Law Society of Saskatchewan (English only)	2nd Floor, Court House 2425 Victoria Ave. P.O. Box 5032 Regina, SK S4P 3M3 Telephone: 1-877-898-4999 or 569-8020 Fax: (306) 569-0155	N/A	Website: https://secure.alinity.com/LSS/webclient/RegistrantDirectory.aspx E-mail: reference@lawsociety.sk.ca
	Law Society of Manitoba (English only)	219 Kennedy Street Winnipeg, Manitoba, Canada R3C 1S8 Telephone: (204) 942-5571 Fax: (204) 956-0624	N/A	Website: http://www.lawsociety.mb.ca/lawyer-lookup General e-mail: admin@lawsociety.mb.ca

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<u>Law Society of Upper Canada</u>	Osgoode Hall, 130 Queen Street W. Toronto, Ontario, Canada M5H 2N6 Telephone: (416) 947-3300 Toll free: 1-800-668-7380 Fax: (416) 947-5263	Daily	Website: http://www1.lsuc.on.ca/LawyerParalegalDirectory/index.jsp E-mail: lawsociety@lsuc.on.ca Complaints: comail@lsuc.on.ca
<u>Barreau du Québec</u>	445 Saint-Laurent Boulevard Montréal, Quebec, Canada H2Y 3T8 Telephone: (514) 954-3400 Toll free: 1-800-361-8495 Fax: (514) 954-3464	When required	Website: http://www.barreau.qc.ca/repertoire/?Langue=en E-mail: tableau@barreau.qc.ca General e-mail: information@barreau.qc.ca
<u>Nova Scotia Barristers' Society</u> (English only)	Centennial Building 1101-1645 Granville Street Halifax, Nova Scotia, Canada B3J 1X3 Telephone: (902) 422-1491 Fax: (902) 429-4869	Daily	Website: http://www.nsbs.org/membershipSearch.php E-mail: info@mail.nsbs.ns.ca
<u>Law Society of New Brunswick</u>	1133 Regent Street, Suite 206 Fredericton, New Brunswick, Canada E3B 3Z2 Telephone: (506) 458-8540 Fax: (506) 451-1421	N/A	Website : https://secure.lawsociety-barreau.nb.ca/memberdirectory/Search.aspx E-mail: general@lawsociety-barreau.nb.ca
<u>Law Society of Prince Edward Island</u> (English only)	49 Water Street PO Box 128 Charlottetown, Prince Edward Island, Canada C1A 7K2 Telephone: (902) 566-1666 Fax: (902) 368-7557	When required	Website: http://www.lspei.pe.ca/members.php General E-mail: mlawsociety@lspei.pe.caa
<u>Law Society of Newfoundland and Labrador</u> (English only)	P.O. Box 1028 St. John's, Newfoundland, Canada A1C 5M3 Telephone: (709) 722-4740 Fax: (709) 722-8902	Weekly	Website: http://www.lawsociety.nf.ca/ click on "Members Directory" E-mail: consult staff directory
<u>Law Society of Yukon</u> (English only)	Suite 202 - 302 Steele Street Whitehorse, Yukon, Canada Y1A 2C5 Telephone: (867) 668-4231 Fax: (867) 667-7556	When required	Website: http://www.lawsocietyyukon.com/membership.php E-mail: info@lawsocietyyukon.com
<u>Law Society of the Northwest Territories</u> (English only)	P.O. Box 1298, Station Main Yellowknife, Northwest Territories, Canada X1A 2N9 Telephone: (867) 873-3828 Fax: (867) 873-6344	When required	Website: http://www.lawsociety.nt.ca/public/search-members.html E-mail: info@lawsociety.nt.ca
<u>Law Society of Nunavut</u> (English only)	P.O. Box 149 Iqaluit, Nunavut, Canada X0A 0H0 Phone: (867) 979-2330 Fax: (867) 979-2333	Occasionally	Website: http://lawsociety.nu.ca/members.html E-mail: lawsociety@qiniq.com

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Notaries	<u>Chambre des notaires du Québec</u>	1801 avenue McGill College Bureau 600 Montréal, Quebec, Canada H4Z 1L8 Telephone: (514) 879-1793 Toll Free: 1-800-668-2473 Fax: (514) 879-1923	Daily	Website: <u>http://www.trouverunnotaire.com/</u> (French only) E-mail: information@cdnq.org
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IP 9 – Use of Representatives

Appendix B Authorized representative membership number formats

Canadian Provincial/Territorial Law Society Membership Number Formats			
LAW SOCIETY	FORMAT	EXAMPLE	NOTES
Law Society of British Columbia	Numeric: number of characters varies	703492	Students assigned a number when called to Bar, which stays with them.
Law Society of Alberta	Numeric: maximum 6 digits, sequential as admitted	13456	Students assigned a number when called to Bar, which stays with them.
Law Society of Saskatchewan	Alphanumeric: "B" (for Barrister) and sequential number	B-1000	
Law Society of Manitoba	Numeric: Year of call followed by 3 digits	1999123	
Law Society of Upper Canada	Alphanumeric: 5 numbers and 1 letter	00001-F	
<i>Barreau du Québec</i>	Numeric: 7 numbers	1234567	
Law Society of New Brunswick	Numeric: consecutive as admitted		Does not typically use member numbers, instead uses last name
Nova Scotia Barristers' Society	Numeric: year of call to the Bar + 4 sequential numbers, assigned randomly	1999-0005	
Law Society of Prince Edward Island	Numeric: same as admission date, yy-mm-dd	92-04-14	If 2 people admitted on same day (albeit rare) either a "1" or "2" will follow date
Law Society of Newfoundland	Numeric: consecutive as admitted		
Law Society of Yukon	Numeric: consecutive "roll numbers" starting at 1		No membership number, rather "roll numbers"
Law Society of the Northwest Territories	Numeric: consecutive as admitted		
Law Society of Nunavut	Numeric: year admitted and 3-digit roll number, consecutive as admitted	1999001	No longer uses phone number
Immigration Consultants of Canada Regulatory Council (ICCRC) Membership Number Format			
SOCIETY	FORMAT	EXAMPLE	NOTES
ICCRC	Alphanumeric: One letter followed by 6 numbers	R400000	
Chambre des notaires du Québec Membership Number Format			
SOCIETY	FORMAT	EXAMPLE	NOTES
<i>Chambre des notaires du Québec</i>	Alphanumeric: One letter followed by 4 numbers	K1234	

IP 9 – Use of Representatives

Appendix C Notice to Applicant: Authorized Representative Cannot be Verified

[To be used when returning an application under R10 when the representative indicates that they are authorized on the Use of a Representative (IMM 5476) form, but their membership cannot be verified with that regulatory body]

Dear

This letter refers to your application for ----, which was received at (office) on (date).

The Use of a Representative ([IMM 5476](#)) form in your application indicates that you have hired an individual to represent you, but unfortunately we cannot confirm this. Therefore, we regret that we will not be able to process your application.

Based on the *Immigration and Refugee Protection Regulations*, we will only conduct business with *authorized representatives*. To be an authorized representative, the person you have *compensated* to assist you must be a member in good standing with a Canadian provincial or territorial law society, the *Chambre des notaires du Québec* or the Immigration Consultants of Canada Regulatory Council .

If you choose to resubmit your application, you must either use the services of an authorized representative or an uncompensated representative, or apply without anyone's assistance. If the representative you have identified is a member in good standing with a Canadian provincial or territorial law society, the *Chambre des notaires du Québec* or the Immigration Consultants of Canada Regulatory Council , please resubmit your application with documentation that provides evidence of this and inform us as soon as possible.

To learn more about the types of individuals who may represent you, visit our website at <http://www.cic.gc.ca>. If you are in Canada, you can also contact the Call Centre toll free at 1-888-242-2100.

You are not obliged to hire a representative for immigration matters. The Government of Canada treats everyone equally, whether they use the services of a representative or not. If you choose to hire a representative, your application will not be given special attention nor can you expect faster processing or a more favourable outcome.

Yours sincerely,
(Officer's Title)

IP 9 – Use of Representatives

Appendix D Notice to Applicant: Incomplete Use of a Representative (IMM 5476) form

[To be used when returning an incomplete application under R10]

Dear

This letter refers to your application for ----, which was received at (office) on (date).

Under section 10 of the *Immigration and Refugee Protection Regulations*, representatives and clients are required to provide all the information requested in the Use of a Representative (IMM 5476) form unless the question states “if known” or “if applicable.”

The Use of a Representative ([IMM 5476](#)) form in your application indicates that you have appointed an individual to represent you, but unfortunately the form is either incomplete or not completed correctly. Therefore, we regret that we will not be able to process your application.

Please ensure that each question has been answered and the appropriate section(s) in the Use of a Representative (IMM 5476) form have been signed and dated by all the relevant parties.

For further instructions, please refer to the Instructions – Use of a Representative ([IMM 5561](#)) form.

If you choose to resubmit your application and require a new form, the Use of a Representative (IMM 5476) and Instructions – Use of a Representative (IMM 5561) forms are available on our website at <http://www.cic.gc.ca/english/information/applications/representative.asp>. If you are in Canada and require assistance, you can contact the Call Centre toll free at 1-888-242-2100.

You are not obliged to hire a representative for immigration matters. The Government of Canada treats everyone equally, whether they use the services of a representative or not. If you choose to hire a representative, your application will not be given special attention nor can you expect faster processing or a more favourable outcome.

Yours sincerely,

(Officer's Title)

IP 9 – Use of Representatives

Appendix E Notice to Applicant: Concealed Representative

[To be used when it is suspected that an applicant's mailing address is that of a compensated consultant, but no Use of a Representative (IMM 5476) form was submitted]

Dear

This letter refers to your application for ----, which was received at (office) on (date).

Although no Use of a Representative ([IMM 5476](#)) form was included, we have determined that you have an unauthorized immigration representative based on [insert reasons: i.e., the mailing address that you have provided on your application].

Failure to disclose the use of a compensated representative may be considered misrepresentation. The consequence of misrepresentation under the *Immigration and Refugee Protection Act* could be a two-year period of inadmissibility.

Please review this matter carefully. If you wish to submit an application using a compensated representative, please review the Instructions – Use of a Representative ([IMM 5561](#)) form and complete a Use of a Representative (IMM 5476) form and resubmit your application.

To verify if a representative is authorized to conduct business with Citizenship and Immigration Canada and the Canada Border Services Agency, refer to our website at <http://www.cic.gc.ca/english/information/representative/verify-rep.asp>.

To obtain a Use of a Representative (IMM 5476) form to identify an authorized representative, you can retrieve it on-line at <http://www.cic.gc.ca/english/information/applications/representative.asp>, or contact the Call Centre toll free at 1-888-242-2100 (in Canada only), 8 a.m. – 4 p.m. local time, Monday to Friday.

You are not obliged to hire a representative for immigration matters. The Government of Canada treats everyone equally, whether they use the services of a representative or not. If you choose to hire a representative, your application will not be given special attention nor can you expect faster processing or a more favourable outcome.

However, if you decide to be represented by a compensated representative, it is necessary for the representative to be authorized, that is, a member in good standing with a Canadian provincial or territorial law society, the *Chambre des notaires du Québec* or the Immigration Consultants of Canada Regulatory Council .

Yours sincerely,
(Officer's Title)

IP 9 – Use of Representatives

Appendix F Notice to Applicant: Use of an Unauthorized Representative during Case File Processing

[To be used when it is discovered that an applicant is using an unauthorized representative during application processing]

Re: Client Identification/File number: _____

Dear

The Use of a Representative ([IMM 5476](#)) form in your application indicates that you have retained an individual to represent you, but unfortunately we are unable to confirm that this individual is an authorized representative.

Under the *Immigration and Refugee Protection Regulations*, we will only conduct business with *authorized representatives*. To be an authorized representative, the person you have compensated to assist you must be a member in good standing with a Canadian provincial or territorial law society, the *Chambre des notaires du Québec* or the Immigration Consultants of Canada Regulatory Council . If the representative you have identified is a member in good standing with one of these organizations, please provide us with evidence of this. If your representative is not a member of any of these organizations, we can no longer deal with this representative, but we will continue to process your application and will communicate directly with you.

You may choose to be self-represented or you may appoint a new representative by submitting a new Use of a Representative form (IMM 5476). Please ensure that the new representative is authorized.

To learn more about the types of individuals who may represent you, visit our website at <http://www.cic.gc.ca/english/information/representative/rep-who.asp>. To obtain a Use of a Representative form (IMM 5476) in order to identify an authorized representative, you can retrieve it on-line at <http://www.cic.gc.ca/english/information/applications/representative.asp>, or contact the Call Centre toll free at 1-888-242-2100 (in Canada only), 8 a.m. – 4 p.m. local time, Monday to Friday.

You are not obliged to hire a representative for immigration matters. The Government of Canada treats everyone equally, whether they use the services of a representative or not. If you choose to hire a representative, your application will not be given special attention nor can you expect faster processing or a more favourable outcome.

Yours sincerely,
(Officer's Title)