



Instructions Governing Communications Between Related Divisions at the Immigration and Refugee Board of Canada

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1. Introduction

1.1 Purpose

These Instructions are issued by the Chairperson of the Immigration and Refugee Board of Canada (IRB) and are effective as of May 30, 2014.

They reaffirm the fundamental principles of institutional independence, whereby members are free from improper influence. The Instructions also set out a framework for the level of separation expected between first-level and appeal-level Divisions of the IRB; that is, between the Refugee Protection Division (RPD) and the Refugee Appeal Division (RAD); and between the Immigration Division (ID) and the Immigration Appeal Division (IAD).

1.2 Scope

For the purposes of these Instructions, “members” include deputy chairpersons, assistant deputy chairpersons and coordinating members.

1.3 Background

All members of the IRB have the same level of independence in their adjudicative functions, whether they are appointed pursuant to the *Public Service Employment Act* or by the Governor in Council.

All members take the same oath or solemn affirmation of office and are subject to the *Code of Conduct for Members of the Immigration and Refugee Board of Canada*.

The presence of internal appeals at the IRB may lead to concerns about whether the first-level and appeal-level Divisions are sufficiently independent from each other.

The IRB is committed to ensuring that there are adequate internal administrative structures in place to maintain the administrative and adjudicative separation of first-level and appeal-level Divisions and to avoid the perception that a Division of one level may be influencing a Division of another level improperly.

2. Instructions

2.1 Communications between members

In order to ensure both independence and the appearance of independence, members of a first-level Division must never communicate with members of a related appeal Division, and vice versa, with respect to:

1. particular files, whether before or during deliberations, or after the final decision is rendered; and
2. adjudicative strategies pertaining to their Division.

Communications are permissible where they touch on subject matters that are interdivisional and do not deal with substantive, adjudicative issues. These would include communications which foster collegiality in the workplace and group events (such as swearing-in ceremonies and social events), as well as interdivisional training on common subject matters (such as time management, file security, access to information and privacy, and cross-cultural sensitivity).

2.2 Operational independence of Divisions

First-level and appeal-level Divisions will be in control of their own processes and those processes will operate separately from each other, unless they cannot do so due to operational limitations.

Members and staff must respect the independence of first-level and appeal-level Divisions. They are expected to adhere to all relevant policy instruments relating to access to electronic record keeping systems and files, and to follow the strict prohibitions on cross-divisional accessing of computerized systems, electronic databases, and files.

3. Monitoring

Members and staff who contravene these Instructions or who become aware of a contravention must inform their managers immediately.

Managers of members and managers of staff are responsible for ensuring compliance with these Instructions.

Members who become aware that prohibited communications occurred in a particular proceeding shall ensure that the parties in that proceeding are informed of the nature of the communications and provided the opportunity to make representations.

4. Enquiries

For more information, please contact:

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Available in English and French on the IRB's Internet site: www.irb-cisr.gc.ca
Disponible en anglais et en français sur le site Internet de la CISR : www.cisr-irb.gc.ca

5. Approval

Ken Sandhu
Interim Chairperson

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