Immigration, Refugees and Citizenship Canada / Immigration, Réfugiés et Citoyenneté Canada
Information disclosed under the Access to Information Act
L'information divulguée en vertu de la loi sur l'accès à l'information

Archived: June 3, 2025 9:33:58 AM
From: [redacted] Representatives / Représentants [redacted] (I[redacted]
Sent: Thu, 10 Apr 2025 18:21:45
To:
Cc: Immigration Representatives / Représentants immigration (IRCC)
Subject: FW: Clarification on Declaring Non-Accompanying Spouse in Express Entry and Risk of Misrepresentation - REP-A-2025-0785 - Due 9-Apr-25
Importance: Normal
Sensitivity: None

Good day,

[redacted] **Representatives Mailbox.**

Please note that this mailbox is intended for general guidance and does not provide responses to case-specific inquiries but have provided the following information as guidance. If you have case specific questions about a file, you are encouraged to submit the IRCC Web form.

Please see our response to your question.

***

Question 1: Acceptability: When is it permissible to declare a spouse as non-accompanying in an Express Entry profile?

Answer 1: Based on personal circumstances, a principal applicant is free to choose to have their spouse or common-law partner as accompanying or non-accompanying.

Question 2: Assessment Criteria: What criteria do IRCC officers use to evaluate whether this declaration risks misrepresentation under Section 40 of IRPA?

Answer 2: Officers review all client declarations and have the authority to apply Section 40 of IRPA based on the circumstances of each case.

Question 3: Official Guidelines: Are there specific references in the Immigration and Refugee Protection Regulations (IRPR) or operational manuals addressing this practice?

Answer 3: Section 40 of IRPA has broad application. There is no scenario-specific guidance.

Question 4: Supporting Evidence: What documentation or explanations should applicants provide to validate their declaration and avoid a PFL or refusal?

Answer 4: Applicants may provide any additional documentation or explanation of their choosing to support their application for Permanent Residence.

Please be advised that the assessment of an application is conducted on a case-by-case basis, taking into consideration the specific circumstances and the supporting documentation available to the officer. It is the applicant's responsibility to provide sufficient documentation to demonstrate that they meet the requirements.

Immigration, Refugees and Citizenship Canada / Immigration, Réfugiés et Citoyenneté Canada
Information disclosed under the Access to Information Act
L'information divulguée en vertu de la loi sur l'accès à l'information

We trust that this information will be of assistance to you.

***

[redacted]

The Immigration Representatives Mailbox

From:
Sent: [redacted] 26, 2025 10:58 AM
To: Immigration Representatives / Représentants immigration (IRCC) <IRCC.ImmigrationRepresentatives-[redacted]IRCC@[redacted]
Subject: Clarification on Declaring Non-Accompanying Spouse in Express Entry and Risk of Misrepresentation

[redacted]

I am writing to you as an authorized immigration representative (RCIC [redacted]) from [redacted]. I seek clarification on a recurring issue in the Express Entry system that affects applicants and has sparked concern among practitioners: the option to declare a spouse as "non-accompanying" to boost Comprehensive Ranking System (CRS) points, and the subsequent risk of misrepresentation challenges from IRCC.

Description of the Issue

The Express Entry system permits applicants to designate their spouse as "non-accompanying," which recalculates their CRS score as if they were single, often significantly increasing their likelihood of receiving an Invitation to Apply (ITA). This feature is embedded in the official CRS tool on the IRCC website, implying it is a valid choice. However, after submitting their electronic Application for Permanent Residence (e-APR), some applicants receive a Procedural Fairness Letter (PFL) questioning the validity of this declaration, with IRCC suggesting potential misrepresentation under Section 40 of the Immigration and Refugee Protection Act (IRPA). This can lead to refusal if the applicant's justification is unsatisfactory.

This presents a contradiction: the system allows the "non-accompanying spouse" option, yet IRCC officers may later challenge it, exposing applicants to risks despite adhering to the platform's design.

Real Case Example

A pertinent example surfaced recently within the Indian immigration community on social media. An applicant declared their spouse [redacted] "[redacted]" to [redacted] their CRS [redacted] and [redacted]y [redacted] an [redacted] [redacted] [redacted], they received a PFL from IRCC, which I have attached for your reference (see attached screenshot). The letter states verbatim:

Immigration, Refugees and Citizenship Canada / Immigration, Réfugiés et Citoyenneté Canada
Information disclosed under the Access to Information Act
L'information divulguée en vertu de la loi sur l'accès à l'information

\cbpat5"I have concerns you directly or indirectly misrepresented or withheld material facts relating to relevant matters that induces or could induce an error in the administration of IRCC Act and Regulations, as CEC has a Comprehensive Ranking System (CRS) Criteria, with points per factor granted with a spouse or common-law partner and without a spouse or common-law partner. Therefore I am asking you to submit any additional information/documentation that would allay my concerns. I require IMM5562 Travel History form for you and your spouse. I require an explanation why your spouse is not included as an accompanying spouse."

\cbpat5This PFL, shared widely online, demanded the applicant justify their declaration, hinting at misrepresentation under Section 40 of [redacted] case exemplifies the uncertainty applicants face, as they must retrospectively prove their intent aligned with their profile, despite the system's explicit allowance of the option.

\cbpat5Questions for Clarification

\cbpat5To better counsel our clients and ensure compliance, I respectfully request guidance on:

1. **Acceptability:** When is it permissible to declare a spouse as non-accompanying in an Express Entry profile?
2. **Assessment Criteria:** What criteria do IRCC officers use to evaluate whether this declaration risks misrepresentation under Section 40 of IRPA?
3. **Official Guidelines:** Are there specific references in the Immigration and Refugee Protection Regulations (IRPR) or operational manuals addressing this practice?
4. **Supporting Evidence:** What documentation or explanations should applicants provide to validate their declaration and avoid a PFL or refusal?

\cbpat5Request for Guidance

\cbpat5I kindly request references to relevant sections of the Immigration and Refugee Protection Act (IRPA), the Immigration and Refugee Protection Regulations (IRPR), or operational manuals clarifying IRCC's position. If recent policy updates exist, please direct me to them. This will help us advise clients accurately, minimizing procedural challenges.

\cbpat5Thank you for your assistance. Your response will enhance our ability to support applicants confidently.

Page 2299

is withheld pursuant to section

est retenue en vertu de l'article

19(1)

of the Access to Information Act

de la Loi sur l'acces a l'information