

A Guide to Fee Waiver Requests

What to do if you can't afford to pay your court fees.

Ministry of the Attorney General

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This guide does not provide legal advice.

It is recommended that all parties seek legal advice where possible.

Ce guide est également disponible en français

Having your court fees waived

What to do if you can't afford to pay your court fees.

If you're going to court in Ontario, you may have to pay fees to start a proceeding, file documents, schedule a hearing, enforce a judgment or order or take certain other steps.

If at any point in time you can't afford to pay the fees in your case, you can ask the court to waive your fees so that you don't have to pay. If you request a fee waiver, the court will look at your financial situation and decide whether you qualify. If your request is accepted, you will be given a certificate which you must show to court staff when you go to pay a fee.

You can use your fee waiver certificate only in the case or proceeding for which it was given to you, plus any enforcement related to that case. If you have multiple cases at once, or if your case is appealed, you will need to request a new fee waiver for each case.

A fee waiver will not apply to any fees you have already paid.

There are two ways you can apply for a fee waiver:

1. You can make a written request to staff at a court or enforcement office using the form provided by the ministry if you think you meet the financial requirements. Court staff will review the request to determine whether you meet the financial requirements and qualify for a fee waiver. If it is determined you qualify, you will be given a fee waiver certificate. If you submit your request online through a submissions portal on Justice Services Online, you will receive your response by e-mail. If you submit your request by mail, you will also receive your response by mail.
2. If you know you do not meet the financial requirements or you have submitted a request to court staff and it was not approved, you can make a written request to a judge of the court using the form provided by the ministry. If you submit a request for fee waiver to a judge, your request will first be reviewed by staff to ensure you do not already qualify under the financial requirements. If staff determine that you do not qualify, your request will be presented to a judge for review. This review may take time, so you will receive notice by mail once the judge has made a decision.

Eligibility

You can request to have your court fees waived if:

- you are involved, or will be involved, in a proceeding or case in family, civil or small claims court
- you are not acting on behalf of a business or organization

- you are not a representative plaintiff in a class proceeding, for which you entered into an agreement that provides for payment of disbursements only if the claim is successful
- your fees are not being paid by a lawyer under a contingency fee agreement.

There are three primary ways to qualify for a fee waiver.

1. Your main source of household income is one or more of the following:
 - income assistance from Ontario Works
 - income support from the Ontario Disability Support Program
 - Old Age Security Pension and the Guaranteed Income Supplement
 - War Veterans Allowance
 - Canada Pension Plan benefits

OR

2. Legal Aid Ontario has approved your application for legal aid services for this case. Please note that receiving assistance from an advice lawyer or duty counsel is not the same as receiving certificate services from Legal Aid Ontario.

OR

3. Your gross annual household income and assets are less than:

Criteria		Maximum amount
Gross annual household income <i>Gross annual household income is the total amount of money that all of the members of your household earn in a year, before taxes or deductions</i>	1 person in your household	\$33,100
	2 people in your household	\$49,600
	3 people in your household	\$57,300
	4 people in your household	\$68,700
	5 or more people in your household	\$80,200
Household liquid assets <i>Household liquid assets are any assets owned by the members of your household that are money or can readily be converted into money, such as stocks, bonds, RRSPs or GICs that are not locked in.</i>		\$2,800
Household net worth <i>Household net worth is the value of all assets owned by the members of your household, minus the amount of all their debts and other financial liabilities.</i>		\$11,100

You will have to provide proof of your gross annual household income and indicate on the form which documents you have included. If you can't provide any of these documents, explain why and continue to fill out the rest of the form, where you will write down your household's income information instead.

You don't need to provide proof of income for any working members of your household aside from your spouse, but you must include their income when you calculate your gross annual household income on the request form.

You don't need to provide proof of income or complete the table setting out your household income if you have a certificate from Legal Aid Ontario.

Remember, if you don't meet the fee waiver-requirements, but you don't believe that you can afford to pay court fees, you can still make a request directly to the court to have your financial situation evaluated by a judge.

Each request is reviewed based on the form and documents submitted, and the decision of staff or a judge is final.

If your financial situation changes, you can request a fee waiver again. There is never a charge to request a fee waiver.

When to request a fee waiver

Although you can request a fee waiver before, during or at the enforcement stage of your case, a fee waiver certificate can't be used to refund court or enforcement fees that you've already paid.

To have any fee waived, you have to receive your fee waiver certificate beforehand and show it when you go to pay that fee.

Which fees cannot be waived

The fee waiver applies to fees that the court charges in civil, family and small claims matters, except for:

- disbursements paid to the sheriff or small claims court bailiff to enforce an order (unless the order was made under subsection 31(3) of the *Residential Tenancies Act, 2006*)
- the federal Central Registry of Divorce Proceedings fee
- fees prescribed for bankruptcy proceedings under the *Bankruptcy and Insolvency Act*
- costs that you are ordered to pay to another party

In addition, the fee waiver does not apply to the following fees because they are not paid to the court or enforcement office:

- fees you pay to an individual who is independent of the court (e.g., lawyers, authorized court transcriptionists, official examiners, witnesses and mediators)
- fees for serving documents, unless service is by the sheriff or bailiff
- costs that you are ordered to pay to another party

How to request a fee waiver

Step 1: Get the form

Depending on your situation, you will have to fill out one of several different forms. These forms can be picked up at your local courthouse or printed at home from Ontario Court Forms, at ontariocourtforms.on.ca. To find your local courthouse, visit www.ontario.ca/courtfinder.

If you think you meet the financial requirements, fill out form FW-A 3 - Fee Waiver Request to Registrar, Clerk or Sheriff.

If you don't think you meet the financial requirements but think your fees should be waived, fill out form FW-A 4 - Fee Waiver Request to Court.

If you're a litigation guardian or special party representative, fill out one of the following:

- If the person you're representing meets the financial requirements: FW-A 6 - Fee Waiver Request to Registrar, Clerk or Sheriff by a Litigation Guardian for a Person Under Disability or a Person Representing a Special Party
- If the person you're representing doesn't meet the financial requirements but you feel that their fees should be waived: FW-A 7 EN - Fee Waiver Request to Court by a Litigation Guardian for a Person Under Disability or a Person Representing a Special Party

Step 2: Fill out the form

Here are some tips to help you when filling out your request form:

- Make sure that all the personal information you give is complete and current. If your contact information changes, it's your responsibility to update the court in writing.
- If you already have a court file, include your **file/claim number** and the **title of the proceeding** or **name of the case** on the form.

Financial information

You will have to provide proof of your gross annual household income. This includes proof of income for your spouse, if you have one.

- **If you're filling out form FW-A 3 - Fee Waiver Request to Registrar, Clerk or Sheriff or FW-A-6 - Fee Waiver Request to Registrar, Clerk or Sheriff by a Litigation Guardian for a Person Under Disability or a Person Representing a Special Party**, you can submit any one of these three documents for each of you and your spouse:

- an income tax return or notice of assessment for the most recent taxation year from the Canada Revenue Agency
- the most recent statement of earnings from your employer showing total earnings paid this year including overtime or your three most recent pay stubs
- the most recent statement of income showing income from employment insurance, social assistance, a pension, workers compensation or disability payments

Indicate on the form which documents you have included. If you can't provide any of these documents, explain why and continue to fill out the rest of the form, where you will write down your household's income information instead.

You don't need to provide proof of income for any working members of your household aside from your spouse, but you must include their income when you calculate your gross annual household income on the request form.

- **If you're filling out form FW-A 4 - Fee Waiver Request to Court or FW-A-7 - Fee Waiver Request to Court by a Litigation Guardian for a Person Under Disability or a Person Representing a Special Party** because you do not meet the requirements for automatic entitlement, you have to fill out Exhibit B, where you will list the members of your household, give estimated income amounts, expenses and assets. For each piece of information you provide, make sure to attach a recent financial document (e.g. a tax return, pay stubs, T-4 slips, benefit statements), or receipt to support it.

If there is any other information about your financial situation that you would like to give the court that wasn't included in your request so far, use the space in question 5 of Exhibit A to write it down. Make sure to also attach financial documents that support any information you give in this part.

With Exhibit C, you will also have to provide one of the following:

- the first document you filed or will file in your case, which sets out your position in the case (e.g. statement of claim or application, statement of defence, answer)
- a copy of the order you wish to enforce or continue enforcing, as appropriate

Step 3: Swear your affidavit

Once you've completed your fee waiver form, you have to swear or affirm that the information you've provided is accurate and true to the best of your knowledge. You can get your form sworn or affirmed at the court or enforcement office at no cost.

You can also have your form sworn or affirmed by a lawyer, notary public or someone else who is authorized to commission documents, although they may charge a fee for their service.

While your lawyer can commission your affidavit, you still have to be the one to swear or affirm that the information provided is true – they can't do this on your behalf.

It is important to remember that it is a criminal offence to knowingly swear or affirm a false affidavit.

Step 4: Submit the form

You have to submit your form and all of the required documents through Justice Services Online, in person or by mail to the court or the enforcement office where you would be paying a fee related to your court case or enforcement of an order. The form can be submitted on its own or along with any court document that you wish to file. Your lawyer or agent can also submit your form for you. If necessary, you can also contact the court or enforcement office about other options available to submit your form.

Don't forget that you must sign and swear or affirm the form before you submit your request.

Finding out if you qualified

For a request to staff

If you submit a request to staff in person at a court or enforcement office, staff will review and determine whether or not you qualify on the spot. If you submit your request online through a submissions portal on Justice Services Online, you will receive your response by e-mail. If you submit your request by mail, you will also receive your response by mail.

For a request to court

After you submit a request to court, your request will first be reviewed by staff to determine whether or not you qualify. If staff determine that you do not qualify, your request will be presented to a judge for review. This review may take time, so you will receive notice by e-mail or mail once the judge has made a decision.

When a fee waiver certificate may be revoked

Your fee waiver certificate can be revoked (cancelled or invalidated) by a judge if they think that your actions in your proceeding are frivolous, vexatious or an abuse of the court's process.

A judge can also make an order requiring you to get permission from the court before asking for another fee waiver.

You will have a chance to submit a statement or argument to a judge before they revoke your fee waiver.

Requesting a court interpreter

Anyone can ask for an English, French or visual language interpreter for free, even without a fee waiver. For other languages, parties in civil, family and small claims court cases are normally responsible for arranging and paying for an interpreter themselves.

However, if you receive a fee waiver certificate and you or any of your witnesses need a court interpreter in another language, you can request the help of a court interpreter for free. You can request an interpreter on your fee waiver request form. If you don't know you need an interpreter until later, you will also have to fill out form FW-A 5 - Request For Court Interpreter. You can fill out this form at any time during the court process.

This form is available to pick up at your local courthouse or it can be printed at home from Ontario Court Forms, at ontariocourtforms.on.ca.

To complete the form, you'll need to give your name, contact information and court file number. If you need an interpreter for yourself, list the language you need interpretation to and from. If you need an interpreter for one or more of your witnesses, list the names of these witnesses, what language they need interpretation in, and when they are appearing in court.

This form can be submitted through Justice Services Online, in person or by mail to the court office where you filed your fee waiver. If you need an interpreter for any witnesses, you must submit this form as soon as you find out your date and time of the court appearance when the interpreter will be required.

After you have submitted this request for an interpreter, if you become aware that an interpreter is not required for a court appearance, notify the court immediately to cancel the interpreter.

You will not need to pay for a court interpreter once you submit this form to the court. However, refunds cannot be given for any fees you paid for private court interpreter services before you filed this form with the court.