



Canadian
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ANNUAL CONFERENCE | CONGRÈS ANNUEL | OTTAWA 2016

READING BETWEEN THE LINES

Controversial Immigration Advising Cases

INTERNATIONALIZATION FOR ALL | L'INTERNATIONALISATION POUR TOUS

Presenters:

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Question #1

A potential student has had their visa application denied twice and has now contacted the institution's RCIC for advice before resubmitting for a third time. The first denial was for insufficient funds; the second denial was issued on the grounds the officer was not convinced the student would leave Canada at the end of their studies. The RCIC has reviewed the applications and considered both were strong submissions. What would you recommend the student do?

#1-References

Individual case inquiries or reconsideration letters related to the decision or decision-making process or there is a case that may not have been appropriately dealt with by a visa office and where litigation is to be avoided:

1. Email the Visa office-Attention: Immigration Program Manager
2. If there is no reply after 30 days or if there is a disagreement with the reply, you may contact **Case Management Branch**, by e-mail at **case-review-im-enquiry@cic.gc.ca**

Question #2

A student wishes their spouse and two minor children to accompany them to Canada. The spouse wishes to work in Canada to help support the family. The children will be enrolled in the local elementary school. The student is from a country that has a high rate of refusals for accompanying family members. What documents would you recommend the family members apply for overseas?

Question #3

A student from France received their offer of acceptance August 20th and immediately travelled to Canada entering as a visitor. Classes commenced on September 1st. At the POE the CBSA officer determined the “visitor’s” real intent was to study and subsequently seized the passport. The officer has given the student 15 days to leave Canada. Considering the processing time for study permit applications in France is two weeks, eight weeks for applications processed in the United States, and it is costly to return home to apply, what would you suggest to the student?

#3-References

R 11 Place of application for TRV, work or study permit

(2) An application for a temporary resident visa — or an application for a work permit or study permit that under these Regulations must be made outside of Canada — must be made to an immigration office that serves as an immigration office for processing the type of application made and that serves, for the purpose of the application,

(a) the country in which the applicant is present and has been lawfully admitted; or

(b) the applicant's country of nationality or, if the applicant is stateless, their country of habitual residence other than a country in which they are residing without having been lawfully admitted.

OP1 Procedures:

Applicants for temporary resident services must have been lawfully admitted (**although there is no time requirement**).

Question #4

On September 1st a student appears with their Letter of Introduction, are they eligible to register and attend class?
What is your institution's policy?

#4-References

Regulations- Interpretation and Application:

Study permit means a written authorization to engage in academic, professional, vocational or other education or training in Canada that is issued by an officer to a foreign national.

IRCC website:

“Letter of Introduction is the letter you will receive from IRCC if you have been approved for a study permit .The Letter of Introduction is not your study or work permit. Keep this letter. You must show this letter to officials at the port of entry when you arrive in Canada to get your study or work permit.”

Question #5

A student has been registered full-time throughout their studies but has one course left to complete. The student was registered full-time in the winter 2016 session; however the required course is not available until the fall 2016 term. Is the student permitted to work full-time off-campus during the summer of 2016?

Question #6

A student has been registered full-time throughout their studies but has one course left to complete. The student was registered full-time in the winter 2016 session; however required course is not available until winter 2017. Is the student permitted to work full-time off-campus during the summer of 2016?

#5/6 -References

R 186(v) A foreign national may work in Canada if they are the holder of a study permit and

(iii) although they are permitted to engage in FT work during a regularly scheduled break between academic sessions, they work no more than 20 hours/week during a regular academic session

OP12: Off-Campus

- Students must hold full-time status during the academic session prior to, as well as subsequent to, their scheduled break. Each scheduled break should not be more than four months consecutively.
- Students may be a part-time student if the course load required to complete their program of study during the final academic session is part-time.

Question #7

A month prior to the expiration of their passport a student realizes their study permit is expiring in three weeks. The processing time for the passport is four weeks. What would you recommend the student do?

#7-References

OP 12: Determining Validity Periods:

Once an officer has determined that an applicant is bona fide and meets the requirements, they are to issue a long-term study permit, for the length of studies plus 90 days or **passport expiry**, whichever comes first.

Question #8

A student is on academic suspension for one year but wishes to remain in Canada. Prior to studying at your institution your student graduated from another school and was issued a 3 year PGWP. Two years are left remaining on the PGWP. How would you advise the student?

#8-References

Regulations- Interpretation and Application:

Study permit means a **written authorization** to engage in academic, professional, vocational or other education or training in Canada that is issued by an officer to a foreign national.

Work permit means a **written authorization** to work in Canada issued by an officer to a foreign national.

#8-References

R 183 (4) the authorized period of temporary resident ends on the earliest of:

(a) the day on which the temporary resident leaves Canada without obtaining prior authorization to reenter Canada;

(b) the day on which their permit becomes invalid, in the case of a temporary resident who has been issued either a work permit or a study permit;

(b.1) the day on which the second of their permits becomes invalid, in the case of a temporary resident who has been issued a work permit and a study permit;

(c) the day on which any temporary resident permit issued to the temporary resident is no longer valid under section 63; or

Question #9

A student's study permit has been stolen and has informed the ISA that they had neglected to make a copy of their permit. In addition to having to apply for a replacement they need to make a co-op work permit application for an internship starting in two months. What advice would you give the student?

#9-References


Application Form(s)

Application to Change Conditions, Extend my Stay or Remain in Canada as a Worker (IMM5710)

Supporting Documents

Co-op Letter 

Passport 

Digital photo 

Fees

Fees

Application	Quantity	Price (CAD) per unit	Total (CAD)
Work Permit	1	\$0	\$0

Question #10

A student in their final term of their program informs their ISA that they are pregnant. The student wishes a leave of absence of one year. What is the legal status of the student during that time?

#10-References

Conditions — Study permit holder Conditions

R 220.1 (1) The holder of a study permit in Canada is subject to the following conditions:

- (a) they shall enroll at a designated learning institution and remain enrolled at a designated learning institution until they complete their studies; and
- (b) (b) they shall actively pursue their course or program of study.

#10-References

R 183 (4) the authorized period of temporary resident ends on the earliest of:

(a) the day on which the temporary resident leaves Canada without obtaining prior authorization to reenter Canada;

(b) the day on which their permit becomes invalid, in the case of a temporary resident who has been issued either a work permit or a study permit;

(b.1) the day on which the second of their permits becomes invalid, in the case of a temporary resident who has been issued a work permit and a study permit;

(c) the day on which any temporary resident permit issued to the temporary resident is no longer valid under section 63; or

#10-References

Compliance Reporting- Authorized Leave

List of Students

Select	Student ID ↑↓	Family name ↑↓	Given name(s) ↑↓	DOB ↑↓	UCI ↑↓	Status ↑↓
<input checked="" type="checkbox"/>	<input type="text"/>	right	wrong	1999/05/05	87582236	<div>Please select</div>
<input type="checkbox"/>	54975194525	TREE	TRUNK	1975/06/23	87617262	<div>Please select</div>
<input type="checkbox"/>	<input type="text"/>	Rooster	Red	1990/01/01	87581346	<div>Please select</div>

Showing 1 to 3 of 3 entries |

Select All

Deselect All

Status

Program/degree completed

Apply to selected rows

Save

Question #11

A student's spouse is in Canada on a spousal open work permit. If the student takes a leave of absence how will that impact the spouse's work permit?

#11-References

Spouses or common-law partners of full-time students

Program based on the Criteria under R205(c)(ii) of the Immigration and Refugee Protection Regulations.

Spouses or common-law partners of certain foreign full-time students are eligible for an open work permit without the need for an LMIA.

Work permits may be issued with a validity date to coincide with the spouse's study permit.

#11-References

R 183 (4) the authorized period of temporary resident ends on the earliest of:

(a) the day on which the temporary resident leaves Canada without obtaining prior authorization to reenter Canada;

(b) the day on which their permit becomes invalid, in the case of a temporary resident who has been issued either a work permit or a study permit;

(b.1) the day on which the second of their permits becomes invalid, in the case of a temporary resident who has been issued a work permit and a study permit;

(c) the day on which any temporary resident permit issued to the temporary resident is no longer valid under section 63; or

Question #12

A potential student has been given a conditional offer to your institution subject to the successful completion of a bridging program at a language partner school. In September the student entered Canada on a S1 visa; the language requirements were met by the end of November. The full-time program starts in January 2017. Where should the application for the study permit be processed?

#12-References

OP 12 : Prerequisite programs

Students who are required to participate in a prerequisite ESL or FSL program before the start of the academic, professional or vocational program will be issued a study permit or SX-1 visa for the duration of the ESL or FSL program only, bearing the condition that the holder is not permitted to engage in off-campus employment in Canada. The student may, upon successful completion of their ESL or FSL program, apply to change their conditions once they are enrolled at a DLI in an academic, professional or vocational program of study.

Application after entry

R 215 (1) (f) (iii) A foreign national may apply for a study permit after entering Canada if they are a temporary resident who has completed a course or program of study that is a prerequisite to their enrolling at a designated learning institution

Question #13

A student with a valid study permit has arrived in Canada for the fall 2016 semester but has elected to defer their studies until the winter 2017 semester. Is it legal for them to remain in Canada?

#13-References

Conditions — Study permit holder Conditions

R 220.1 (1) The holder of a study permit in Canada is subject to the following conditions:

- (a) they shall enroll at a designated learning institution and remain enrolled at a designated learning institution until they complete their studies; and
- (b) (b) they shall actively pursue their course or program of study.

Question #14

Midway through a semester the student informs their placement coordinator that they have fulfilled the requirements for their mandatory 84 hour placement. When the coordinator asked for a copy of the student's co-op work permit the student informs the coordinator they did not apply for one. The student's friend told them it was unnecessary because their study permit stated they could work off-campus. What would you recommend?

#14-References

International Mobility Program: Work related to a research, educational or training program

A work permit may be issued under subparagraphs R205(c)(i), (i.1) and (i.2) (LMIA exemption codes C31, C32 and C33) to foreign nationals who:

- Intend to perform work that is an essential part of a postsecondary academic, vocational or professional training offered by a designated learning institution in Canada (excluding positions in medical residency or medical fellowship positions with the exception of those in the field of veterinary medicine). The work cannot form more than 50% of the total program of study. (C32)
- Intend to perform work that is an essential part of a program at the secondary level. This includes vocational training programs offered by a designated learning institution in Quebec and programs that require students to work in order to obtain their secondary or high school diploma or certificate of graduation. (C33)

Question #15

A student arrives in Canada accompanied by their spouse. The couple does not have the finances for both parties to study therefore one spouse will study while the other one works. Upon completion of an 8 month post-graduation certificate program the husband applies for a PGWP. The permit is issued for one year. The wife has been accepted into a four year degree program. At the end of the husband's PGWP what are his options to continue working?

#15-References

International Mobility Program: Public Policy, Competitiveness & economy

Programs based on the Criteria listed under **R205(c)(ii) of the Immigration and Refugee Protection Regulations.**

- **Spouses or common-law partners of FT students (Exemption Code C42)**

Spouses or common-law partners of certain foreign full-time students are eligible for an open work permit without the need for an LMIA.

Work permits may be issued with a validity date to coincide with the spouse's study permit.

- **Post-Graduation Employment (Exemption Code C43)**

International students who have graduated from a participating Canadian post-secondary institution are eligible to apply for Post-Graduation work permits which are LMIA-exempt and may be valid for up to three years, depending on the duration of the program of study.

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Please take a moment to submit the evaluation
for this session.

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Thank you!