

# 2014 SUMMER SEMINAR

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BC COUNCIL FOR INTERNATIONAL EDUCATION

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**BCCIE**



BRITISH COLUMBIA COUNCIL FOR INTERNATIONAL EDUCATION

CHALLENGING PERCEPTIONS

**BCCIE SUMMER SEMINAR 2014**

FOUR SEASONS HOTEL, VANCOUVER, BC JUNE 22 - 25

SESSION TITLE:

# Best Practices for Working with Agents in Compliance with Canadian Legislation Regarding Advice and Representation

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# Best Practices for Working with Agents in Compliance with Canadian Legislation Regarding Advice and Representation

Amendments to the Immigration and Refugee Protection Act concerning rules governing agents, representation, and the provision of immigration advice have added a new level of complexity to the international education sector and the roles of agents, educators, and student advisors. Best practices for developing agent contracts and positive working relationships with agents will be outlined. Suggested policies and procedures that comply with new immigration legislation will be described and discussed. This session provides solutions for dealing with the new regulatory rules and, at the same time, provides practical answers to Frequently Asked Questions regarding Study Permit applications and renewals, implied status, custodianship, Temporary Resident Visas, and other requirements.

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The Council of Ministers of Education ([www.cmec.ca](http://www.cmec.ca)) has published a report regarding the provision of advice and representation, the regulation of Canadian Immigration Consultants, and working with agents: “The Role of Education Agents in Canada’s Education System”.

The report provides an environmental scan of recruiting agent use in Canada’s education systems. Key issues discussed include:

- the scope of agent involvement within and across education sectors;
  - the nature of agent transactions with key stakeholders (e.g., students, parents, and institutions);
  - current regulatory frameworks in Canada and abroad regarding agent use; and
  - the benefits and risks of agent involvement.
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# IMMIGRATION AND REFUGEE PROTECTION ACT (IRPA)

## Representation or advice for consideration

91. (1) Subject to this section, 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.

Persons who may represent or advise

(2) A person does not contravene subsection (1) if they are

(a) a lawyer who is a member in good standing of a law society of a province or a notary who is a member in good standing of the Chambre des notaires du Québec;

(b) any other member in good standing of a law society of a province or the Chambre des notaires du Québec, including a paralegal; or

(c) a member in good standing of a body designated under subsection (5).

# REGULATION DESIGNATING A BODY

Vol. 145, No. 15 — July 20, 2011

Registration

SOR/2011-142 June 28, 2011

## **Immigration and Refugee Protection Act**

The Minister of Citizenship and Immigration, pursuant to subsections 91(5) (see footnote a) and (7) (see footnote b) of the Immigration and Refugee Protection Act (see footnote c), hereby makes the annexed Regulations Designating a Body for the Purposes of Paragraph 91(2)(c) of the Immigration and Refugee Protection Act.

# DESIGNATION OF REGULATORY BODY UNDER IRPA

Ottawa, June 27, 2011

JASON KENNEY

Minister of Citizenship and Immigration

REGULATIONS DESIGNATING A BODY FOR THE PURPOSES OF PARAGRAPH  
91(2)(C) OF THE IMMIGRATION AND REFUGEE PROTECTION ACT  
INTERPRETATION

1. The following definitions apply in these Regulations.

“Act” means the Immigration and Refugee Protection Act. (Loi)

“ICCRC” means the Immigration Consultants of Canada Regulatory Council,  
incorporated under Part II of the Canada Corporations Act on February 18,  
2011. (CRCIC)

**iccrc**

IMMIGRATION CONSULTANTS OF  
CANADA REGULATORY COUNCIL



**crcic**

CONSEIL DE RÉGLEMENTATION DES  
CONSULTANTS EN IMMIGRATION DU CANADA

## Designation of a Body

2. For the purposes of paragraph 91(2)(c) of the Act, the ICCRC is designated as a body whose members in good standing may represent or advise a person for consideration — or offer to do so — in connection with a proceeding or application under the Act.





# PENALTIES

## Penalties

(9) Every person who contravenes subsection (1) commits an offence and is liable

(a) on conviction on indictment, to a fine of not more than \$100,000 or to imprisonment for a term of not more than two years, or to both; or

(b) on summary conviction, to a fine of not more than \$20,000 or to imprisonment for a term of not more than six months, or to both.

Attribute	Regulated Canadian Immigration Consultant	Unauthorized Providers
Accountable to ICCRC; complaints are taken seriously	Yes	No – accountable to no one
Monitored by ICCRC; non-compliance is taken seriously	Yes	No – may operate unknown to authorities
Supported by ICCRC to enhance quality of services	Yes	No – not supported by anyone
Knowledgeable and informed on immigration law and Canadian immigration system	Yes	No – no education prerequisite on immigration issues
Proficient in English and/or French	Yes	No – may be unable to communicate properly in English or French
Required to abide by stringent ethical and professional rules that are designed to protect consumers	Yes	No – not subject to any ethical requirements
Possess valid Errors and Omissions Insurance for enhanced consumer protection	Yes	No – may not have any Errors and Omissions Insurance
Work with agents known to ICCRC	Yes	No – no information on their associates
Required to provide evidence of good character prior to becoming Regulated	Yes	No – may have committed fraudulent or illegal activities in the past

# STUDY PERMITS

## To be eligible to study in Canada

You must have been accepted by a school, college, university or other educational institution in Canada.

You must prove that you have enough money to pay for your:

- tuition fees;
- living expenses for yourself and any family members who come with you to Canada; and
- return transportation for yourself and any family members who come with you to Canada.

# STUDY PERMITS

## To be eligible to study in Canada

You must be a law-abiding citizen with no criminal record and not be a risk to the security of Canada. You may have to provide a police certificate.

You must be in good health and willing to complete a medical examination, if necessary.

You must satisfy an immigration officer that you will leave Canada at the end of your authorized stay

# ISSUANCE OF STUDY PERMITS - IRPR

216. (1) Subject to subsections (2) and (3), an officer shall issue a study permit to a foreign national if, following an examination, it is established that the foreign national

- (a) applied for it in accordance with this Part;
- (b) will leave Canada by the end of the period authorized for their stay under Division 2 of Part 9;
- (c) meets the requirements of this Part; and
- (d) meets the requirements of subsections 30(2) and (3), if they must submit to a medical examination under paragraph 16(2)(b) of the Act.
- (e) [Repealed, SOR/2004-167, s. 59]

Exception

(2) Paragraph (1)(b) does not apply to persons described in section 206 and paragraphs 207(c) and (d).

# APPLICATION OUTSIDE CANADA

The application package includes:

- Document checklist [IMM 5483] (PDF, 156 KB) May 2014
- Application for a Study Permit Made Outside of Canada [IMM 1294] (PDF, 334 KB) February 2014
- Family Information [IMM 5645] (PDF, 67 KB) September 2009
- Schedule 1 – Application for Temporary Resident Visa [IMM 5257 – Schedule 1] (PDF, 367 KB) November 2013
- Statutory Declaration of Common-Law Union [IMM 5409] (PDF, 47 KB) April 2009
- Custodian Declaration [IMM 5646] (PDF, 1 MB) October 2010
- Visa application photograph specifications
- Use of a Representative [IMM 5476] (PDF, 597 KB) March 2014
- Instruction Guide [IMM 5269]

# APPLICATION OUTSIDE CANADA

Use this application if you:

are not a Canadian citizen or permanent resident of Canada, and want to study temporarily in Canada. We will issue a study permit if we accept the application.

You may also need a temporary resident visa. Check the list of countries and territories whose citizens need a visa.

Everyone must fill out and sign their own form, including those travelling as a family. If you are under the age of 18, your parent or guardian must sign your form.

# APPLICATION OUTSIDE CANADA

Everyone must fill out and sign their own form, including those travelling as a family. If you are under the age of 18, your parent or guardian must sign your form.

Many visa offices have specific instructions about which documents you must send with your application. Check the list of Canadian visa offices to find the office that serves your country. It will tell you the procedures you must follow.

You must include the fee with your application. To find out how to pay, check the website of the Canadian visa office that serves your country.

Find out if you need to give your biometrics.



# PORT OF ENTRY

At the Port of Entry you should be ready to show the following documents:

- a valid passport
- the letter of introduction from the visa office that you received when your study permit was approved a valid temporary resident visa (if required)
- a copy of the letter of acceptance from the school proof that you have enough money to support yourself during your stay in Canada and
- letters of reference or any other documents recommended by the visa office where you applied.

The CBSA officer will make the determination.

# APPLICATION FOR RENEWAL

217. (1) A foreign national may apply for the renewal of their study permit if

- (a) the application is made before the expiry of their study permit;
- (b) they have complied with all conditions imposed on their entry into Canada; and
- (c) they are in good standing at the educational institution at which they have been studying.

Renewal

(2) An officer shall renew the foreign national's study permit if, following an examination, it is established that the foreign national continues to meet the requirements of section 216.

SOR/2004-167, s. 60.

Temporary resident status

218. A foreign national referred to in paragraph 215(1)(d) and their family members do not, by reason only of being issued a study permit, become temporary residents.

# IMPLIED STATUS

If you apply for a renewal of your study permit, and the permit expires before you receive an answer, you can continue to study in Canada under the same conditions until you receive a decision.

You should apply to renew your study permit if you intend to travel outside Canada and your permit will expire while you are travelling.

You cannot extend your study permit beyond the expiry date on your passport.

If your study permit has expired, and you have not applied for an extension, you must leave Canada.

# STUDY PERMIT APPLICATION WITHIN CANADA

If you are in Canada as a visitor and wish to apply for a study permit to attend a designated learning institution, you may be able to do so from within Canada.

As of June 1, 2014, certain foreign nationals may apply for and receive a study permit from within Canada.

These include:

- minor children studying at the primary or secondary level;
- exchange or visiting students; and
- students who have completed a short-term course or program of study that is a condition for acceptance at a designated institution.

# APPLICATION WITHIN CANADA

The following persons may apply from within Canada:

- Holders of valid work or study permits and their family members;
- Persons studying at pre-school, primary or secondary level;
- Visiting or exchange students studying at a Designated Learning Institution (DLI);
- Persons who have completed a short-term course or program of study that is a prerequisite to their enrolling at a DLI;
- Holders of temporary resident permits (TRPs) valid for a minimum of six months and their family members;
- Refugee claimants and persons subject to an unenforceable removal order;

# APPLICATION WITHIN CANADA

The following persons may apply from within Canada:

- In-Canada permanent resident applicants and their family members who are determined eligible for permanent residents (PR) status in one of the following classes:
- live-in caregiver, spouse or common-law partner, protected persons, and humanitarian and compassionate considerations (H&C);
- Persons whose study permits were authorized by a visa office abroad, where the permit was not issued at a port of entry;
- Family members of athletes on a Canadian-based team, media representatives, members of the clergy, or military personnel assigned to Canada.

# STUDY PERMIT NOT REQUIRED

There are courses that do not require a study permit. Generally, a study permit is not required for:

- attending preschool;
- completing distance learning;
- following audit courses (where a student is permitted to attend an academic course without obtaining credit for it);
- taking courses included in tour packages as a secondary activity for tourists;
- following a course which is not academic, professional or vocational in nature that can be completed within the period authorized upon entry to Canada;
- following a course or a program of study which is six months or less that can be completed within the period authorized upon entry into Canada.

# SIX MONTHS OR LESS OF STUDY

A study permit is not needed if you want to take short-term courses or programs of study of six months or less. You may enroll in short-term programs at any learning institution, regardless of whether or not it is designated.

If, however, you would like to get a study permit for studies of six months or less, you must attend a designated learning institution.

If you are from a non-visa-exempt country, you must have a valid visitor visa.



# CONDITIONS

You must remain enrolled at a DLI and make reasonable and timely progress towards completing your program. Failing to do so may lead to your removal from Canada. The DLI will report your continued academic enrolment and status to CIC.

An officer may impose, vary or cancel conditions on a study permit.

# CONDITIONS

These may include one or more of the following:

- the type of studies or course you may take;
- the educational institution you may attend;
- the location of your studies;
- the time and period of your studies;
- the times and places at which you shall report for medical examination or observation;
- the times and places at which you shall report for the presentation of evidence of compliance with applicable conditions;
- the prohibition of engaging in employment; or
- the duration of your stay in Canada

# FAILURE TO COMPLY

## FAILURE TO COMPLY WITH CONDITIONS

221. Despite Division 2, a study permit shall not be issued to a foreign national who has engaged in unauthorized work or study in Canada or who has failed to comply with a condition of a permit unless

- (a) a period of six months has elapsed since the cessation of the unauthorized work or study or failure to comply with a condition;
- (b) the work or study was unauthorized by reason only that the foreign national did not comply with conditions imposed under paragraph 185(a), any of subparagraphs 185(b)(i) to (iii) or paragraph 185(c); or
- (c) the foreign national was subsequently issued a temporary resident permit under subsection 24(1) of the Act.

SOR/2004-167, s. 62.

# MINOR CHILDREN

If you want to extend your stay in Canada as a student, you must complete the *Application to Change Conditions or Extend Your Stay in Canada*. Check the expiry date on your study permit, and make sure you apply before that date. You should apply for renewal at least 30 days before your current permit expires.

Note: Children who are less than 17 years of age and studying in Canada without a parent or legal guardian must complete and include the *Custodianship declaration (IMM 5646)* with their study permit application. See the *Instructions Guide (IMM 5552)* for more information.

Note: The minimum age required to be a custodian is 19 years of age, regardless of province.

# NEW RULES: JUNE 1, 2014

New rules that will reduce the potential for fraud or misuse of the program while protecting Canada's international reputation for high-quality education and improving services to genuine students will come into force on June 1, 2014. The new rules will:

- limit the issuance of study permits to applicants who will be studying at a designated learning institution, including institutions that are designated by provinces and territories on the basis of meeting minimum standards;
- require students to actively pursue their studies while in Canada; and
- allow full-time international students enrolled at designated institutions in certain programs to work part time off campus and full time during scheduled school breaks without a work permit.

# ACTIVELY PURSUE STUDIES

As of June 1, 2014, all study permit holders in Canada will need to actively pursue studies. This means that:

- if you hold a study permit, you must remain enrolled and make reasonable and timely progress towards completing your program; and
- failing to do so could lead to your removal from Canada.

Your educational institution will report to CIC on your continued enrolment and academic status. You may also be asked by an immigration officer to provide evidence of your continued enrolment and academic status.

# COMPLETION OF STUDIES

Note: Under the new rules, your study permit will become invalid 90 days after you have completed your study program. If you switch to a shorter-term program or finish your studies early, your study permit will expire 90 days after your study program has been completed.

Your program is considered complete when you receive written notification of program completion (for example, a transcript or an official letter) from your institution or once you obtain your degree, diploma or certificate.

This does not apply to you if your study permit application was received before June 1, 2014, or if you were issued a study permit before June 1, 2014.

# DESIGNATED LEARNING INSTITUTIONS

To apply for a study permit on or after June 1, 2014, you will need to have a letter of acceptance from a designated learning institution.

## **Provincial Jurisdiction**

Each province and territory in Canada is responsible for designating schools at the post-secondary level that may enroll international students on or after June 1.

## **DLI**

A list of designated learning institutions at the post-secondary level will be available on the CIC website by June 1, 2014.



# DESIGNATED LEARNING INSTITUTIONS

## **Refusal**

If your study permit application is received on or after June 1 and your letter of acceptance is from an institution that is not designated for international students, your application will be refused.

## **K-12**

All primary and secondary institutions in Canada are automatically designated but will not appear on the designated learning institution list. If you are applying for your child to study in Canada at the primary or secondary level, please see [Get a study permit](#).

# DESIGNATED LEARNING INSTITUTIONS

## **Post-Secondary**

For schools at the post-secondary level, you must consult the Designated Learning Institution List.

If you were issued a study permit before June 1st, 2014, and are studying at an institution that is not designated for international students OR If the institution loses its status as a DLI after you have already been issued a study permit:

- you will be able to pursue the program of study that you are enrolled in for the duration of your current permit; and
- you will be able to renew your study permit in order to complete your program, but not beyond June 1, 2017.

# DLI NUMBER

## **DLI Number**

To apply for a study permit on or after June 1, 2014, you will need to identify the institution by its designated learning institution number on the application form.

This number can be found on the designated learning institution list, which will be published on the CIC website by June 1, 2014.

You must also meet the standard eligibility criteria for a study permit.

# WORKING OFF CAMPUS

New rules that take effect on June 1, 2014, make it easier for study permit holders to work off campus. Full-time students pursuing an academic, professional or vocational training program at a designated learning institution will be:

- eligible to work off campus without a work permit;
- allowed to work off campus for up to 20 hours per week during a regular academic session and full time during regularly scheduled breaks; and
- able to work off campus immediately rather than waiting six months.

To be able to work in Canada, however, you must be registered and enrolled at your designated learning institution, and you must get a Social Insurance Number from Service Canada.

# WORKING OFF CAMPUS

On June 1, 2014, if you hold a study permit and a work permit under the Off-Campus Work Permit Program, you may continue to work off campus under your existing Off-Campus Work Permit.

On June 1, 2014, if you hold a study permit and you have applied for but not yet received your Off-Campus Work Permit, you should wait for your work permit application to be processed and begin working off campus once you have received your Off-Campus Work Permit.

On June 1, 2014, if you hold a study permit but you have not yet applied for an Off-Campus Work Permit, you are authorized to work off campus without a work permit as long as you meet the eligibility requirements for working off campus.

# CONDITIONS

If you apply for a study permit on or after June 1, 2014, the conditions relating to your eligibility to work off-campus will be written on your study permit.

In all scenarios, you must continue to meet the conditions of your study permit in order to remain eligible for off-campus work. If you are studying English or French as a second language (ESL/FSL), or participating in general interest or preparatory courses, you will not be eligible to work during your studies, unless you become eligible to apply for a work permit with a positive Labour Market Opinion from Employment and Social Development Canada.

It is your responsibility and your employer's responsibility to ensure that you are eligible to work off campus without a work permit before you begin working. If you begin working off campus without meeting the eligibility requirements, you may be subject to enforcement action under the Immigration and Refugee Protection Regulations.

# CO-OP INTERNSHIP

New rules may affect your eligibility to work as part of a co-op or internship program:

Starting June 1, 2014, you will be able to work as part of a co-op or internship program only if the work is an essential part of an academic, vocational or professional training program offered by a designated learning institution.

To work as part of a co-op/internship program, you will need a co-op work permit that is separate from your study permit.

If you are studying English or French as a second language (ESL/FSL), or participating in general interest or preparatory courses, you will not be eligible to work during your studies, unless you become eligible to apply for a work permit with a positive Labour Market Opinion from Employment and Social Development Canada.

# CO-OP INTERNSHIP

On June 1, 2014, if you already have a co-op work permit and are not studying at a designated learning institution, you will be able to:

- work for the duration of your current permit; and
- renew your co-op work permit in order to complete your program, but not beyond June 1, 2017.

On June 1, 2014, if you already have a co-op work permit and are enrolled in a program that does not qualify as an academic, vocational or professional training program, you will be able to:

- work for the duration of your current permit; and
- renew your co-op work permit in order to complete your program, but not beyond June 1, 2017.



# CO-OP INTERNSHIP

If your application for a co-op work permit is received before June 1, 2014, you do not need to be enrolled in an academic, vocational or professional training program offered by a designated learning institution to receive the work permit.

You may also renew your co-op work permit in order to complete your program, but not beyond June 1, 2017.

# POST-GRADUATION WORK PERMIT

The PGWPP allows students who have graduated from a participating Canadian post-secondary institution to gain valuable Canadian work experience. Skilled Canadian work experience gained through the PGWPP helps graduates qualify for permanent residence in Canada through the Canadian Experience Class (CEC).

A work permit under the PGWPP may be issued for the length of the study program, up to a maximum of three years. A post-graduation work permit cannot be valid for longer than the student's study program, and the study program must be a minimum of eight months in length. For example, if you graduate from a four-year degree program, you could be eligible for a three-year work permit if you meet the criteria. If you graduate from an eight-month certificate program, you would be eligible for a work permit that is valid for no more than eight months.

# AGENTS

Request information regarding the RCIC designation of the agent or employee of the agency in your institution's agent agreements and guidelines:

“Be aware that only an ICCRC (Immigration Consultants of Canada Regulatory Council) member in good standing or a lawyer can advise individuals (students) on immigration matters.”

Require that an employee of the agency have an RCIC designation:

“Are you, or do you have a Registered Certified Immigration Consultant within your agency to advise individuals (students) on immigration matters? NO YES If yes, please provide name RCIC #

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# ICCRC AGENTS REGULATION

- a. “Agent” means a person or company who:
- i. does not provide immigration advice for a fee in contravention of Immigration and Refugee Protection Act (IRPA);
  - ii. represents an ICCRC member in furtherance of the member’s practice;
  - iii. solicits or facilitates business in connection with the ICCRC member’s practice;
  - iv. is registered, or required to be registered, as an Agent pursuant to ICCRC’s By-law;
- and for greater certainty, “Agent” does not include an individual who merely refers a Client to a member but does not otherwise take any part in a proceeding or application, or potential proceeding or application, under the IRPA.
- b. “Agent Agreement” means the contract between a Member and an Agent that sets out the terms of the business arrangement between them.

# REGULATED CANADIAN IMMIGRATION CONSULTANTS

Refer students to an RCIC or lawyer for assistance with Study Permit, Work Permit and Temporary Resident Visa applications and renewals and other immigration-related matters.

- Contract the services of an RCIC or lawyer for advice regarding Study Permits, Work Permits, Temporary Resident Visas and other immigration-related matters.

# THANK YOU!

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