



LEGAL AND IMMIGRATION SERVICES

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Legal and Immigration Services

What We Do:

- Contracts & Legal Document reviews
- Intellectual Property matters
- Employment matters
- Human Rights matters
- Corporate commercial law
- Administrative law matters
- Legal risk management
- Litigation
- Immigration advice and support

On the dawn of a new year, in this issue, the Legal & Immigration Services (LIS) Office will provide a [general overview of the immigration processes](#) in place at the University of Waterloo, as well as the best practices to follow before formalizing the appointment of foreign nationals on campus.

This requires a thorough understanding of the Canadian immigration laws and regulations and instructions from the governmental agencies as Immigration, Refugees and Citizenship Canada (IRCC), Employment Services Development Canada (ESDC), and border officials (CBSA), which can change at a moment's notice.

A tentative hire without understanding the potential pitfalls can be costly for both the employer-host and the foreign national as it can lead to the refusal to issue any immigration document, and it can also take time to rectify the matter.

The failure to follow set processes also means that the foreign national will likely not be able to conduct the intended activities on campus. From a systemic standpoint, some inaccuracies or misrepresentations could trigger compliance reviews from IRCC and ESDC, and impede the University of Waterloo's ability to hire and/or host in the future.

It is important to complete the [Foreign Visitor Checklist](#), so that any admissibility requirements can be addressed from the onset, although Immigration officials have the last word on any immigration applications. Be advised that immigration officials treat foreseeable and preventable risks much less leniently. Some of the best practices to keep in mind include:



1) Refrain from making any commitments in an official offer, informal invitation or any email correspondence offering financial support for any number of activities on campus. This could be deemed as illegal work by IRCC and CBSA. This is risky not only from an immigration standpoint, but could also legally bind the institution. Verbal commitments can lead the institution astray in the event that said commitments cannot be delivered because the required immigration authorization documents are refused, or were not diligently applied for in the first place.

LIS's Senior Immigration Consultant can help curtail these unintended consequences with a proper review of the specific contingency clauses to be included in any Letter of Offer/Invitation/Appointment, which depends on the assessment of the particular circumstances, as illustrated below. It is best to consider the documentary and/or admissibility requirements for each category of immigration. Note also that immigration processing times can change drastically, so planning is key.

2) Be wary of misinterpreting any documentary and admissibility requirements for any immigration matter, without having sought counsel from LIS in advance.

Some categories of immigration programs are intended for the foreign national to undertake activities on campus only for a short duration, after which the foreign national is expected to leave Canada. The stay cannot be renewed, for reasons related to how the program is conceived, and the foreign national cannot be paid or compensated by virtue of the immigration restrictions. Again, seeking LIS counsel in advance is key.

The best practice is to ensure that the foreign national applies for and obtains the right visa and/or permit category for the activity to be conducted on campus, and for the entire duration of the stay. A cautious hosting department will complete and receive a LIS reviewed [Foreign Visitor Checklist](#) in advance.

3) The terms and conditions inserted in the Offer/Invitation/Appointment Letter (i.e. activities, occupation, length of stay, etc) will trigger different sets of rules and documentary requirements.



For Labour Market Impact Assessment or LMIA-required foreign nationals, following advertisement specifications set out by ESDC will mean the difference between successful hiring and a cumbersome process where the recruitment efforts and formalities must start all over again.

- 4) Avoid inserting a clause that can legally bind the University of Waterloo without first seeking advice from LIS as to whether it is advisable to do so. Any changes to the title, activities, and compensation in an issued and signed offer/invitation/appointment letter will trigger a requirement to alert immigration officials and/or obtain new LMIA and immigration documentation.
- 5) Recognize that simply holding a study permit does not automatically confer status as a student under the IRCC definition to allow the student to work legally on campus. Any changes to their status could trigger the inability to work on/or off campus. Moreover, the majority of exchange students do not meet the IRCC definition.
- 6) Document retention - Immigration officials have a long reach and any compliance review on the part of IRCC and/or ESDC can lead to serious consequences. Find out what documents you will need to retain to ensure there is no mismatch between the intended activities on campus and the terms of the immigration document.

As you can see, a variety of immigration issues that affect our international visitors and employees on campus can be avoided by following key best practices to bring the international visitors, students, workers and the University closer to the desired destination.

IMPORTANT DISCLAIMER

The information contained in this newsletter is not meant to be legal advice, and the reader should not depend on it as legal advice. For clarification of these issues specific to your situation, or for any matter on which legal advice may be required on behalf of the University of Waterloo, please contact Legal & Immigration Services. (<https://uwaterloo.ca/legal-and-immigration-services/>)