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# Operational Bulletin 631 – October 17, 2016

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## Public policy guidelines for a group of former international students who were denied post-graduation work permits between September 1, 2014, and March 15, 2016

### Summary

On September 27, 2016, Minister John McCallum established a public policy to facilitate the issuance of three-year open work permits, the restoration of Temporary Resident status and waive related fees for a group of former international students who were denied Post-Graduation Work Permits between September 1, 2014 and March 15, 2016 because they completed the majority of their coursework by distance learning in their final program of study.

To be eligible for consideration under the public policy, applications for a fee-exempt three-year open work permit (from inside or outside of Canada) and applications for restoration of status (if applicable) must be made by March 17, 2017.

### Issue

The purpose of this Operational Bulletin (OB) is to provide the operational instructions for submitting and processing applications for three-year open work permit and applications for restoration of status (if applicable) that fall within the scope of the public policy.

### Background

In December 2015, the Federal Court in *Appidy v. Canada (Citizenship and Immigration, 2015 FC 1356)* granted the judicial review of an applicant whose Post-Graduation Work Permit was refused because five of the six courses completed in the last program of study were designated "distance learning". The Federal Court ruled that, based on the existing program guidelines, the entirety of an applicant's Canadian post-secondary studies leading to a diploma, degree or certification, including transferred credits from a different institution, ought to be considered when assessing eligibility for a Post-Graduation Work Permit - not just the coursework for the final program of study.

On September 27, 2016, the Minister of Immigration, Refugees and Citizenship Canada (IRCC) established a public policy under section 25.2 of the *Immigration and Refugee Protection Act*, to facilitate the issuance of open work permits, the restoration of Temporary Resident Status and to

waive all related fees for a group of former students who were refused Post-Graduation Work Permits between September 1, 2014 and March 15, 2016, the date when guidance regarding the assessment of Post-Graduation Work Permits was provided to Immigration, Refugees and Citizenship Canada officers, further to the Federal Court decision in *Appidy v. Canada*.

The public policy came into force on September 27, 2016 and will end on March 17, 2017.

## Summary of the Public Policy

### Conditions (Eligibility criteria)

Foreign nationals are eligible for consideration under the public policy if they meet the following conditions (eligibility criteria):

- they were refused a Post-Graduation Work Permit (PGWP) between September 1, 2014 and March 15, 2016;
- the reason for the refusal of the application was because the applicant completed the majority of their coursework by distance learning, and
- the entirety of their program of study, including transfer credits, was not considered when the determination was made that the majority of their coursework was by distance learning.

Please note that foreign nationals will be required to self-identify themselves as eligible for consideration under the public policy based on the above conditions (eligibility criteria).

### In-Canada applications

The public policy exempts from the requirement that an application for a work permit be made from outside of Canada. As such, eligible foreign nationals can apply for the open work permit from within Canada.

### Fee waivers

Under the public policy, the following fees are waived:

- Restoration of Temporary Resident Status fee (\$200) R306(1)
- Work Permit Application fee (\$155) R299(1)
- Open Work Permit Holder fee (\$100) R303.2(1)

### Restoration of status

The public policy waives the requirement that an application to restore temporary resident status be made within 90 days of losing temporary resident status. Therefore, if an eligible foreign national in Canada is without status and is past their 90-day restoration period, they may still apply for an open work permit under the public policy.

### Immigration Medical Examinations

## In-Canada applications

For in-Canada applications, new Immigration Medical Examinations (IMEs) are not required for foreign nationals who:

- previously completed an IME;
- complied with surveillance requirements, if required, for inactive tuberculosis; and
- have not visited a designated country (</english/information/medical/dcl.asp>) for a period of 6 months or more within the 12 months prior to the date the application is submitted under the public policy.

## Outside of Canada applications

Standard processes apply for applications submitted by foreign nationals residing outside of Canada (i.e., where required, applicants must complete an immigration medical examination (IME) in order for officers to finalize an application). A complete list of panel physicians is available on the [IRCC website \(Find a Panel Physician\)](#) (</pp-md/pp-list.aspx>). Panel physicians are independent from IRCC and set their own fees which are not exempt under this public policy.

## How to submit an application under the public policy for a three-year open work permit and restoration of status (if applicable)

The instructions in this section must be followed in order to be considered eligible for consideration under the public policy.

## In-Canada applications

Foreign nationals residing in Canada must:

- **Self-identify themselves as eligible for consideration under the public policy** based on the conditions (eligibility criteria) listed above.
- **Complete the application to change their conditions or extend their stay as a worker** (</english/information/applications/extend-worker.asp>) (i.e., a complete application form and all the necessary supporting documents) by paper.
  - **Applicants are encouraged to include a clear and legible copy of their Post-Graduation Work Permit refusal letter** dated between September 1, 2014 and March 15, 2016, if available.
- **Include documentary evidence that the majority of their coursework, including transfer credits, was done in-class and not by distance learning.**
- **Clearly identify their application by writing “Public policy for refused PGWP applicants” on the outside of the final envelope** (e.g., if sending by courier write the statement on the courier envelope). It is also recommended that this be indicated on the first page of the correspondence/application. This is to ensure that the Case Processing Centre in Vegreville can easily identify applications.

- **Bundled applications should be clearly labelled “Public Policy for refused PGWP applicants” on the outside of the box.**
- **Submit their complete application in paper form only to the Case Processing Centre in Vegreville using the following address:**  
**CPC Vegreville Expedited Work Permit Processing**  
**Unit 805**  
**6212-55th Avenue**  
**Vegreville, AB T9C 1W7**

**All applications submitted under the public policy must be received by IRCC by March 17, 2017.**

Note: The following exemptions apply to applications submitted under the public policy from within Canada:

- Application fees are not required.
- Applicants without status in Canada who are past their 90-day restoration period are still eligible to apply.
- A new Immigration Medical Examination (IME) is not required for applicants who:
  - previously completed an IME;
  - complied with surveillance requirements, if required, for inactive tuberculosis; and
  - have not visited a designated country (</english/information/medical/dcl.asp>) for a period of 6 months or more within the 12 months prior to the date the application is submitted under the public policy.

## **Outside of Canada applications**

Foreign nationals residing outside of Canada must:

- **Self-identify themselves as eligible for consideration under the public policy** based on the conditions (eligibility criteria) listed above.
- **Complete the application for an open work permit from outside of Canada** (</english/information/applications/work.asp>) (i.e., a complete application form and all the necessary supporting documents) by paper.
  - **Applicants are encouraged to include a clear and legible copy of their Post-Graduation Work Permit refusal letter** dated between September 1, 2014 and March 15, 2016, if available.
- **Include documentary evidence that the majority of their coursework, including transfer credits, was completed in-class** and not by distance learning.
- **Undergo their medical exam before submitting their application, if a medical exam is required.** Please see the Medical exam requirements for temporary residents (visitors, students and workers) (</english/information/medical/medexams-temp.asp>) page on the IRCC website for more information on medical exams and how to obtain one before submitting an application.

- **Submit their complete application in paper form only to Visa Application Centre** serving their country of residence.
- **Clearly identify their application by writing “Public policy for refused PGWP applicants” on the first page of the correspondence/application.** This is to ensure that visa officers can easily identify the applications.

**All applications submitted under the public policy must be received by IRCC by March 17, 2017.**

Note: The following exemption applies to applications submitted under the public policy from outside of Canada:

- Application fees are not required. However, Visa Application Centre (VAC) service charges will apply.

### **Priority Processing**

If **all** aspects of the above requirements listed under the in-Canada and outside of Canada application sections are met by the applicants, IRCC can commit to processing applications made under the public policy within 40 days.

### **Temporary Resident Permit applications**

#### **Withdrawals of Temporary Resident Permits applications pending decisions and fee refunds**

Foreign nationals who are eligible for consideration under the public policy who submitted an application for a Temporary Resident Permit or a Temporary Resident Permit together with an open work permit, and for which a decision has not yet been made, must withdraw their Temporary Resident Permit and any associated open work permit application using the [IRCC Webform \(https://secure.cic.gc.ca/enquiries-renseignements/canada-case-cas-eng.aspx?\\_ga=1.147870135.1213130200.1472502408\)](https://secure.cic.gc.ca/enquiries-renseignements/canada-case-cas-eng.aspx?_ga=1.147870135.1213130200.1472502408) when they submit their paper application for an open work permit under the public policy. When the application(s) is withdrawn, the fees paid will be refunded.

#### **Refunds of Temporary Resident Permits fees for refused applicants**

IRCC is currently seeking the appropriate approvals to refund the fees paid by foreign nationals who are eligible for this public policy who were refused a Temporary Resident Permit and any associated open work permit before the coming into force of this public policy. Information on the refunds for refused Temporary Resident Permit applicants will be issued when available.

#### **Date Modified:**

2016-10-17