Updates to Canada's international student program: Newly proposed federal and provincial regulations

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In April, we provided an update on the ongoing regulatory developments regarding Canada's international student program (ISP), noting that further changes were to come later in the year. As educational institutions continue to modify their business practices and adopt new measures to comply with the new federal and applicable provincial requirements, there have been further changes made to various ISP regulatory frameworks. On June 29, the federal government, through Immigration, Refugees and Citizenship Canada (IRCC), published a series of proposed regulations under the *Immigration and Refugee Protection Regulations* (IRPR) pertaining to the ISP. The Province of British Columbia also published related updated policies and guidelines shortly after, building upon their phase 1 changes announced in January.

Below is a summary of the latest developments and announcements, including a new in-country change of designated learning institution (DLI) process, new student attendance monitoring and reporting requirements for DLIs, new powers in respect of the oversight of DLIs' compliance with these requirements, a public suspension list for non-compliant DLIs, amendments to letter of acceptance (LOA) process, changes to off campus work hours, and the recent B.C. changes.

Federal changes

Currently, IRCC does not have the legal authority to compel DLIs or international students to report on certain matters or to impose conditions on DLIs or international students for non-compliance with certain requirements of the ISP. The proposed federal changes provide significant new powers to IRCC to oversee DLIs and their international students' compliance with the international study permit regime and take action against DLIs who fail to comply.

Changing schools while in Canada

Currently, international students who have a study permit may change their DLI at any time, without even informing IRCC. The proposed federal regulations, if passed, will require any international student who wishes to change their DLI to apply for a new

study permit. The student must submit the application before the start of the new program, but the student will be able to attend the new DLI without a valid new study permit until a decision is made on the new application, provided the student remains in Canada and complies with all the conditions of his/her current study permit. The new or revised letter of acceptance (LOA) verification process described in our prior bulletins and below would apply to the DLI that is the subject of the new study permit application.

Enrollment status reporting for DLIs

Under the proposed regulations, after request from IRCC, post-secondary DLIs would have:

a. 10 days to confirm an international student's acceptance to the program of study indicated on his/her study permit;
b. 60 days to submit a compliance report on the enrollment status of each student at the DLI and any information that would indicate the applicable students are still actively pursuing their program of study;
c. 10 further days to correct or clarify any information provided in a compliance report; and
d. 10 days to provide any further information that the Immigration Minister (Minister) requires. The time periods can be extended at the discretion of the Minister, depending on certain factors.

Verification of DLI compliance with conditions

The proposed regulations would allow IRCC officers to verify a DLI's compliance with ISP reporting requirements if (a) they have reason to suspect that the DLI is not complying with the conditions; (b) there have reason to suspect a letter of acceptance was improperly issued; (c) the DLI was chosen at random for spot check verification; or (d) there is evidence the DLI has not complied with conditions in the past. To verify compliance, an IRCC officer may require the DLI to provide relevant documents and make a representative answer questions at a time and place specified by the officer. If, upon conducting an investigation, an IRCC officer determines that a DLI has not complied with a condition, the officer will issue a notice of preliminary finding stating details of the DLI's non-compliance and potentially recommending a term of suspension, subject to a final determination by the Minister. A DLI receiving a notice of non-compliance from an officer, will be afforded a chance to respond to the notice within 30 days of receipt of the notice. The officer may then offer an exemption for DLI's who failed to comply with a condition but made all reasonable efforts to comply or failed to comply with a condition in good faith or correct or cancel the notice of non-compliance.

If, after the 30 day response period has passed, the Minister determines that the DLI has failed to meet the ISP reporting requirements, the Minister will issue a notice of final determination stating (i) the DLIs name: (ii) the condition(s) not complied with; (iii) the reason for the determination; and (iv) the period the applicable DLI is to be suspended or a warning of potential future suspension if any further non-compliance occurs.

Suspension of a DLI

The proposed regulations require the Minister to consider multiple factors in determining whether an institution will be placed on the suspension list and, if so, the length of the penalty period. The factors that will be considered are (a) the frequency and seriousness of the non-compliance; (b) the efforts made by the DLI to comply with the department's conditions; (c) the DLI's submissions to the notice of preliminary findings; and (d) the extent of the institution's co-operation during process. A DLI could remain on the suspension list for a maximum period of 12 consecutive months. A list of suspended institutions will be published by IRCC and be available to the public.

During the period that a DLI is on the suspension list, any application for a study permit that names such DLI will be returned to the applicant without being processed.

Amendments to the LOA process

The proposed regulations will permanently establish the LOA process requirement, building upon the existing IRCC departmental policy on the processing of study permit applications. DLIs would be required to confirm the LOA provided by an applicant through an online portal, where the DLI would have access to the applicant's biographical information, student number from their institution, and the DLI's confirmation of the student's acceptance. The proposed regulations also enshrine the provincial attestation letter (PAL) requirement into law, so that international students must provide a PAL along with their LOA with their study permit application to ensure the student has been accounted for under the applicable province's allocation of study permits.

Off-campus work hours

The proposed changes also include an increase to off-campus work hours for international students during regular academic sessions, from 20 hours per week to 24 hours per week. This was a measure previously announced by the Minister, supported by international students and employers facing labour shortages. Please see our previous article which provides a more in-depth overview of this particular aspect of the ISP.

B.C. regulatory updates

The B.C. government's education ministry (BC Ministry) Phase 1 changes to its *International Education Framework* (IEF) placed a moratorium on new institutions seeking to host international students until February 2026, imposed higher standards for approval of new private degree programs, strengthened operational and reporting requirements for DLIs, added inspection and enforcement capabilities for private training institutions, and required tuition transparency for international students at public post-secondary institutions. Phase 2 of the BC changes to the IEF, published shortly after the federal government's announcements regarding its proposed new regulations, implements the following additional policies.

Changes to the province's education quality assurance designation

It will now be a requirement to hold B.C.'s Education Quality Assurance (EQA) designation to be placed on the list of DLIs maintained by the IRCC. Further, any failure

to comply with the EQA requirements may result in from the loss of the EQA designation and therefore status as a DLI. The BC government's changes to the EQA requirements include:

- Institutions are now required to deliver at least 50 per cent of their classes to international students in person. Institutions that deliver their classes primarily by distance or online that do not meet this requirement will not be eligible for EQA designation;
- Instructional locations must be at a premise that the institution has an exclusive right to use and occupy, classified as a school, college or place of assembly that is controlled by the institution;
- Institutions must now provide robust services and staff support for international students;
- Institutions must provide housing supports; and
- Institutions must ensure international students are not prioritized over indigenous and domestic students.

The Phase 2 changes also include measures to allow the BC Ministry to monitor compliance with IRCC requirements and penalize any non-compliance. Similarly, there will also be an EQA *Code of Practice* that will be integrated into these changes, with annual assessments of EQA designated institutions against the *Code of Practice* standards beginning in January 2025.

International education strategic plans

Under the Phase 2 changes to the IEF, institutions are expected to establish strategic plans for international student education that outline the institution's roadmap for the upcoming three to five years, identifying objectives and demonstrating alignment with the BC Ministry's international student education goals, the *Public Post-Secondary International Student Enrolment Guidelines* and EQA policy and procedures. Each institution must submit these plans annually by March 31.

Enrolment management and reporting

The Phase 2 changes also require that international student enrolment be managed by institutions within the PAL cap allocation so as to not exceed capacity of the institution to deliver educational and support services. International student enrolment at public institutions will not be allowed to exceed 30 per cent of such institution's total enrolment, which is also subject to its capacity to provide required support services and housing-related services (this change does not apply to private DLIs).

New program requirements for private institutions

The Phase 2 changes include stronger review criteria for new degrees proposed by private degree-granting institutions, including:

- Demonstrating labour market alignment for the new degree program;
- Demonstrating existing infrastructure, student resources and services are sufficient to support increase in students resulting from the new programs;
- Increased fees for applications and inspections; and

- An additional annual fee for private and out-of-province degree-granting institutions.

Higher bar for designation for private training institutions

The Phase 2 changes include new measures for private training institutions that will make designation under the *Private Training Act* (PTA) more stringent. There will be greater program content standards put in place and increased application, renewal and inspection fees for institutions regulated under the PTA to ensure provincial enforcement of these higher standards. High-pressure sales and recruitment tactics of students are also now explicitly prohibited under these changes.

Key takeaways

It is not possible at this time to determine if all the proposed federal regulations will become law. IRCC has entered into memorandum of understanding (MOUs) with the provinces (except Québec, which currently designates DLIs based solely on its own terms) that establish minimum common standard for DLIs as it relates to international students. As such, IRCC is consulting with provincial governments and education regulators and other interested parties (DLIs and industry organizations) regarding the proposed regulations. However, given the continued focus of the various levels of government on the underlying issues, we believe most, if not all, of the proposed regulations will eventually become law without material changes to them.

The following are the key takeaways from these proposed and implemented changes to the ISP.

- The new requirements should allow regulators to more effectively respond to integrity challenges and unethical behaviours of industry participants. The greater regulatory oversight, both on the federal and provincial level, should have a positive effect on weeding out many of the so called ‘bad actors’ that have entered into the for-profit side of post-secondary education in Canada during the past decade as institutions will have to comply with much more rigorous operational requirements, report on their actions/be subject to increased scrutiny and potentially lose accreditations for non-compliance.
- There will be increased administrative burdens for DLIs, which will likely lead to material additional compliance costs for DLIs as they prepare reports, respond to regulatory requests, attend inspections, etc. It is reasonable to expect fewer new institutions to open and certain accredited ones to potentially close or reduce the size of their operations as costs go up and revenues go down.
- There will be increased costs for international students who want to change DLIs.
- Although the proposed federal regulations and provincial guidelines provide more guidance on compliance requirements, there is still uncertainty what some of the requirement actually mean and how the regulators will implement some of these requirements in practice. Institutions will need to wait for further guidance from the regulators and can expect this to evolve over time.
- There may also be some uncertainty for DLIs seeking to determine its international student allocations for the next several years under the previously announced cap, as it is unclear what effect placing non-compliant DLIs on the public suspension list would have on other institutions’ allocations.

- The proposed changes to the federal regulations will eventually lead to the formation of the "trusted institution framework", which will convey significant advantages to participant. Please see our prior article for a discussion of this topic.

Contact us

If you have questions about how these changes might affect your organization, please reach out to any of the authors or key contacts listed below, or any lawyer from our Education or Beyond Business Immigration groups.

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