



The Paper Chase - Studying Abroad, in Canada

Daniel Horovitz is an articling student at Blaney McMurtry. He received his J.D. from the University of Western Ontario. Daniel also holds a Bachelor of Arts (with distinction) from McGill University and a Masters of Business Administration (with distinction) from the Richard Ivey School of Business. Prior to law school, Daniel worked in Ottawa as a Parliamentary Assistant for two federal Members of Parliament.

Daniel may be reached directly at 416.593.7221 ext. 4445 or dhorovitz@blaney.com.

by Daniel I. Horovitz

Originally published in *Blaneys on Immigration Law* (March 2011)

Each year, thousands of foreign nationals come to Canada to pursue higher education. They cross borders, oceans, and sometimes their parents, for the chance to develop new skills and new goals in the Great White North. Yet, for all the hard work and sacrifice that international students must face while residing in Canada, their first real hurdle is to get through immigration smoothly. Filling out all of the necessary paper work and attaching all of the required documents to get a study permit must seem like a daunting task for young adults and their families, but it need not be.

The first important thing to know is that not everyone needs a permit to study. There are several examples worth highlighting:

- 1) A family member or a member of the private staff of a foreign representative who is properly accredited by the Department of Foreign Affairs and International Trade and who is in Canada to carry out official duties as a diplomatic agent, consular officer, representative or official of a country other than Canada, of the United Nations or any of its agencies or of any international organization of which Canada is a member do not require a study permit.
- 2) Members of the armed forces of a country that is a designated state (including Great Britain, France, and the United States) for the purposes of the *Visiting Forces Act* do not require a study permit. This includes a person who has been designated as a civilian component of those armed forces.
- 3) If the duration of their course or program of studies is six months or less and will be completed within the period for their stay authorized upon entry into Canada, no study permit is required.
- 4) Every minor child in Canada, other than a child of a temporary resident who is not authorized to work or study, is authorized to study at the pre-school, primary or secondary level. In Canada, each province and territory decides the age of majority which varies from 18 to 19.
- 5) Any foreign national who has applied to renew an existing study permit can stay in Canada past the expiration of their current permit until a decision has been made on their renewal application. This is referred to as “implied status.”

Most students who are not exempt from the study permit requirements will need to apply for a study permit, along with a temporary resident visa, at a Canadian consulate prior to arriving in Canada. However, prospective students from visa-exempt countries, including United States citizens and U.S. lawful permanent residents, may also apply at the time of arrival at a Canadian port of entry.

Along with the completed application and filing fees, each applicant will need to provide supporting documents. These requirements vary from country to country but will for the most part include proof of identity, proof of acceptance, and proof of financial support. Each of these categories is briefly discussed below:

- 1) To satisfy the proof of identity requirement a valid passport will suffice, along with two passport-sized photos with the applicant's name and date of birth written on the back. A valid passport is normally required of any person entering Canada, and the photos can be easily obtained at any photo studio, and many camera stores.
- 2) To satisfy the proof of acceptance requirement, a student will usually need to provide a letter from the school confirming the student's acceptance and enrolment in the program of study. That letter should include the duration of the academic program and the latest date for registration.
- 3) Finally, each applicant must prove that he or she has sufficient funds to cover tuition, travel, and living expenses while in Canada without working. Obtaining proof of a bank account and financial statements for the last four months will act as critical evidence, as will proof of payment of tuition.

Although it is outside the scope of this article, it should be mentioned that prospective students applying to study in Quebec will also need a *Certificat d'acceptation du Québec* issued by the Quebec Government.

Students are required to demonstrate financial sufficiency for only the first year of studies, regardless of the duration of the course or program of studies in which they are enrolled. In other words, a single student entering a four-year degree program with an annual tuition fee of \$15,000 must only demonstrate funds of \$15,000 to satisfy the requirements, and not the full \$60,000 that would be required during the course of his or her four-year program. However, immigration officers should be satisfied though that the probability of funding for future years exists.

In addition to establishing financial means to cover tuition, prospective students are also required to demonstrate that they have the means to satisfy requirements relating to transportation and maintenance, including the cost of books, equipment, and supplies. For example, a prospective student coming to an academic institution in Ontario must prove that he or she possesses funds of \$10,000 CAD per twelve-month study period (\$833 per month), plus the cost of tuition. An additional \$4,000 CAD per twelve-month period (\$333 per month) is required for the first family member who will accompany him or her to Canada and an additional \$3,000 CAD per twelve-month period (\$255 per month) is required for each additional family member thereafter.

Of course, just because an international student is required to demonstrate that he or she will be able to live in Canada without resorting to employment in Canada does not actually mean that he or she cannot legally work. Indeed, a part-time job can provide a student with helpful supplemental income and valuable field experience.

Under the regulations, a full-time post-secondary student with a valid study permit may work on-campus without the need for a work permit. Any student intending to work off-campus must apply for a work permit but, in some cases, the work permit will be issued without the need for an LMO. These situations include the off-campus work permit program and co-op or internship program, among others.

The student's spouse or common law partner and dependent children may also acquire temporary resident status for the same duration as the principal applicant. In addition, if the spouse or common law partner wishes to work while in Canada, he or she may also be eligible for an open work permit.

Many students who come to Canada to study do so with the intention of immigrating after graduation. The intention to become a permanent resident does not preclude an applicant from acquiring a student visa, so long as the immigration officer is satisfied that the student will leave Canada by the end of the authorized period. The person's desire to work, study or visit in Canada before or during the processing of an application for permanent residence may be legitimate. An officer should distinguish between such a person and an applicant who has no intention of leaving Canada if the application is refused.

Studying in Canada is a wonderful opportunity for students from a plethora of cultures and backgrounds to engage the rich Canadian tapestry and discover a new part of themselves. A diligent review of the steps necessary to receive a study permit will make the transition to life in Canada far easier, and the experience far more enjoyable. ■