



**CORPORATE IMMIGRATION  
LAW FIRM**

### Employers Beware: The Off-Campus Work Permit Program

Not every one who shows up at your door with an open work permit is eligible for unrestricted employment in Canada. The off-campus work permit program is a case in point. Employers have experienced problems when they have hired foreign students on off-campus work permits in some cases, specifically where the foreign student is seeking long-term employment of more than 4 months on the basis of their off-campus work permit.

### Check The Conditions Are Clearly Entered In The Remarks Area

The conditions are clearly entered in the remarks area on the face of the work permit and indicate that the holder is allowed to work a maximum of 20 hours per week during regular academic sessions and full time during scheduled breaks.

The intent of the program is to enable international students who meet specific criteria to obtain an off-campus work permit without requiring a labour market opinion and to provide these students with an opportunity, through their off-campus employment experience, to acquire a better understanding and appreciation for Canadian society in such a way that their academic studies remain their primary activity in Canada.

A foreign national is required to maintain eligibility in order to continue to work on the basis of an off-campus work permit. If they are no longer a full-time student, if they move to a non-participating institution, or if they do not maintain satisfactory academic results they become ineligible and must return their work permit immediately to a local Citizenship and Immigration Canada (CIC) office. **The work permit will be invalid if the foreign national does not meet the eligibility requirements of the off-campus work permit program.**

### Fines Up To \$50,000 Or Imprisonment

Employers should be aware of the law and penalties related to employing a foreign national who is not authorized to work in Canada. If convicted, employers could face fines up to \$50,000 or to imprisonment for two years or to both.

If an ineligible student surrenders their work permit to CIC they may reapply under the program as soon as they become eligible again. If they do not surrender the work permit this could have a negative impact on their ability to stay in Canada and any future immigration applications.

### What Is A "Scheduled Break"?

The big issue is the lack of a definition of the term "scheduled break". Currently, there is no definition in the immigration policy, however, CIC accepts that both the term "academic year" and "scheduled break" may be defined by the applicable participating institution. This, however, is not common knowledge. Even some immigration officers are unaware that the institution can define these terms. This has led to confusion and potential problems in the workplace.

Some students have decided to take a year off school and use their off-campus work permits to continue employment during this time off and some have sought employment for periods of 6 or 8 months. Some students have come up with some creative ideas with respect to what constitutes a "scheduled break" and some employers have unwittingly employed them.

A participating institution may designate a semester, other than the summer, as a "scheduled break" for purposes of the program as long as the student has completed sufficient coursework to allow the institution to determine that the student is maintaining satisfactory academic standing. This determination must be made on an annual basis. A "scheduled break" may be the summer or it may be September to December or January to April and during these times an eligible student could work full time but only for a maximum of 4 months. Other scheduled breaks are the Christmas/New Year break and reading week.



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