

Canada announces new pathways to permanent residence

May 4, 2021

On April 14, 2021, Immigration, Refugees and Citizenship Canada (IRCC) announced a new (but temporary) pathway to permanent residence for certain temporary residents. This new pathway takes the form of four temporary public policies, which will grant permanent resident status to temporary workers and international graduates who are already in Canada and who possess the skills and experience that Canada needs in order to fight the COVID-19 pandemic and to accelerate its economic recovery.

These temporary public policies should also help the Government of Canada to meet its 2021 immigration target of 401,000, which was announced in its 2021-2023 Immigration Levels Plan. Canada experienced significantly lower immigration levels in 2020 due to the COVID-19 pandemic.

The focus of these temporary public policies will be temporary workers employed in hospitals and long-term care homes and on the frontlines of other essential sectors, as well as international graduates who are driving the economy of tomorrow. Three of the new streams established by these temporary public policies will allow up to 90,000 essential workers and international graduates to seek permanent residence. The other three streams established by these temporary public policies will allow an unlimited number French-speaking candidates to seek permanent residence.

On May 6, 2021, IRCC will begin accepting applications under these new streams. Numerical limits will apply to the following three streams:

- a. A maximum of 20,000 applications will be accepted for temporary workers in health care;
- b. A maximum of 30,000 applications will be accepted for temporary workers in other selected essential occupations; and
- c. A maximum of 40,000 applications will be accepted for international students who recently graduated from a Canadian institution.

The above streams will end on November 5, 2021, or once they have reached their limit, whichever comes first. The other three streams that are available to French-speaking applicants will not be subject to numerical limits but will also end on November 5, 2021.

Temporary workers in health care and other essential occupations

The temporary public policy to facilitate the granting of permanent residence for foreign nationals in Canada, outside of Quebec, with recent Canadian work experience in essential occupations applies to temporary residents already in Canada who are employed as health care workers (Stream A) or essential workers (Stream B) and who intend to

reside outside the Province of Quebec. In order to qualify under either stream, applicants must satisfy the following requirements:

- a. They must have accumulated at least one year of full-time work experience, or the equivalent in part-time experience (1,560 hours), in Canada in an eligible occupation during the three years preceding the date that the application for permanent residence is received. The one year of work experience must be obtained in one or more of the eligible occupations as follows:
 1. For Stream A, it must have been acquired in one or more occupations listed in Annex A. Experience cannot be combined with Annex B occupations.
 2. For Stream B, it must have been acquired in one or more occupations listed in Annex B, or a combination of occupations in Annexes A and B.
- b. They must be employed in Canada in any occupation at the time that the application for permanent residence is received.
- c. The above employment must have been authorized pursuant to the *Immigration and Refugee Protection Act* (IRPA) and *Immigration and Refugee Protection Regulations* (IRPR). It must also not have been self-employment, unless the applicant is a medical doctor in a fee-for-service arrangement with a health authority.
- d. They must have attained a level of proficiency of at least Canadian Language Benchmark 4 in either official language for each of the four language skill areas. This must be demonstrated by the results of an evaluation by a designated organization or institution and the evaluation must be less than two years old when the permanent residence application is received.
- e. They must reside in Canada with valid temporary resident status (or be eligible to restore their status) and be physically present in Canada at the time the application for permanent residence is received and when the application is approved.
- f. They must intend to reside in a province or territory other than Quebec.
- g. They must submit all required forms and must include, at the time of application, all proof necessary to satisfy an officer that the applicant meets the eligibility requirements of the public policy (except for evidence required to demonstrate physical presence in Canada at the time of application approval).
- h. They must have submitted their application online (excluding foreign nationals who, because of a disability, are unable to comply with this requirement).
- i. They must not be inadmissible under the IRPA and IRPR.

Recent graduates from a Canadian post-secondary institution

The *temporary public policy to facilitate the granting of permanent residence for foreign nationals in Canada, outside of Quebec, with a recent credential from a Canadian post-secondary institution* applies to international students currently in Canada who recently graduated from a Canadian post-secondary institution and who intend to reside outside the Province of Quebec. In order to qualify under this stream, applicants must satisfy the following requirements:

- a. They must have completed (prior to the date on which the application for permanent residence is received and no earlier than January 2017), a program of study at one of the following Designated Learning Institutions (DLIs) in Canada:
 1. A public post-secondary institution, such as a college, trade/technical school, university or in Quebec CEGEP;
 2. A private post-secondary school in Quebec that operates under the same rules and regulations as public institutions in Quebec;
 3. A private or public post-secondary institution in Quebec offering qualifying programs of 900 hours or longer

- leading to a diploma of vocational studies (DVS) or an attestation of vocational specialization (AVS); or
4. A Canadian private institution authorized by provincial statute to confer degrees under provincial law but only if the program of study completed was a degree as authorized by the province, which may not include all programs of study offered by the private institution.
- b. They must have been granted one of the following credentials, following the completion of a program study from one of the above DLIs:
1. A degree (Associate, Bachelor's, Master's, or Doctorate), which was issued upon completion of a program of at least 8 months in duration;
 2. A degree, diploma, certificate, or attestation issued on completion of a program of any duration leading to an occupation in a skilled trade (listed in Annex A of this temporary policy); or
 3. One or more diploma/certificate/attestation where the following conditions are met:
 - i. For diplomas/certificates/attestations, each program of study must be at least 8 months in duration and the combined length of the credential(s) must be equivalent to a two-year credential (at least 16 months in duration).
 - ii. For the DVS and AVS, each program of study must be at least 900 hours in duration and the combined program of study must be at least 1,800 hours in duration.
 - iii. When combining one AVS with one DVS, the length of the AVS may be less than 900 hours if the combined length is at least 1,800 hours.

Each combined credential must meet the eligible program requirements, including completion no earlier than January 2017.

- c. They must have been authorized pursuant to the IRPA and the IRPR to study throughout their education in Canada.
- d. They must be employed in Canada with a valid permit or authorization to work pursuant to the IRPA and the IRPR at the time that the application for permanent residence is received. They also must not be self-employed, unless they are working as a medical doctor in a fee-for-service arrangement with a health authority.
- e. They must have attained a level of proficiency of at least Canadian Language Benchmark 5 in either official language for each of the four language skill areas. This must be demonstrated by the results of an evaluation by a designated organization or institution and the evaluation must be less than two years old when the permanent residence application is received.
- f. They must reside in Canada with valid temporary resident status (or be eligible to restore their status) and be physically present in Canada at the time the application for permanent residence is received and when the application is approved.
- g. They must intend to reside in a province or territory other than Quebec.
- h. They must submit all required forms and must include, at the time of application, all proof necessary to satisfy an officer that the applicant meets the eligibility requirements of the public policy (except for evidence required to demonstrate physical presence in Canada at the time of application approval).
- i. They must have submitted their application online (excluding foreign nationals who, because of a disability, are unable to comply with this requirement).
- j. They must not be inadmissible under the IRPA and IRPR.

French-speaking temporary workers outside of Quebec in health care and other essential

occupations

The *temporary public policy to facilitate the granting of permanent residence for French-speaking foreign nationals in Canada, outside of Quebec, with recent Canadian work experience in essential occupations* applies to French-speaking temporary residents already in Canada who are employed as health care workers (Stream A) or essential workers (Stream B) and who intend to reside outside the Province of Quebec. In order to qualify under this stream, applicants must satisfy the following requirements:

- a. They must have completed at least one year of full-time work experience, or the equivalent in part-time experience (1,560 hours), in Canada, in an eligible occupation listed in Annex A or Annex B during the three years preceding the date that the application for permanent residence is received. The one year of work experience must be obtained in one or more of the eligible occupations as follows:
 1. For Stream A, it must have been acquired in one or more occupations listed in listed in Annex A of this public policy. Experience cannot be combined with Annex B occupations.
 2. For Stream B, it must have been acquired in one or more occupations listed in listed in Annex B of this public policy, or a combination of occupations in Annexes A and B.
- b. They must be employed in Canada in any occupation at the time that the application for permanent residence is received.
- c. The above employment must have been authorized pursuant to the IRPA and IRPR. It must also not have been self-employment, unless the applicant is a medical doctor in a fee-for-service arrangement with a health authority.
- d. They must have attained a level of proficiency of at least Canadian Language Benchmark 4 in French for each of the four language skill areas. This must be demonstrated by the results of an evaluation by a designated organization or institution and the evaluation must be less than two years old when the permanent residence application is received.
- e. They must reside in Canada with valid temporary resident status (or be eligible to restore their status) and be physically present in Canada at the time the application for permanent residence is received and when the application is approved.
- f. They must intend to reside in a province or territory other than Quebec.
- g. They must submit all required forms and must include, at the time of application, all proof necessary to satisfy an officer that the applicant meets the eligibility requirements of the public policy (except for evidence required to demonstrate physical presence in Canada at the time of application approval).
- h. They must have submitted their application online (excluding foreign nationals who, because of a disability, are unable to comply with this requirement).
- i. They must not be inadmissible under the IRPA and IRPR.

Recent French-speaking graduates from a Canadian post-secondary institution

The *temporary public policy to facilitate the granting of permanent residence for French-speaking foreign nationals in Canada, outside of Quebec, with a recent credential from a Canadian post-secondary institution* applies to French-speaking international students currently in Canada who recently graduated from a Canadian post-secondary institution and who intend to reside outside the Province of Quebec. In order to qualify under this stream, applicants must satisfy the following requirements:

- a. They must have completed (prior to the date on which the application for permanent residence is received and no earlier than January 2017), a program of study at one of the following DLIs:
 1. A public post-secondary institution, such as a college, trade/technical school, university or in Quebec CEGEP;

2. A private post-secondary school in Quebec that operates under the same rules and regulations as public institutions in Quebec;
 3. A private or public post-secondary institution in Quebec offering qualifying programs of 900 hours or longer leading to a DVS or an AVS; and
 4. A Canadian private institution authorized by provincial statute to confer degrees under provincial law but only if the program of study completed was a degree as authorized by the province, which may not include all programs of study offered by the private institution.
- b. They must have been granted one of the following credentials, following the completion of program of study as from one of the above DLIs:
1. A degree (Associate, Bachelor's, Master's, or Doctorate), which was issued on completion of a program of at least 8 months in duration;
 2. A degree, diploma, certificate, or attestation issued on completion of a program of any duration leading to an occupation in a skilled trade (listed in Annex A of this public policy); or
 3. One or more diploma/certificate/attestation where the following conditions are met:
 - i. For diplomas/certificates/attestations, each program of study must be at least 8 months in duration and the combined length of the credential(s) must be equivalent to a two-year credential (at least 16 months in duration).
 - ii. For the DVS and AVS, each program of study must be at least 900 hours in duration and the combined program of study must be at least 1,800 hours in duration.
 - iii. When combining one AVS with one DVS, the length of the AVS may be less than 900 hours if the combined length is at least 1,800 hours.

Each combined credential must meet the eligible program requirements as defined in a), including the completion no earlier than January 2017.

- c. They must have been authorized pursuant to the IRPA and the IRPR to study throughout their education in Canada.
- d. They must be employed in Canada with a valid permit or authorization to work pursuant to the IRPA and the IRPR at the time that the application for permanent residence is received. They also must not be self-employed, unless they are working as a medical doctor in a fee-for-service arrangement with a health authority.
- e. They must have attained a level of proficiency of at least Canadian Language Benchmark 5 in French for each of the four language skill areas. This must be demonstrated by the results of an evaluation by a designated organization or institution and the evaluation must be less than two years old when the permanent residence application is received.
- f. They must reside in Canada with valid temporary resident status (or be eligible to restore their status) and be physically present in Canada at the time the application for permanent residence is received and when the application is approved.
- g. They must intend to reside in a province or territory other than Quebec.
- h. They must submit all required forms and must include, at the time of application, all proof necessary to satisfy an officer that the applicant meets the eligibility requirements of the public policy (except for evidence required to demonstrate physical presence in Canada at the time of application approval).
- i. They must have submitted their application online (excluding foreign nationals who, because of a disability, are unable to comply with this requirement).
- j. They must not be inadmissible under the IRPA and IRPR.

Accompanying family members

Accompanying family members of a principal applicant who qualifies under one of the above public policies may also seek Canadian permanent residence, even if they residing overseas, provided that the following conditions are met:

- a. The foreign national has been included as an accompanying family member in an application for permanent residence submitted by a principal applicant under one of the above public policies;
- b. The foreign national meets the definition of a family member under Subsection 1(3) of the IRPR;
- c. The foreign national is not inadmissible pursuant to the IRPA and IRPR; and
- d. The principal applicant is found to meet all eligibility requirements to receive permanent residence pursuant to one of the above public policies.

Conclusion

The new pathway to permanent residence is definitely a step in the right direction for many temporary residents in Canada. However, some critics have claimed that it does not go far enough. For example, the following concerns have been raised:

- a. The temporary public policies are time limited and may only help a small number of temporary residents;
- b. The requirement to submit all required evidence at the time of the application may be challenging for many applicants, given the delays in securing language testing dates in Canada and obtaining police certificates from many foreign countries, especially during the pandemic;
- c. The minimum language requirement for essential workers (Canadian Language Benchmark 4) will exclude many migrant agricultural workers (who are listed in Annex B as eligible essential workers); and
- d. The requirement that applicant hold lawful temporary resident status in Canada excludes undocumented workers and even pending refugee claimants.

Despite these criticisms, the new streams are expected to be very popular and it is expected that the numerically limited streams will close long before the temporary public policies expire on November 5, 2021.

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