

2. Discretion – Exemption to Criteria Set Under the Newfoundland and Labrador Provincial Nominee Program

NOTE: This policy does not apply to the Atlantic Immigration Program, as that program has federally-mandated requirements and the Government of Newfoundland and Labrador does not have the authority to vary those requirements.

The IPDO will exercise due diligence when assessing an application for nomination under the NLPNP. If the IPDO notes that the applicant does not meet one or more criteria under a given NLPNP category, they will discuss with the applicant whether there is another immigration pathway for them to consider applying under or whether there is remedial action they can take in order to become eligible. This discussion may include advising the applicant of the lacking criterion, and advising them to satisfy that criterion before proceeding with an application, or encouraging them to switch to another pathway within NLPNP or AIP.

PROCEDURES:

1. The IPDO assesses the applicant according to the criteria for nomination under the NLPNP. The IPDO notes that the applicant does not meet one or more of the following criteria:
 - a. The applicant's employment offer is not for at least one year with the possibility of extension;
 - b. The applicant does not possess a work permit with greater than four months of validity remaining, as of the date of application to the NLPNP;
 - c. The applicant has not demonstrated that they have sufficient funds to settle themselves and their families and/or economically establish in Newfoundland and Labrador;
 - d. The applicant is not employed in their field of study (if they are an international graduate who studied outside of Newfoundland and Labrador);
 - e. The applicant and/or their dependent(s) have not demonstrated the intention to reside permanently in Newfoundland and Labrador; and/or,
 - f. The applicant does not meet the age requirements.
2. The IPDO will note in the online application system whether the applicant has submitted a complete application, and that there are no outstanding documents to submit. In a case where the applicant does not meet one or multiple of the criteria noted above, the IPDO will determine whether they would still support the nomination and prepare a rationale to support their view.
3. In developing a rationale, the IPDO will balance the likelihood that the applicant will otherwise be of economic benefit to Newfoundland and Labrador, on a balance of probabilities.
4. The IPDO is not permitted to issue a recommendation to exempt the applicant from criteria where the applicant would not otherwise have the ability and likelihood of becoming economically established and permanently settling in Newfoundland and Labrador. The IPDO will refer to sections 4.5 and 4.8 of Annex A of the Canada-Newfoundland and Labrador Immigration Agreement, which notes that this criterion cannot be waived.

5. The IPDO will contact the Manager of Immigration Programs via email and provide a detailed rationale on why they recommend nominating the individual despite not meeting the precise criteria of the NLPNP. This email will be uploaded in the application system.
6. The Manager of Immigration Programs will review the application with the IPDO in a meeting and may either agree or disagree that an exemption to the criteria is warranted for the applicant. This decision and its rationale will be documented and uploaded in the online application system by the Manager of Immigration Programs.
 - a. If the Manager disagrees with the rationale for proceeding with nomination, the IPDO will consult the *Refusal of Application* general policy.
 - b. If the Manager agrees with the IPDO's assessment, they will send an email to the Director explaining their rationale and requesting that the applicant be exempted from certain criteria. This email will be uploaded in the application system.
7. The Director will review the file with the Manager of Immigration Programs and may either agree or disagree that an exemption to the criteria is warranted for the applicant. This decision and its rationale will be documented and uploaded in the application system by the Director.
 - a. If the Director disagrees, the Manager will instruct the IPDO to deny the file for nomination, or delay the file until the applicant is able to meet all of the criteria.
 - b. If the Director agrees with the Manager's assessment, the Director will inform the Assistant Deputy Minister of their intent to vary criteria under the NLPNP. The Assistant Deputy Minister will then advise the Deputy Minister of the same. Provided no concerns are identified by the Assistant Deputy Minister or the Deputy Minister, the Director will send an email to the Manager of Immigration Programs advising that the applicant will be exempted from the missing criteria. This email must include reference to consultation with the Assistant Deputy Minister and Deputy Minister, and must be uploaded in the application system by the Director.
 - c. The exemption or any discussion of the possibility of an exemption is not to be communicated by the IPDO or the Manager of Immigration Programs to an applicant, prior to receiving final written direction from the Director.
8. If permitted to proceed with an exemption, the IPDO will send a letter by email to the applicant which will include:
 - a. A message to convey that they have been granted an exemption from certain criteria of the NLPNP;
 - b. A list of the criteria being exempted; and,
 - c. A rationale for the exemption.
9. The IPDO will proceed with the steps for nomination as outlined under the *Completing Final Assessment and Recommendation to Approve/Refuse* policies.

Exceptions to Policy:

10. Should the Manager be unavailable, the IPDO will contact the Director by email directly. This email will be uploaded in the application system.
11. Should the Director be unavailable, the Manager will contact the Assistant Deputy Minister by email directly. This email will be uploaded in the application system.
12. Should the Assistant Deputy Minister be unavailable, the Manager will contact the individual delegated by the Assistant Deputy Minister. This email will be uploaded in the application system.