

4. Misrepresentation

Misrepresentation is the act of directly or indirectly deceiving or misleading the OIM. Fraud is the action or means used to create that deception. OIM, in collaboration with IRCC and the Canada Border Services Agency (CBSA), will investigate instances of fraud or misrepresentation and may seek out legal advice from the Department of Justice and Public Safety for possible legal proceedings against the foreign national, employer, or designated representative, if necessary.

The *Immigration and Refugee Protection Act* states:

Misrepresentation

40.(1)A permanent resident or a foreign national is inadmissible for misrepresentation

(a) for directly or indirectly misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of this Act;

(b) for being or having been sponsored by a person who is determined to be inadmissible for misrepresentation;

OIM Staff may investigate a number of instances of fraud or misrepresentation committed by **foreign nationals, employers** or their **designated representatives**. OIM is committed to taking action against third-party representatives, consultants or others who have misrepresented themselves or their client on an application. The applicant retains responsibility for the information submitted by the designated representative on their application and is held responsible for any information that may misrepresent them during the application process. Such instances include, but are not limited, to the following:

1. Submitting fraudulent documents in the immigration application, such as:
 - a. Passports, visas or other travel documents;
 - b. Educational documents;
 - c. Language certificates (IELTS, CELPIP, TEF, TCF);
 - d. Birth, marriage, common-law divorce, annulment, or death certificates, joint bank statement, lease documents;
 - e. Police certificates;
 - f. Financial documents;
 - g. Proof of previous work experience (work experience letter);
 - h. Pay statements; and/or,
 - i. And any other documents related to immigration application.

2. Omitting material facts on the application, such as:
 - a. Personal financial situation;
 - b. Financial Gifts from relatives or others;
 - c. Debts to creditors, third parties;
 - d. Criminal history;
 - e. Places of residence;
 - f. Work permit/visa/permanent residency/refugee claimant refusals from Canada or other countries;
 - g. Family composition, such as children from prior marriage(s), ex-spouse; polygamy relationships;
 - h. Employment duties or job title;
 - i. Failing to declare a designated representative on the application;
 - j. Foreign national relation/connection to the employer/business owner;

- k. Medical conditions of the foreign national;
 - l. Failing to declare close relatives (siblings, parents, cousins, aunt, uncles, etc.) in Canada;
 - m. Failure to declare that the foreign national under sponsorship from an agency or government that expected them to return to his/her country of origin once he/she has graduated; and/or,
 - n. Other documentation that is crucial to the application.
3. Providing misleading, untruthful, outdated or otherwise false information to OIM Staff at any point during their interactions with OIM, such as:
- a. Lying about any material fact stated in Section 2;
 - b. Providing an e-mail address which does not belong solely to the applicant;
 - c. Providing crucial information after OIM has made a decision on the file, but which would have had a bearing on the application decision;
 - d. Filtering questions from OIM staff before providing them to the applicant;
 - e. Impersonating an applicant, employer or a family member of the applicant by phone or email; and/or,
 - f. Employer providing misleading information regarding their recruitment efforts, such as not interviewing the foreign national, and/or not hiring suitable candidates.
4. OIM will investigate instances of possible fraud trends, such as:
- a. Employing individuals under false pretenses (i.e., hiring workers for personal connections over labour market necessity);
 - b. Persistent formats for employment reference letters from overseas;
 - c. Suspicious financial activity;
 - d. Large deposits of similar amounts of money across multiple applications;
 - e. Providing misleading or falsified information regarding retention of previously endorsed/nominated employees; and/or,
 - f. Other fraud trends as identified by OIM.
5. Employer and/or third-party representative submission of falsified or questionable information and documentation and omitting material facts during the Job Vacancy Assessment (JVA process), or the Atlantic Immigration Program (AIP) Designation/Endorsement Process. Instances of this type of misrepresentation include, but are not limited to:
- a. Failure to respond to local candidate applications;
 - b. Failure to interview local candidates who appear qualified for a position offered by the employer;
 - c. Providing inaccurate or misleading information about the business activities;
 - d. Providing inaccurate or misleading information about the position duties and other information noted in the application and/other job postings;
 - e. Using either the JVA program or the AIP program for any reason other than its intended purpose;
 - f. Non-compliance with Federal and Provincial Labor Standards, Occupational Health and Safety, CADO;

- g. Violation, investigation, pending decisions with the Human Rights Commission, IRPA, IRPR, etc.;
- h. Misleading information of financial solvency/stability of the business;
- i. Failure to declare third-party representation/recruiter;
- j. Receiving monetary funds in exchange of job offers;
- k. Misleading information regarding the authenticity of the job.

PROCEDURES:

1. If there are reasonable grounds to suspect the applicant has misrepresented themselves in their application, then the processing of the application is placed on hold pending an investigation. Such an investigation is generally conducted by the IPDO and may require the collaboration of external agencies both at the governmental (municipal/provincial/federal) and non-governmental level (e.g., financial and educational institutions).
2. The IPDO will inform AIP/PNP Champion about potential misrepresentation on file. AIP/PNP Champion will decide whether the matter requires Program Integrity Officer's involvement. Any investigation must be brought to the attention of the Manager of Immigration Programs and Director for further direction.
3. After the investigation is concluded, and grounds for misrepresentation exist, then a procedural fairness letter is sent to the foreign national (via email), their employer, and/or representative. The letter will outline the reasons why the IPDO and other OIM staff (if applicable) believe that misrepresentation has occurred. The letter provides the applicant with the opportunity to submit information that misrepresentation was not committed. The applicant is given ten (10) business days to submit the evidence.
4. The IPDO will consider all information submitted in response to the procedural fairness letter when making a final decision on the application.
5. If misrepresentation is found to have occurred, the foreign national, employer, or the designated representative may be barred from using any Newfoundland and Labrador immigration programs for up to five (5) years. The Director will consider individual circumstances when determining the length of time the applicant is to be barred from using provincial immigration programs. In the case of a repeat offence, the foreign national, employer or the designated representative may be barred from using programs for a longer period of time. Designated representatives and employers could additionally be subject to penalties under federal legislation.
6. If proof of misrepresentation is not found to have occurred, the application is returned to processing.
7. A review for misrepresentation can occur at any stage of the immigration process, including after nomination or endorsement. If misrepresentation is found to have occurred after a decision is made by OIM, the issuance of nomination, endorsement certificates, and designation will be cancelled and IRCC will be informed accordingly.