

ACCESS TO EDUCATION FOR STUDENTS WITHOUT IMMIGRATION STATUS

Fact Sheet for Members

This information is for members and community advocates to better understand the legislation and rights to ensure all students have access to education regardless of their immigration status. It explains the law and suggests ways to help parents or guardians without status get their children registered at school.

In Ontario, children have the right to attend school even if they or their parents or guardians do not have immigration status in Canada.

Students and parents or guardians may not know about this right. They may also be afraid to go to a school to register.

WHAT THE LAW SAYS

Children must attend school

In Ontario, the Education Act says that children must attend school. The only way that a child can be excused from attending school is for one of the reasons set out in the Act, for example, because they are sick.

A child who is 6 years old before the first day of school in September must go to school. Most children start school earlier by attending a kindergarten program when they are 4 or 5 years old.

Schools cannot refuse to admit children

It is against the law for a school to refuse to admit a child who is under 18 years of age only because the child or the child's parent or guardian is in Canada without immigration status.

The Education Act says:

A person who is otherwise entitled to be admitted to a school and who is less than eighteen years of age shall not be refused admission because the person or the person's parent or guardian is unlawfully in Canada. (Section 49.1)

No children should be refused admission to school solely because of their or their parents' inability to produce any of the following:

- *proof of immigration status or application for legal immigration status*
- *a work permit or social insurance number*
- *health documentation that is different from that required of all other children*
- *other documentation not required of other children seeking admission to school*

Please note, however, that for admission to a school in a French-language school board, proof of Canadian citizenship may be required.

Citizenship and Immigration Canada (CIC) has confirmed that there is no federal legal requirement for boards to refer families without immigration status or documentation to a local CIC office to obtain documents before their child is admitted to school.

The Ministry of Education has told school boards across the province that they cannot refuse to admit children only because their parents or guardians do not have immigration papers.

There are more details about this on the Ministry of Education website. Policy/Program Memorandum (PPM) No. 136 CLARIFICATION OF SECTION 49.1 OF THE EDUCATION ACT: EDUCATION OF PERSONS UNLAWFULLY IN CANADA at www.edu.gov.on.ca/extra/eng/ppm/136.html

International commitment to education rights

Canada has signed the United Nations Convention on the Rights of the Child, which means that Canada has agreed to make primary and secondary education available to all children in Canada.

HOW YOU CAN HELP PARENTS GET THEIR CHILDREN INTO SCHOOL

Information is crucial

Students and parents or guardians may not know about their rights. They may also be afraid to go to their local school to register. As a community advocate, there are many ways to assist them:

- find out what your school board is doing to welcome all children to their schools
- tell people without status about children's right to education
- help children in non-status situations register for school
- put up posters in the community where newcomers gather and include local contact information about where they can get help registering children in school
- coordinate with other agencies in your community that work with people who do not have status, for example, by sharing information about efforts to register children in local schools.

What will work best may be different across the province. Sometimes, it might help to connect them with an advocate to make a phone call to a school on behalf of a parent or guardian. Other times, parents will need to have an advocate who understands the law go with them when they are registering their child.

Creating a poster

If you think it would be helpful, put posters in places where parents will see them. Ensure that appropriate permission is granted before posting any materials. Your district office can assist with messaging. Here are some ideas about what information to include.

- *Your child has a right to go to school*
- *You do not have to be a Canadian citizen or permanent resident.*
- *If you need information or help to get your child registered at school, contact [insert name of your agency in your community and contact information]*

If possible, you may want to translate your poster into the languages that parents in your community will find easiest to understand.

WHERE TO GET LEGAL HELP

If you know a child who has already tried but not been able to get into school, you might want to contact a lawyer or a community legal clinic.

You can find the community legal clinic nearest you by visiting the Legal Aid Ontario website at www.legalaid.on.ca/en/contact/contact.asp?type=cl.

Or, you can call Legal Aid Ontario at 1-800-668-8258 or 416-979-1446.

Justice for Children and Youth is a specialty legal clinic that deals with legal issues that affect children and young people under the age of 18. There is more information on their website at www.jfcy.org or you can call them at 1-866-999-5329 FREE or 416-920-1633.

WHERE TO GET MORE INFORMATION

The Right to Learn: Access to Public Education for Non-Status Immigrants, Social Planning Toronto, 2008
www.socialplanningtoronto.org/reports/the-right-to-learn-access-to-public-education-for-non-status-immigrants/

Policy without Practice: Barriers to Enrollment for Non-Status Immigrant Students in Toronto's Catholic Schools, Social Planning Toronto, 2010
www.socialplanningtoronto.org/reports/spt-report-released-policy-without-practice

No one is illegal
<http://toronto.nooneisillegal.org/education>

Sample Don't Ask Don't Tell Policy on students without legal immigration status.
www.tdsb.on.ca/ppf/uploads/files/live/98/1555.pdf

Policy/Program Memorandum No. 136 to the Education Act
www.edu.gov.on.ca/extra/eng/ppm/136.html

This gives general information, not legal advice. If there is a legal problem, we recommend contacting a community legal clinic or a lawyer.

References

CLEO (Community Legal Education Ontario)
Ministry of Education
Toronto District School Board
No One Is Illegal
Social Planning Toronto
Justice for Children and Youth