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Toronto (Ontario) M7A 0B8**2024: SB16**

**MEMORANDUM TO:** Directors of Education  
Superintendents of Business

**FROM:** Romina Di Pasquale  
Director  
Enrolment, Funding & Labour Policy

**DATE:** August 28, 2024

**SUBJECT:** **Updated Guidance on Policies and Supporting  
Documentation related to Pupil Residency and Eligibility  
Status for Tuition Exemption**

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The purpose of this memorandum (Memo) is to provide updated guidance on policies and supporting documentation related to confirming pupil residency and eligibility status for tuition exemption under the *Education Act*. The ministry's last guidance was issued through memorandum 2018 SB08 "Clarification of Policies and Supporting Documentation to Confirm Pupil Residency and Eligibility Status", which consolidated previous memoranda on this matter. This 2024: SB16 memorandum supersedes that memorandum, effective the start of the 2024-25 school year.

Updates in this Memo are intended to provide clarity and guidance so that all school boards enroll students in Ontario's publicly funded schools consistently across the province and in compliance with the *Education Act*. For ease of identifying what is new, updates are noted **in bold** (in addition to section headings), including the introduction of best practices for school boards.

## **General**

All school boards are required to review documentation to determine a student's eligibility to attend a publicly funded school in Ontario either with the payment of a fee or

as a provincially funded student. School boards should be aware of their obligations and responsibilities under the *Education Act* when carrying out their review.

School boards are also reminded of their obligations, in particular as they relate to the collection and retention of personal information, under the *Municipal Freedom of Information and Protection of Privacy Act*. For this reason, photocopies of a student's or parent's<sup>1</sup> personal or immigration documentation (e.g., birth certificates, passports, visas) should not be retained in a student's Ontario Student Record (OSR) at the time of registration. **The ministry expects school board staff to review the original documentation and then immediately return the documentation to the parent or guardian.**

School boards should use the ministry developed Student Information and Eligibility Attestation Form or equivalent to record a student's information and attest to verifying relevant documentation to support a pupil's residency and eligibility. A sample form has been included as part of the Enrolment Register Instructions and is available on the [ministry's](#) and [Financial Analysis and Accountability Branch's \(FAAB\)](#) websites.

## Documentation to Support Ontario Residency of Pupils

With respect to residency requirements, subsections 33 and 36 of the *Education Act* provide that a person has the right to attend a school of a board without the payment of a fee if the person and the person's parent both reside in the jurisdiction of the school board. In accordance with subsection 33(5) of the *Education Act*, **it is the responsibility of the parent to submit evidence that the child has a right to attend an elementary school, including proof of age.**

The ministry expects the school boards to review any of the following documentation to determine residency of pupils:

- current utility bill
- current property tax bill
- current phone (**i.e., a landline not a mobile phone**) or internet bill
- current agreement of purchase of sale (property)
- current lease agreement
- other documentation to confirm a student's residence

An Ontario driver's license is not an acceptable form of documentation to confirm a student's residence.

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<sup>1</sup> For the purposes of this memo, references to 'parent' in subsection 49(7) also include a person with lawful custody of the student.

**If the student or their parent does not have any of the above, they can provide the school board with a letter from the friend/family member stating they are residing with them, who must then provide any of the above as evidence. School boards may ask for additional evidence that the student or parent resides with the friend/family member. If the student does not reside with his/her parent, refer to Guardianship section below.**

**To generate Core Education Funding for pupils attending school solely through online or remote learning, school board staff are required to attest that they have reviewed pupil residency documents at the start of each school year to ensure the pupil and their parents are living in Ontario.**

### **Guardianship**

The *Education Act* defines “guardian”, for the purpose of these residency sections, as “a person who has lawful custody of a child, other than the parent of the child”.

When determining whether to recognize for funding purposes a student whose parents do not reside in Ontario, the ministry will look for an Ontario court order transferring custody from the parents to an adult resident within Ontario, unless all the following criteria are met:

- The student is a Canadian citizen or a permanent resident of Canada.
- The guardian is a member of the student’s immediate family<sup>2</sup> and resides in Ontario in the school board jurisdiction in which the student wants to attend school.
- The guardian is assuming full responsibility for the care and well-being of the student, and the student is residing with the guardian throughout the custody period.
- A written agreement is in place between the parents of the student and the guardian that sets out all the above, as well as the respective responsibilities of the parents and the guardian.

**The school board must attest that they have reviewed the written agreement or court order to validate a guardianship arrangement for funding purposes. A notarized document in lieu of an Ontario court order is not sufficient.**

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<sup>2</sup> For the purposes of validating a guardianship arrangement for grant purposes, the definition of an immediate family member includes the pupil’s father, mother, grandfather and grandmother; the pupil’s brothers and sisters and their lawful descendants who are not minors; and the pupil’s uncles and aunts by blood relation and their lawful descendants who are not minors.

## **Determining Student Eligibility for Tuition Exemption**

Under subsection 49(6) of the *Education Act*, school boards are required to charge the maximum tuition fee, calculated in accordance with the regulations, to all persons admitted to school who are temporary residents or are in possession of a study permit.

Exemptions from the requirement to charge these tuition fees are set out under subsection 49(7) of the *Education Act*. **To qualify for any of these fee exemptions, Ontario residency requirements (as mentioned in the previous section) must also be met.**

Some of these exemptions in subsection 49(7) and the acceptable documentation are clarified below **for students who are under lawful custody.**

**With respect to adult learners:**

- **The status of most adult students is to be evaluated based on their own qualifications for a tuition fee exemption under subsection 49(7).**
- **If the adult student is under lawful custody of a parent, they may qualify under additional 49(7) exemptions. In this case the school board must see evidence of the lawful custody arrangement.**

**School boards are advised to seek advice from their legal counsel when interpreting the requirements as set out in the *Education Act*.**

### **Best Practices for School Boards**

**To support the consistency and fairness of admission decisions, school boards are encouraged to develop policies and procedures regarding the following:**

- **accepting and reviewing eligibility status documentation,**
- **reviewing student or parent's tuition fee status documentation periodically (e.g., annually if enrolled under an "awaiting determination" status or after the documented expiry date),**
- **collecting fees and reimbursements, and**
- **having consistency among coterminous school boards.**

**School board policy must allow for reimbursement of fees for students when they become tuition fee exempt during the school year and begin to generate provincial funding.**

**The policies and procedures should be developed in compliance with the *Education Act* and other applicable statutes.**

## **Applicants for Permanent Residence in Canada**

Clause 49(7)(d) and subclause 49(7)(e)(ii) of the *Education Act* provide the following:

A board shall not charge a fee to, [...]

(d) a person if that person is awaiting determination of an application for permanent residence in Canada under the *Immigration and Refugee Protection Act* (Canada) or an application for Canadian citizenship and his or her parent or someone else with lawful custody of him or her is a Canadian citizen resident in Ontario,

(e) a person if his or her parent or someone else with lawful custody of him or her is in Canada,

(ii) as a permanent resident within the meaning of the *Immigration and Refugee Protection Act* (Canada) or is awaiting determination of an application for permanent residence in Canada under the *Immigration and Refugee Protection Act* (Canada), ...

To qualify for a fee exemption under **clause 49(7)(d)**, the school board should be provided with evidence that the student is awaiting determination of an application for permanent residence or citizenship in Canada, and evidence that the parent is a Canadian citizen resident in Ontario.

To qualify for a fee exemption under **subclause 49 (7)(e)(ii)**, the school board should be provided with evidence that the parent is in Canada as well as evidence demonstrating that **the parent** is a permanent resident or **is awaiting determination** of an application for permanent residence in Canada. **The school board is not required to ask for, or review, evidence of a student's application for permanent resident status.**

The ministry expects school boards to review the **applicant's approval in principle letter (formerly Stage 1 letter)** or equivalent documentation from Immigration, Refugees, and Citizenship Canada (IRCC), signifying that the applicant has met most of the eligibility requirements for the immigration class and has acquired approval in principle subject to meeting the remainder of the approval requirements.

The school board may accept alternative evidence to support an **applicant's** claim that they are awaiting determination of an application for permanent residence in Canada where the school board has evidence **the application has been made** and the school board is confident the student/family is eligible for permanent residence (e.g., a student who has immigrated to Ontario because his or her parent is married to a Canadian citizen or permanent resident of Canada who resides in Ontario but may not have received the approval in principle assessment letter or other equivalent documentation). In such cases, the ministry expects that school boards review evidence of the application for permanent residence, a marriage certificate, and evidence that the Canadian spouse is an Ontario resident.

When the school board is satisfied with its review of appropriate documentation, the student can be considered to have met the criterion to qualify for a fee exemption under either clause 49(7)(d) or subclause 49(7)(e)(ii) and can attract provincial funding.

### **Children of Full-Time Ontario Postsecondary Students**

Subclause 49(7)(e)(iv) of the *Education Act* provides the following:

- A board shall not charge a fee to,
- (e) a person if his or her parent or someone else with lawful custody of him or her is in Canada,
  - (iv) in accordance with authorization under the *Immigration and Refugee Protection Act* (Canada) to study in Canada and is a full-time student at a university, college or institution in Ontario ... that receives operating grants from the Government of Ontario, ...

A full-time postsecondary student described in this provision is a person who is designated as a “full-time pupil” by the institution and is enrolled in a degree, diploma, or certificate program. For certificate programs to qualify, **they must consist of a minimum 600 hours of classroom instruction** and be consistent with the Certificate III parameters under the Ministry of Colleges and Universities [Ontario Qualifications Framework](#).

The university/college that the parent is attending would need to be recognized on the list of publicly assisted colleges/universities, which includes their affiliates or federates, for the pupil to be tuition exempt.

The links below provide a list of the recognized universities/colleges:

- <https://www.ontario.ca/page/ontario-universities>
- <https://www.ontario.ca/page/ontario-colleges>

A student whose parent attends an English-as-a-second language (ESL) program would qualify for a fee exemption under subclause 49(7)(e)(iv) if:

- The program is a prerequisite to a degree, diploma or certificate program,
- The parent, or person with lawful custody of the student, has a conditional letter of acceptance from the qualified program at a recognized post-secondary institution, and
- **The length of time completing the ESL program is reasonable (i.e., under 18 months).**

The ministry expects that school boards review the parent’s letter of acceptance to a qualified postsecondary program and a study permit. **Once the school board attests that they have reviewed the appropriate documentation**, the student should be

considered to have met the criterion for seeking a fee exemption under subclause 49(7)(e)(iv) and can attract provincial funding.

**If it is determined that the parent's study permit qualifies the pupil for a fee-exemption, the pupil would be funded during the time that the parent is enrolled full-time. School boards should develop their own policies to determine a reasonable timeframe the student can attend school before the post-secondary program begins (i.e., to allow the student to attend the first day of school).**

### **Students Claiming Refugee Status**

Subclause 49(7)(c)(iii) of the *Education Act* provides the following:

A board shall not charge a fee to,

(c) a person if that person, his or her parent or someone else with lawful custody of him or her is in Canada,

(iii) claiming refugee protection under the *Immigration and Refugee Protection Act (Canada)* or having had such protection conferred on him or her;

**If the student is under 18 years of age**, and either the student or their parent is claiming refugee status, then the student would be considered tuition exempt under subsection 49(7) of the *Education Act* and can attract provincial funding subject to the school board's review of appropriate documentation. The ministry expects that school boards be provided with evidence of the submitted refugee claim or documentation provided by the Canada Border Services Agency accepting the claim for refugee status. Proof of application for refugee claimant status may include a letter of acknowledgement and notice to return for interview letter from IRCC or a Refugee Protection Claimant Document.

### **Applicants for a Work Permit**

Subclause 49(7)(e)(i) of the *Education Act*, provides the following:

A board shall not charge a fee to:

(e) a person if his or her parent or someone else with lawful custody of him or her is in Canada,

(i) under a work permit or awaiting the determination of an application for a work permit under the *Immigration and Refugee Protection Act (Canada)*.

**If the student is under 18 years of age**, to qualify for a fee exemption under this provision, the ministry expects the school boards to review the parent's valid work permit or evidence that IRCC has approved their application for a work permit. **School**

boards may accept alternative evidence to support a claim of awaiting determination on a work permit in circumstances where the parent can provide supporting documentation that they meet the requirements for a work permit (i.e., a job offer from an eligible employer and a positive Labour Market Impact Assessment) or for a renewal of a work permit coming up to expiry.

### **Students in Canada Unlawfully**

For students who are in Canada unlawfully, please refer to subsection 49.1 of the *Education Act* and [Policy/Program Memorandum 136 “Clarification of Section 49.1 of the \*Education Act\*: Education of Persons Unlawfully in Canada”](#).

Provided all other qualifications are met, the student shall not be refused admission **because the person or the person’s parent is unlawfully in Canada.**

Neither PPM 136 nor 49.1 of the *Education Act* state that children should absolutely be admitted in every case, meaning that they do not need to be admitted if other qualifications are not met (e.g., the student’s parent does not reside in the jurisdiction of the school board). Whether or not the student is otherwise qualified is a determination for the school board.

**As there is no document that can be used to prove that a student or their parent is unlawfully in Canada, the board must make a determination by examining all the evidence available. This can include reviewing immigration documents provided by the family (e.g., visitor visa status, work permits or study permits) as well as other evidence the board may have (e.g., if the board provided a letter of acceptance for the student to receive a student visa).**

For audit purposes, a school board must provide policies and procedures for admitting students under section 49.1 of the *Education Act* and **attest that they have determined that the student qualifies for admission in accordance with subsection 49.1.**

Students to whom section 49.1 applies do not need to pay a fee. For greater certainty, section 49(6) of the *Education Act* does not apply to students who are in Canada unlawfully but will apply to students who are lawfully in Canada (e.g., as a temporary resident) even if the person’s parent is unlawfully in Canada.

### **Other Exemptions**

From time to time the Minister may, by regulation, add additional fee exemption categories for non-permanent residents. These exemptions can be found at: <https://www.ontario.ca/laws/regulation/100020>.



## **English as a Second Language (ESL)/ Programme d'appui aux nouveaux arrivants (PANA) Funding Eligibility**

Pupils that generate ESL/PANA Core Education Funding under the recent immigrant component must satisfy the criteria **outlined in the Enrolment Register Instructions for Elementary and Secondary Schools.**

In order to confirm proof of entry into Canada, the ministry will look for **an attestation that the school board has seen documentation confirming the student's date of entry**, such as a stamp in a student's passport **or other documents such as plane tickets, boarding passes or other visa documentation that align with the entry dates.**

School boards are required to provide supports to every English language learner in accordance with [English Language Learners ESL and ELD Programs and Services: Policies and Procedures for Ontario Elementary and Secondary Schools, Kindergarten to Grade 12, 2007](#) and to every French language learner in accordance with [Actualisation linguistique en français \(gov.on.ca\)](#) and [Programme d'appui aux nouveaux arrivants \(gov.on.ca\)](#) regardless of whether the particular learner is counted for the purposes of ESL/ALF or ELD/PANA funding.

Should you have any questions on any of these updates or clarifications, please email [enrolment@ontario.ca](mailto:enrolment@ontario.ca).

*Original signed by*

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