

Guide to:

Leaving Home Rights

Information about the legal right for a young person to leave home in Ontario

See also, JFCY Ontario's youtube video on this topic: <http://youtu.be/4CAVDsKB0Ik>



In Ontario, you do not need to apply to a court to be “Emancipated”

There are no laws on “emancipation” in Ontario.

In other jurisdictions (eg. Quebec and some USA states), there are emancipation laws that allow someone who is 16 years or older apply to a court to be free from the custody and control of their parent(s) or guardian(s).

When can I decide where I want to live?

In general, if you are 16 or 17, you can decide where you want to live and you do not need a legal guardian. You can leave home against the wish of your legal guardian and live somewhere else. If you are living with another person, they will not be charged with a criminal offence as long as they do not assist you in leaving home.

If you are under 16 years old, (or if you and your parents live in another province where the age for leaving home is older), your parents can contact the police to have you returned home if you are living in a place that is not safe; in other words, a place where you are at risk of physical, emotional or sexual abuse, or being neglected.

What if my parents live apart?

If your parents live apart and both want custody of you but cannot agree on what to do, then they may have to go to court.

If you are under 16, one of your parents can ask the judge in court to appoint the Office of the Children’s Lawyer (OCL) to represent your views and wishes on where you live. You may be able to ask the court to appoint a lawyer for you if your parents refuse to ask for the OCL appointment.

In general, if you are 16 or 17, you can make the decision.

What if I am under 16 and can't live at home?

It is mandatory for anyone who believes a child under 16 is being harmed or at risk of harm, to make a report to the local Children's Aid Society (CAS). Harm can be physical, emotional, sexual, or based on neglect.

After a report is received, CAS will usually start an investigation by talking to people who know you to determine if you are in need of protection from harm. CAS may take you into their care if they believe that you are in need of protection; eg. if you are being abused or kicked out. CAS may place you with a relative, in a foster care home, or in a group home. If you have already left home and staying with a person who CAS believes you are safe with, then the CAS may allow you to stay with that person.

If you and your parents cannot get along, and CAS does not believe you are in need of protection, then you may be able to get a Temporary Care Agreement with CAS. This means you can stay in a foster home or a group home for a while and then return home when things get better.

What if I'm over 16 and can't live at home?

Any person, including you, may make a report to CAS if there is a belief that someone 16 or 17 years old is at risk of harm or facing harm. Harm can be physical, emotional, sexual, or based on neglect.

After a report is received, CAS will usually start an investigation by talking to people who know you to determine if you are in need of protection from harm. If you do not consent to the investigation, the CAS worker will have to decide how much risk you are in and consider alternative ways to determine safety concerns about you.

If you are found to be in need of protection, you can ask CAS for help and enter into a Voluntary Youth Service Agreement with CAS.

A Voluntary Youth Service Agreement (VYSA)

A VYSA is a contract between you and the CAS. You have a right to consent or refuse to enter into a VYSA with a CAS for services; and you can end a VYSA if you no longer want to be part of the agreement. Before signing a VYSA, you will be given a lawyer through the Office of the Children's Lawyer for legal advice and representation.

If you enter into a VYSA with CAS, a Voluntary Youth Services Plan must be created within 30 days. This plan will include finding you a place to live and provide other supports, such as financial and social supports, planning for transitioning into adulthood, and assisting with developing and/or maintaining cultural connections.

Do my parents have to support me?

If you are 16 or older and you were forced to leave home, your parents may still have to support you. For example, you are entitled to support if you were kicked out without a very good reason, or you left home because you were abused or being at home was unsafe, unbearable or impossible. Your parents do not have to support you if you are 16 or 17, and left home on your own free will.

Your parents must make sure that you have food, clothes and a place to live. Otherwise, they must provide enough money to get these necessities for you.

You can apply for a Legal Aid Certificate from Legal Aid Ontario to pay a lawyer to help you seek child support from your parents. The amount of support you will get is based on your parents' income, not on what you need. In general, your parents must provide support until you are 18 years old or longer if you are enrolled in a full-time educational program.

What can I take when I leave home?

If you have withdrawn from parental control (voluntarily or involuntarily), you have a right to take all of your personal property with you whether you bought it yourself or it was given to you as a gift. This includes all identification such as your health card, birth certificate and passport. These documents are very important and you should take them with you. If your parents are refusing to let you take your own property, you can contact the police or a lawyer for help. Sometimes a family member or friend can help pick up your property for you.

Your parents can be sued in court for not returning your personal belongings. For legal advice, you can call Justice for Children and Youth.

Sample Letter - Recovery of possessions

The letter below is one that a youth worker, or other person, could send to your parent(s) to help you get your belongings:

<date>

Dear _____,

I am _____. I was consulted by _____ regarding their personal belongings that are currently in your possession. On their behalf, I request the return of the following items:

1. <identification> Card
2. <list of electronic items, clothing, etc>

These items are their legal property. You have no legal authority to withhold them. It is important that they have their identity documents.

We ask that you arrange to have _____'s documents securely returned to this address: (provide address)

If we do not hear from you by _____ <insert date>, I will be contacting a lawyer to give _____ legal advice in respect of the legal actions available to seek the return of their property.

Yours, {signature}

<name and title, if applicable>

Can I go to school if I am not living at home?

Yes, you have the right to keep going to school; the law says you must go to school until you are 18 years old or have graduated from high school. If you are 16 years old and have withdrawn from parental control (voluntarily or involuntarily) then you can attend school in the school board district where you live and you will have all the same rights as an 18 year old, for example: you do not need a legal guardian to register for school.

The school will need proof of your new address and you may have to show some proof that you have withdrawn from parental control. For example, they may ask how you are supporting yourself. You should call Justice for Children and Youth if the school is refusing to enroll you.

Sample Letter - School

You may need to write a letter to the school or Principal to make sure that you are signed up independently, especially if you want your school information to be kept private from your parent/guardian. Sample letter:

<your name and full address>
<Principal's name and full school address>
< date>

Dear Principal _____,

My name is _____. I am writing this letter to inform you that I have withdrawn from parental control. This letter has information about my independent living situation so the school can provide appropriate supports if I need them and so that the school can respect my rights under the Education Act.

The legal information in this letter is from Justice for Children and Youth, a legal clinic in Toronto that provides legal assistance to young people in Ontario; their website is www.jfcy.org.

In Ontario, a person who is 16 or 17 years old has the legal right to withdraw from parental control. This usually means that the young person is not living with their parents. There is no court process involved. There are no court documents or official documents required. Once the young person has left home, the parent's custody rights are immediately terminated.

The Education Act recognizes and respects students who have withdrawn from parental control. The Education Act treats students who have withdrawn from parental control differently from other students in certain ways. For example, students who have withdrawn from parental control:

- are responsible for their own attendance at school (s.21),*
- are entitled to attend a school where they live, regardless of where the parent lives (s.36),*
- are entitled to privacy in their information (s.300.3(2)), and*
- are entitled to be the sole point of contact for information and processes relating to disciplinary issues (ss.308; 309; 311- 311.7).*

By default, only parents and students can access a student's OSR. But when a student withdraws from parental control, the parent no longer has a right to access the student's OSR. Section.266(11) of the Education Act views a parent as a person who has custody of the student. But no one has custody of a student who has withdrawn from parental control. Therefore, no one else is entitled to access the OSR

other than the student.

In my case, I am now living separately and independently from my parents. I have made an independent decision to attend your school. I ask that you respect my withdrawal from parental control. Please do not share any information about me with anyone else.

Thank you for supporting me in my withdrawal from parental control by respecting my rights under the Education Act.

*Sincerely,
{Student Signature}
<Student Name>*

Can I get a job when I leave home?

Yes, you may work and keep your own wages, even if you qualify for Ontario Works (see the following). However, you cannot work during school hours if you are under 18 and not have not graduated from high school.

Can I get Ontario Works (“OW”, “welfare” or “social assistance”) to live on my own?

If you are under 16, you are not entitled to receive social assistance as a single person. However, if you are living with an adult, such as a friend’s parent, they can ask to have the Child’s Tax Benefit and Ontario Child Benefit paid to them to help support you. They can also ask the Ontario Works office for help to support you.

If you are 16 or 17, you can apply for social assistance from Ontario Works (OW) under “special circumstances.” You might have to show the OW worker that your parents will not let you live at home, or that it is harmful for you to live there. The OW worker must be sure that your parents cannot or will not support you financially.

You can ask your OW worker to not contact your parents if there are safety reasons, for example, if your parents have abused you or threatened you with harm. You may also need to provide confirmation of your circumstances, such as a letter from a guidance counselor.

OW will need to know who you are living with and whether they are financially supporting you. This may affect your eligibility and how much you receive. You may also have to participate in family counseling (exception: if your parents have abused you).

You will have to attend school full time or be in an approved training program, unless you have a serious medical or psychological problem that makes this impossible. Anytime you miss school or the training program, you must have a justified reason for doing so or your OW will end.

If you are suspended or expelled from school, you may be cut off from social assistance. If you believe that the reason you were suspended or expelled was not fair, you should appeal the decision - see our pamphlets on Suspensions and Expulsions. You can also call Justice for Children and Youth for legal advice.

If you have a child, you can receive OW at any age. You may be required to participate in a

program approved by OW to help you complete high school, develop job skills and/or develop your parenting skills.

What does OW pay for?

OW payments are for shelter, food, clothing and other basic needs. When you move into a new place, OW can also help you cover extra items, such as last months rent, furniture and moving costs. If you live in a hostel or youth shelter, you can apply for a personal needs allowance only.

How do I apply for OW?

If you wish to apply for financial assistance, contact your local Ontario Works office; it is best to call first. You can find your local office in the blue pages of the phone book under “Ontario Works” or “Social Assistance” or at www.mcass.gov.on.ca.

If you have it, bring identification documents and proof that you are enrolled in school or a training program.

OW will not pay money directly to you, they require it to be paid to an adult called a “trustee”. If you do not know someone who can act as your “trustee”, OW will help set this up for you.

Do I have a Right to apply for OW?

You have the right to apply for OW even if you are told that you may not be eligible. If you are turned down, you should ask for the decision in writing so you can ask for a review of the decision by someone else in the OW office. If they turn you down again you can appeal the decision to the Social Benefits Tribunal.

Your request for a review or an appeal must be in writing. There are short deadlines for reviews and appeals so make sure you act on it as soon as possible. For more information on Social Assistance: www.yourlegalrights.on.ca

For advice or help with a review and/or an appeal, contact your local community legal clinic or Justice for Children and Youth.

Can I rent my own apartment?

Yes, you are legally entitled to rent your own apartment. If you are on OW, your worker will have the right to approve where you live.

It is against the law for a landlord to refuse to rent to you because you are 16 or 17. It is also against the law to refuse to rent to you because you are on social assistance provided by OW.

FOR HELP FINDING A LAWYER:

Justice for Children and Youth – see below

Legal Aid Ontario - www.lao.on.ca, 416-979-1446 or 1-800-668-8258

Lawyer Referral Service - www.lsuc.on.ca/lrsr, receive up to 30 min free advice.

Community Legal Clinics - www.legalaid.on.ca, locate and contact the clinic closest to you

OTHER SERVICES:

Kids Help Phone - www.kidshelpphone.ca, 1-800-668-6868, phone and online support

Lesbian Gay Bi Trans Youthline - www.youthline.ca, 416-962-9688 or 1-800-268-9688

211 Ontario - www.211Ontario.ca, dial 211 from any phone

Organizations should feel free to add local resources:

This pamphlet gives general information about the legal right to leave home in Ontario.
Speak to a lawyer or legal worker for advice. May 2018.

