Education Law:

Right to Attend School

See also:
- Special Education
- Suspensions
- Expulsions

School Attendance Rights in Ontario

Any child who is a “resident pupil” in Ontario has a right to attend school without paying a fee. A resident pupil is someone who is:
- living in Ontario (not just visiting); and
- attending a school in the school board district where the student and parent or guardian live. A “guardian” is anyone who has lawful custody of the child and includes Children Aid Societies.

Schools in Ontario are located in specific school board districts. In most cases, children have a right to attend a school (but not a specific school) in the school district where their parents live. 16 and 17 year olds who are living independently have a right to attend school where they live.

Starting School and Leaving School

All children are required to start school at age 6. If the school board offers Junior Kindergarten, the child can start at age 4 (or age 3 if they turn 4 between Sept 1 and Dec 31 of that school year). If the school board offers Senior Kindergarten, the child can start at age 5 (or age 4 if they turn 5 between Sept 1 and Dec 31 of that school year).

All students are required to attend school until they turn 18. If your 18th birthday falls between January 1 and the end of the school year in June, you can quit school as soon as you turn 18.
If your birthday falls between the end of the school year in June and December 31, then you can quit school at 17 but you must wait until the end of the school year. (For example if you turn 18 in October 2020, you can quit school at the end of the school year in June 2020).

A school board may require that older students be enrolled in continuing education and not their regular school if the student has been in high school for 7 years or more or if they are 20 or over and has not been in school for the last 4 consecutive years; the student may have to pay a fee to attend school.

Immigrants and Newcomers

Children under 18 are entitled to go to school in Ontario regardless of their status in Canada. This includes non-Canadians and non-Permanent Residents. However, parents will have to pay a fee if the student is visiting or has a study permit from Citizenship and Immigration Canada.

Fees will not be charged if:

- the student is part of an educational exchange program;
- the student's parents are in the military under the *Visiting Forces Act*;
- the student or their parents are, or are claiming to be, a protected person under the *Immigration and Refugee Protection Act* (i.e. a refugee);
- the student's parents are lawfully in Canada with employment authorization or ministerial permit issued by the Government of Canada;
- the student's parents are under a diplomatic, consular or official acceptance issued by the Government of Canada; or
- the student and/or their parents have no status but plan to stay in Ontario.

Parents and students do not need to take any immigration documents with them to enroll in a school and the school cannot demand to see any. Parents should take some identification, proof of the child's date of birth, and all of their child's education related documents and records to the school that they will be attending (for example, transcripts or report cards; the school may want to test you in order to determine the student's grade level). For students who wish to go to a separate/Catholic elementary school, they should also take the child's baptism certificate from a Roman Catholic Church.

Children of parents who arrive in Ontario after the school year has started (September) are entitled to start school right away. Parents should contact their school board and they must enroll the children into a school as soon as possible. The length of time that this will take may vary, but parents should contact a lawyer if the delay is unreasonable.

Skipping School (Truancy)

Students must stay in school or an equivalent learning program approved by the Ministry of Education until they are 18.

Parents who neglect to send, or refuses to let, their children go to school can be charged for their child's truancy.

12-15 year olds who regularly skip or refuse to go to school can be charged with truancy. The maximum fine is $1000 and/or up to 1 year of probation time. While on probation, students are required to attend school; and if the student skips school again, they can be sent to jail for up to 30 days. Students who are charged should speak to a lawyer.

Legal Excuses to NOT Attend School

Students are legally excused from attending school if they:

- they are being home-schooled (see below),
- they are sick or unable to attend because of another "unavoidable cause" (schools can insist on signed notes from parent or maybe even a doctor),
- they live too far away from the nearest school and the school board does not provide transportation (see next page);

- they have already completed high school,
- they are receiving musical instruction (up to half a day per week),
- it is a religious holiday (schools can insist on signed notes from parents or the student's church, mosque, etc.),
- they have been suspended or expelled (see our information pamphlets on these two topics), or
- they have been excluded (see below).

Exclusions

A Principal may "refuse to admit" a student if the student's presence is "detrimental to the physical or mental well-being of pupils". Parents and students have a right to appeal this. Speak to a lawyer if this happens.

Schools Out of District

Students may attend in a different school district if:
- the Superintendent permits them to attend,
- the school is of the same type (i.e. English, French, Public, Catholic) and the school the student wants to attend is closer than the nearest school in their school board district, or
- the student is 18 and is in high school.

Home Schooling

For home schooling, parents should contact their school board in order to discuss options and to begin the process. If the child is already in school, the principal of the school may also be willing to assist you or to recommend resources.

Remote Communities

For people who live in a remote community and want an education but do not want to leave home, there are some programs that offer courses through various means (eg. teleconference, radio, internet).

French language

Students have a right to be taught in French if one of their parents is a Canadian citizen and the parent's first language learned and still understood is French; or the student's elementary school in Ontario was French.

The school board must either provide the student with a class, group of classes or school in which the French language or Quebec sign language is the language of instruction, or enter into an agreement with another school board so the student can receive instruction in French from them (if this school is more than 24 kms away from home, the school board where you live must give you transportation or meals and a place to stay.

Students who are Deaf or Blind

There are special schools for the deaf in Milton, Toronto, London, Belleville and Brantford (English); and one in Ottawa (French). There is a special school for the blind in Brantford.

In order to qualify to attend an Ontario School for the Deaf or the Ontario School for the Blind, the student

must be:

- under 21 years of age,
- in need of a special educational program because of a visual disability or auditory disability, and
- a resident of Ontario (if the student is under 18, their parents must be a resident of Ontario).

Students with a hearing disability may be able to attend a class for the hearing impaired at a school in their school board district or they may be eligible to attend an Ontario School for the Deaf outside of their school district.

If there is a class in a school in the student's district that would be appropriate for the student, the Superintendent will not admit the student to an Ontario School for the Deaf unless the Minister of Education decides that it would be in the student's best interests.

Students will only be admitted to an Ontario School for the Deaf or the Ontario School for the Blind if they will be able to benefit from instruction in that school. If there is doubt as to whether the student will benefit from such instruction or are in need of a special educational program, the student may be admitted to the school for a trial period. The superintendent, parents, or students over 18, may request that the Minister of Education appoint a committee to hold a hearing to determine any questions about the student's eligibility for admission to the school.

First Nation students (registered under the Indian Act)

It is not possible to give general information that applies across Ontario because every Band Council has its own rules. Parents and students with any questions should contact their Band Council or Educational Authority. If the parents or student are unsure about the student's rights or feel that the Band Council is not protecting their rights, they should contact their Community Legal Clinic; Justice for Children and Youth (see back for contact information); or Aboriginal Legal Services: 416-408-3967 or 1-844-633-2886.

Transportation

School boards may provide transportation but don't have to. If the school board does provide transportation, then it cannot discriminate against students with disabilities and must provide transportation for them, even if the school has to arrange for a different form of transportation or have the driver change its bus routes.

Immunization requirements

Students are expected to be immunized; but if the student or the student's parents refuse immunization because of conscientious beliefs or religion, or for health reasons, the student can be admitted to school without immunization. If the student has not been immunized they may be excluded from school when there is a risk of outbreak of a contagious disease.

School closures

If a school board wants to close a school, it has to discuss its decision in public and follow a process that usually takes about a year. However, school boards are not under any obligation to keep a particular school open. Students have a right to attend a school in the school board district where they live but not a specific school.

RESOURCES:

Kids Help Phone - www.kidshelpphone.ca, 1-800-668-6868
24/7 free and confidential counselling by phone, online and texting, up to 20 years

People for Education - www.peopleforeducation.ca
Information and tip sheets for parents in multiple languages

Toronto 211 - www.211Toronto.ca - dial 211 from any phone in Toronto
Free information on government and non-government services: locating food, shelter, health and financial assistance, etc.

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

FOR HELP FINDING A LAWYER:

Justice for Children and Youth – www.jfcy.org

Pro Bono Law Ontario – www.probonoontario.org/education/

Law Society of Ontario's Referral Service - www.lso.ca

Organizations should feel free to add local resources:

This pamphlet gives general information about the right to attend school in the publicly funded school system in Ontario. Speak to a lawyer or legal worker about specific questions. December 2022.

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