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MEMORANDUM TO: Directors of Education

FROM: Andrew Davis
Director
Financial Analysis and Accountability Branch

DATE: January 9, 2012

SUBJECT: Clarification of Documentation Required for Tuition Fee
Exemptions and Guardianship Arrangements

The purpose of this memorandum is to clarify the documentation requirements pertaining to:

- (a) Tuition fee exemptions set out in subsection 49(7) of the Education Act;
- (b) Guardianship arrangements for the purposes of determining a student's "right to attend" a school of the board without the payment of a fee.

These clarifications are intended to ensure that funding meant for Ontario students is being applied appropriately and consistently across the province. Under subsection 49(6) of the Education Act, school boards are required to charge the maximum tuition fee to all persons admitted to school who are temporary residents or are in possession of a study permit. Exemptions from these tuition fees are permitted under subsection 49(7).

This memo sets out the type of information that the ministry expects a board to collect to substantiate a claim that a person is entitled to attend school without paying a fee under subsection 49(7), and is effective as of September 1, 2012.

Applicants for Permanent Residence in Canada

Clauses (d) and (e)(ii) of subsection 49(7) of the Education Act state 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) ...,

(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 this provision, the student and his or her parent should provide the board with evidence that they are filing an application for permanent residence with an intention to remain in Canada.

When auditing school boards, the ministry will look for a “Stage 1 approval letter” from Citizenship and Immigration Canada, 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. Once this letter is provided, the student will be considered to have met the criterion of “awaiting determination of an application for permanent residence” and can be registered as a “pupil of the board”.

The Ministry may accept alternative evidence to support a student’s claim of awaiting determination of an application for permanent residence in Canada in circumstances where the board is confident that the application is based on an intention for the family to remain permanently in Canada and the Stage 1 approval letter is pending. For example, if the student has immigrated to Ontario because his or her parent or guardian is married to a Canadian citizen or permanent resident of Canada who resides in Ontario and the Stage 1 approval letter has not yet been received. In such a case, the ministry expects to see evidence of the application for permanent residence, a marriage certificate, and evidence that the Canadian spouse is an Ontario resident.

Children of Full-Time Ontario Postsecondary Students

Clause (e)(iv) of subsection 49(7) of the Education Act states 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 program that leads to graduation with a postsecondary degree or diploma. A student enrolled in an English as a second language program that is offered as a prerequisite to a degree or diploma program or that leads to a stand-alone certificate does not qualify as a full-time postsecondary student.

When auditing school boards, the ministry will look for the parent’s letter of acceptance to a qualified postsecondary program and a study permit. New documentation must be obtained for ministry audit purposes once the postsecondary program has ended or the study permit has expired.

Guardianship

Sections 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 or guardian both reside in the jurisdiction of the board. The Education Act defines “guardian”, for the purpose of these sections, as “a person who has lawful custody of a child, other than the parent of the child”.

There have been some cases in which students registering at school boards appear to have Ontario addresses despite the fact that their parents have addresses elsewhere. When determining whether to recognize for grant 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* of 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 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 of the above, as well as the respective responsibilities of the parents and the guardian.

Guardianship arrangements that are supported by a court order or that meet the above criteria will satisfy ministry documentation requirements in the event of an enrolment audit.

Should you have any questions or concerns, please contact Abby Dwosh, at (416) 325-2054 or by email at Abby.Dwosh@ontario.ca, or Nick Grieco, at (416) 325-2048 or by email at Nicholas.Grieco@ontario.ca.



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cc Superintendents of Business and Finance