

BRIEFING NOTE: SANCTUARY SCHOOLS

Prepared by Sanctuary Health, October 12 2021

Recommendation

That every school district in BC implement a Sanctuary Schools policy that

- ensures all school age children who are ordinarily resident in the school district, including those with precarious immigration status or no immigration status in Canada, are entitled to admission in schools
- establishes that BC families can demonstrate that they meet residency requirements under the School Act without disclosing information related to their immigration status; for example, by providing a copy of a tenancy agreement, a utility bill, or a letter from a community member, such as a religious leader or service provider explaining their situation.
- introduces multilingual communications and a public education strategy to inform families and all school district staff, including teachers, administrators, and school office staff, about the residency information parents can provide in order to register their children for school.
- provides training for staff about admission procedures, migrants' many different journeys of migration, and the vulnerabilities created by our immigration system.
- gives meaningful guidance to school officials that they have a positive duty not to disclose information to parties like the Canada Border Services Agency unless they are legally compelled by a court order to do so.

Objective

Migrant families with precarious or no immigration status should be able to register, without an advocate, in a welcoming, safe, anti-racist environment. The Sanctuary Schools policy aims to provide access to basic education for all children regardless of their immigration status without fear of detention or deportation. In most districts, this has not been the practice. It seems that, for many administrators across the province, the default orientation towards undocumented families and families with precarious immigration status is suspicion and distrust, and they ask inappropriate and disrespectful questions. In accompanying families to register their kids, we have witnessed a lack of awareness about the realities of migrant families with precarious or no immigration status.

The Provincial Context

Section 82 of the BC School Act mandates the provision of free education to every school age student if they and their guardian are "ordinarily resident" in British Columbia. When the School Act was drafted, early drafts limited education funding to citizens and permanent residents; however, the BC Teachers' Federation, the BC Principals' & Vice-Principals Association and the BC School Trustees Association mobilised to keep the language "ordinarily resident" in the Act, noting that "school boards should not be asked to police the Immigration Act." BC School Districts are mandated to provide welcoming and safe education to all children in British Columbia, and not to enforce immigration law and bring the borders to our schools.

The Federal Context

The Immigration and Refugee Protection Act is clear that children resident in Canada- regardless of citizenship or immigration status-are entitled to study without the need for authorization. Canada is a signatory to the UN Convention on the Rights of the Child; Articles 28 and 29 of the Convention declare that every child has the right to education. Over the past twenty years, the federal government has overhauled our immigration system cutting off pathways to permanent residence and entrenching temporary programs. Canada's immigration laws force many migrants into precarious situations and legal statuses, enabling exploitation by employers, immigration consultants and spouses. Living without access to social services, and a constant fear of detention and deportation by the Canada Border Services Agency, is not a situation that people choose when they have alternatives.

The BC Ministry of Education Position on Sanctuary Schools Policies

The Funding and Financial Accountability Branch at the Ministry of Education confirmed directly with Sanctuary Health:

- *School boards are responsible for complying with provincial law and regulations. The Ministry and boards of education do not have the authority to enforce federal immigration law.*
- *The Ministry does not request specific immigration documents as a part of its compliance audit process. The compliance reviews follow the Eligibility policy which says: "Student files should contain reference to the documentation used to support eligibility for funding".*
- *The "Other classes of persons for whom the ministry will provide operating grant funding" segment in the Eligibility of Students for Operating Grant Funding policy was created with a focus on a number of family circumstances that may be reported for funding by school boards in addition to those who have a clear entitlement to public education under Section 82 of the School Act "if the board of education requests funding via Form 1701". It was not intended to exclude families who are BC residents and may have unresolved federal immigration status. The Ministry will continue to remind school districts to familiarize their staff with the entire Eligibility policy and not to focus solely on the "Other classes of persons" segment.*
- *Similarly, the lists of positive and negative indicia of "ordinary residence" in this policy were created to "assist boards in making determinations of whether a person is ordinarily resident in BC". These indicators are not an exhaustive list for BC residency evidence.*