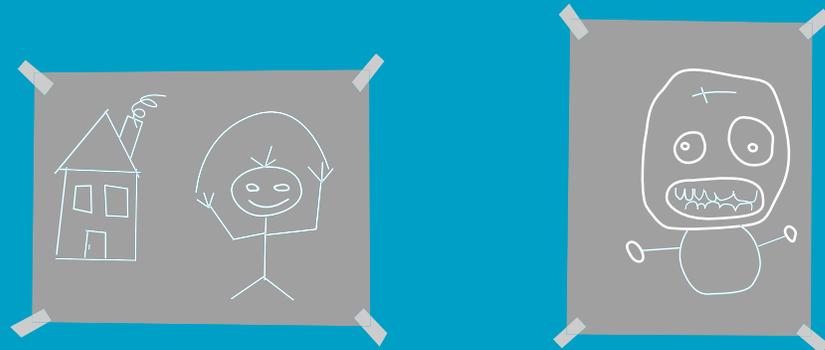


The Right to Learn

Access to Public Education for Non-Status Immigrants



June 2008



COMMUNITY
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The Right to Learn: Access to Public Education for Non-Status Immigrants

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EXECUTIVE SUMMARY

Introduction

While attending schools in the Toronto Catholic District School Board (TCDSB) in April of 2006, four non-status children were apprehended by immigration officials over a period of 48 hours. These children and their families were subsequently deported. These incidents led to considerable anxiety among non-status immigrant families with school-aged children – fears still in evidence today.

This study examines the challenges, fear, and safety concerns non-status immigrant families face in regards to accessing the public school system, and is to our knowledge the first Canadian study of its kind.

Access to public education for all children and youth under 18 in Ontario is both a right and a requirement under provincial law. The Ontario Education Act explicitly states that no child can be denied access to schools because they, or their parent(s), lack immigration status in Canada.

While the law is clear, this study suggests that there are inconsistencies regarding enrollment procedures and other protocols in Toronto schools. Many of the non-status immigrant families that we interviewed experienced difficulties with and expressed deep-seated concerns about accessing schools in Toronto, up to and including the denial of enrollment of children and youth in some local schools.

This report provides a snapshot of the experiences of those families with the Toronto public education system, identifies barriers that families are facing, and puts forward recommendations aimed at ensuring access to public education for all children and youth regardless of immigration status.

Seventeen participants (15 parents/guardian and two youths) were interviewed for this study. This small sample size is attributed to both the limited funding available for the project, as well as the challenge of recruiting families that live with the risk of deportation. Many non-status immigrants are reluctant to come forward and share their stories for fear of being reported to authorities.

Despite its small sample size, this study raises some important questions regarding the accessibility of Toronto public schools for non-status students and students whose parents lack legal immigration status.

Findings

Participants identified several barriers to accessing Toronto schools:

- **Enrollment Denied on Basis of Immigration Status** Four of the adult respondents reported that their children had been denied enrollment into a Toronto District School Board (TDSB) school based on immigration status; one of these parents was refused access by four different schools.
- **Documentation Requirements:** Of the 17 respondents, 15 stated that immigration status came up during the enrollment process. Participants were asked by the school to provide proof of immigration status, such as passports, refugee papers, visas, or an application pending an immigration decision. Two families experienced difficulties enrolling their children in a Toronto Catholic District School Board (TCDSB) school due to religious affiliation.
- **Lack of Information Regarding the Right to Education:** Eight out of the 15 adult respondents indicated that they were unaware that their children had the legal right to attend school in Ontario. The study also shows

that not all Toronto school staff are aware of the legal rights of non-status students.

- **Fear:** Six out of 15 adult respondents indicated that they were hesitant to try to enroll their children in school for fear of being reported to immigration officials by school administrators. Parents also commented on the fear of being reported to officials if their child was not enrolled in school.

In addition to enrollment problems, participants expressed concerns regarding their safety, security and involvement in school activities.

- **Staying Under the Radar:** Many parents needed to explain what having no status in Canada meant, and instructed their children to be extra careful for fear their status would be revealed. This need for secrecy greatly affected parent and child involvement in school events and activities.
- **OHIP Requirements:** Schools require students to possess OHIP cards in order to take part in activities off school premises. For this reason, many children could not participate in school field trips.

Recommendations

In order to eliminate enrollment barriers and create a safe, inclusive environment for non-status families in all Ontario schools, we have developed a series of recommendations directed at the provincial government, school boards, teachers' unions, and community organizations. We recommend that:

1. Enforce the Education Act

The Ontario Ministry of Education take steps to ensure that all Ontario schools are adhering to the Ontario Education Act which ensures access to public education to all children under 18 regardless of immigration status. Steps may include staff training, public education, further policy development, and evaluation and monitoring of school practices to ensure compliance with provincial legislation.

2. Don't Ask, Don't Tell

The Ontario Ministry of Education explore the development of a province-wide "Don't Ask, Don't Tell" immigration policy for all Ontario schools whereby school officials would not be allowed to "ask" about a student, parent or guardian's immigration status, and if s/he learned that a student, parent or guardian was without status, the staff, administrator or educator would not share this information with others, particularly law enforcement or immigration officials.

3. Create a Safe Environment

TDSB and TCDSB critically examine their policies and make any necessary changes to ensure that they promote the full inclusion of children and youth in Toronto schools regardless of immigration status, and create a safe and inclusive environment for families without status. This work should include an exploration of alternatives to health card requirements for off-school class activities.

4. Action by School Boards

TDSB and TCDSB take immediate action to implement their policies with respect to non-status students by:

- Developing and providing regular training for school administrators, staff and educators regarding issues faced by non-status families, children's right to education under provincial law and international conventions, and board policy with respect to non-status students. Training material should be created in collaboration with agencies and organizations who are experienced in non-status issues.
- Launching a multilingual public education campaign in collaboration with community agencies, early years drop-in centres, faith-based groups, immigrant- and refugee-serving organizations and advocates to ensure that families without status are aware of their children's right to attend public schools, privacy and confi-

dentiality issues with respect to immigration status, registration process details and documentation requirements. The use of ethno-specific media outlets (i.e. community newspapers and radio) would help to facilitate this process and effectively reach a larger audience.

- Evaluating and monitoring the effectiveness of non-status student policies annually, in collaboration with relevant stakeholders, to ensure that policies are updated, as needed, to improve the safety and inclusiveness of school environments for non-status families.

5. Don't Require Immigration Documentation for Enrollment

TDSB and TCDSB examine their policies with respect to documentation requirements to ensure that immigration documents are not a requirement for enrollment, and ensure that this policy is adhered to in all schools. This would also include reviewing their enrollment procedures and admission forms and developing methods that effectively differentiate international students from non-status residents seeking admittance.

6. Teachers Play an Active Role

Teachers' unions and associations, such as the Elementary Teachers' Federation of Ontario, Ontario Secondary School Teachers' Federation, Ontario English Catholic Teachers' Association and the Ontario Teachers' Federation, play an active role in the education of their members regarding access to public education for students without status.

7. Make Inclusion a Priority

Community organizations, faith-based groups, immigrant and refugee-serving agencies and advocates work with local school boards to promote the full inclusion of non-status students in Ontario schools. This work may include assisting school boards in their outreach efforts to ensure that students without status have access to public schools and their monitoring and evaluation activities to assess the effectiveness of non-status student policies.

8. Access to Post-Secondary Education

The Ontario Ministry of Training, Colleges and Universities work in collaboration with post-secondary institutions on examining their admissions and enrollment policies to include students who lack immigration status. This can include reviewing current admission policies and practices that exist in the U.S. in which several state colleges and universities accept undocumented students. States such as Texas, California and New York have implemented policies in which undocumented students need only pay in-state tuition rates, rather than out-of-state rates (which are often six times the cost). Texas has also gone a step further in allowing undocumented students to be eligible for state financial aid (Biswas, 2005).

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“I feel that immigrants in this country, either they are legal or illegal here, they need to have their voice heard. It is clear that this country is a country of opportunity that everyone really wants to come here, not because of all the benefits but also to build up their future. Many other countries don’t have that chance, that’s why they come here, and I don’t see any reason to kick them out, just because they want to have a life. There’s a reason why people come here. They don’t just come here because it’s fun, because it’s cool, you have everything free. No. They want to come here to have a life. So I believe that everyone should have the right and opportunity to come here, stay here, and live a life as they wish.”

- Youth who lacked status while attending school

People don’t want to live illegal...they want to be stabilized, and they could better contribute and better the life and help the country...it’s a better life. Everybody will love a better life...peaceful good life.”

- Non-status grandmother caring for her grandchildren because their mother was deported

Introduction

Access to public education for children and youth in Ontario, regardless of immigration status, is both a right and a requirement under provincial law. Yet many non-status families with school-aged children and youth have experienced difficulties with and expressed deep concerns about accessing the public education system in Toronto. Many are unaware of their child’s right to an education, or are reluctant to exercise that right for fear of being reported to police or immigration officials. While educators, school administrators, trustees, community legal workers, lawyers, services providers, advocates and affected students and their families are aware of some of the problems with access to public schools, to our knowledge no studies have documented these barriers or the first-hand experiences of non-status families accessing public education in Toronto or elsewhere in Canada.

Purpose

The goal of this study is to document the experiences of non-status families with respect to the Toronto public education system, identify the barriers that families face in accessing the education system, and develop recommendations aimed at ensuring access to public education for all children and youth regardless of status. Both the Toronto District School Board (TDSB) and the Toronto Catholic District School Board (TCDSB) recently adopted board-wide policies to promote access to education for students without full immigration status (current school board admission policies in regards to immigration status can be viewed in Appendix A). However, the implementation of these policies is still at an early stage, with no clear directives and guidelines passed down by the boards on how schools should comply. It is our hope that this research will assist the TDSB, TCDSB and other school boards in implementing effective policies that create safer and more inclusive school environments for non-status students.

Methodology

A total of 17 individuals took part in 16 interviews, including 15 parents/guardian and two youths. This small sample size is attributed to both the limited funding available for the project, as well as the challenge of recruiting families that live with the risk of deportation. Many non-status immigrants are reluctant to come forward and share their stories for fear of being reported to authorities.

An interview schedule was developed comprised of closed and open-ended questions to record basic demographic information, immigration status, and families' experiences with the Toronto school system (see Appendix B for interview schedule). An outreach flyer was created and translated into multiple languages. Broad outreach was conducted through non-status immigrant groups, partner organizations, community legal clinics, immigrant- and refugee-serving organizations, partner websites, mailings, email lists and at immigrant rights' and community service events. Translation services were offered in a variety of languages.

Interviews were conducted at Davenport Perth Neighbourhood Centre and the Community Social Planning Council of Toronto (CSPC-T) offices in May and June 2007. Researchers explained the purpose of the study, its partners and the confidential and voluntary nature of the study to participants. Participants signed consent forms agreeing to take part in the interview. Interviews were audio-taped with the permission of study participants. Four interviews were conducted in Spanish, and twelve in English. Interviews varied in length, ranging from 30 minutes to one hour.

Results from these interviews will be presented to trustees with the TDSB and TCDSB, and distributed widely to non-status groups, educators, school administrators, community groups, service providers and mainstream and community media. The report will also be posted on the CSPC-T website and promoted through our monthly newsletter and extensive networks.

Due to our small sample size, differences according to school boards, specific ethno-cultural groups, or country of birth were not explored. While we recognize that these are factors that may impact access to education for marginalized groups, we cannot make broad generalizations based on a small snapshot of participants.

Context

The term "non-status immigrant" refers to individuals and families who have made their homes in Canada but lack full Canadian immigration status. People without status usually obtained some form of legal status upon entering into Canada. Circumstances through which people lose their status include: overstaying a work, study or visitor's visa, having a claim for refugee status or status based on humanitarian and compassionate grounds denied, or experiencing sponsorship breakdown (Khandor, McDonald, Nyers, & Wright, 2004). Reasons for deciding to stay in Canada, despite the constant threat of deportation, vary. Many people, for example, have fled their home countries due to conditions of extreme poverty, military conflicts, lack of opportunities, or to escape from physical harm, abusive relationships, or persecution by the state. While it is difficult to establish an exact figure, estimates of the number of non-status immigrants currently residing in Canada range between 20,000 and 200,000 people, the majority of which live in large urban centres such as Montreal, Vancouver and Toronto (Khandor, et al, 2004).

People without full immigration status in Canada are not entitled to many of the rights, freedoms, and protections that Canadian citizens or landed immigrants regularly enjoy (Khandor, et al, 2004). Despite their contributions to the economic prosperity of Canada and the vitality of its many diverse communities, non-status immigrants are unable to access the necessary social programs and services needed to maintain an adequate and healthy standard of living. They have very limited access to health care, are unable to receive a social insurance number, are ineligible for social assistance and social housing, are denied child tax benefits, and are prohibited

to vote in elections.

Despite being unable to obtain a Canadian work permit, many non-status immigrants still do work in this country. They must work for economic survival and, for those still struggling to attain status, to help pay for the high costs associated with the immigration process, such as legal counsel and application fees (the processing fee for a Humanitarian and Compassionate Grounds application currently stands at \$550 per person, and \$150 per child). Many workers who lack documentation or are ineligible for a social insurance number have little recourse but to work “under the table,” and are therefore vulnerable to exploitation by employers and are fearful to report abuses to the Ministry of Labour. Their work is greatly beneficial to Canadians and integral to the economic success of many vital industries in Canada, including the country’s booming construction industry. Additionally, through the property and sales taxes that they pay, non-status immigrants contribute to the funding and maintaining of valuable social programs and public institutions, including public schools - the very programs and institutions they often cannot access or fear attempting to do so.

The federal government has signed onto certain international treaties that guarantee fundamental human rights for all peoples. As a signatory country on the United Nations’ Convention on the Rights of the Child, Canada has committed to every child’s right to an education (“Education is a Right”, n.d.).

Consistent with the UN Convention, the Ontario Education Act was amended in 1993 to include a section affirming the rights of children whose parents or guardians lack immigration status in Canada to access education in Ontario:

“49.1 A person who is otherwise entitled to be admitted to a school and who is less than eighteen years of age shall not be refused admission because the person or the person’s parent or guardian is unlawfully in Canada. 1993, c. 11, s. 21.”

Source: http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/90e02_e.htm#BK59

Yet, despite the clarity of these federal commitments and provincial legislation, many non-status immigrant families are still experiencing difficulty in accessing the Toronto school system. Some have been told outright that their children cannot be admitted into school due to their lack of documentation- actions which are in direct violation of provincial law. In one case in Oakville, a school staff member asked parents to call a specific phone number during the enrollment process - a number that turned out to be a direct line to the immigration department (Koehl, 2007). Community legal clinics and other community agencies have provided anecdotal evidence to suggest that this is not an isolated case. While a memorandum was issued in 2004 by then-Minister of Education Gerard Kennedy, reminding school boards of provincial law that was instated over a decade earlier, difficulties in accessing the school system remain (Koehl, 2007).

Further enrollment complications arise in terms of establishing who is required to pay international student fees. Those who arrive in Canada with a study permit or those under a visitor’s status (in Canada for less than six months) are obligated to pay international fees in order to be admitted into school. However, this would require that parents divulge their immigration status; information that many are fearful to disclose. Exorbitantly high international fees can prove to be a real barrier towards accessing the education system, with one full year at a TDSB secondary school for example, costing around \$12,000 and an elementary school, \$10,500 (TDSB, 2008).

The incidents in April of 2006 at two Toronto Catholic District School Boards (TCDSB) schools in which four children were apprehended by immigration enforcement officers on school property forced their families to return to their home countries. These incidents violated the school environment as a safe haven for learning, highlighted the precariousness of living without status in Canada, and sparked immense concern and fear for non-status residents; fear that even if their children did successfully enroll into school, they were still at risk of

detention and deportation.

The unanimous adoption of a ‘Don’t Ask, Don’t Tell’ policy by school board trustees at the TDSB on May 16, 2007, marked a great step forward in the rights of non-status people living in Toronto. TDSB introduced this policy following the incidents of April 2006, and in response to the mobilization of community members and activists calling for change, and substantial media attention surrounding the issue. Although the TDSB has been receptive to input from community members and advocacy groups on the development of this new policy and has made changes to their registration forms to reflect their new rules, there still remains the contentious issue of parents being asked their date of entry into Canada and to provide documentation. The board maintains that this is necessary due to the fact that schools must forward this information to the Ministry of Education in order to receive funding for English as a Second Language (ESL) programs, and to determine whether a student is to be charged international fees. It remains to be seen if these recent changes will help or hinder the registration process for non-status parents and students. A follow-up study needs to be conducted to ensure that the new policy is in fact effective. Finally, while the TDSB has removed all mention of immigration status on their admission forms, the TCDSB still requires such a field to be filled out on their forms, and requires school staff to make copies of both parents’ and children’s passports.

Participant Profiles

Gender:

- 15 of the 17 respondents are female

Of the 17 respondents:

- 14 are adult parents with children in school ranging in ages from 3 to 17
- 2 are youths currently aged 19 and 20
- 1 is a grandparent looking after her granddaughter (currently in her 20s but attended 3 Toronto schools) because the mother was deported

Country of Origin:

- 8 arrived from the Caribbean
- 7 arrived from Latin America
- 2 arrived from Europe

Entry to Canada:

- 14 entered the country as a visitor
- 3 entered the country as a refugee claimant

Current Immigration Status (Adults):

- 14 out of the 15 adult respondents currently have no immigration status in Canada
- 10 of these 14 adults who have less than full status are currently awaiting a decision on their refugee claim, awaiting a refugee hearing, or awaiting a decision to stay based on Humanitarian & Compassionate Grounds
- 1 adult respondent has refugee status but her children do not currently have status in Canada

Current Immigration Status (Children):

- From the 15 adult parents and guardian interviewed, a total of 17 children have/had no immigration status while attending a Toronto school

Current Immigration Status (Youth):

- 1 youth has a temporary residency permit but lacked immigration status during most of his time in public school
- 1 youth is awaiting a permanent residency decision and living with temporary status but lacked immigration status during her time in public school

Years of residency in Canada:

- Time that participants have spent living in Canada ranged from 3 months to 18 years. The average number of years spent living in Canada is 5.7 years.

School Boards:

- 7 families were involved with the Toronto District School Board (TDSB)
- 4 families were involved with the Toronto Catholic District School Board (TCDSB)
- 4 families initially entered their child into a TDSB school and then transferred into a TCDSB school
- 1 parent has two children, one attending a TDSB school and the other a TCDSB school

Number of schools attended*:

* data was collected from 14 of the 16 interviews

- 5 adult respondents had children attend 1 school since entering the Toronto school system
- 3 adult respondents had children attend 2 different schools since entering the school system
- 4 adult respondents had children attend 3 different schools since entering the school system

Youth:

- 1 youth had attended 2 different schools since entering the Toronto school system
- The other youth attended 3 different schools since entering the Toronto school system

Barriers to Enrollment

“If she had the legal right, why did they (the school) make it so hard for them? Obviously children don’t have legal rights.”

- Non-status mother of five on getting her daughter into a Toronto school

“Yes (the school system) could be improved. I see that those who have their papers, they’re getting everything, and those who don’t have their status can’t get everything, just like me. If I had to go to the doctor...sometimes I go they ask me for my health card, I don’t have that. I don’t have certain things. But the school system, they could do something better about it. I know there’s some parents that can’t get their children into school, which is sad. I don’t see (why) they should punish any parents for that. The children have rights to go to school and because we don’t have the status, they’re punishing the kids because the parents don’t have nothing. That’s not right.”

- Non-status mother of four, with two children attending a Toronto school

All 15 of the adult participants interviewed had eventually successfully enrolled their children into the education system. Discrepancies in the enrollment process at various schools resulted in some families reporting no difficulty in gaining access to schools, while others had a much harder time.

- Five of the adult respondents indicated they experienced no difficulty in enrolling their child into a TDSB or TCDSB school
- Four of the adult respondents reported that they had been denied enrollment into a TDSB school; one of these parents was refused access by four different schools
- Two of the adult respondents reported difficulties with enrollment into a TCDSB due to religious affiliation
- Two of the adult respondents reported difficulties on having her foreign documentation validated
- Two of the adult respondents (a couple) reported that they needed to wait three weeks before the school found their child a place

Some of the barriers identified during the interviews include:

School administration requiring immigration documentation

Many schools require proof of immigration status for both children and parents.

- Of the 17 respondents, 15 stated that immigration status came up during the enrollment process. Participants were asked by the school to provide proof of immigration status, such as passports, refugee papers, visas, or an application pending an immigration decision.

“It was hard, to try to persuade them. I was basically sitting in their office, literally crying, just telling them, how come all these kids that are citizens here that have the right to go to school, yet they don’t even want to be in the classroom. They just fool around and try to get away with as much as they can. And those who, that are basically dying, they just want to sit in a classroom and learn like any other kid. Yet they are not given the right to because they are not citizens here, they’re not a resident here. I just found that ridiculous...why can’t you give someone who wants to learn the opportunity to and just leave the rest?”

- Non-status youth on his struggle with school enrollment (He later received a deportation order by the government while in school, but managed to receive a temporary reprieve to complete his studies.)

Lack of information regarding the Toronto school system

“No parent wants to leave their children home because when they leave them home people complain and they go and report you and stuff like that...Right now a lot of non-status parents, they need a lot of help right now. Sometimes we don’t know where to go to get help. That’s a problem.”

- Non-status mother of four, with two children attending a Toronto school

- Eight out of the 15 adult respondents indicated that they were unaware that their children had the legal right to attend school in Toronto

Many non-status families were unaware that their children have the legal right to attend school in Ontario.

Where respondents received information regarding the Toronto school system:

Out of 15 adult respondents:

- Six received information through a social service agency, community centre or social worker
- Four received information through a neighbour or a friend
- Two received information through a church/temple/mosque or faith-based group
- One respondent went to the school and received information directly
- One respondent found out through their own research on the internet
- One respondent was told by immigration officials
- One of the non-status youth with no legal guardian went to the school directly to enroll himself

Social service organizations and community workers play a crucial role, by not only informing non-status residents about the Toronto school system and of their rights, but also by acting as advocates, assisting non-status parents to enroll their children into school through writing letters and acting as references. In fact, prior to city amalgamation, the old City of Toronto school board had created specific community relation worker positions, where community workers would conduct broad outreach in specific communities, engaging with parent groups and educating newcomers on how to enroll their children into school and informing them of their rights. These positions were eventually dissolved due to changes to the school board funding formula brought on by the Conservative government under Mike Harris.

One parent recounted the difficulties she experienced in trying to get her child (both of whom lacked immigration status) enrolled into a TDSB school. She had taken her son directly to the school in order to get registered. Needing to overcome the language barrier was the first hurdle, as no one at the school was able to communicate with her in Spanish. A school staff member asked to see their immigration papers. The respondent informed the school that their passports were expired, and she was told her son would not be able to register. She tried again at three other schools that also denied her son access for similar reasons. Someone then suggested that she seek assistance from the local community centre. Hesitant, she proceeded; whereupon a worker at the centre wrote her a letter to bring to the school and her son was successfully registered.

“This is the best day of my life, because this lady can help me, and my son can go to the school.”

One parent lacking status explained how she was unaware that her child was entitled to attend school in Toronto. To avoid having her daughter fall behind in her studies, her mother would take out books from the local library and teach her at home. She then decided to try and enroll her into the local school. The first school she went to denied her request for admission:

“At the school that I was supposed to be in the district, they didn’t let...they were treating me really bad...because I tried to get (my daughter) into school before September and (they were) telling me, oh if you don’t have status in this country, no, I don’t think your child would be able to go to school.”

She was able to successfully enroll her daughter at another school.

Fear

- Six out of 15 adult respondents indicated that they needed to overcome feelings of fear to get their children into a school. The fear of being reported to immigration officials by school administration, or running the risk of being reported that a school-aged child was not going to school, put parents in very a difficult position

Non-status parents that expressed feelings of hesitancy in enrolling their children into school were concerned that they would need to divulge their immigration status to school administrators, which in turn could be revealed to immigration or law enforcement officials, putting families at risk of detention and deportation.

A single mother who had successfully enrolled her child into a school reported that she had to move for employment reasons. Fearing that might encounter problems enrolling her child into a new school near their new home, this parent decided to keep her child in the old school. As a result, she now has to wake up a 3 a.m. every morning to get her daughter to school on time via public transit.

A non-status mother of three described her experience of enrolling her eldest daughter, whom she brought into Canada, in a Toronto school, while feeling another type of fear - the fear of being denied:

“Just that fear that they might tell me sorry, no...Just a fear of neglect. Because you feel like a nobody in this country. Even like when I went to have my baby here, they put a tag on your arm - “non-resident” - and you carry this throughout the hospital...and you feel like a nobody in this country and that’s what it felt like even trying to walk through the principal’s door; will I feel that feeling again? But then after she (the school principal) smiled, the lady smiled to me and it felt... the fear faded away.”

Safety, Security, Participation

“Every day I say thank God because my son returned (from) school and nothing happened.”

- Non-status mother whose son attends a Toronto school

Successfully enrolling a child into school is only one of the struggles faced by non-status families. While participants shared many positive experiences about the school, such as helpful and supportive staff and teachers, and children getting the extra help that they needed with their education, day-to-day school life for parents and children is often marred with feelings of anxiety, uncertainty, insecurity and fear. In order to keep their immigration status a secret, many parents need to explain to their children what it means to be without status, and instruct their children not to share this information with others. A lack of immigration status also means that parents and children do everything possible to stay “under the radar,” which greatly impacts both parent and child involvement and participation in school events.

“I try not to get myself too involved in the school because of my status...but if there’s anything concerning the child and they say ‘I’d like to see you,’ I will go.”

- Non-status mother whose daughter attends a Toronto school

Respondents have also expressed feelings of sadness that their children (or themselves, in the case of non-status youth) could not participate in class outings, since schools require students to possess a valid OHIP card to participate.

As well, non-status youth in high school were unable to receive a social insurance number, barring them from finding part-time employment and earning extra income.

The constant looming threat of deportation and uncertain futures is a source of stress and anxiety that can greatly affect both a child’s performance in school and disrupt family life. The incidents in April of 2006, in which four children were apprehended by immigration officials while attending TCDSB schools, and then eventually deported, made many non-status people fearful of their own security, and demonstrated that these safety concerns are thoroughly justified.

One non-status youth, having lived in Canada for nearly nine years, shared his story of being a student while simultaneously dealing with his own immigration case:

“It was very frustrating as a student to have to deal with (immigration) paperwork, but at the same time I had to be my own parent. Since I was an orphan I didn’t have anyone to take care of me...it was a very heavy weight on my back to carry around.”

Upon hearing from his legal counsel that his immigration case may not result in a favourable decision:

“...these words struck me and made me feel that this is not permanent, that I may be kicked out anytime. At the same time, I tried to enjoy myself as much as possible. Since I’ve been here for so long, I make friends with people and have some kind connection here, and all of a sudden having to leave, you know, just the thought of it killed me.”

“Without status you feel insecure...even the children, they talk sometime, they speak out with their mom...even they’re born here, they find their mom should be allowed to live here with them, so they’d be happier, you know, because they love their mom. They find immigration very hard. It’s a sad thing to do, to separate children from their mom. And they were born in the land of opportunity...to send them out is not right. It’s a sad thing.”

- Non-status grandmother caring for her grandchildren because their mother was deported.

Participants were asked to share any incidences in which they felt like they or their children were being excluded from some aspect of school life. Two adult respondents felt they experienced some form of exclusion.

One non-status parent had gone directly to the school (TCDSB) asking whether his child could take an extra ESL class after school, and was denied. They were instead given extra material to practice with at home.

Another non-status parent described how her child, who was attending a TDSB school, only received photocopied versions of a textbook, while the other children all received originals.

“I understand now because I think the school need the money for the children with the status, they don’t have any money for the non-status children. I think this is the reason, I don’t know...they continued for three or four years the same.”

- Non-status mother regarding photocopied textbooks

Future Prospects?

- Fifteen out of the 17 respondents had concerns that their immigration status will impact on their child’s future education

Non-status students completing their final year of high school with hopes of attending college or university expressed great concerns for the future. Without status, including a valid student visa, these youth are ineligible to enroll into a post-secondary institution or receive student financial assistance. For those children born in Canada, their parents fear that they will be unable to financially support their children’s education, or that they may not receive a favourable decision by immigration and will either be deported or have to be separated from their children.

“So many doors that could have been opened to her just through the status and because we didn’t have that status you know, a lot of doors is still being shut before her. Even now she wants to continue her education and we don’t know where we stand exactly. We can’t get OSAP, we can’t get this, we can’t get that. So you always...sometimes I feel like, God, when will I feel like somebody in this country after all those years? I guess one day it will come...hopefully.”

-Non-status mother on her daughter’s uncertain future, after 14 years in Canada

Recommendations

Based on our findings, including suggestions made by participants themselves, we have compiled the following recommendations to help eliminate barriers to public school access for non-status families and create a safe environment for non-status students. We recommend that:

1. Enforce the Education Act

The Ontario Ministry of Education take steps to ensure that all Ontario schools are adhering to the Ontario Education Act which ensures access to public education to all children under 18 regardless of immigration status. Steps may include staff training, public education, further policy development, and evaluation and monitoring of school practices to ensure compliance with provincial legislation.

2. Don't Ask, Don't Tell

The Ontario Ministry of Education explore the development of a province-wide “Don't Ask, Don't Tell” immigration policy for all Ontario schools whereby school officials would not be allowed to “ask” about a student, parent or guardian's immigration status, and if s/he learned that a student, parent or guardian was without status, the staff, administrator or educator would not share this information with others, particularly law enforcement or immigration officials.

3. Create a Safe Environment

TDSB and TCDSB critically examine their policies and make any necessary changes to ensure that they promote the full inclusion of children and youth in Toronto schools regardless of immigration status, and create a safe and inclusive environment for families without status. This work should include an exploration of alternatives to health card requirements for off-school class activities.

4. Action by School Boards

TDSB and TCDSB take immediate action to implement their policies with respect to non-status students by:

- Developing and providing regular training for school administrators, staff and educators regarding issues faced by non-status families, children's right to education under provincial law and international conventions, and board policy with respect to non-status students. Training material should be created in collaboration with agencies and organizations who are experienced in non-status issues.
- Launching a multilingual public education campaign in collaboration with community agencies, early years drop-in centres, faith-based groups, immigrant- and refugee-serving organizations and advocates to ensure that families without status are aware of their children's right to attend public schools, privacy and confidentiality issues with respect to immigration status, registration process details and documentation requirements. The use of ethno-specific media outlets (i.e. community newspapers and radio) would help to facilitate this process and effectively reach a larger audience.
- Evaluating and monitoring the effectiveness of non-status student policies annually, in collaboration with relevant stakeholders, to ensure that policies are updated, as needed, to improve the safety and inclusiveness of school environments for non-status families.

5. Don't Require Immigration Documentation for Enrollment

TDSB and TCDSB examine their policies with respect to documentation requirements to ensure that immigration documents are not a requirement for enrollment, and ensure that this policy is adhered to in all schools. This would also include reviewing their enrollment procedures and admission forms and developing methods that effectively differentiate international students from non-status residents seeking admittance.

6. Teachers Play an Active Role

Teachers' unions and associations, such as the Elementary Teachers' Federation of Ontario, Ontario Secondary School Teachers' Federation, Ontario English Catholic Teachers' Association and the Ontario Teachers' Federation, play an active role in the education of their members regarding access to public education for students without status.

7. Make Inclusion a Priority

Community organizations, faith-based groups, immigrant and refugee-serving agencies and advocates work with local school boards to promote the full inclusion of non-status students in Ontario schools. This work may include assisting school boards in their outreach efforts to ensure that students without status have access to public schools and their monitoring and evaluation activities to assess the effectiveness of non-status student policies.

8. Access to Post-Secondary Education

The Ontario Ministry of Training, Colleges and Universities work in collaboration with post-secondary institutions on examining their admissions and enrollment policies to include students who lack immigration status. This can include reviewing current admission policies and practices that exist in the U.S. in which several state colleges and universities accept undocumented students. States such as Texas, California and New York have implemented policies in which undocumented students need only pay in-state tuition rates, rather than out-of-state rates (which are often six times the cost). Texas has also gone a step further in allowing undocumented students to be eligible for state financial aid (Biswas, 2005).

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Appendix A: Current School Board Policies

The Toronto District School Board

Toronto District School Board

Policy P.061 SCH

Title: **STUDENTS WITHOUT LEGAL IMMIGRATION STATUS**

Adopted: May 16, 2007

Revised:

Review:

1.0 OBJECTIVE

To establish the Board's commitment to providing a safe and welcoming environment for its students regardless of immigration status

2.0 RESPONSIBILITY

Executive Officer, Student and Community Equity

3.0 POLICY

3.1. All children who are qualified to be resident pupils of the Board, including those who are without immigration status in Canada, shall be entitled to admission to school.

3.2. All children shall be welcomed, regardless of immigration status, and information about them or their families shall not be shared with Immigration authorities.

4.0 SPECIFIC DIRECTIVES

4.1. The policy and section 49.1 of the Education Act regarding the obligation to admit students without full immigration status will be communicated annually to all school administrators and school office staff and school will implement admission procedures in accordance with these requirements.

4.2. All staff involved in admission of students will be provided with orientation and training regarding the policy and implementation plan in order to promote expertise and the appropriate degree of sensitivity required concerning the admission of students without immigration status in Canada who find themselves in vulnerable circumstances.

4.3. Where there is a need to verify a student's name, home address, or date of arrival in Canada, and where the usual documentation is not available, the Board will accept letters from lawyers, notary publics, and medical doctors confirming their personal knowledge of this information pertaining to the student.

4.4. Schools will continue to comply with current Ministry of Education requirements for verification of date of entry to Canada for all students whom ESL funding claims are made; staff will work with the Ministry of Education to establish a procedure for ESL grant eligibility for students without immigration verification documents, who would otherwise be counted for such grant claims.

4.5. The student registration form will be amended to specify that Date of Arrival information is required for ESL grant purposes only and that the absence of this information on this form will not prevent admission to school nor limit the student's access to ESL school resources. The section of the form on Status in Canada will be deleted.

4.6. Schools will be instructed not to provide information about a student or his/her family to Immigration authorities, but rather to refer such requests to the Director of Education. Furthermore, the Director shall inform Immigration enforcement agents

of the TDSB policy that opposes access to students while in school.

4.7. Schools will continue to require verification of temporary status or possession of a study permit from visitors to Canada when they apply for admission to a school in order to determine whether school fees are applicable.

4.8. The appropriate instructions for staff and public information materials concerning admission procedures will be revised to reflect the above policy and implementation plan; such revisions will also be included in all training and orientation programs for staff and community agencies who have responsibilities in this area.

4.9. The Director is authorized to issue operational procedures to implement this policy.

5.0 REFERENCE DOCUMENTS

Operational Procedure PR.518: Admission Eligibility Requirements

Source: <http://www.tdsb.on.ca/pandp/ppdocs/docs/p/p061%20sch.pdf>

Toronto Catholic District School Board

ADMISSION OF PUPILS SA.01

Date Approved: May 22, 2005 - Board

7. Foreign Pupils

Foreign Pupils shall include the following: Education Act Sec. 49(7) & 49.1

A pupil or pupil's parent/guardian with a Diplomatic Visa, Refugee Status, Employment Authorization, Work Permit, Ministerial Permit, Awaiting Determination of a Claim to be Found a Convention Refugee, Visiting Forces Act (Canada) or unlawfully in Canada.

A pupil shall be admitted if:

- (a) In the case of elementary pupils:
 - (i) the pupil or parent/guardian is Catholic; and
 - (ii) the immigration status of the pupil and/or parent/guardian is one of the above; and
 - (iii) where eligible, the parent/guardian is assessed for separate school purposes as an owner or tenant, and
 - (iv) the pupil is age-appropriate as described in S. A. 01 Regulation 10.
- (b) In the case of secondary school pupils:
 - (i) the immigration status of the pupil and/or parent/guardian is one of the above; and
 - (ii) where eligible, the parent/guardian is assessed for separate school purposes as an owner or tenant, and
 - (iii) there is space available for the pupil in both the program and the school in which the pupil seeks to be enrolled.
- (c) Transportation, if provided, shall be provided in accordance with the Transportation policy of the Board.
- (d) In cases in which Catholicity, age, assessment, immigration status, or residence is a qualification, proof shall be established by the parent/guardian prior to admission in accordance with S. A. 01 Regulation 11.

8. Foreign Students: Student Authorizations

Note: All requests must be referred to the Admissions and Placement Department. The principal has no authority to admit pupils included in this category.

- (a) A pupil shall be admitted if:

- (i) the pupil is Catholic;
 - (ii) the pupil is resident in Metropolitan Toronto;
 - (iii) the pupil is not a Canadian citizen;
 - (iv) the pupil is not a landed immigrant;
 - (v) in the case of an elementary school pupil, the pupil is age appropriate, as described in Regulation 11 hereof;
 - (vi) there is no work permit, diplomatic visa, or ministerial permit in respect of the pupil;
 - (vii) there is space available for the pupil in both the program and the school in which the pupil seeks to be enrolled, such availability to be determined by the Director of Education; and
 - (viii) the gross fee is prepaid by a certified cheque or money order; and
 - (ix) the student has obtained a Student Authorization from Employment and Immigration Canada prior to admission to school. (Junior Kindergarten and Senior Kindergarten are exempt.)
- (a) In cases in which Catholicity, age, assessment, citizenship, immigrant status, or residence is a qualification, proof thereof shall be established by the applicant (or the parent or guardian of the applicant) prior to admission, and in accordance with Regulation 12 hereof.

9. Minimum Amount of Assessment Required For The Purposes Of The Regulations Under This Policy

- (a) For the purposes of Regulations 2(b)(iii) and 2(d), the minimum amount of assessment for each calendar year shall be calculated by the Treasurer of the Board in accordance with the requirements of the law of Ontario.
- (b) For the purposes of Regulation 5(a)(v), the minimum amount of assessment of the corporation for each calendar year that is the result of the formula shall not be less than the minimum amount described in Regulation 10(a), where “A” is equal to the percentage of the shares in the corporation held by the shareholder who is the pupil or the parent or guardian of the pupil;

“B” is equal to that percentage of the total of the assessment of the corporation that has been allocated to the support of separate schools in Metropolitan Toronto; and

“C” is equal to the total amount of the assessment of the corporation that has been allocated to the support of separate schools in Metropolitan Toronto.

- (c) In the case of non Metro residents, where business assessment falls below the minimum qualifying amount in the new year, the student(s) will no longer be eligible to attend in September under business assessment but will be required to pay the net fee or obtain a liability for fees from their home board.

10. Establishment Of Appropriate Ages For Elementary School Pupils

(a) For the purposes of these Regulations, a pupil is age appropriate for admission to an elementary school if, as of the last day of the calendar year, the pupil has attained the age of:

- (i) four (4) years in the case of junior kindergarten;
- (ii) five (5) years in the case of kindergarten;
- (iii) six (6) years in the case of grade 1 or higher;
- (iv) two (2) years in the case of the hearing impaired pupil; and has not attained the age of twenty-one (21) years.

11. Proof of Age, Assessment, Catholicity, Citizenship, Immigrant Status or Residence

(a) Whenever it is necessary to prove age, assessment, Catholicity, citizenship, immigrant status or residence, the following will be sufficient for the purpose:

(i) AGE

- 1) Birth Certificate;
- 2) Baptismal Certificate; or
- 3) Passport;

(ii) ASSESSMENT

- 1) Assessment Notice, identifying status of school support as “separate”;
- 2) Enumeration Notice, identifying status of school support as “separate”; or
- 3) Transfer of Assessment form, signed by the parents and delivered to the Assessment Department or the principal, and verified by the Assessment Department;

(iii) CATHOLICITY

- 1) Baptismal Certificate;
- 2) First Communion Certificate; or
- 3) Confirmation Certificate;

4) In the event that none of the above are available for the pupil, there may be accepted in lieu:

(a) Baptismal Certificate of the parent or guardian; or

(b) First Communion Certificate of the parent or guardian; or

(c) A written statement from the pastor of the parent or guardian, confirming the Catholicity;

(iv) CITIZENSHIP

- 1) Birth Certificate;
- 2) Passport; or

- 3) Certificate of Citizenship;
- (v) IMMIGRANT STATUS
 - 1) Record of Landing;
- (vi) CLAIM OF METRO RESIDENCE
 - 1) ownership of residence or recognized lease, or
 - 2) driver's licence, and
 - 3) completion of an assessment form
- (vii) CLAIM OF METRO RESIDENCY BY A NON-METRO RESIDENT
 - 1) proof they are no longer residing in non-Metro area
 - 2) ownership of residence or recognized lease, and
 - 3) a driver's licence, and
 - 4) two recent invoices directed to this name/address, and
 - 5) completion of an assessment form
- b) Whenever the applicant is unable to produce a form of proof described in Regulation 12(a), but does supply some other form of evidence that the Director of Education considers to be a reasonably reliable equivalent, such other form shall be acceptable for the purpose.

Source: <http://www.tcdsb.org/policyregister/SA01.html>

Appendix B: Interview Questions

Access to Education Project- Interview Questions

Questions for Parents

Preliminary Questions (*may be entered from initial screening interview*):

A) Name (first name or pseudonym): _____

B) Where did you grow up, or where did you live most of your life before coming to Canada? (country, city or town, rural or urban)

C) Years/months residency in Canada: _____

D) Number of Canadian-born children: _____

E) Number of children born abroad: _____

F) Highest level of education of respondent before coming to Canada (or parents if youth) and in Canada:

G) Highest level of education of respondent's spouse/partner before coming to Canada and in Canada:

H) Prior and current occupation of respondent:

I) Prior and current occupation of spouse/partner:

J) What documents did you use when you entered Canada? Or under what status did you enter Canada?

- Refugee claimant, government-assisted refugee, or other refugee
- Tourist
- Temporary worker visa
- Student
- Family reunification-sponsorship
- Other Please specify _____

K) Current status:

- Failed refugee claimant
- Overstayed tourist
- Overstayed student
- Overstayed temporary worker
- Sponsorship breakdown
- Humanitarian & Compassionate Grounds pending
- Other Please specify: _____

L) I'd like to ask you about legal status in your family here. How many adults and children in your family have legal status?

M) Is the child (or youth) currently attending a Toronto school or in the enrollment process?

N) Have your children (or child) attended more than one school since entering the Toronto school system?

If yes, how many? _____

O) Which school board does the school in question fall under?

1. From where did you receive information regarding the Toronto school system?

- Friend
- Family member
- Organization/ community agency
- Church/temple/mosque/religious group
- School Board
- Internet
- Other please specify: _____

2. A) Describe the process you went through in enrolling your child into school and any barriers that you faced. (Probe: filling out school forms, communication with school staff)

B) Have you ever felt discriminated against during your interactions with the school? If yes, please describe the incident(s).

3. Were you aware that your child had the legal right to attend a school in Toronto? If yes, how did you come about that information?

4. Were there any initial feelings of hesitancy or fear in enrolling your child into school? Please describe those feelings and how (or have) you overcame them.

5. Did you receive any outside assistance in helping your child get into school (i.e. a friend, a community agency, faith-based groups, organization, etc)? If yes, please describe that experience.

6. Did your immigration status ever come up at any time during the enrollment process?

A) If yes, were you required to provide any of the following documentation:

- Refugee papers
- Passport
- Record of landing
- Visa
- Canadian identification (driver's license or health card)
- Other please specify: _____

B) If you had no documentation, how did you respond?

7. Describe any feelings you have in regards to your safety or the safety of your child, as it relates to the possible threat of deportation or contact with law enforcement agencies.

8. Have you prepared your children about your non-status situation in case the issue came up while they were in school? If yes, how did you explain your non-status situation to your children?

9. Do you have any positive experiences accessing the school system that you would like to share?

10. Do you feel your family's immigration status will have an impact on the future education of your child?

11. Do you intend to register your child into a Toronto college or university? If yes, do you have any concerns around it?

12. How do you feel the school system or enrollment process can be improved for non-status immigrants?

13. Do you have any additional comments?

Access to Education Project- Interview Questions

Questions for Youth:

Preliminary Questions (*may be entered from initial screening interview*):

A) Name (first name or pseudonym): _____

B) Canadian or foreign-born: _____

If foreign-born, where did you grow up, or where did you live most of your life before coming to Canada?
(country, city or town, rural or urban):

Years/months residency in Canada: _____

C) Do parent(s) currently reside in Canada? _____

If yes, current immigration status of parent(s): _____

Prior and current occupation of parent(s): _____

Highest level of education of parents before coming to Canada and in Canada:

D) Highest level of education of respondent before coming to Canada and in Canada:

E) What documents did you use when you entered Canada? Or under what status did you enter Canada?

- Refugee claimant, government-assisted refugee, or other refugee
- Tourist
- Temporary worker visa
- Student
- Family reunification-sponsorship
- Other Please specify _____

F) Current status:

- Failed refugee claimant
- Overstayed tourist
- Overstayed student
- Overstayed temporary worker
- Sponsorship breakdown

- Humanitarian & Compassionate Grounds pending
- Other Please specify: _____

G) I'd like to ask you about legal status in your family here. How many adults and children in your family have legal status?

H) Are you currently attending a Toronto school or in the enrollment process?

I) Have you attended more than one school since entering the Toronto school system?

If yes, how many? _____

J) Which school board does the school in question fall under?

1. We are interested in your experience of getting access to school. Describe your role or that of your parents in getting enrolled into school.

2. Where did you (or your parents) receive information regarding the Toronto school system?

- Friend
- Family member
- Organization/ community agency
- Church/temple/mosque/religious group
- School Board
- Internet
- Other please specify: _____

3. A) Describe the process you (or your parents) went through in enrolling into school and any barriers that you may have faced. (Probe: filling out school forms, communication with school staff, having to try numerous schools to get into)

B) Have you ever felt discriminated against during your interactions with the school? If yes, please describe the incident(s).

4. Did you (or your parents) receive any outside assistance in helping you get into school? (i.e. a friend, a community agency, church/temple/mosque or religious group, organization, etc)? Describe that experience.

5. How do you feel your immigration status (or that of your parents) impacts on your day to day school life? (i.e. joining activities, going on field trips, interaction with teachers, school staff, other students, etc)

6. Were there any initial feelings (from you or your parents) of hesitancy or fear in entering school? If yes, how/ have you overcome these feelings?

7. Have you had any feelings of concern in regards to your safety, or the safety of your parents while attending school, in regards to the possible threat of deportation or contact with law enforcement agencies? If yes, please describe your concerns.

8. Have there been any incidents in which your immigration status (or that of your parents) has come up in school?

A) If yes, were you required to provide any of the following documentation:

- Refugee papers
- Passport
- Record of landing
- Visa
- Canadian identification (driver's license or health card)
- Other please specify: _____

B) If you had no documentation, how did you respond?

9. Have you ever noticed the presence of police officers on school grounds? If yes, how did their presence make you feel?

10. What positive experiences have you had in regards to accessing school or in your daily school life?

11. A) Do you feel that your immigration status (or that of your parents) will have an impact on your future education?

B) Do you intend to enroll in a Toronto college or university?

12. How do you feel the school system or enrollment process can be improved for non-status immigrants?

13. Do you have any additional comments?

