



October 20, 2011

Dear Parents/Guardians:

Recently the Ministry of Education made some significant changes to their funding policy – see attached. These changes require school districts to document within student files proof that the parent/guardian is ordinarily resident of British Columbia in order to be eligible for provincial funding. We are asking for your assistance as we work to meet the new requirements.

What does this mean for me as a parent or guardian:

- A parent or guardian will meet the new requirements simply by providing a **copy of their B.C. Medical Card (Care Card)** and a **copy of their B.C. drivers' licence** (or an approved supporting document) for the student file.

If you do not have a B.C. Medical Card:

- **You will have to apply for one and provide the school with proof of application** along with **(3) three supporting documents** in order to establish residency.

Other supporting documentation for proof of being 'ordinarily resident':

- Ownership of a dwelling or long-term lease or rental of a dwelling,
- Document indicating British Columbia residence (i.e. utility bill),
- B.C. Provincial registration of an automobile,
- B.C. Driver's Licence
- A current income tax return filed as a B.C. resident

We thank you in advance for your assistance as we work to meet this new Ministry requirement.

Sincerely,

Mr. John Simonson
Principal

POLICY NAME	Funding Policy: Eligibility of students for operating grant funding
DATES	Issued May 25, 2011 and in effect May 25, 2011
STATUS	In effect
PROGRAM AREA	Funding
POLICY PURPOSE	This policy outlines the circumstances in which the Ministry of Education will provide operating grant funding to boards of education for enrolling students.
RATIONALE	<p>The Ministry of Education provides operating grant funding to boards of education that enrol:</p> <ul style="list-style-type: none"> • children who, along with their guardian(s), are ordinarily resident in British Columbia; • children who are deemed ordinarily resident in BC under the <i>School Regulation</i>; and • other children who meet criteria set out in this policy.
AUTHORITY	<p>See Section 82 of the <i>School Act</i> and section 16 of the <i>School Regulation</i>.</p> <p>Additional sources of authority include: the <i>Family Relations Act</i>, the <i>Infants Act</i>, the <i>Divorce Act</i> and the <i>Child, Family and Community Service Act</i>.</p>
BACKGROUND/ ADDITIONAL DEFINITIONS	<p>Ordinarily resident for funding purposes - Section 82(1) of the <i>School Act</i> states: "a board must provide free of charge to every student of school age resident in British Columbia and enrolled in an educational program in a school operated by the board, instruction in an educational program ..." Section 82(2) states "for the purposes of subsection (1), a student is resident in British Columbia if the student and the guardian of the person of the student are ordinarily resident in British Columbia."</p> <p>Guardianship – The term "guardian of the person" is defined in section 1 of the <i>School Act</i> when used in reference to a student or child to mean guardian of the person of the student or child within the meaning of the <i>Family Relations Act</i>. For the purposes of applying section 82 of the <i>School Act</i>, the following is an overview of how "guardian" is identified in the <i>Family Relations Act</i>. Boards may wish to seek legal advice if in doubt about guardianship in a particular case.</p> <ol style="list-style-type: none"> 1. Where the parents of a child are living together with the child, they are joint guardians of the child unless the parents have a written agreement which provides that one of them is the guardian of the person of the child, or a court otherwise orders. [Section 27 (1) and 28 of the <i>Family Relations Act</i>] 2. Where the parents of a child were married, or lived together and were joint guardians, but are now living separately and apart, the parent who has usual care and control of the child is the sole guardian of the person of the child unless the parents have a written agreement which provides that one of them is the guardian of the person of the child, or a court otherwise orders. [Section 27(2) and (3) and 28 of the <i>Family Relations Act</i>] 3. The mother is the sole guardian of the person of the child if the parents of the child were not married to each other during the life of the child or 10 months before the birth of the child, are living separate and apart, and do not share joint guardianship, unless the parents agree in writing that they are joint guardians, or a court otherwise orders. [Section 27(5) and 28 of the <i>Family Relations Act</i>. 4. Where, under the <i>Divorce Act</i>, the parents of the child are divorced, judicially separated, or the marriage has been declared null and void the person granted the custody order in the proceeding is sole guardian unless custody or

guardianship is transferred by court order to another person. [Section 27(4) of the *Family Relations Act*]

5. Where there is no court order, parents may provide in a written agreement which of them will be the guardian of the person of the child. [Section 28 of the *Family Relations Act*]
6. Persons who are not a child's parents can become that child's guardian either by court order under Section 30 of the *Family Relations Act* or by a will under Section 50 of the *Infants Act*.

POLICY

Ordinarily Resident: Boards of education must make the determination of whether an applicant falls within the definition of "ordinarily resident" for the purposes of s. 82 in a fair and even-handed manner. The term "ordinarily resident" is not defined in the *School Act*. However, the term has been interpreted by the courts to establish criteria for determining whether a person is ordinarily resident for the purpose of receiving free public education.

The courts have interpreted the term 'ordinarily resident' in this context by assessing whether the applicant has:

- a 'settled purpose' for taking up residence in the community; and
- sufficient continuity of residence, despite temporary absences.

To meet these requirements the applicant must show, on the basis of objective evidence, that they have established a regular, habitual mode of life in the community with a sufficient degree of continuity which has persisted despite temporary absences. It is not enough to qualify for free public education that the applicant has taken up residence for the 'settled purpose' that the children of the family receive public education.

Boards of education are entitled to scrutinize the purpose for which the person or family has established its residence in the community to prevent an abuse of the system under which higher fees may lawfully be charged for out of province/international students.

Consideration of the following indicia of 'ordinary residence' may assist boards in making the determination of whether a person is ordinarily resident in BC. While each of these indicators alone is not enough to establish residency for the purposes of s. 82, the larger the number of positive indicators as set out in the first list below, the more likely it is that the person will qualify as a resident of the province for the purpose of receiving free public education.

- Ownership of dwelling or long-term lease or rental of dwelling,
- Residence of spouse, children and other dependent family members in the dwelling,
- Legal documents indicating British Columbia residence,
- Provincial driver's licence,
- Employment within the community,
- Parent or guardian filing income tax returns as a BC resident,
- Provincial registration of automobile,
- Canadian bank accounts or credit cards,
- Links to community through religious organizations, recreational and social clubs, unions and professional organizations,
- Subscriptions for life or health insurance, such as MSP coverage, and
- Business relationships within the community.

Again, while none of the factors alone are sufficient, the larger the number of negative indicators as set out below, the more likely it is that a person will not qualify for free public education:

- For the school-aged child, residence of the parents and/or family home in another jurisdiction, even if the student has a BC guardian,
- Existence of another dwelling outside of BC where the person and/or their family regularly resides,
- Foreign bank accounts or credit cards,

- Parent or guardian's employment in another jurisdiction,
- Parent or guardian filing income tax return in another jurisdiction,
- Identification documents from another jurisdiction, and
- Substantial ties with former country or place of residence.

Immigration status is relevant but not determinative of ordinary residence. The determination of whether a person is ordinarily resident should never be based solely on the person's immigration status. A person need not be a Canadian citizen or permanent resident to be 'ordinarily resident' in BC for the purposes of s. 82. For example, persons who have applied for convention refugee status but not yet received a determination, and persons who have applied for permanent resident status from within Canada, are ordinarily resident in BC if there are other indicators of continuity with the community and residence for a settled purpose other than receiving free public education. On the other hand, a person who comes to Canada on a time-limited basis and has not taken steps to obtain permanent residence in Canada usually will not be ordinarily resident because he or she has no legitimate expectation of remaining in Canada.

Similarly, persons who have relocated from another Canadian province or territory are ordinarily resident if they show sufficient other indicators of continuity and settled purpose.

Deemed Resident: In addition to those who are ordinarily resident in British Columbia, students who belong to one of the categories of persons who have been deemed resident in section 16 of the School Regulation policy are entitled to free public education and eligible for provincial operating grant funding. These include:

- a youth who has entered into an agreement with the director under section 12.2 of the *Child Family and Community Services Act* (the guardian of the student is also deemed resident), and
- an inmate of a correctional centre under the *Correction Act* or a penitentiary under the *Corrections and Conditional Release Act (Canada)*.

Other classes of persons for whom the ministry will provide operating grant funding: In addition to those who have a clear entitlement to public education under section 82, the minister will provide operating grant funding for the school age students in the categories listed below if the board of education requests funding via Form 1701.

- A student who resides in British Columbia and:
 - o who has made a claim for refugee status in Canada and whose claim has not yet been determined, or
 - o who is detained in custody in a youth custody centre.
- A student who is in British Columbia with his/her guardian if the guardian meets one of the criteria set out below. Guardians must be able to provide documentation to substantiate that they meet these criteria:
 - o has been lawfully admitted to Canada for temporary residence and is authorised to work for a period of one year or more, and is or will be employed for at least 20 hours per week;
 - o has been lawfully admitted to Canada and is authorised to study for a period of one year or more, and is enrolled in a degree or diploma programme at a public post-secondary institution in British Columbia or in a degree programme at a private post-secondary institution in British Columbia
 - o has been lawfully admitted to Canada and is authorised to study for a period of one year or more and all of the following conditions apply:
 - is enrolled in an English as a Second Language (ESL) program of up to a year in duration at an institution that has an Education Quality Assurance Designation (EQA). The ESL student will be deemed resident for up to one year only; beyond one year,

children of an ESL student will be considered international students and districts may charge international student fees;

- has been accepted to a degree or diploma programme at a public post-secondary institution in British Columbia, or a degree program at a private post-secondary institution; and
 - the acceptance is contingent upon the completion of an ESL program.
- o has been lawfully admitted to and is authorized to study in Canada, and has been awarded a multi-year scholarship that covers the cost of both tuition and living expenses for a post-secondary program that includes both an ESL component and a degree program component. The ESL component must be completed at an institution that has an Education Quality Assurance (EQA) designation.
 - o has been lawfully admitted to Canada and is participating in an educator exchange program with a public school in British Columbia
 - o is carrying out official duties under the authority of the *Visiting Forces Act* or as an accredited diplomatic agent, preclearance officer, consular officer or official representative in Canada of a foreign government with a consular post in British Columbia.

This policy is not intended to enable a person whose primary purpose for coming to BC is to attend a public school and who would normally be charged tuition fees to avoid paying those fees.

Boards are encouraged to seek their own legal advice should circumstances warrant.

PROCEDURES

1. Students who are ordinarily resident or deemed resident in British Columbia are entitled to provincial funding under section 82 of the *School Act*; boards may not charge fees for these students except in accordance with section 82 of the *School Act*. The ministry will also provide funding for other students who meet criteria set out in this policy; boards should not charge tuition fees for these students.
2. Students who are not eligible for provincial operating grant funding must be identified as "out of province/international students" on the Form 1701. Provincial education funding will not be provided for these students.
3. For exchange students – Boards receive funding only for the ordinarily resident student. During a one in/one out reciprocal and equal exchange, the non-resident student acts as a placeholder for the funded local student during that student's absence.
4. Student files should contain reference to the documentation used to support eligibility for funding. Boards of education must maintain accounts and audits in accordance with Part 8 of the *School Act*, and under section 165, the file must be available to Ministry auditors upon their request.
5. It is the responsibility of Boards of Education to ensure that the criteria for provincial education funding are met. Boards will be required to reimburse the Ministry if students who are not eligible for funding are claimed for funding purposes.

ACCOUNTABILITY Director, Funding and Compliance Branch

ASSIGNED TAGS Financial support, Educational Administration

STAKEHOLDERS

**REFERENCES/
RESOURCES**

CONTACT

If you have any questions relating to this policy, please contact Education.FundingAllocationUnit@gov.bc.ca.

**RELEVANT WEB
LINKS/
REFERENCES/
RESOURCES**

For information on international students related to independent schools, please refer to the resources available on the Ministry of Education's [Independent Schools](#) page.

For information on funding for adult students, please refer to the "Adult Funding" policy on the Ministry of Education's [Policy Site](#).

Other resources referred to in this policy include: the *School Act*, the *Family Relations Act*, the *Infants Act*, the *Divorce Act* and the *Child, Family and Community Service Act*, and Citizenship and Immigration Canada.

TRIM CLASSIFICATION

ATTACHMENTS

None