



CLEO

Community Legal Education Ontario
Éducation juridique communautaire Ontario

Immigration status and Social Assistance

Hosted by CLEO in partnership with:

Martine Cétoute, Community Legal Services of Ottawa (CLSO)
Sandra Gonzalez Ponce, Income Security Advocacy Centre (ISAC)
Gillian Reiss, Willowdale Community Legal Services (WCLS)

June 23, 2021

 **The Law
Foundation
of Ontario**
Advancing access to justice

Disclaimer

This webinar is for general information purposes only and is not legal advice. The legal information and answers provided live by our legal experts and by our staff in the Q+A are not intended to be used as legal advice for a specific legal problem. This webinar was recorded on June 23, 2021 and reflects developments in the law before that date.

Land Acknowledgement

We acknowledge that since time immemorial the land on which we live and work has been the home and traditional territory of Indigenous Peoples, including the Mississaugas of the Credit, Haudenosaunee and Wyandot, and is now home to many diverse First Nations, Inuit, and Métis relatives. CLEO's work is also carried out across the many traditional territories of this land that is also known as Ontario. We acknowledge our privilege as well as our role in the systems of colonization.

CLEO staff are learning to be better allies by participating in training about the systemic nature of anti-Indigenous racism in Canada. We are strengthening ties to Indigenous-serving organizations in order to produce information and resources that reflect the experience of Indigenous Peoples and develop training that is more relevant for and accessible to Indigenous Peoples.



CLEO

Community Legal Education Ontario
Éducation juridique communautaire Ontario

cleo.on.ca



Steps to Justice

Your guide to law in Ontario



Justice pas-à-pas

Votre guide de droit en Ontario

Stepstojustice.ca

Justicepasapas.ca



CLEO Connect

Training and tools
for community workers

Cleoconnect.ca

Immigration Status & Social Assistance

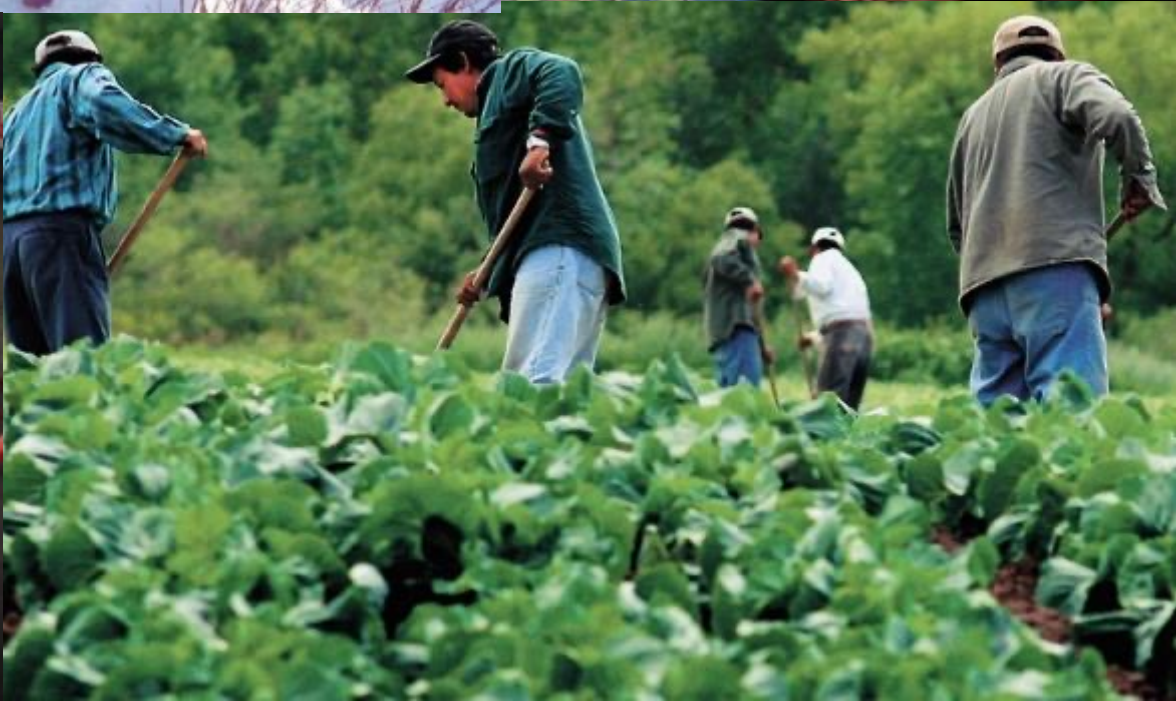
Legal Information webinar – June 23, 2021

Learning Goals

Understanding the relationship between immigration status and social assistance, including:

- Ontario Works (OW) and Ontario Disability Support Plan (ODSP)
- Immigration status
- Eligibility to Sponsor
- Sponsorship breakdown
- Systemic barriers





Immigration Status



- Canadian citizen
- Permanent resident
- Temporary status
 - Worker
 - Student
 - Visitor
 - Temporary Resident Permit (TRP)

Refugee Process

- Refugee claimant
 - Waiting for hearing or decision
 - Refugee Appeal Division (RAD)
 - Federal Court
 - Pre Removal Risk Assessment (PRRA)
- Protected person/Convention refugee



Immigration and
Refugee Board of Canada

The Backdrop....

Social Assistance Legislation

Ontario



Some people are **not eligible** for social assistance if they are:

1. Subject to an enforceable removal order, unless:
 - a. Can't leave for reasons beyond their control
 - b. Made application for Permanent Resident (PR) status - called an H & C - Humanitarian & Compassionate
2. Visitor, unless:
 - a. Refugee claimant
 - b. Made application for PR status (H & C)
3. Tourists (not defined in Immigration and Refugee Protection Act, IRPA)

Barriers getting Social Assistance

- At Social assistance offices
 - Discouraged by staff

Take home point:

People have the right to **complete and submit** their application and get a **written** decision.

- From service providers
 - Transient clients
 - Geographic boundaries

WERE YOU DENIED SOCIAL ASSISTANCE BECAUSE OF YOUR IMMIGRATION STATUS?



STEP 1: GET A DECISION LETTER

Ask the Ontario Works or Ontario Disability Support Program worker to provide you a letter in writing explaining their decision.



STEP 2: CHALLENGE THE DECISION

You have 30 days to write a letter to the office and ask for an internal review.

Need help? Need legal advice?
Contact Community Legal Services of Ottawa



**South: Tel. 613-733-0140
Downtown: Tel. 613-241-7008
West: Tel. 613-596-1641
<https://www.clsottawa.ca/>**



1. Removal Orders



- **Departure order** - Must leave Canada within 30 days
- **Exclusion order** - Must leave and can't return for certain period without permission
- **Deportation order** – Must leave and can't return without written permission from Immigration Refugees and Citizenship Canada (IRCC)
- Removal orders must be **enforceable**

Unenforceable Removal Orders

Can't be removed from Canada with a pending:

- Refugee claim
- Appeal to Refugee Appeal Division
- Judicial review at Federal Court
- Pre Removal Risk Assessment
- Application to renew: study/work permit, visitor record or temporary Resident Permit (TRP)

IF the application was submitted *on time*

Canada does not usually remove people to:

Afghanistan, Democratic Republic of Congo, Iraq – called TSR (temporary suspension of removal) countries

List of other countries (ADR - administrative deferral of removal) – changes more often

2. Visitors

Visitors are not eligible for Ontario Works (OW)
UNLESS

- they made a refugee claim
- applied for PR status based on Humanitarian and Compassionate reasons (called an H & C)

Important note about H & Cs

- Application to Immigration Refugees and Citizenship Canada (IRCC) from inside Canada
- Discretionary
- No stay of removal
- Based on **Hardship** and **Establishment**
- Best interests of the child/ren

Caution: OW is seen to go against establishment, and increases visibility.

3. Tourists

- Not defined in the law
- Social assistance policies define a tourist as a person "in Canada for a short time."
- Dictionary: "one that takes a tour for pleasure or culture."



Framing Eligibility

- Any ambiguity should favour the *applicant*
- Show they are NOT ineligible



Gathering helpful documents

- **Refugee claimants**

- refugee protection claimant document,
- notice to appear at Refugee Protection Division (RPD)
- RPD decision
- Notice to appeal to Refugee Appeal Division (RAD)

- **H & C Applicant**

- copy of cover letter
- IRCC acknowledgement of receipt
- Proof of payment of \$550 or fee for family
- Letter from their lawyer



Gathering helpful documents

- **People awaiting PRRA**
 - copy of cover letter submission,
 - document confirming served with PRRA,
 - letter from counsel,
 - proof of ineligibility, notice to appear for PRRA hearing, or letter from counsel
- **People with removal orders**
 - confirm nationality from Administrative Deferral of Removal (ADR) or Temporary Suspension of Removal (TSR) country,
 - statutory stay - unenforceable removal order
 - Canada Border Services Agency (CBSA) deferral of removal
 - Pending criminal trial

Questions?



Social Assistance & Sponsorship

What is a sponsorship? Who can sponsor*?

Immigration status:

- Canadian citizens
- Permanent residents of Canada

You can't sponsor if you have temporary resident status in Canada, or no status

*There are some exceptions

What is a financial undertaking?

Sponsors must sign a “financial undertaking”

- promise government that you’ll support your family member for a certain period of time
- required so sponsored family members won’t need to ask the government for financial support



How long is the undertaking?

The length of the “undertaking” depends on who you are sponsoring :

- Partners: 3 years
- Dependent children under 22: 10 years or age 25
- Dependent children over 22: 3 years
- Parents, grandparents: 20 years (!)
- Anyone else: 10 years



Scenario 1: Mario and Raoul

Mario has applied to sponsor his spouse, Raoul, who lives with him in Canada.

Mario receives ODSP and has included Raoul on his ODSP benefits as his spouse, but Raoul does not have a disability himself.

What will happen to Mario's application to sponsor Raoul to become a permanent resident?

Can Raoul become a PR?

Raoul is receiving social assistance through Mario's ODSP, but Raoul doesn't have a disability.

Raoul's application for permanent residence will be refused if he does not stop the spousal ODSP benefit he receives.

He can write a letter to ODSP requesting that he be removed as a member of Mario's benefit unit.

Social Assistance & Undertakings

- If a sponsored family member receives social assistance during the undertaking period, the sponsor may be found to be in sponsorship “default”
- The sponsor will be asked to repay the government the amount of social assistance their family member received

Scenario 2: Celina and Isaac

Celina sponsored Isaac who became a permanent resident in 2019.

After coming to Canada, he became aggressive and would often yell at Celina. Celina didn't feel safe, and her friends offered her help to leave him.

Does Celina have to continue to live with her husband?

Celina and Isaac

No: Celina doesn't have to remain in a relationship with her husband.

Isaac has no obligation to remain in the relationship with her either. He will not lose his status if they split up after he becomes a permanent resident.

If, after splitting up, Isaac applies for social assistance tomorrow, will Celina be in default of her undertaking?

Is Celina in default?

YES. Celina will likely be found to be in default.

However, Celina's safety and well-being is most important.

Because the government doesn't want people in Celina's situation to feel trapped, or in danger, it may agree to “defer” payment of the debt, or accept a minimum monthly payment

If Celina gets a letter saying she is in default, she should seek legal advice.

Sponsors & Social Assistance

- You can't be a sponsor if you receive social assistance for a reason other than a disability. This includes OW and other assistance, like subsidized housing
- If you don't tell immigration about any social assistance you receive and they find out, you could risk the sponsorship
- Misrepresentation can also have legal consequences for the sponsor as well

Compelling Circumstances

- Can be reasons why someone can't get off social assistance before they apply to sponsor a family member
- Must make an H & C “humanitarian and compassionate” request to explain
- Discretionary and Rare

Receiving Child Tax Benefit

- The Canada Child Benefit (CCB) is a federal program and is **not** considered “social assistance” for the purposes of immigration
- Someone receiving the CCB can sponsor while receiving the benefit



Scenario 3: Mohamed

Mohamed receives ODSP (Ontario Disability Support Program) because he couldn't work as a result of a workplace injury– he has chronic back pain and suffers from depression.

Can Mohamed sponsor his spouse while he receives ODSP?

Receiving ODSP

Yes: Mohamed receives social assistance because of a disability.

Recall:

The immigration rules allow you to sponsor if you receive social assistance because of a disability; but your family member should not be included in your benefit unit.

Questions?



COVID:19 Updates on the law and legal services



The screenshot shows the homepage of the Steps to Justice website. The header includes the logo and navigation links for Legal Topics, Guided Pathways, and Latest Updates. The main banner features the text 'Steps to Justice' and 'Step-by-step information about legal problems.' Below this is a search bar with the placeholder text 'Tell us what you are looking for'. A row of five announcement cards is displayed, with the first card titled 'Announcements' and the others providing updates on family law and elder abuse. The 'Legal Topics' section is visible at the bottom, with a blue arrow pointing to the 'COVID-19' category. The 'COVID-19' category includes links for Employment and Work, Income Assistance, and Housing Law. The 'Family Law' category includes links for Decision-making and time with children, Separation and divorce, and Child support. The 'Employment and Work' category includes links for Employment Insurance, Getting fired or laid off, and Time off work.

Steps to Justice
Your guide to law in Ontario

Legal Topics ▾ Guided Pathways ▾ Latest Updates ▾

Steps to Justice

Step-by-step information about legal problems.




Reliable, practical, and easy to understand.

Tell us what you are looking for

Announcements

- Welcome to the new look for Steps to Justice
- New Family Law Guided Pathways to change your final family law court order or support agreement
- New information on Elder Abuse
- New Family Law Guided Pathway for preparing for your trial management conference: Form 17E or TSEF

Legal Topics

-  **COVID-19**
 - Employment and Work
 - Income Assistance
 - Housing Law
 - See all
-  **Family Law**
 - Decision-making and time with children
 - Separation and divorce
 - Child support
 - See all
-  **Employment and Work**
 - Employment Insurance
 - Getting fired or laid off
 - Time off work
 - See all



Steps to Justice information:

Social assistance and immigration status:

- I don't have status in Canada. Can I get OW?
- What information do I need about my immigration status to qualify for OW?

Sponsoring family members

Income assistance



Where to get legal help?

- [Community legal clinics](#)

Where to find additional legal information:

- **Income Security Advocacy Centre (ISAC)** – specialty legal clinic with mission to address systemic issues in respect of income security programs
- **FCJ Refugee Centre (Toronto)** - [information sessions/webinars](#) for communities and front-line workers serving vulnerable newcomer, non-status and precarious migrant populations



CLEO

Community Legal Education Ontario
Éducation juridique communautaire Ontario

Campaigns

CANADA CHILD BENEFIT (CCB)

Colour of Poverty Colour of Change

ISARC Faith Communities in Action Against Poverty –

Basic Income Project

Just Recovery Ontario

Organizing around Disability issues:

ODSP Action Coalition

Defend Disability



CLEO

Community Legal Education Ontario
Éducation juridique communautaire Ontario

Thank you for joining us!

Subscribe – cleoconnect.ca/subscribe/

Watch [past Covid-19 “hot legal topic” webinars](#)

Steps to Justice – stepstojustice.ca/legal-topic/covid-19/



Photo credits from Slide 3:

- Migrant workers: [The Western Producer, September 10, 2020](#)
- Woman with two children: [Canadian Council for Refugees \(CCR\) website:](#)
- RCMP officer holding child: [CTV Paul Chiason the Canadian press, Feb.17, 2017](#)
- Caregiver protesting: [NB media, December 17, 2014](#)