



SD10 (Arrow Lakes) District Protocol

Eligibility of Students for Operating Grant Funding

Overview:

This protocol has been developed to ensure best practices and compliance of the requirements for enrollment of students that are eligible for Operating Grant Funding. This protocol has been developed in conjunction with ***School District Protocol G-10 Student Enrollment***, and should be referenced as required and at the time of student enrollment.

The Ministry of Education provides operating grant funding to boards of education that enroll:

- children who, along with their guardian(s), are **ordinarily resident** in British Columbia
- children who are deemed ordinarily resident in BC under the School Regulation
- other children who meet criteria as set out in this protocol

Boards of education must determine, in a fair and even-handed manner, whether an applicant falls within the definition of “ordinarily resident” for the purposes of Section 82 of the School Act.

For a complete listing of terms and definitions please refer to the last section of this protocol.

‘Ordinarily Resident’ in British Columbia

1. The courts have interpreted the term ‘ordinarily resident’ in this context by assessing whether the applicant has:
 - a. a ‘settled purpose’ for taking up residence in the community; and
 - b. sufficient continuity of residence, despite temporary absences.
2. 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.
3. 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.
4. The following proof of ‘ordinary residence’ is required for boards in making the determination of whether a person is ordinarily resident in BC which must be available at the time of registration:
 - a. Income Tax filed as a BC resident
 - b. BC Drivers Licence
 - c. BC Care Card
 - d. 18-24 month Lease or Ownership of Property in BC
 - e. Utility Bill for Residence in BC
5. Where additional information is requested to support proof of ‘ordinary residence’ the following information may be provided:
 - a. residence of spouse, children and other dependent family members in the dwelling

- b. employment within the community
 - c. provincial registration of automobile
 - d. Canadian bank accounts or credit cards
 - e. links to community through religious organizations, recreational and social clubs, unions and professional organizations
 - f. subscriptions for life or health insurance, such as MSP coverage
 - g. business relationships within the community.
6. A person need not be a Canadian citizen or permanent resident to be 'ordinarily resident' in BC for the purposes of Section 82 of the School Act. 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.

Resident under Section 16 of the School Regulation

7. Students are also entitled to free public education and are eligible for provincial operating grant funding if they belong to one of the categories of persons who have been deemed resident under Section 16 of the School Regulation. These include
- a. a youth who has entered into an agreement with the director under section 12.2 of the Child Family and Community Service Act (the guardian of the student is also deemed resident), and
 - b. 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 Approved for Operating Grant Funding

8. In addition to those who have a clear entitlement to public education under Section 82 of the School Act, the minister will provide operating grant funding for school age students in the categories listed below if the board of education requests funding via Form 1701. Boards are encouraged to seek their own legal advice should circumstances warrant.
- a. A student who resides in British Columbia and
 - i. who has made a claim for refugee status in Canada and whose claim has not yet been determined or
 - ii. who is detained in custody in a youth custody centre.
 - b. A student who is in British Columbia with his or 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:
 - i. 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;
 - ii. 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

- iii. 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:
 - a. The parent or guardian 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 adult 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.
 - b. The parent or guardian 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.
 - c. The acceptance to the degree or diploma program is contingent upon the completion of an ESL program.
- iv. 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.
- v. has been lawfully admitted to Canada and is participating in an educator exchange program with a public school in British Columbia.
- vi. 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.

Related Legislation and or Other Documents

- [Ministry of Education Policy - Eligibility of Students for Operating Grant Funding](#)
- [Section 16 of School Regulations – Deemed Residence](#)
- [SD10 Protocol – Student Enrollment](#)

Definitions:

Ordinarily resident for funding purposes – Section 82(1) of the School Act 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."

Ordinarily Resident– The term "ordinarily resident" is not defined in the Act. However, it 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.

Guardianship – The term "guardian" is defined in section 1 of the School Act to mean a guardian within the meaning of the [Family Law Act](#) or a personal guardian within the meaning of the [Infants Act](#).