

DIRECTIVE #3.5: APPLICANTS/PARTICIPANTS UNDER THE AGE OF 18

LEGISLATIVE AUTHORITY

Section 17 of the Act

Sections 2 and 10 of Regulation 134/98.

Section 31 of the *Family Law Act*.

AUDIT REQUIREMENTS

Notation on file supports decision of eligibility including existence of special circumstances, appropriate living arrangements, and attendance at school or a training program.

School attendance for an applicant/participant under the age of 18 is verified at application and at least once every 12 months.

The *Declaration of Support and Maintenance* (Form 2212) is completed and on file where voluntary support has been negotiated with either parent or both.

Financial assistance is not paid directly to applicants or participants under the age of 18.

APPLICATION OF POLICY

The provision of assistance to an applicant under the age of 18 is determined by the Administrator based on the individual circumstances of the case. It is recognized that this age group of applicants may require special services. The provision of assistance is aimed at protecting these applicants while respecting the integrity of the family unit.

An applicant under the age of 18 who does not reside with his/her parents is eligible for assistance if all of the following criteria are met:

- the Administrator is satisfied that special circumstances exist requiring the applicant to live outside the parental home;
- the applicant is in full time attendance at school or an institution, or is in full-time attendance at an approved training program with no unjustified absences; and

- all other conditions of eligibility for Ontario Works are met (e.g. income and assets, etc.).

As a condition of eligibility, the Administrator may require:

- regular contact with a responsible adult or community agency;
- participation in counselling; and/or
- participation in the Learning Earning and Parenting Program (LEAP) (see Directive #8.2: LEAP for more information).

If the applicant under the age of 18 has a dependent child, he/she must also make reasonable efforts to obtain any financial resources to which they or their dependent may be entitled, including the Ontario Child Benefit (OCB) and National Child Benefit Supplement (NCBS). These applicants may also be eligible for the Transition Child Benefit (TCB) if they do not qualify for the full OCB and/or NCBS amounts (see Directive #2.1: Application Process and Directive #7.7: Transition Child Benefit for more information).

The Administrator must appoint a trustee for all recipients under the age of 18. Assistance is paid to the trustee on behalf of the recipient (see Directive #3.6: Trusteeship for more information).

Special Circumstances

There are four factors that must be considered during the application process to determine if special circumstances exist.

1. Physical, Emotional or Sexual Abuse

An applicant under the age of 18 may be experiencing physical, emotional, and/or sexual abuse while living at home with his/her parents. If the Administrator is satisfied that remaining in the home could further harm the physical, social or psychological development of the applicant, he/she may be eligible for assistance.

Documentation or medical evidence from a third party, such as a guidance counsellor, social worker, teacher, doctor, police, clergy, neighbour, or a relative (including siblings) is acceptable as verification of abuse. Referral to a health or social service professional may be appropriate to assist in the determination of abuse. Confidentiality of the applicant must always be considered and maintained, and provincial and municipal guidelines on family violence must always be followed.

Where there is no clear documentation of abuse at the time of application, assistance may still be issued to the applicant. The applicant will be expected to establish the claim of abuse within a period of one month. If abuse is not established within one month, the applicant is immediately referred for counselling, and may be deemed ineligible for assistance. However, if the applicant remains in counselling, the Administrator may extend the provision of assistance beyond one month to allow for time to substantiate the abuse.

2. Irreconcilable Differences and Clearly Demonstrated Withdrawal of Parental Support

In some situations, the applicant may indicate that he/she has irreconcilable differences with his/her parents and has, as a result, been asked to leave the home on a permanent basis. If it is determined that irreconcilable differences between the applicant and his/her parents exist, the applicant may be eligible for assistance.

Reasonable disagreements over parental rules or sibling rivalries do not constitute special circumstances. In situations where the parents are willing to have the applicant return home with conditions/parental rules (e.g. regular school attendance, reasonable curfew, etc.), eligibility for assistance should be denied and the applicant should be encouraged to return home.

Disagreements between an applicant and his/her parents over opinions and expectations may result in significant family pressures. Details of the parental opinions and expectations in question should be investigated with both the parents and the applicant. Where the parents are willing to participate, the Administrator may wish to refer the applicant to family counselling to see if the differences can be resolved before deciding special circumstances exist.

Withdrawal of parental support includes situations in which the parents are not providing financial support to the applicant living outside the home. In these situations, the Administrator will require that court action be commenced against the applicant or recipient's parents in order to obtain financial support. The applicant may be eligible for assistance pending receipt of the court-ordered financial support, however he/she must agree in writing to reimburse the delivery agent for the financial assistance paid to him/her once the parental support is received (see Directive #5.2: Assignments and Directive #5.5: Family Support for more information).

If the applicant's family cannot provide adequate financial support due to financial hardship, the family should be encouraged to apply for assistance as a benefit unit, rather than having the applicant leave the family home.

3. Parent's Inability to Provide Adequate Care and Support

A parent's inability to provide adequate care and support to the applicant due to the parent's own personal circumstances (e.g. drug or alcohol abuse, emotional instability, incarceration, etc.) may be considered to be special circumstances, and the applicant may be eligible for assistance.

4. No Familial Home or Financial Support Available Through No Fault of the Applicant

Situations where there is no familial home because the applicant's parents are deceased or have abandoned the applicant may be considered special circumstances in which an applicant may be eligible for assistance.

There may also be situations in which no financial support is available through no fault of the applicant, and the parents are unable to keep the applicant at home (e.g. financial hardship, overcrowding, severe medical problems, etc.). Where applicable, the parents of the applicant should be contacted to verify the situation. In such situations, the family may be eligible for financial assistance and should be encouraged to apply for assistance as a benefit unit, rather than having the applicant leave the family home.

Verification of Special Circumstances

In situations where special circumstances are clearly evident (e.g. confirmation from a Children's Aid Society), it is not necessary to contact the parents, undertake an assessment of family circumstances or seek further third party verification in order to confirm the applicant's circumstances.

Parental Contact

Where appropriate, a parent or legal guardian is contacted to verify the applicant's circumstances using the following methods:

- by telephone or, if they live in the area, in-person interview;
- by requesting the co-operation of the Administrator for the geographic area where the parents reside; or
- by letter (especially if the parents reside outside Ontario) to determine why the applicant left home and whether the applicant would be allowed to return home.

Parental contact is waived where an applicant exhibits signs that they have been under some form of physical, emotional, or sexual abuse in the family home or where there is a recognized safety risk to the applicant.

Assessment of Family Circumstances

To determine if special circumstances exist, the Administrator may require an assessment of family circumstances by a youth or family counselling agency or service. Where youth or family counselling agencies or services are not available, the assessment can be conducted through other applicable third party information. This may include verbal or written information obtained from school officials (e.g. principals, guidance counsellors, etc.), medical doctors and other health professionals, public health officials, or other family members.

Where appropriate, the applicant's parents are encouraged to participate in the assessment. During the initial stages of the assessment it may be determined that family counselling would be an appropriate direction to pursue if the parents are willing to participate. In these situations, a referral to a family counsellor or other professional could be made.

In situations where the parent refuses to participate in the assessment, or there is reason to believe that direct contact between the applicant and the parent could put the applicant at risk, the assessment must be completed only between the applicant and the agency staff. An applicant under age 18 cannot be denied assistance because of parental refusal to participate in the assessment process.

Where possible, third party sources of payment for the assessment must be pursued. For example, the parent may have access to an employee assistance program at their workplace.

Third Party Verification

In situations where the parent is unable to be contacted, refuses to participate, or parental contact is waived, third party verification is acceptable. Third party verification is given the same weight as parental contact when determining if special circumstances exist.

Third party verification may include information received from either a school guidance counsellor or family counsellor, or through contact with the Children's Aid Society, police officers, physicians or other legal and medical authorities.

Confidentiality

The confidentiality of an applicant under the age of 18 must be maintained at all times. The caseworker must meet the requirements of the *Municipal Freedom of*

Information and Protection of Privacy Act (MFIPPA) concerning the release of personal information pertaining to the applicant.

The *Consent to Disclose and Verify Information* form provides the authority for the Administrator to obtain information needed to determine eligibility; however, prior to any parental contact or contact with a third party, permission must be sought from the applicant. Caseworkers must advise the applicant that their address or information about their location will not be disclosed during parental contact to ensure that they are not put at risk.

Living Arrangements

Once special circumstances have been established, the Administrator must determine if the applicant's living arrangements are conducive to meeting all of the conditions of eligibility regarding education or training and, where applicable, care for the applicant's dependents. Where possible, the applicant should be encouraged to live in a family or adult-supervised environment where emotional support and guidance is readily available (e.g. boarding with a relative or friend).

Where special circumstances exist due to a lack of financial support from the applicant's parents, the Administrator must consider the appropriateness of the parental home compared to the alternative living environment being proposed by the applicant. Where the applicant is living in self-contained quarters in the parent's home or in a separate residence owned by the parent, it may be viewed that financial support by the parents exists, and special circumstances would not apply.

In situations where the applicant appears to be in a crisis, and there are no other living arrangements and/or the applicant is currently living with his or parents, a referral to an interval or transition home for family violence, a youth hostel, or an emergency shelter may be appropriate (see Directive #2.7: Emergency Hostel Services and Directive #3.2: Residential Arrangements for more information).

Attending School or an Approved Training Course

An applicant or participant under the age of 18 who does not reside with his/her parents and who has not completed high school or high school equivalency must be in full-time attendance at school in order to be eligible for assistance. The law requires that a child be attending school up to age 18 or until he/she has graduated.

An applicant or participant under the age of 18 who has completed high school or high school equivalency must be in full-time attendance at a training program approved by the Administrator.

Exceptions to School or Training Program Attendance

There are four exceptions to full-time attendance at school or in a training program.

1. Medical or mental health treatment is required by the applicant or participant.

If an applicant or participant has left an abusive home and requires medical or mental health treatment, he/she may be excused from attending school or a training program during the treatment period specified by the health professional or institution administering the treatment.

2. No child care is available for the applicant or participant's dependent(s).

The Administrator must be satisfied that a lack of child care is preventing the applicant or participant from attending school or a training program.

3. Inability of the applicant or participant to commence school or a training program due to reasons beyond his/her control.

The commencement times for schools or training programs may vary, they may be in a period of summer or other breaks, or there may be waiting lists. In such situations where there is a delay in the start of school or training programs, the applicant or participant must verify that they have registered for admission. During the period between registration and commencement, the applicant or participant is entitled to the provision of assistance but is required to participate in employment or appropriate employment assistance activities.

An applicant or participant who is employed during a period of justifiable non-attendance at school or an approved training program is entitled to earnings exemptions (see Directive #5.3: Earnings Exemptions for more information).

4. The applicant or participant has accessed emergency hostel services.

If the applicant or participant has accessed emergency hostel services, he/she is not required to attend school or a training program on a full-time basis until his/her living conditions have stabilized.

Attendance

Verification is required to ensure that dependent children are attending school or an approved training program. School attendance may be verified through completion of the *School Attendance* form (Form 2221), a letter on school letterhead, a current report card, the school attendance register or other official documentation from the school or school board. School attendance should be

verified at application and at least once every 12 months. Monitoring supports a collaborative relationship with the participant and allows for issues and appropriate interventions to be identified early to avoid situations that may impact eligibility.

Justified Absences

Absences due to illness, religious days, statutory holidays, lack of transportation, inclement weather, or where the school or program has been closed for the day are examples of a justifiable absence. Other justified absences could include exceptional circumstances, such as a death in the family or the serious illness of a family member.

School boards may vary in their policies on the number of days a student may be ill before requiring a note from a doctor. These usually range between three and five days. If the school board accepts the student's illness as reason for absence, the absence is considered "excused". However, if the school board questions an illness and requires medical notes for subsequent absences, the participant may be required to provide a copy of such documentation to the Administrator to determine ongoing eligibility.

A temporary suspension or expulsion from school may also be considered a justified absence where the Administrator is satisfied that there is a plan to return to school at the earliest opportunity.

Unjustified Absences

Though unjustified absence policies may vary between delivery agents, they should not deviate significantly from the absence policy of the local school board.

Despite local policy, some situations may call for flexibility to allow for individual circumstances. In situations involving poor attendance, there may be barriers to academic achievement (e.g. language skills) that must be explored further with school authorities and the participant. Each case is assessed on its own merit. The rules around unjustified absences and other ineligibility reasons, and the consequences thereof must be clearly explained and understood by the applicant or participant.

A participant is ineligible for assistance effective the month following an unjustified absence from school or a training program. For example, if the Administrator determines in November that the participant's absence is unjustified, then assistance is cancelled in December.

If an applicant or participant under the age of 18 has been determined to be ineligible for assistance as a result of not attending school or a training program, he/she may reapply for assistance if they agree to comply with all conditions of

eligibility, including full-time attendance at school or a training program. Verification that the applicant will be returning to school or a training program, such as a letter on the appropriate letterhead, identifying the applicant's date of enrolment is required.

Summer Holidays

An applicant or participant under the age of 18 who is determined to be attending school full time during the regularly scheduled school year must participate in employment or employment assistance activities if enrolment in summer school is unnecessary. If the applicant or participant is employed during the summer months, earnings exemptions are applicable.

Part-time Jobs

A participant under the age of 18 who is attending school or a training program and is employed part-time is entitled to earnings exemptions.

Other Conditions of Eligibility

Contact with Responsible Adult or Agency Staff

As a condition of eligibility, the Administrator may require an applicant or participant under the age of 18 to maintain contact with a responsible adult or with a staff person of a community agency. The amount of regular contact required between the applicant or participant and the responsible adult or agency staff involved will vary depending on individual circumstances.

A responsible adult or agency staff person helps to ensure the environment the participant is living in meets eligibility requirements (e.g. full-time attendance at school). The responsible adult or agency staff person also helps to ensure that assistance is being used appropriately by the participant.

The responsible adult or agency staff person is required to notify the Administrator if it appears that the participant's living arrangements are not meeting conditions of eligibility.

Participation in LEAP (Learning Earning and Parenting)

Participation in LEAP is mandatory for parents aged 16-17 who have not completed high school and who are Ontario Works participants or are part of a benefit unit receiving financial assistance under Ontario Works (see Directive #8.2: Learning Earning and Parenting for more information).

Pursuit of Financial Support

Where the delivery agent is providing assistance to a participant under the age of 18, voluntary financial support must be negotiated if parents are capable of providing it. Where support is available from the parents, the *Declaration of Support and Maintenance* (Form 2212) must be completed. If a voluntary contribution to support the participant cannot be negotiated, an application may be made to the Ontario Court, Provincial Division for an Order for Support (see Directive #5.5: Family Support for more information).

In all instances where support is being sought, the participant must not be put at risk. An application to the court for support is not a prerequisite for assistance once special circumstances have been determined.

When pursuing court-ordered parental support, each situation must be considered on its own merits, taking into account the individual circumstances of the participant, and noting that there is a parental obligation to support the child under section 31 of the *Family Law Act*.

In interpreting section 31 of the *Family Law Act*, the courts have taken the position that withdrawal from parental control means a voluntary withdrawal from parental control by a child age 16 or older. This means that the child must have left of his/her own free choice.

Treatment of Couples

An applicant under the age of 18 who is in a spousal relationship is eligible for assistance if all other eligibility criteria are met.

An applicant under the age of 18 who is in a spousal relationship must attend school or a training program to meet eligibility requirements. If one member of the benefit unit is employed and the other is in school or a training program, the couple may be eligible as a benefit unit.

In situations where one or both members of a spousal relationship are under the age of 18, both persons must meet the eligibility criteria for applicants under the age of 18, and any assistance issued must be provided to a trustee. In addition, the Administrator must be satisfied that a spousal relationship exists (see Directive 3.3: Co-residency for more information).

In situations where the applicant is over the age of 18, and his or her spouse is under the age of 18, only the spouse under the age of 18 must meet the eligibility criteria for an applicant under the age of 18. A trustee is not required in this situation.

Applicants under the Age of 16

An applicant under the age of 16 who has a dependent and who does not reside with his/her parents may be eligible for assistance if he/she meets the applicants under age 18 criteria.

An applicant under the age of 16 who has a dependent and who does reside with his/her parents may be eligible for assistance on behalf of his/her child (see Directive #3.9: Dependent Children for more information).

The following are not eligible for assistance:

- A single applicant under the age of 16 who does not reside with his/her parents; or
- An applicant and his/her spouse both under the age of 16 who does not reside with his/her parents.