



**FORWARD
TOGETHER**

CESBA Conference 2024

December 4-5

CELEBRATING 25 YEARS

**AVANCER
ENSEMBLE**

Conférence de CESBA 2024

4-5 décembre

CÉLÉBRONS NOS 25 ANS

Approaching Adulthood: Intersecting Legal Issues Impacting Access to Education

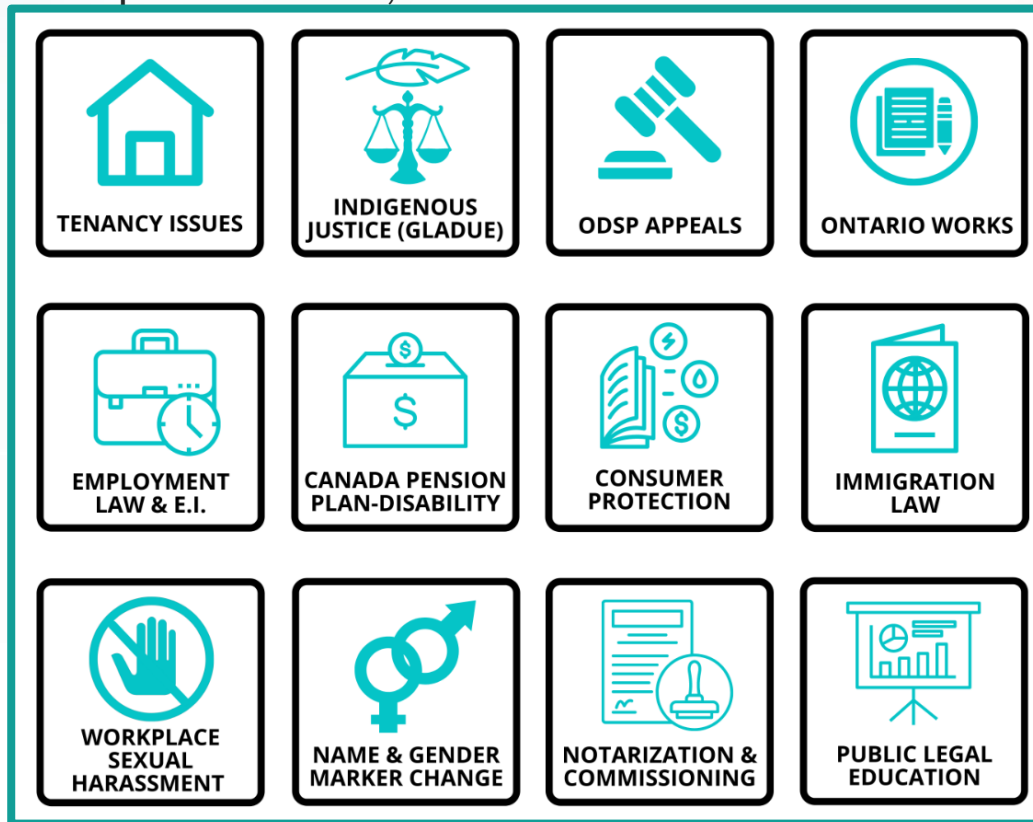
Presenters: Kaffie Abdirashid & Allison P. Williams



Legal Aid Ontario

- Certificates for private bar lawyers
- Legal clinics (independent): **General & Specialty**

Example of services, Waterloo clinic:



Examples:

- Aboriginal Legal Services
- ARCH Disability Law Centre
- Black Legal Action Centre
- **Community Legal Education Ontario**
- HIV & AIDS Legal Clinic
- Income Security Advocacy Centre

Full list of LAO funded clinics:
www.legalaid.on.ca/legal-clinics-list/



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Justice for Children and Youth

- Legal Clinic, non-profit / registered charity
- Legal services in Ontario to young people under 18; and to people experiencing homelessness or with precarious status under 25
- Staff of 22, with 9 lawyers
- Experts on the legal issues as uniquely experienced by children and youth
- Most comprehensive services to those facing complex legal, personal and social issues
- Trauma-informed, multidisciplinary legal services & supports

www.JFCY.org

Justice for Children and Youth - x +
https://jfcy.org/en/

Hide website

JUSTICE
FOR CHILDREN
AND YOUTH

I Need Help Get Involved Donate Now Contact Us Français

Who We Are Specialized Legal Programs **Your Legal Rights** Our Resources

Legal services for young people
under 18 and **up to 25** for
homeless or **undocumented**
young people in **Ontario**

Speak to a Lawyer Learn my rights Find resources

Legal rights
content
&
Publications
for download

Justice for Children and Youth

Four types of services:

1. Direct Client Representation
2. Law Reform: test cases* & systemic advocacy
3. Public Legal Education
4. Community Development

*e.g. interventions in Supreme Court of Canada cases on the interpretation and application of the law; Voting Age Challenge

Direct Services to Children and Young People

- We represent children across a range of legal subjects, including:
 - criminal justice, education, health and mental health, human rights, privacy, family and child protection, violence - victimization, homelessness (many unique legal issues), housing, social and financial support, immigration, and more.
- Not just cases in court – advocacy related to legal rights and obligations

Subject Areas of Law

Youth Criminal Justice

- The Police
- Bail
- Right to a Lawyer
- Detention
- EJM & EJS
- Court Process
- Sentencing Process
- Sentences
- Youth Records
- Appeals

Education

- Attendance Rights
- Special Education
- Suspensions
- Expulsions
- Exclusions

Leaving Home

- Rights
- Financial Support & Social Assistance
- Shelters
- Tenants

Immigration

- Childhood Arrivals
- System Navigation

Health & Mental Health

- OHIP & IFHP
- Consent & Privacy
- Decisions & Capacity
- Psychiatrist Facilities
- Secure Treatment

Discrimination & LGBTQI2S Rights

- Human Rights & making a claim
- Legal Rights
- GSA & LGBTQ-Specific School Groups
- Trans-Inclusion & Gender Segregated Spaced
- Government-Issued ID

Provincial Offences

- Tickets
- Trespassing
- Panhandling
- Parks
- Alcohol

Violence

- Family violence
- Sexual Violence

Hot Topics

- Age Based Laws
- CICB

- Cannabis
- Police Stops & Searches
- Police Complaints
- Security Guards
- Shoplifting Demand Letters
- Sexual Activity
- Streets & Sidewalks

Child Discipline, Protection & Custody

- Corporal Punishment “Spanking”
- Children’s Aid Society
- Child Protection Court
- Custody & Access

Homeless Youth Over 18

- Warrants
- Criminal Court
- Adults Records
- Record Suspensions
- Immigration
- Victims of Crime
- Small claims court
- Mental health



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YWF: Services for Victims of Sexual and Family Violence



Includes young people exploited in sex trade (HT)

Wide range of legal services:

- Advice re police contact / reporting
- Court cases (criminal & family) – victim witness, restraining orders, sibling access, \$ support, etc.
- Name change, return of possessions, provincial offences



Education Advocate & Navigator

- Direct service to the **Toronto Northwest Justice Centre**
- JFCY lawyer & social worker
- Services for youth charged with criminal matters in Toronto Northwest who also have education law matters
- Education law not often thought of as a legal issue
- Education law matters benefit from legal advice
- Students facing disciplinary action require legal advice



Childhood Arrivals Support and Advocacy Program

Up to 25 years old who are without immigration status or who have precarious immigration status. CASA supports include:

- Free legal information and advice from JFCY lawyers
- Connections to lawyers at other clinics and law firms
- Help with Legal Aid applications
- Help navigating the immigration & education system
- Help accessing services such as healthcare and education (including postsecondary)
- Connection to other supportive agencies and programs
- Law reform and systems-change advocacy





Realities of the Immigration Process

- It can be very long and complex
- There's no firm timeline for application processing
- Processes, procedures, and pathways at IRCC can change
- Children are often included as dependents on parents or other adults applications, but sometimes need to navigate the system on their own (e.g. unaccompanied or separated minors)
- Immigration laws can intersect with many other laws and complicate or bar access to other systems like education, healthcare, youth criminal justice, financial supports, etc.

The Impact of Immigration Precarity on Educational Outcomes

- Academic impacts
- Mental and Emotional Impacts
- Extracurricular impacts
- Social impacts



Ontario's *Education Act* - Legal Framework for School Access

- Education Act 49.1 Persons unlawfully in Canada: *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.*
- Fees - Section 49(6) of the *Education Act* (6) - *Despite any other provision of this Part but subject to subsection (7), if a board admits to a school that it operates a person who is a **temporary resident** within the meaning of the *Immigration and Refugee Protection Act* (Canada) or a person who is in possession of a study permit issued under that Act, the board shall charge the person the maximum fee calculated in accordance with the regulations.*
- (7) exceptions – *a person if his or her parent or someone else with lawful custody of him or her on a TRP, work permit, study permit (publicly funded institution), has PR, or has made a ref claim or a PR claim*

Legal Framework for Education Access (K-12)

- Ontario's Ministry of Education, and some Ontario school boards, also have memorandums and policies designed to help operationalize the *Education Act*.
- Note Ministry Memo [2024:SB16](#) - **Updated Guidance on Policies and Supporting Documentation related to Pupil Residency and Eligibility Status for Tuition Exemption**
- However, it's important to note that those policies or memorandums do not supersede, change, or overwrite the *Education Act* – the Act is the law that all school boards are bound to follow.

WHAT ABOUT ACCESS FOR STUDENTS WITHOUT STATUS OVER THE AGE OF EIGHTEEN?

What about students who are over 18?

Education Act 49.1 Persons unlawfully in Canada: *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.*

What about students who are over 18?

Ministry Memo [2024:SB16](#)

With respect to adult learners:

- *The status of most adult students is to be evaluated based on their own qualifications for a tuition fee exemption under subsection 49(7).*
- *If the adult student is under lawful custody of a parent, they may qualify under additional 49(7) exemptions. In this case the school board must see evidence of the lawful custody arrangement.*
- *School boards are advised to seek advice from their legal counsel when interpreting the requirements as set out in the Education Act.*

Post-Secondary Education Access

Life after high school – everything changes for everyone...

Postsecondary education

- Student visas
- International vs domestic fees
- OSAP and bursaries



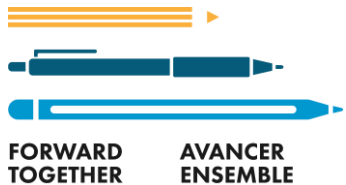
Access programs

- York University
- Queen's University
- Toronto Metropolitan University

Resources for Young Adults with Precarious Status seeking further Education

- Legal advice & resources: [JFCY](#), [local legal clinic](#), [LSRS](#), [OJEN](#), [CLEO](#), [Steps to Justice](#), etc.
 - Careful around information gathering and student privacy
 - Being aware that some students might not be included in opportunities or services because of status issues
 - Being aware of status when talking about life after high school
- [S4 Collective](#): A group of current and past Sanctuary Students who have a common goal—education for all regardless of immigration status;
- Educational programming under six-months in duration

Youth Criminal Justice Act & Adults



YCJA & Privacy

- Privacy is a critical underlying principle to YCJA
- There is a complicated scheme that deals with publication, access, disclosure, and time periods for access
 - ✓ Publication is prohibited
 - ✓ Access is limited and prohibited
 - ✓ Disclosure is similarly limited and prohibited
 - ✓ Time limits are imposed – extension of which can only be made by order of a Youth Court

Youth Records – Disclosure to Schools / Boards

Schools and school boards can have access to youth records in limited circumstances:

- **s. 125(6)**... may disclose to any professional or other person engaged in the supervision or care of a young person – including a representative of any school board or school ... any information ... if the disclosure is necessary
 - a) to ensure compliance by the young person with an authorization under section 91 or an order of the youth justice court;
 - b) to ensure the safety of staff, students or other persons; or
 - c) to facilitate the rehabilitation of the young person.

School / Board Use of YCJA Information

- The record cannot be used to punish the student or restrict their access to an education
- A principal or school board cannot rely on these records for the purpose of a discipline or other administrative or court proceeding without obtaining a court order from youth court

School/ Board Receives YCJA Information Illegally or Inappropriately

- The information cannot be kept by the administrator and all copies should be destroyed
- The administrator cannot use this information to inform the educational services being offered to the child
- The administrator cannot disclose this to any other members of their staff
- Criminal offence – s.138, YCJA

Youth Records

When does a Youth Record from a criminal charge become sealed?

How can a Youth Record become part of an Adult Criminal Record?

What are the implications of Youth Records for student's career aspirations?



Youth Records: not sealed at 18

- Extrajudicial sanction (EJS): 2 years after you agree to the sanction
- Found not guilty: 2 months after the deadline for an appeal. If appealed, you have to wait longer
- Charges dismissed or withdrawn, or the judge gives you a reprimand: 2 months
- Charges are stayed: 1 year
- Absolute discharge: 1 year from day found guilty
- Conditional discharge: 3 years from day found guilty

- Found guilty [see *next slide*]

Youth Records: When Sealed if Guilty?

If found guilty, sealing dates depends on category of offence and date the sentence ended:

- **Summary offences: 3 years** from end of sentence
- **Indictable offences: 5 years** from end of sentence

* If found guilty of another offence before the time has expired on your first record, then the time will start running again.

To Disclose or Not to Disclose

- YCJA privacy protections in place
- However, regulators may ask the applicant to disclose whether they have ever been found guilty of offence contrary to the YCJA
- Get legal advice
- [A.B. v LSO](#)

Tell us what you think!

Visit:

www.cesba.com/2024surveys

or use the QR code to share feedback on this workshop.



Thank you

Merci



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