

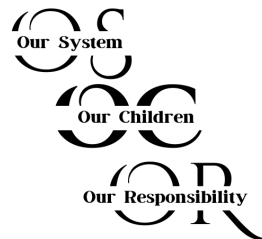
Temporary and Permanent Residence Pathways for Child Welfare Survivors

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Wednesday September 25, 2024

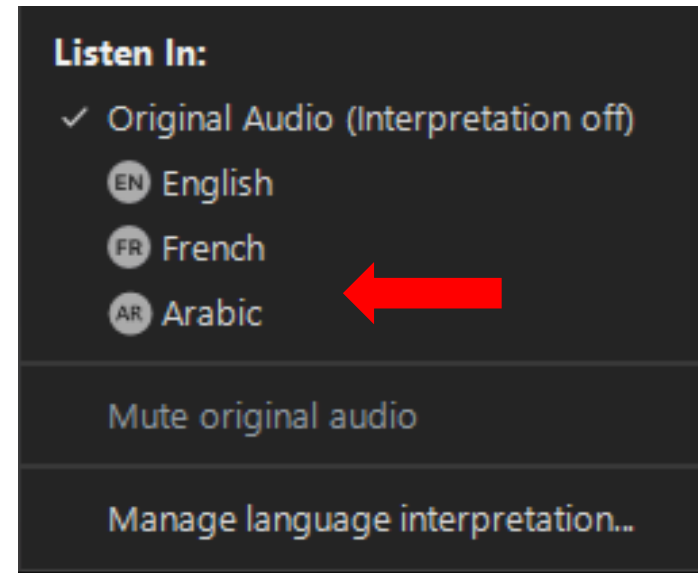
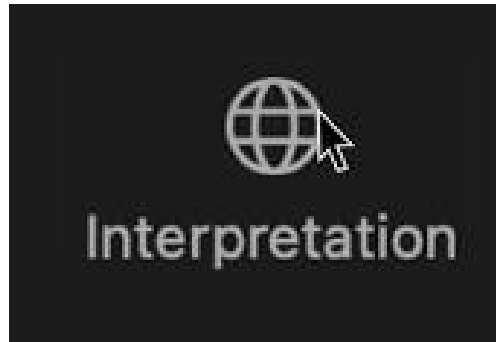
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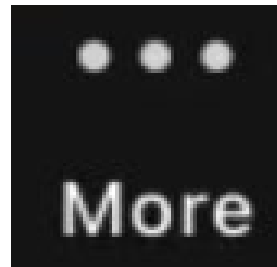
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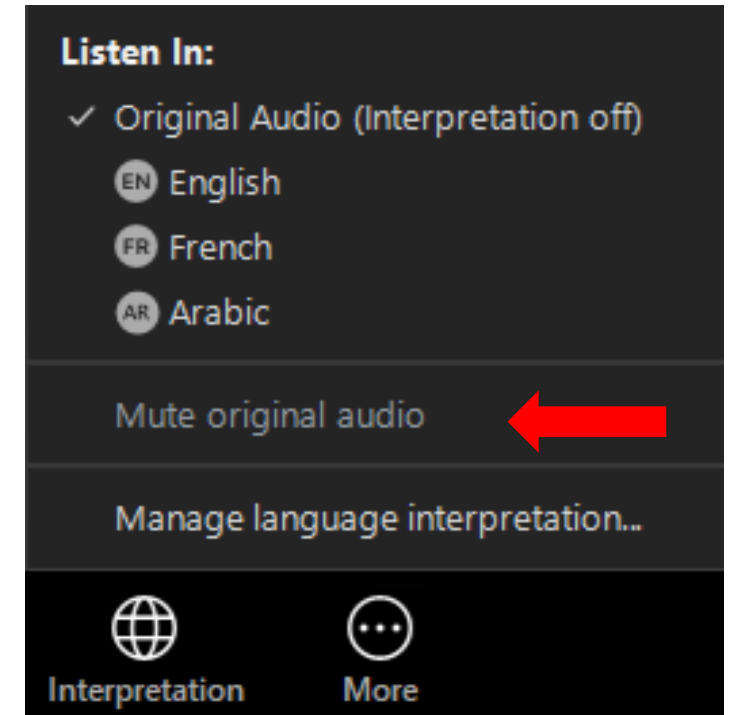
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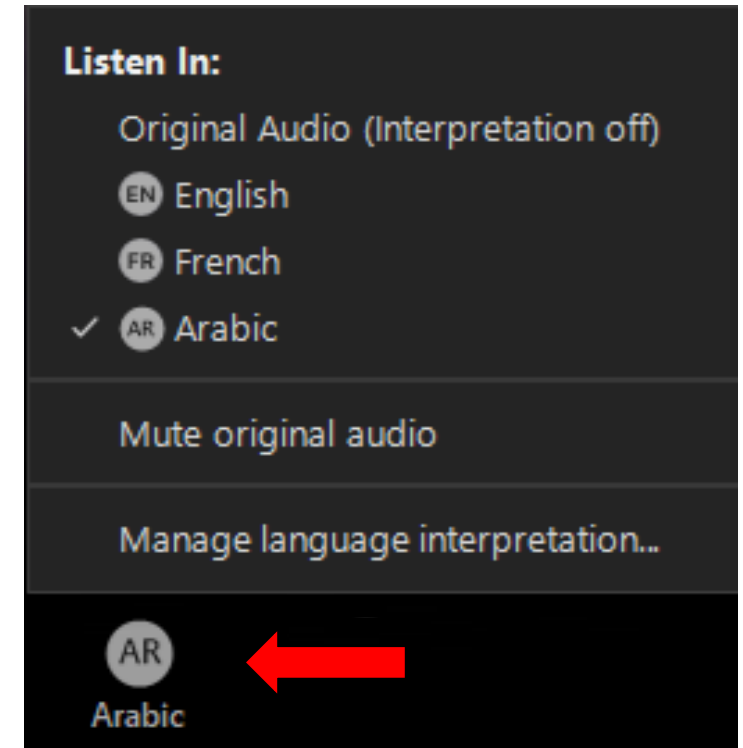
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What you can expect today



- 90 minutes in total (presentation and two Q+A sessions).
- This webinar contains legal information, not legal advice.
- The information is current as of today's date, September 25, 2024.
- A link to the recording and slides will be sent out afterward.
- ASL interpretation is available today. Closed captioning is also enabled.

Land acknowledgement



CLEO acknowledges that our office is located on the traditional territory of many nations, including the Mississaugas of the Credit, the Anishinaabeg, the Chippewa, the Haudenosaunee, and the Wendat.

This territory is subject to the Dish with One Spoon Wampum Belt Covenant, an agreement between the Haudenosaunee Confederacy, the Anishinaabeg, and allied nations to peaceably share and care for the land and its resources. Today, this area of Tkaronto, also known as Toronto, is covered by Treaty #13 with the Mississaugas of the Credit.

Immigration programs for child welfare survivors

Introduction

Two immigration programs specifically for child welfare survivors:

1. Permanent Residence Pathway for child welfare survivors
2. Temporary Residence Permit for child welfare survivors

Steps to Justice Question: I moved to Canada as a child and was taken into care. Can I stay here permanently?



Why these programs are important

- They're for people **who came to Canada as children** and were taken into the care of a child protection agency or authority.
- These agencies must give children the care that we expect of a parent. This includes applying to get them permanent residence and Canadian citizenship.
- They sometimes **failed** to do this. As a result, there are people who were in care as children that are now **at risk of being removed from Canada**.
- Black people are more likely to have been affected by this. This is due to **Anti-Black racism** in the child protection, police, immigration, and court systems.



Background

The Government of Canada created these programs after groups fighting for justice asked for them. This advocacy work included:

- 2021: Coalition letter to Ministers on immigration removals and anti-Black racism
- 2022: Launch of *Our System, Our Children, Our Responsibility: A Campaign Against the Deportation of Child Welfare Survivors*
- 2023: Temporary resident permit for people who were in state care
- 2024: Permanent residence pathway for people who were in state care



Permanent residence pathway for people who were in state care

Overview of permanent residence pathway

- A person might qualify for **permanent residence** (PR) under this pathway if **both** of the following conditions are met:
 - they came to Canada under the age of 19
 - a child protection agency or authority in Canada was legally responsible for their care for at least one year
- There is no cost to apply.
- They can also apply for eligible family members.
- The pathway is **temporary**. A person must apply by **January 21, 2027**.
- You apply by sending in signed forms and documents on paper.



Who is eligible

A person may qualify for permanent residence under this pathway if...

- a child protection agency or authority in Canada
- was **legally responsible** for their care
- for at least **one year** since they came to Canada
- because of a court order.

Additional eligibility criteria

To qualify for the pathway, the applicant must also have:

- come to Canada before the age of 19
- only lived in Canada since the age of 19, if they're over 19 now
- lived in Canada for at least 3 years before they apply

They also need:

- a document that proves who they are
- to intend to live outside Quebec
- to be in Canada both when they apply **and** get permanent resident status.



Special exceptions for people who are inadmissible

Generally, people are not allowed to get PR if they do not meet certain conditions set out in Canada's immigration laws.

- This is called being **inadmissible**.
- For example, someone could be inadmissible for:
 - crimes
 - misrepresentation to immigration authorities

The PR pathway for child welfare survivors lets some people apply **even if** they're inadmissible. **



Exceptions to inadmissibility for the applicant

A person **can still apply** for the PR pathway even if they:

- committed crimes or serious crimes
- have a health condition that may be expensive for health or social services
- do not have money or a way to support themselves
- did not follow Canada's immigration laws, for example, if they studied, worked, or lived here without permission from Immigration, Refugees and Citizenship Canada (IRCC)
- misrepresented themselves to IRCC, left out information, or gave a fake document when they came to Canada
- have an inadmissible family member or they were sponsored by someone who misrepresented themselves to IRCC



Who is **not** eligible

- Even if they meet other eligibility criteria for the pathway, they cannot get PR if they:
 - are inadmissible for national security reasons, for example, for committing a terrorist act
 - took part in organized crime
 - abused important human or international rights
 - committed a serious non-political crime outside Canada.
- There are other reasons that can make a person inadmissible and not qualify.
- *** But anyone who was in state care and needs status or PR should get legal advice



Which family members can they include?

A person can apply for PR for some family members under this pathway. A **family member** can be a:

- spouse or common-law partner
- dependent child
- spouse or common-law partner's dependent child
- dependent child of a dependent child

They must apply for family members together with their own application.



Meaning of dependent child

- A child who depends on their parent or parents because they're either:
 - under the age of 22 and **not** married or in a common-law relationship, or
 - 22 or older and financially dependent on their parents since before they were 22 because they have a physical or mental condition that stops them from supporting themselves.
- A dependent's age is based on how old they were when IRCC **received** the complete application
- But if the dependent marries after the application is submitted and **before** they get permanent residence, they might no longer qualify as a dependent *



Family members – additional rules

Family members included in the application must also be **in Canada** when:

- the application is submitted and
- IRCC gives them permanent resident status.

Family members must:

- plan to live outside Quebec
- have a document to prove who they are.

Exceptions to inadmissibility rules for family

Family members **can** get PR under this pathway even if they:

- stayed in Canada after their temporary status expired
- lived, worked, or studied here without permission from IRCC
- misrepresented information to IRCC, gave a fake document, or left out information when they came to Canada
- have a family member who is inadmissible, or
- are included in an application to live in Canada by a family member who is inadmissible



Family members who are **not** eligible

Like the applicant, a family member cannot get PR through this pathway if they:

- are inadmissible for national security reasons, for example, for committing a terrorist act
- took part in organized crime
- abused important human or international rights
- committed a serious non-political crime outside Canada.

There are other reasons that can make family members inadmissible to Canada. For example, if they committed crimes or serious crimes. This can include assault or drunk driving.



Overview of application process

To apply, you'll need to do the following:

1. Get the correct forms, fill them out and sign them
2. Gather the required documents including photos
3. Mail in the **complete** application package to IRCC

*It's best to get help from an **immigration lawyer** to complete your application or to have them review it with you before you submit.



Forms

- An applicant needs to gather the correct forms and fill them out. It's best to have an immigration lawyer help fill out the forms or review them before sending.
- IRCC has an [instruction guide](#) and [Document checklist –IMM 0203](#) that indicate what forms are needed.
- An applicant **must** read the guide before filling out the forms.
- The forms can't be opened from a phone or tablet. IRCC has [information](#) about how to download, save, and fill out the PDF forms on a computer.



Forms for the main applicant to complete

- [Document checklist –IMM 0203](#)
- [Generic Application Form for Canada IMM 0008](#)
 - Under “Program under which you are applying,” select Other
 - Under “Category under which you are applying,” select In-Canada - Humanitarian & Compassionate Considerations
- [Schedule A – Background / Declaration – IMM 5669](#)
- [Additional Family Information form – IMM 5406](#)

Forms for family members to complete

An applicant's spouse, common-law partner and adult dependent children must fill out:

- [Schedule A – Background / Declaration – IMM 5669](#)
- [Additional Family Information – IMM 5406](#)

They must fill out these forms even if they're **not** applying for permanent residence.

Additional forms the applicant might need

Depending on an applicant's situation, they may also need to fill out the following forms:

- If they have a common-law partner: [Statutory Declaration of Common-Law Union – IMM 5409](#).
- If they have more than 5 dependants: [Additional Dependants / Declaration – IMM 0008DEP](#).
- If they're applying for permanent residence for a child whose other parent is not coming to Canada, they may need a [Separation declaration for minors travelling to Canada – IMM 5604](#).
- To give another person the power to deal with IRCC for them: [Use of Representative form – IMM 5476](#)

Checking forms

- Make sure to include all the information asked for in the forms. If not, IRCC will send the application back.
- This is especially important if a dependent child will turn 22 years old soon, or if the pathway is going to close soon.
- If a question does not apply, write “Not Applicable” or “N/A”.
- If an applicant needs more space, they should print another copy of that page of the form, fill out that section, and submit it with the application.
- The applicant must make sure to sign all the forms before submitting them.



List all family members in the forms

- An applicant must list their spouse or common-law partner.
- The applicant and their spouse or partner must also list all dependent children.
- All dependent children must also declare all of *their* dependent children (i.e. the applicant's grandchildren).

If they don't, it might:

- prevent the applicant from sponsoring the person later, or
- cause IRCC to review the applicant's status in the future



If there are differences

IRCC checks the information in an applicant's forms against other information they have about them and their dependents.

If there are differences, IRCC may investigate. If that happens, there is a risk that:

- the application will be refused,
- the applicant or their dependents might lose status, or have to leave Canada.

It's best for an applicant to **speak with an immigration lawyer** before applying for PR. This is important if they're concerned that the information in the application will not match the information IRCC has.



Supporting documents

- An application must include copies of all the documents that Immigration, Refugees and Citizenship Canada (IRCC) asks for.
- Read [IRCC's guide, information about the pathway](#), and the [Document Checklist – IMM0203](#) to know what documents IRCC wants.
- Submit **copies** of the documents when possible, as IRCC does not return original documents.
- *An applicant must submit **original** passport photos and police certificates, if needed.

Child protection documents

These are documents that prove a child protection agency or authority in Canada was legally responsible for the applicant's care for at least one year.

For example:

- court documents
- records from the child protection agency or authority
- a confirmation letter from the child protection agency or authority

The document checklist says what information this letter must include.



Getting child protection documents

- In Ontario, a person can get their personal records from child protection agencies. They must respond to a request within 30 days and cannot charge fees.
- If they do not respond in time or do not give you the records, the applicant can [appeal to the Information and Privacy Commissioner](#).
- [An applicant should get legal help](#) if they cannot get their records. A lawyer may be able to get the records or other documents that IRCC may accept as proof.

Proof of residence

The applicant needs to include documents to show that they lived in Canada for the last 3 years.

For example:

- copies of rental agreements for the last 3 years
- utility bills for the last 3 years
- a letter from the applicant's landlord with the dates they lived there.

Proof of identity

The applicant and every family member applying for PR with them must submit a copy of a document that proves who they are.

This can be a **valid passport** or **travel document**. Or an **identity document** issued by a country to people who are:

- stateless, which means they are not citizens of any country, or
- residents or refugees who could not get a passport or travel document from their country of citizenship or nationality.



Other ways of proving identity

If an applicant does not have any of those, they can apply with any identity document issued outside Canada before they entered Canada.

If they do not have that, in some cases they can apply with 2 [statutory declarations](#) that confirm their identity.

- One must be from the applicant.
- The other must be from a person on IRCC's list of people that they accept a declaration from.
- A lawyer can help with this.



Photos

- The applicant needs to submit one physical photo for each person included in the application.
- The photos must be taken no more than 6 months before the application is submitted.
- The photo needs to follow IRCC's [rules](#) about permanent resident photos.

Criminal convictions

- If the applicant was convicted of a crime in any country, it's best to [get legal advice](#) from an immigration lawyer about what documents or information to provide about the convictions.
- [Justice for Children and Youth](#) can help with legal advice if the applicant is younger than 25 and came to Canada as a child.

Police certificates

An applicant must send:

- a [police certificate](#) from every country they lived in for at least 6 months in a row if they were 18 or older at any point while living there. They do not need one from Canada.
- police certificates for every family member 18 years and older, even if they're **not** applying for PR in the application. But they're not required for any family member who has Canadian PR or citizenship.

If the applicant has a pardon, include a copy of it.



Relationship documents

The applicant should include documents to prove their relationship to family members applying with them. For example:

- marriage or divorce certificates
- birth certificates or adoption papers

Documents that prove a person is in a common-law relationship include:

- proof of a joint bank account, lease, or mortgage
- statutory declarations from people confirming that they are in a real relationship

Translations

If a document is not in English or French, the applicant must give IRCC:

- a [certified photocopy](#) of the original document, and
- an English or French translation.

The translation **cannot** be done by the applicant or relatives.

Follow IRCC's [instructions](#) for translating documents.

How to submit the application

- The applicant should keep a **photocopy** of all application materials.
- All forms and documents must be sent **by mail** in **one** envelope to:
IRCC – Humanitarian Migration Vancouver
FN/State Care
300-800 Burrard St
Vancouver BC V6Z 0B6
- The applicant **must** write their name and address in the top left-hand corner of the envelope.
- It's best to send the application by registered mail or a courier, to confirm IRCC got it. But it can also be sent by regular mail.



After applying

- IRCC will send an **Acknowledgement of Receipt** letter. This letter will include an application number.
- They may also ask the applicant to do certain things by a deadline. For example, they may ask the applicant to:
 - send more documents
 - go to a certain location to [get their fingerprints and photo taken](#)
 - do a medical exam
- If the applicant cannot meet a deadline, they should write to IRCC and ask for more time, saying how much time they'll need, and why they need it.



Updating information

- The applicant must **keep the information in their application up to date**. They must **tell IRCC right away** if a family member dies, or if they or a family member in the application:
 - gets married, divorced, or begins or ends a common-law relationship
 - has a new child
 - gets a new address or contact information
- They must also tell IRCC about changes that may affect if they or a family member still qualify for the pathway. For example, if they are facing a **new criminal charge or conviction**. If this happens, they should talk to an immigration lawyer right away.

If information isn't updated

If the applicant does not update IRCC about any changes:

- they may reject the application
- it might cause delays
- the applicant may have problems with their status
- the applicant may be unable to sponsor a family member in the future.

How to update information

- An applicant can [update their address with IRCC online](#)
- They can send other updates to IRCC by email to:
 - IRCC.DNHM-Vexternal-RNMH-Vexterne.IRCC@cic.gc.ca
- They should write “FN/State Care” in the subject line of the email
- The applicant should keep a copy of every update they send

If IRCC approves the application

- IRCC will contact the applicant and provide instructions about how to get permanent residence.
- The applicant will get emails from a mailbox ending in **cic.gc.ca**:
 1. Asking them to confirm their email address
 2. Asking them to confirm they're physically in Canada
 3. Providing information about the [Permanent Residence Portal](#)
- An applicant should **not** create their own account in the Permanent Residence Portal, as this can delay the process. IRCC creates the account.



Permanent residence card

- Once an application has been approved, IRCC will provide an electronic confirmation of permanent residence (e-COPR) in the Portal.
- The applicant will need to provide a photo for their first PR card.
- While they wait for the PR card, the signed e-COPR can be used to:
 - prove that they're a permanent resident in Canada
 - apply for government benefits and services

If IRCC refuses your application

- IRCC will send a letter and explain why the application was refused. If that happens, the applicant should get legal advice as soon as possible.
- A lawyer might recommend asking a court to cancel the decision. This is called a Judicial Review.
- The deadline to [start a judicial review](#) is 15 days from when a person gets IRCC's decision refusing their application. It is important to get legal help right away.
- In some cases, a lawyer might suggest asking the officer who made the decision to reconsider their decision.
- A person might be able to make a [humanitarian and compassionate application](#) to stay in Canada permanently.

Q&A

Temporary resident permit for people who were in state care

Overview of temporary residence permit

A person can apply for a temporary residence permit (TRP) under this pathway if:

- they came to Canada under the age of 19
- a child protection agency or authority in Canada was legally responsible for their care for at least one year

This TRP pathway has been in effect since September 29, 2023, and enables eligible foreign nationals to stay in Canada temporarily

Eligible family members are also able to apply for a TRP with the main applicant



Overview of temporary residence permit

- A person can apply for a TRP if they are inadmissible to Canada
- They can also apply for a TRP if they do not meet the requirements to become a temporary resident
- It is important to consult with an immigration lawyer and review the IRCC instruction guide on how to apply
- Persons who were in state care do not pay a fee for a TRP, work permit, or study permit
- An eligible applicant can also apply for a TRP at the same time as a work permit and study permit
- The required forms that need to be completed would include: TRP only ([IMM 5708](#)), TRP with an open work permit ([IMM 5710](#)), and/or TRP with a study permit – [IMM 5709](#))

Why you might need a TRP

- You may need to apply for a TRP inside Canada because:
 - You lost your status in Canada, cannot restore it, and have strong reasons to remain in Canada.
 - You have a TRP and need your status extended, or your TRP expired.
 - You worked or studied in Canada and did not have a proper permit.
 - You applied to become a permanent resident and you're waiting for an answer.
- Getting a TRP may give you time to deal with why you're inadmissible. It may also help you remain in Canada.

Applying for a TRP

- To apply for a TRP applicants need to complete the following application form:
 - ([IMM 5708](#)) – Application to Change Conditions, Extend my Stay or Remain in Canada as a Visitor or Temporary Resident Permit Holder
- Collect the required documents and explain the reasons for staying in Canada
- Include evidence that supports why they want to stay
- Ensure that truthful and accurate information is provided as this information may be verified by IRCC

Family members and application requirements

- If applicants are applying as a family then send all of the documents in one envelope to IRCC
- The main applicant's name and address must be written in the top left hand corner of the mailing envelope
- This includes completed application forms and supporting documents
- It also includes the requirement to provide passport size photographs, submitting biometrics for applicants who have yet to do so, and ensuring that the application forms are signed



Mailing the application

- The complete application must be sent to the following Case Processing Centre for processing:
Humanitarian Migration Office – Vancouver
300-800 Burrard Street Vancouver BC V6Z 0B6
- It helps to track IRCC's receipt of the application through a postal or courier service with a tracking number and as proof of sending the application
- The Case Processing Centre will review the application to confirm that it is complete, otherwise it may be returned or refused



Next Steps

- If IRCC issues a valid TRP after submitting an application, this means your application has been accepted and you have temporary resident status for a limited period of time
- If your application is refused, you will receive a letter from IRCC advising of the refusal with reasons
- If your application is refused, please seek legal advice immediately as a lawyer may recommend that you appeal the refusal or ask the issuing officer to reconsider the negative decision

Conditions on temporary resident permit holders

- TRPs are issued at the discretion of the processing officer
- If you get a TRP, you can stay in Canada for a set amount of time. This might be 6 months. Or, it could be for more or less time based on:
 - why you want to stay,
 - how long you asked to stay in Canada,
 - how much financial support you have in Canada, and
 - when your passport or other travel document expires.

Conditions on temporary resident permit holders

- The maximum validity of a TRP is three years and it is accompanied by specific conditions
- You must comply with the conditions imposed on your TRP
- Must not work or study without valid authorization
- Cannot re-enter Canada without prior authorization
- Must leave Canada at the end of your authorized period of stay
- A TRP may be cancelled at any time



Obligations of a temporary permit holder

- As a permit holder you are expected to:
 - abide by the laws of Canada;
 - take any action required to resolve your inadmissibility; and
 - you cannot leave and return to Canada with your TRP unless you have authorization from CBSA
- If you want to stay in Canada permanently and you are an eligible foreign national who was in state care but have yet to submit any applications, please seek legal advice to apply for permanent residence status through the special pathway



Q&A

Resources



- Steps to Justice: [I moved to Canada as a child and was taken into care. Can I stay here permanently?](#)
- Government of Canada: [Permanent residence pathway for foreign nationals who were in state care](#)
- [Temporary resident permit for foreign nationals who were in state care](#)
- Legal Aid Ontario: [Refugee and immigration legal issues](#)
- The Black Legal Action Centre (BLAC): [Child Welfare Survivors Can Now Apply for Permanent Residence Status!](#)
- Collective of Child Welfare Survivors: www.collectiveofcws.ca



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