

QUESTIONS / ANSWERS

What does “non-status» mean?

A person who is known as ‘undocumented’ or ‘non-status’ does not have a legal status of immigration in Canada on a temporary or permanent basis.

This can happen when a person stays in Canada even after a visa or study or work permit expires, or when a refugee claim has been denied. A person in this situation is very vulnerable and limited in their access to social programs and should consult a lawyer or a community organization if afraid of using social programs or to help in regularizing their situation, for example by applying for permanent residence on **humanitarian grounds**.

Warning! A non-status person will hesitate to exercise a right (which he or she has in principle) or to file a complaint in case of abuse for fear of being reported to the federal authorities. A person in this situation is encouraged to seek assistance from an organization that advocates for rights or legal counsel.

What is a «sanctuary city»?

A sanctuary city is a city where the municipal authorities, such as the police, **do not report non-status persons** to the federal authorities who could deport them from Canada. For example, if a person is a victim of a crime, they should be able to speak to the police without fear of being deported.

In Canada, **Montreal, Hamilton, Toronto and Vancouver** have declared themselves sanctuary cities. In February 2017, Montreal declared itself a sanctuary city but to date measures have not been put in place to ensure real protection for non-status persons.

This document provides general information and does not in any way constitute legal advice or statement of opinion. The Canadian and Quebec immigration systems being particularly complex, they sometimes create quite intricate situations. Therefore, it is necessary to consult specialists to validate the application of various notions to any specific case. The information in this document was verified in May 2017.

For more information and a list of resources, see our guide for community workers: “Immigrants’ and Refugees’ Access to Social Benefits and Programs in Quebec”, available to download for free at: www.servicesjuridiques.org

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Also available in this series (in French, English, Arab, Creole, simplified Chinese and Spanish):

- Being an asylum seeker in Quebec
- Being a temporary resident permit holder in Quebec
- Being a temporary worker and international student in Quebec
- Being an accepted refugee in Quebec
- Being a permanent resident in Quebec
- Being a rejected refugee in Quebec
- The criterion of residence

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BEING A NON-STATUS PERSON IN QUEBEC

Knowing Your Rights to Social Programs



COMMUNITY LEGAL SERVICES
OF POINT ST-CHARLES AND LITTLE-BURGUNDY

JUSTICE

Can I consult a lawyer for free if I have a legal problem?

YES, if a person is eligible for **Legal Aid** based on their income and if they live in Quebec, **regardless of immigration status**.

Services available include several legal matters: family, administrative, immigration, youth, criminal, housing, etc.

Can I go to court if I have a problem with my landlord regarding the dwelling where I live?

IN PRINCIPLE, YES. The *Régie du logement* can intervene if there is a **lease** between the tenant and the landlord. **Immigration status is not verified**.

Tenants who are victims of discrimination may file a complaint with the *Commission des droits de la personne et des droits de la jeunesse*.

FAMILY

Can my child go to school?

YES. Non-status children living in Quebec have the right and the obligation to go to school.

These children may also be entitled to **free school** with the **permission** of the Ministry of Education.

Am I entitled to child benefits?

NO. A non-status parent, even if they have custody of the child, is not entitled to child benefits: the **Canada Child Benefit** (federal) or the **Child Assistance Payment** (provincial).

However, if a non-status parent lives with a spouse or common-law partner (a couple who has been living together for a year or who has a child together) who is a Canadian citizen, a permanent resident or a temporary resident, they are entitled to benefits for their children.

Am I entitled to government benefits following my child's birth or adoption?

NO. The Quebec Parental Insurance Plan grants parental, maternity, paternity and adoption benefits to persons who contributed to the plan in the 12 months preceding the birth or adoption of the child.

To contribute to the plan, you must have been working in a job declared to the government, which is not possible without a **work permit**. If the other parent of the child meets these criteria, that parent will be entitled to benefits.

BENEFITS

Am I entitled to welfare?

NO. The *ministère du Travail, de l'Emploi et de la Solidarité sociale* does not grant welfare to non-status persons.

Am I entitled to financial compensation as a victim of crime?

IN PRINCIPLE, YES. The IVAC (*Indemnisation des victimes d'actes criminels*) program **does not take into account the victim's immigration status** to assess eligibility for benefits.

Am I entitled to financial compensation as a road accident victim?

For accidents occurring in Quebec: **POSSIBLY**. Non-status persons may be eligible for financial compensation in proportion to their non-liability in the accident (ex.: responsible for 50% of the accident).

For accidents occurring outside of Quebec: **NO**. The *Société de l'assurance automobile du Québec* (SAAQ) does not cover non-status persons because they are not considered **residents** according to the *Automobile Insurance Act*.

Am I entitled to financial support for the elderly?

NO. The federal government provides **Old Age Security** benefits to persons who are considered legal residents which is not the case for non-status persons.

Non-status persons are also not eligible for benefits under the **Quebec Pension Plan**, because they cannot contribute to the program. To contribute to the program, a worker must have a job that is declared to the government.

HEALTH

Am I entitled to free medical care and medicine?

NO. The *Régie de l'assurance maladie du Québec* (RAMQ) does not cover non-status persons.

WORK

Can I work a job that is declared to the government?

GENERALLY, NO. A person who is not a Canadian citizen or permanent resident must have a **work permit** to work legally in Canada, with some exceptions. A non-status person cannot have a **work permit** except in certain cases where a non-status spouse is being sponsored by a Canadian citizen or permanent resident.

Can I file a complaint against my employer if my working conditions are unfair?

IN PRINCIPLE, YES. The government agency regulating **minimum labour standards** (the CNESST) accepts complaints **regardless of the worker's immigration status**.

Am I entitled to financial compensation as a result of a work accident that prevents me from working temporarily or permanently?

NO. The government agency that is responsible for **occupational health and safety** (the CNESST) does not recognize **the employment contract** of a worker who does not have the legal ability to work in Canada.

Am I entitled to financial compensation if I lose my job?

NO. The Canadian government does not provide **Employment Insurance** benefits to people who are not available to work. Non-status persons are considered not available to work because they do not have a **work permit**. As a result, they are not entitled to such benefits.