

# Family fighting for son's enrollment at French school brings battle to court

*Young child denied admittance at city school despite recommendation from school board*

By **Brendan Burke** - May 16, 2019

A family fighting to enroll their son in Yellowknife's only French first language school following a rejection from the ministry of education last fall is taking the department to court.

The French-speaking child, whose identity is protected by a court-ordered publication ban, was denied admittance into École Allain St-Cyr last fall after failing to meet criteria set out by the Department of Education, Culture and Employment.

*Yellowknifer* isn't naming the parents to protect the identity of their son.

The criteria within the department's directive is designed to uphold minority language rights enshrined in the Charter of Rights and Freedoms while "supporting the growth of French first language rights holders in the NWT by allowing a limited number of children of non-rights holder parents to attend," the territory's two French first language schools, École Allain St-Cyr and Hay River's École Boreale.

The thinking behind curbing the number of children of non-rights holder parents is that if a territory allowed all residents the same access to schools meant for minority language groups, it "would be failing in its in duty do ... preserve and promote minority language education," according to the federal government.

But eligible non-rights holders who don't meet the Charter's criteria, parents like the young mother and father in this case, can still apply for entry to a French first language school through three admission streams.

In this case, the child's mother was designated by the GNWT as a "new immigrant," which theoretically could allow the family to enroll their children in either English or French upon arrival.

But because the would-be student was born in Yellowknife, and didn't "arrive" here with his family, his application was denied by the education department.

The family's lawyer Francis Poulin wants the decision to be reviewed – he's not calling for the ruling to be overturned – arguing in court Thursday the refusal was based, more or less, on a technicality. He said the government directive doesn't explicitly include one's birthplace as a prerequisite.

The department's decision to deny enrollment of the child was the final step in a two-phase process.

First, non-rights holders are evaluated by the the Commission scolaire francophone, the territory's Francophone School Board. In this case, the child was recommended for admittance by the board. But when it was time for the ministry's final say, the bid was rejected on the grounds the child was born in Yellowknife and not abroad.

Poulin submitted that while the directive is in place for an important reason, the application of the directive by the department is far too rigid, leading to an unreasonable decision.



*Francis Poulin, a lawyer representing the family of a young boy denied admittance into the city's only French first language school, says the Department of Education made an unreasonable decision when it refused the boy's*

Poulin argued the decision ignored the merits of the child's admittance, instead applying what he described as almost artificial criteria imposed by the education department. Ultimately he said, the end result is contrary to the whole intent of directive – adding a category for new immigrants but then limiting entry through a series of credentials.

*entry because of his birthplace –  
Yellowknife.  
Brendan Burke/NNSL photo.*

He told the court the French-speaking child, along with their family, wants to integrate into the French community, a desire that's been stymied by the department's refusal.

Poulin wants the department to be more flexible when evaluating cases so decisions can be made on the merits of the student and of each family applying.

A lawyer presenting the GNWT told the court the child doesn't qualify under the criteria the department has set out, and that therefore he's not eligible.

But outside the Yellowknife Courthouse Thursday, Poulin told *Yellowknifer* there's always room for discretion from the department.

"There's a way for (the department) to interpret (the case) generously. So that you can allow that family to fit in the box you've created," added Poulin, referring to the directive's criteria.

"They've decided to (allow) only kids who are born aboard, who have come here under a certain age ... you can't speak English, you can't speak French, and on top on that you can't be born here. So who does that leave?" asked Poulin.

If the government wants to open a path for new immigrants seeking admittance, Poulin said it will have to clear the pathway they've "closed" with the imposed criteria.

A NWT Supreme Court Justice reserved his decision, which could weeks or months to be handed down following Thursday's hearing.

The hearing is the not the first time the often-hotly contested and emotionally-charged topic of minority language rights has taken centre stage in a NWT court.

The NWT francophone school board lost a court battle with the GNWT in 2008 after challenging the admission process at French first language schools.

A Supreme Court judge ruled the Department of Education was allowed to limit enrollment numbers at French schools.

Currently, according to the department's 2016 directive, if a French school's capacity surpasses 85 per cent, enrollment is then limited to students of rights holding parents, until enrollment rates decline below 85 per cent again.

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