



Ombudsman Report

Catching Up on Fairness

**Investigation into the experience of
custodial parents and guardians who were
denied benefit payments under the
Ministry of Education's direct payment programs
between January 2020 and March 2023**

**Barbara Finlay
Acting Ombudsman of Ontario**

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Contributors

Director, Special Ombudsman Response Team

Domonie Pierre

Lead Investigator

Dahlia Phillips

Investigators

Clara Milde

Emily Dutil

Emma Holland

Karyna Pavlenko

General Counsel

Joanna Bull

Counsel

Iris Graham

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Executive summary

- 1 From early 2020 to spring 2023, the Ministry of Education administered a series of five direct payment programs aimed at providing financial assistance to parents and guardians of children and youth whose education was interrupted, first by labour disruptions and then by prolonged and repeated school closures necessitated by the COVID-19 pandemic. Through these programs, the Ministry dispersed more than \$2 billion in public funds.
- 2 Within weeks of the launch of the first payment program in January 2020, our Office started receiving complaints from custodial parents and guardians who had been denied payments under the program because someone else had already received the money meant for their children. The complaints continued over the course of the next four iterations of the program. Some of the parents and guardians we heard from had sole custody over the children and youth in their care; others had a restraining order against the other parent. Several discovered that they were prevented from receiving payments because relatives or sometimes even strangers who had no role in caring for the children in question had claimed the money.
- 3 We received more than **200** complaints from parents and guardians over the course of the five benefit payment programs between 2020 and 2023. This investigation was launched to explore how hundreds of custodial parents and guardians found themselves unable to access the money intended for children in their care because someone else had already received it.
- 4 Liz, a single mother with sole custody of her five school-aged children, applied for one of the programs and was denied on the basis that the father of two of the children had already applied, even though he'd had no contact with them for years.¹
- 5 Adrian, the custodial parent of a young boy with special needs, applied under one of the programs and was denied on the basis that his former spouse, who was not responsible for the child's care, had already applied for and received the funds.
- 6 The payments for Sarah's seven children were obtained by her ex-partner, despite the fact that he had limited access visits with the children and was only the father of four of the seven.

¹ The names of individuals mentioned in this report have been changed to protect their privacy.

- 7** When they complained to the Ministry, these parents and guardians were provided with a boilerplate response, stating that the Ministry could not get involved in custody matters. They were directed to try to recover the benefit themselves, even as the Ministry refused to disclose who the recipient was. The Ministry’s response did not change throughout the five programs, even in cases where the former partners were estranged or had experienced domestic abuse.
- 8** It should be acknowledged that the first of these programs was created during a labour disruption and those that followed were launched during the COVID-19 public health emergency. The programs were, by and large, successful in distributing billions of dollars to eligible families at a time when many needed financial assistance.
- 9** However, as our investigation uncovered, the programs were rushed and plagued by problems that were replicated at each iteration instead of being fixed. Hundreds of families were denied benefits to which they were entitled. The Ministry does not know the exact amount because it failed to make any effort to track improperly distributed funds.
- 10** The short timeframes in which the programs were designed and implemented, combined with understaffing, a lack of training and resources, the Ministry’s “first come, first served” approach to paying out the benefits, and an inadequate complaint escalation and appeal process, all contributed to the problem.
- 11** The programs were intended to provide financial support to families with children and youth who experienced a prolonged period of education disruption. The Ministry of Education had a responsibility to administer the programs in a manner that ensured that the money reached the intended recipients, and to take swift corrective action once it became aware that payments were instead going to ineligible individuals.
- 12** The final direct payment program closed in 2023. The absence of a mechanism for the Ministry to recover payments from ineligible recipients, compounded by the Ministry’s failure to look into or track claims of misdirected funds, means that there is no realistic way to recover this money or to compensate the families who lost out.
- 13** Under the circumstances, the Ministry’s actions with respect to its administration of the direct payment programs were unreasonable, unjust, and wrong under section 21(1) of the *Ombudsman Act*.²

² RSO 1990, c O.6.

- 14** Although these programs ended in 2023, it is essential that the grave lessons from the unfair and inefficient way they were administered be taken into account in future. In this report, I have made **14** recommendations to improve the administration and functioning of any future direct payment programs, for the benefit of the families who rely on such supports, and to ensure that public funds are managed responsibly. The Ministry has agreed to all of these recommendations, and we will monitor their implementation in any future payment programs closely.

Investigation scope and process

- 15** Within weeks of the launch of the first program, our Office started receiving complaints from custodial parents and guardians who had been denied payment because someone else had applied first and received the funds. As the complaints continued through successive programs, we brought individual concerns to the Ministry for resolution. Dissatisfied with the Ministry's response on these individual files, we escalated our concerns to the attention of senior Ministry officials. However, the Ministry's actions did not address the underlying issue of non-custodial individuals accessing the benefit and we remained concerned with its administration of each program.
- 16** This investigation was launched in December 2023 with the aim of examining the fairness and transparency of the direct payment programs. Specifically, we informed the Ministry that we would focus on how the programs were administered in relation to parents and guardians who were denied payments for children in their custody because someone else had claimed the money first.
- 17** We reviewed more than 1,500 documents from the Ministry and conducted some 40 interviews with affected families, Ministry staff, and other government officials in connection with this investigation. The Ministry cooperated fully with our requests.

Terminology

- 18** On March 1, 2021, amendments to federal and provincial family law legislation came into effect that replaced the word "custody" with "decision-making responsibility" and the word "access" with "parenting time." These changes were made to reflect a move towards more neutral language and away from using terms rooted in property ownership to talk about children and youth.

- 19** While acknowledging the importance of these changes, we are retaining the former language of “custody” throughout this report, by which we mean the day-to-day responsibility for a child or youth, including the ability to make major decisions regarding them.
- 20** There are two key reasons for this: First, the legislative changes came into effect just prior to the launch of the fourth direct payment program in March 2021, while the Ministry’s use of the word “custody” during the first three programs was in line with the law as it existed at that time. Second, even after the legislative changes were made, the Ministry continued to use the word “custody” in connection with the fourth and fifth programs, including on its application forms.

The five direct payment programs

Program 1: Support for Parents (January 15 to June 26, 2020)

- 21** In the fall of 2019, the Government of Ontario was in the midst of labour negotiations with unions representing elementary and secondary school teachers and staff. Given the possibility of a strike or lockout, it explored options to offset increased child care costs for parents and guardians.
- 22** On December 10, 2019, the Treasury Board/Management Board of Cabinet tasked the Ministry of Education with delivering the program, and on January 15, 2020, the Ministry announced the launch of the first direct payment program, “Support for Parents.” The aim of the program was to provide financial support directly to parents and guardians affected by the closure of schools, as well as child care centres at school properties, during labour action.
- 23** Parents and guardians of children up to age 12 (Grade 7), or up to age 21 for children and youth with special needs, qualified for payment of \$25 to \$60 for each day of the labour disruption. Eligibility was limited to those whose children were enrolled in a publicly funded school or attending a school-based child care centre that was fully closed due to job action.
- 24** The application form stated: “Parents/guardians must submit one application per child,” and “Only one parent may apply for each child.” Nothing on the application form referred to custody as an eligibility requirement.
- 25** During the eligibility period (January 15 to June 26, 2020), the Ministry received almost 836,000 applications and dispersed close to \$136 million.

Program 2: Support for Families (April 6 to August 31, 2020)

- 26** In response to the emerging COVID-19 pandemic, the Minister of Education issued an order on March 12, 2020, closing all publicly funded schools in Ontario for two weeks. On March 17, the Premier declared a state of emergency and ordered the closure of all licensed child care centres and all facilities providing indoor recreational programs. Schools ultimately remained closed until the end of the 2019-2020 school year.
- 27** On March 25, 2020, the provincial government announced the “Support for Families” direct payment program, which was intended to offset the costs to parents and guardians of buying materials to support their children’s learning while they practiced self-isolation and physical distancing.
- 28** Parents were eligible for a one-time, per-child payment of \$200 for all children aged 0 to 12, and \$250 for those with special needs up to 21 years old.
- 29** Unlike the previous program, the Support for Families application form stated that the parent or guardian who applied for the benefit “should” have custody. Applicants were required to check a box on the form attesting that the information they were providing was accurate and true, and acknowledging that they might be required to repay the funds if it was later determined to be false. The form also stated that by submitting an application, applicants were confirming they were not making a fraudulent claim.
- 30** However, we learned that many recipients of the second program’s benefit did not see this new information on the form and were not asked to provide the attestation. Anyone who received payment during the Support for Parents program was automatically treated as eligible (or “rolled over,” in the parlance of some Ministry officials we interviewed). They received the Support for Families payment without having to submit a new application.
- 31** The Ministry received more than 1.7 million applications, including those rolled over from the previous program, and dispersed more than \$333 million as part of the second program.

Program 3: Support for Learners (November 30, 2020 to February 8, 2021)

- 32** In September 2020, Ontario schools reopened and students were able to return to some form of in-person learning. Some secondary schools returned with only part-time in-person attendance, and all parents were given the option of continuing with online remote learning.

- 33** The Ministry launched its third direct payment program, “Support for Learners,” on November 30, 2020. Parents and guardians were eligible for a one-time payment of \$200 for each child up to grade 12, and \$250 for those with special needs up to 21 years old.
- 34** This time, there was no automatic rollover from the previous program. Anyone wishing to receive the payment had to submit a new application. On the form, the Ministry required applicants to check a box attesting that the information they were providing was accurate and true, and that they might be required to repay funds if it was later determined to be false, or that they were ineligible. Unlike the previous program’s application, however, this one did not state that the parent or guardian who applied for the payment “should” have custody of the child.
- 35** We were told that the Ministry implemented enhanced verification processes to confirm the child’s identity as part of this program, by comparing application information to Ontario Education Numbers or birth registry records. However, this enhanced process did not verify the relationship between the applicant and the child, or custody status.
- 36** The Ministry received more than 2.1 million applications and dispersed more than \$419 million as part of this program.

Program 4: Ontario COVID-19 Child Benefit (March 31 to May 17, 2021)

- 37** In January 2021, after the winter break, schools closed again as part of another provincewide shutdown to curb the spread of COVID-19. In-person learning resumed in mid-February, but schools were closed again in April, and students would not return to classrooms until the following September.
- 38** On March 31, 2021, the Ministry launched its fourth direct payment program, the “Ontario COVID-19 Child Benefit.” Like the previous two programs, this benefit was intended to provide financial support to families to help with additional costs during the COVID-19 pandemic.
- 39** Parents and guardians were eligible for a one-time payment of \$400 for each child up to Grade 12, and \$500 for those with special needs up to age 21.
- 40** As was the case with the second program, the application form stated that the parent or guardian who applied for the benefit “should” have custody. Unlike in the previous programs, it stated that “[t]his could include a parent or guardian with shared custody.”

- 41** The application form once again required the applicant to attest that the information provided was accurate and true and acknowledge that they could be required to repay the funds. However, the Ministry “rolled over” applicants from the third program, Support for Learners. Anyone who had received that program’s benefit automatically received funds under the fourth program without having to fill out an application form or provide the attestation and acknowledgement.
- 42** The Ministry received more than 2.2 million applications (including those that were rolled over ones) and dispersed more than \$887 million as part of this program.

Program 5: Catch Up Payments (October 20, 2022 to March 31, 2023)

- 43** On October 20, 2022, the Ministry announced its fifth direct payment program, “Catch Up Payments.” According to the Ministry’s press release, because of pandemic-related disruptions to education, students needed support to “catch up,” particularly in math, reading and writing. The purpose of the fifth program was to help parents and guardians offset the costs of additional learning supports, such as tutoring, to help fill the gaps in learning that emerged because of COVID-19.
- 44** Under this program, parents and guardians were eligible for a one-time payment of \$200 for each child up to age 18 and \$250 for those with special education needs up to age 21.
- 45** The application once again required applicants to attest that the information provided was accurate and true. For the first time, it also asked them to attest that they had full or shared custody of the child for whom they were making the claim. However, on the Ministry’s website at the time of the program’s launch, having custody was not included as one of the eligibility requirements to apply.
- 46** The Ministry received more than 1.7 million applications and dispersed more than \$297 million as part of this program.

Left in the lurch

- 47** Throughout these programs, frustrated parents and guardians contacted us to complain that they were unable to access the payments for their children because someone else had already applied and received the money.
- 48** We heard from Adrian, the custodial parent of an elementary school student with special needs. Adrian’s application for one of the programs was denied on the basis that his former partner had already applied for and received the funds. He told us his son required a special program on a tablet in order to participate in

remote learning. He contacted the Ministry and explained that he had custody of his son and was the agreed beneficiary for child tax credits. The Ministry rejected the documentation he offered to support his custodial status. Instead, he said, he was told he would have to work directly with his former partner. As a result of being denied the benefit, Adrian was unable to secure the special learning supports his son needed.

- 49** We also heard from Vale, who had custody of her grandson. Her application for direct payments was denied on the basis that the boy's mother – who did not have custody or even contact with him - had already applied for and received it. Vale told us her grandson's mother suffered from mental health issues and could be abusive and violent. Nevertheless, when Vale told the Ministry she was the legal custodian of her grandson, it declined her offer of proof of custody and denied her the benefit. At the time, Vale was retired and relied on a fixed income to support herself and her grandson. She told us she was disappointed with the Ministry's decision because "anything would help" in terms of financial support.
- 50** Sarah, a mother of seven, asked the Ministry to stop payments to the father of four of her children. He had somehow received money for all seven, even though he was not the custodial parent of any of them, nor the biological father of three. She explained to the Ministry that he only had limited access visits. Despite sending multiple emails and attempting to speak with an agent the Ministry's only response to Sarah was to tell her to seek repayment from the children's father.

Building the plane in the air

- 51** Each time the Ministry launched one of these programs, its staff worked under intense timelines to get them up and running. The focus was on providing supports to families quickly during crisis situations. The public servants we interviewed told us they were asked to deliver the programs with a lead time that ranged from one week to roughly two months.
- 52** For example, we were told the first direct payment program was designed, developed, and rolled out in just six weeks, and that this was not enough "runway" to put it together. Senior Ministry officials involved in this program said the tight timelines meant that staff had to decide many of the details "on the way." They described the design and implementation experience as a case of "building the plane while trying to fly." We were told Ministry staff had insufficient time to do "any real in-depth planning that you would normally do for such a big enterprise," leading to the program being "cobbled together."

- 53** The tight timelines for the design and rollout of the five programs were compounded because few Ministry staff were tasked with working on them full-time and exclusively, and those assigned often had little or no experience in designing or administering a payment program. The officials we interviewed told us the Ministry had never directly administered this kind of program in the past.
- 54** When the direct payment programs were first conceived, there was no existing program area within the Ministry of Education with the structures in place to administer them. A team of Ministry staff was quickly assembled and assigned to implement the first program, but we were told the Ministry took an all-hands-on-deck approach to staffing, with no formal lead or team structure. Program teams were assembled from staff across the Early Years and Child Care Division and other parts of the Ministry, even if they had little experience in designing or running direct payment programs.
- 55** Multiple Ministry staff told us they were asked to develop, implement and administer the programs while performing their regular duties. Very few worked full-time from one program to the next. In describing the resourcing of the second program, one Ministry employee told us: “At some point a decision was made to try and run a \$370-million program off the side of our desk with two people.”
- 56** This understaffing extended to the IT support staff who worked with a team of Ministry staff to design the program, including the eligibility criteria on the application form. Staff involved in developing the programs and bringing them online told us they were essentially working part-time on these programs while continuing to manage their regular duties, and were given “mere weeks” to design the first program. They told us they did not have enough time to design a “solid application,” and the first program’s design was necessarily “simple” and did not contemplate the issue of custody.
- 57** Soon after the launch of the first program, the Ministry started receiving complaints from custodial parents and guardians that someone else had claimed and received the program payment that should have gone to them. Instead of taking the time to identify a solution to this problem, however, the Ministry forged ahead.
- 58** The timeline imposed on staff to design and implement the second program was even tighter than for the first: Ministry staff were given around four weeks to design the program, from when it was announced in March 2020 to when it was implemented at the beginning of April 2020. A senior Ministry official told us there was a lot of pressure to launch the second program quickly in order to provide families with the support they needed in light of the pandemic. According to key Ministry staff, this left everyone “scrambling.” To save time, the Ministry replicated the design of the first program, along with all its known issues.

- 59 The timeline for the development and launch of the third program was even shorter than for the second. A senior official involved in this program told us Ministry staff were given less than three weeks to prepare for its launch. They told us staff pushed back against moving forward so quickly and advocated for additional controls to be put in place, but there was “a lot of pressure to have it launched and out quickly.”
- 60 The fourth payment program had the shortest runway. It was announced in the 2021 spring budget and was operational one week later, on March 31, 2021. A senior official overseeing the program told us they received a “heads up” about it only a few days before it was announced.
- 61 As for the fifth and final program, although the Ministry’s team had almost three months to develop and bring it online, we were told there was again a “sense of urgency to get the funds out” to the public.
- 62 Ministry staff at all levels who were involved in the programs consistently told us that the focus on a speedy launch took precedence over the need to think carefully about the program design or to address known issues. With respect to verifying applications, one employee told us: “We were always uncomfortable ... with the pace, not getting the time to think deeply about a better way or a way that might be a bit more thorough.”
- 63 To meet the deadlines, the Ministry fell back on previous design frameworks of the program, replicating the problem of custodial parents and guardians being denied the benefit because someone else had applied first with each iteration.
- 64 The lack of full-time staff dedicated to designing and implementing these programs, coupled with the tight timelines and the inexperience of the Ministry in designing this type of program, led to a rushed and haphazard approach to these complaints. Ultimately, it was the families who suffered the consequences. As one Ministry worker told us: “It was unfair to the citizens of Ontario to have to engage with such an under-resourced program.”
- 65 The Ministry should take this experience into account and proactively improve its planning if it undertakes any direct payment programs in future.

Recommendation 1

The Ministry of Education should ensure that all aspects of program design and delivery are comprehensively planned before launching any future direct payment program.

Recommendation 2

The Ministry of Education should ensure that any future direct payment program is supported by adequate staffing resources and supports at every stage.

No safeguards, no verification

- 66** Throughout five iterations of the direct payment programs between 2020 and 2023 and the disbursement of more than \$2 billion in taxpayer funds, the Ministry took a “first come, first served” approach, without a process to confirm custody and ensure that the applicant was entitled to the money.
- 67** All five programs required applicants to provide certain information about the children for whom the benefits were intended, such as their full name, date of birth, school board or school name, and whether they had any special needs. Applications were verified by matching the information provided with what was in Ontario education records or with other provincial records the Ministry had access to, such as the province’s birth registry.
- 68** However, the Ministry took no steps to confirm the relationship between the applicant and the child, such as whether the applicant was the parent or guardian, whether they had custody, or even whether they had any access or parenting time with the child. None of the application forms for any of the programs requested proof of custody, and Ministry staff told us they were expressly directed not to request or accept documents from applicants offering such proof.
- 69** In reality, anyone who had the most basic information about a child or youth could apply, and if their application was first in the Ministry’s system, they would receive payments. According to one director who oversaw multiple programs, the Ministry “had no way of knowing whether or not the person [who] received the payment [was] a parent or an aunt or ... the guy on the street.”
- 70** Our investigation revealed one instance where an uncle had applied for and received payments for his nieces without the knowledge of their parents. The parents’ subsequent application for the benefit was denied, even though the uncle had no custodial rights. We were advised that this matter was referred to the police. Yet despite the Ministry’s awareness of the situation, the parents were still excluded from receiving payments.

Sticking with a broken system

- 71** During design and development discussions on the first program, the matter of verifying the connection between an applicant and child or youth was flagged to a senior Ministry of Education official by the then-Ministry of Government and Consumer Services (MGCS).³ The MGCS official suggested that the Ministry of Education consider how it would verify the eligibility of applicants and noted that there were “eligibility risks” that might result in benefits going to the wrong people.
- 72** However, internal emails and communications we reviewed show that the Ministry of Education remained committed to not getting involved in the issue of how custody intersected with eligibility for payments. The instructions on the application form for the first program stated only that one parent or guardian could apply for the benefit for each child. Neither the application form, nor any public communications issued by the Ministry in respect of the first program, made mention of any need for the applicant to have custody of the child or youth in question.
- 73** The Ministry maintained this position even after complaints started coming in from custodial parents and guardians who were denied the benefit because someone else had applied first. Instead of identifying a strategy to verify eligibility, the Ministry added an attestation to the application form for the second program. Applicants were only required to tick a box confirming that the information they provided was “accurate and true.” In addition, a statement was added to the application form to say, “The parent/guardian who applies should have custody of the child.”
- 74** While this statement gave a nod to the issue of custody, it did not make it an explicit eligibility requirement. Three days prior to the launch of the second program, an Assistant Deputy Minister wrote to colleagues in the Ministry, asking for their advice about whether there was more they could do to clarify on the application that only custodial parents and guardians should apply. The Assistant Deputy Minister wrote that they were being asked “to be as clear as possible on custody,” given the challenges experienced during the first program.
- 75** However, no further changes were made to the application form to address issue of custody. The statement that the applicant “should” have custody proved ineffective in dealing with the problem. By May 2020, one month after the second program was launched, the Ministry had received almost 300 custody-related complaints and inquiries.

³ This Ministry is now called the Ministry of Public and Business Service Delivery & Procurement.

- 76** Despite the complaints, the Ministry backtracked on the third program’s application form: While it again noted that only one parent or guardian could apply for each child, it removed the language suggesting the applicant “should” have custody of the child.
- 77** Nonetheless, the statement was restored for the fourth program. This time, the application form specified that this could include a parent or guardian with shared custody. It also stated: “It is up to the child’s parents or guardians to determine who will apply. The Ministry is not involved in these decisions.” We were told this language was put in place to provide more clarity around custody.
- 78** By the time the fifth and final program was launched in October 2022, the Ministry had been aware for two years that some non-custodial parents and guardians were applying for and receiving benefits they were not entitled to. It was only then that applicants were asked to attest that they had full or shared custody of the child or youth for whom they were applying.
- 79** Ministry officials told us the attestation was meant to ensure that the “right people” were applying for and receiving the funding.
- 80** Staff who worked on the programs told us they had no insight into whether the addition of the attestation had any impact on the custody issue, as this was not tracked in any manner.
- 81** Few applicants were contacted to verify whether they actually had custody of the child or youth in question.
- 82** We were given various explanations for the Ministry’s decision to plow ahead without taking steps to verify custodial eligibility. Some Ministry officials cited legal constraints on the Ministry’s authority to access or accept custody-related information. Others pointed to a lack of the necessary legal expertise on the part of staff to evaluate custody. Still others told us that due to the high volume of applications, there was simply no way for staff to verify the relationship between every applicant and child. We were also told the Ministry prioritized keeping the program simple, including by not accepting or retaining confidential personal information such as custody documents.
- 83** One senior Ministry official told us that verifying custody was not on their radar because they did not believe it was a “big issue.” There was an assumption, too, that only a parent or someone close to a child would have the information required to apply for payments on their behalf, despite this information being limited to the child’s name, date of birth, and school board.

- 84** Across all five programs, the Ministry trusted that applicants would not apply for the program benefits if they were not eligible. As one manager put it when asked about whether the Ministry had concerns about those who did so: “If you want to put in wrong information and you want to lie, what are we going to do?”
- 85** The Ministry’s failure to verify eligibility undermined the very purpose of the payment programs – providing financial assistance to families with children and youth whose education had been interrupted – and left many custodial parents and guardians feeling frustrated and overlooked. It also permitted government funds to flow to ineligible recipients. Ministry officials told us that because they considered the funds distributed properly based on the “first come, first served” model, they did not track the amount of funding that went to unentitled recipients, including non-custodial parents and guardians.
- 86** In future, the Ministry should establish clear eligibility criteria for any such programs, as well as methods for effectively verifying eligibility.

Recommendation 3

Prior to launching any future direct payment program, the Ministry of Education should establish and communicate clear eligibility criteria for applicants.

Recommendation 4

The Ministry of Education should ensure that any future direct payment program includes a clear and consistent method to verify eligibility and that verification takes place before funds are released.

Recommendation 5

The Ministry of Education should regularly conduct internal audits to assess the strength and effectiveness of its eligibility verification processes throughout the course of any future direct payment program and respond swiftly to any identified gaps or weaknesses in the process.

Replicating programs, replicating problems

- 87** For two of the five direct payment programs, the Ministry sought to streamline access to the benefits by reusing the framework of the previous program and allowing the benefits to “roll over” to previous recipients. Individuals who had applied for and received funds during the first program were automatically eligible for them under the second program. Those who had received funds from the third program automatically received them under the fourth program.

- 88** While this allowed the Ministry to distribute financial assistance quickly and efficiently, it also meant that ineligible recipients repeatedly received funds they weren't entitled to. Ministry staff told us they were contacted by parents who were concerned that, due to the automatic rollover, their ex-spouses were wrongfully receiving payments. Some staff we interviewed said there were internal discussions around this issue, but they could not recall whether anything was done in response.
- 89** Complainants told us the Ministry's response to these concerns was that it did not get involved in custody matters. Not only did the Ministry decline requests to fix rollover mistakes, it also failed to track the information. Non-custodial recipients were not flagged in any way that would alert the Ministry to their ineligibility for future benefits.
- 90** Beth, who had full custody of her children, told us she was denied funding under the fourth program because her estranged husband's application from the third program had automatically rolled over. Beth provided the Ministry with documentation in support of her entitlement, but received only a generic response stating that the Ministry did not get involved in custody issues and that the parties were expected to decide amongst themselves which parent would apply for the benefit.
- 91** When Adrian applied for the second program's benefit on behalf of his son with special needs, he was denied because the child's mother, who did not have custody, had received the first program benefit and, as a result of the rollover, received payment from the second program as well. Adrian complained to the Ministry, concerned that if there was another rollover, the mother would continue to receive payments. Ministry staff told him that there was nothing they could do, as the mother had filed her application first. Adrian said they acknowledged that the system was broken, but told him they were only administering it.
- 92** We also heard from Liz, a single mother with custody of five school-aged children and a court order against the biological father of two of them, who had had no contact with his children for many years. When Liz applied for the third program's benefits, she was denied because, unbeknownst to her, he had applied first. Concerned that he would continue to receive payments because of rollovers, Liz contacted the Ministry. She told us that, despite submitting court documents confirming she was the sole custodial parent of the two children, Ministry staff told her the program was "first come, first served."
- 93** After Liz escalated her complaint within ServiceOntario, a member of the escalation team emailed the Ministry of Education on her behalf and questioned why it could not do more to stop the wrong person from being paid. The email said:

[W]hat I am not completely understanding is that I have brought this forward to show [the Ministry] that the money has gone to a non-custodial parent, and another payment is due to go very shortly [under the rollover]. We now know that this is not the correct parent, so can we not stop the funds from being deposited [to them]? It doesn't seem right that the government gives this money to a person that we know is not the correct parent.

- 94 Despite these efforts, the Ministry maintained that it could not determine whether Liz or her ex-partner was entitled to the benefits.
- 95 The Ministry's rollover structure also made no allowance for possible custody changes. One manager told us no thought was given to the fact that custody status could change over time. In one case, a social worker alerted the Ministry to an "emergency situation" involving a mother who had gained sole custody of her child between the third and fourth programs. The social worker asked that payment information in the Ministry's system be updated so that the money would go to the mother, since it would not be possible for her to contact the father to recover it after the fact. Ministry staff told her they were unable to change the recipient of the payment.
- 96 The Ministry took no steps to update applicant eligibility information between programs or to pause or stop rollover payments where a concern was raised about the recipient. This refusal to change course flew in the face of mounting evidence that government money was going to the wrong people – and would continue to do so with the full knowledge of the Ministry.
- 97 If the Ministry undertakes any similar direct payment programs in future that rely on "rolled over" information, it should have a clear process for determining recipients' continued eligibility and a way for applicants to bring forward new information regarding custodial status.

Recommendation 6

If the Ministry of Education relies on information rolled over from a previous program to establish eligibility for any future direct payment program, it should establish and apply a clear process to verify the continued eligibility of any rolled-over recipients.

Recommendation 7

If the Ministry of Education relies on information rolled over from a previous program to establish eligibility for any future direct payment program, it should ensure that applicants have a means to inform the Ministry of any changes that might impact eligibility.

Inadequate and unresponsive complaint escalation process

- 98** The Ministry was well acquainted with the problems that riddled the direct payment programs from the start, thanks to complaints from affected families. It made no effort to implement a consistent strategy for dealing with these complaints. As a result, when parents and guardians discovered their payments had been given to the wrong person, they were seldom able to resolve their concerns by contacting the Ministry.
- 99** The Ministry told us it had no systematic way to track or evaluate these complaints, and could not begin to estimate the amount of money that was improperly distributed. To obtain this information, the Ministry would have had to keep a record of claims from custodial parents who did not receive payments because of someone else's prior claim.

A help line that couldn't help

- 100** Complaints and inquiries from the public about the payment programs could be made through ServiceOntario, via email or telephone helpline. Unfortunately, the Ministry did not adequately prepare or empower the staff responding to these complaints and inquiries to offer solutions.
- 101** The tight timelines within which the programs were developed and rolled out meant that training for frontline staff was limited. When the programs were first launched, the Ministry provided helpline staff with a list of questions and answers to assist them in dealing with the public. However, the list failed to address many issues, including eligibility questions related to custody.
- 102** We learned that senior officials within ServiceOntario who had been tasked with supporting frontline staff raised concerns about the inadequacy of responses to custody-related questions. One official told us they voiced concerns to senior Ministry of Education staff, asking how they should be responding to inquiries and complaints from the public about custody-related issues. The Ministry responded by updating its information for helpline staff to echo the same message they had already been told to provide: Only one application would be entertained, and it was up to the parents or guardians to deal privately with any differences of opinion around eligibility.

- 103** During the third program, Support for Learners, the Ministry updated the standard response to include a statement that it was up to the child’s parents or guardians to determine who would apply and that the Ministry would not become involved in such determinations.
- 104** Staff at ServiceOntario were also not initially given access to the applications or any Ministry of Education files, so they could not answer callers’ questions about the status of their applications or resolve other specific concerns. Instead, complaints and inquiries that required anything more than general information unrelated to the callers’ particular circumstances were escalated to a second level of customer support that was staffed by a small team of Ministry of Education staff.
- 105** The restricted role of ServiceOntario helpline staff continued throughout the first four programs. For the fifth program, the Ministry implemented a second tier of customer support staff within ServiceOntario to assist with the ongoing influx of complex calls from applicants. Staff in this group were granted access to Ministry of Education information about individual applications and were able to resolve some minor issues raised by parents and guardians – for example, they could correct information in their files if it had been entered incorrectly. However, even by the fifth program, ServiceOntario staff were not able to address complaints related to non-custodial parents or guardians having improperly received the benefit. All such complaints had to be escalated to the Ministry.
- 106** For any future directly payment programs, frontline staff responding to complaints should be adequately informed and empowered to do so.

Recommendation 8

The Ministry of Education should ensure that frontline staff responding to complaints about any future direct payment program have access to all the information required to assess and respond to the complaint, and that they are empowered to do so.

Escalations unanswered

- 107** Escalated complex complaints and inquiries were handled by what witnesses we interviewed consistently described as a “very small” team of Ministry of Education staff. This small Ministry team faced an overwhelming volume of escalated complaints from frustrated custodial parents.
- 108** Prior to the launch of the second program, Ministry staff flagged that the complaint escalation team was understaffed and was having difficulty handling the volume of inquiries. Most of the team had no direct experience in customer support and had

received no training for the role. Within the first week of the second program, the backlog of complaints from the public was deemed “unmanageable”. By the time the fifth program was under way, the complaint handling team had faced upwards of 50,000 complaints and inquiries.

- 109** One Ministry staff member told us they spent much of their day triaging these complaints and not actually dealing with them directly, while the backlog continued to grow to “astronomical” levels. Ministry staff told us they were so overwhelmed that they stopped consistently checking for new complaints and only responded sporadically. As one put it, “at a certain point, we stopped ... entirely.[...] How can you answer 40,000 emails as two people? [...] We didn’t have the capacity to answer them. We were very, very understaffed...It was a bit of a mess.”
- 110** Ministry staff recalled in our interviews that complaint volumes were so high, there was no possibility they could respond to them all, and delays were so severe, they felt it was useless to answer at all after so much time had passed. Thousands of email inquiries and complaints from parents and guardians went unanswered.
- 111** This lack of response in turn generated more complaints to the Ministry – and to our Office. Some complainants told us it was “almost impossible” to speak to someone at the Ministry. A senior official we interviewed who was responsible for one of the programs acknowledged the backlog and the need for additional resources to deal with the volume of inquiries, but could not explain what steps, if any, were taken to address those needs.
- 112** Ministry staff told us complainants who were persistent, and those who engaged their MPP or our Office, were given priority over others and were more likely to receive a response. As it was described to us by a Ministry staff member: “Whoever screamed loudest got served first.”
- 113** Any future direct payment programs should include an adequately resourced complaints resolution process.

Recommendation 9

The Ministry of Education should ensure that the complaints resolution process for any future direct payment program is adequately resourced to allow every complaint or inquiry to receive a response.

Recommendation 10

The Ministry of Education should adopt service standards for any complaints process it adopts relating to a direct payment program to ensure that complaints are properly documented and responded to in a timely fashion.

Unhelpful responses and no remedies

- 114** Even those lucky enough to receive a response from the Ministry were generally unable to resolve their concern. Complaints involving a non-custodial or unknown party receiving the funding instead of the custodial parent or guardian would typically receive a standard form email in reply, stating that the Ministry would not involve itself in custody-related matters and concerned parties had to resolve the matter privately.
- 115** A source of frustration to many custodial parents and guardians was that the Ministry would also not confirm who had received payments in their place. Instead, the Ministry typically sent an email stating that someone else had applied first, but privacy rules prevented the release of any identifying information.
- 116** In one case we reviewed, Olivia, who has sole custody of her young child, attempted to apply for payments and was denied on the grounds that someone else had received the funds first. Since the child's father was in jail, she was worried the money had been fraudulently obtained by someone else. She provided the Ministry with a document confirming custody of her child, which had already been accepted for child tax benefit purposes. The Ministry told her it could not consider the document and could not disclose who had received the funds intended for her child.
- 117** When we asked why the Ministry did not take steps to correct errors when they were raised, Ministry staff told us there was no consistent system in place to “claw back” funds that had already been paid out, even if the recipient turned out to be ineligible. While the Ministry had the ability to stop future unprocessed payments from going out, it maintained its position of not getting involved in questions of custody. In some situations, the Ministry proposed that the first applicant could withdraw their application so a new one could be submitted.
- 118** These responses were often not helpful or appropriate. For complainants in acrimonious divorce or custody situations, the Ministry's suggestion that they essentially work it out for themselves was particularly unhelpful. Some complainants – such as Liz – told us the Ministry continued to provide this same standard response even after they disclosed a history of abuse in the relationship preventing further contact with the other parent.

- 119** In one case, a father escalated his complaint to the provincial Information and Privacy Commissioner. He ultimately learned that his ex-wife had claimed the benefit for their child, even though she had denied doing so. He described the whole process as an “absolute nightmare,” made worse by the Ministry’s failure to take divorced parents into account when designing the programs and responding to disputes.
- 120** Ministry staff told us they knew their responses to parents and guardians were unhelpful and frustrating. Everyone received the same response, whatever their individual circumstances. One employee candidly admitted the Ministry “didn’t have a good answer” for how to address the issue of payments going to the wrong person.
- 121** The final direct payment program closed in 2023. Not only did the Ministry fail to create a mechanism to recover inappropriately dispensed funds, it also failed to look into many individual complaints or keep records of cases where a clawback would have been warranted. As a result, the Ministry has no realistic path to retroactively recovering these payments or compensating those families whose promised funding was misdirected. Although it cannot compensate Ontarians financially, it is incumbent on the Ministry to ensure these failings are not repeated in future.

Recommendation 11

The Ministry of Education should ensure that any future direct payment program includes an accessible and effective mechanism to recover improperly distributed funds and redirect them to the intended recipient.

No appeal, no redress

- 122** For two years, parents and guardians had very little recourse when they were denied funding for the children in their custody, as the Ministry had no formal appeal process in place. It was only after the fifth program that the Ministry implemented an appeal process that could address more complex complaints, like those involving custody-related eligibility.
- 123** However, this appeal option was not retroactive and only applied to those who had applied for the Catch Up Payments program. It was also only open for one month – from January 29 to February 29, 2024. Confusingly, the option to appeal was not introduced when the program launched or even while it remained open. Ministry staff involved in the setup of this appeal process acknowledged that, ideally, it would have launched at the same time as the program. However, the timeline for

the appeal process changed over the course of several months as the Ministry prioritized dealing with outstanding applications and custody complaints flagged by MPPs and our Office. Longstanding issues such as insufficient staff also impacted these timelines, as there were only a handful of people assigned to handle all complaint escalations and these new appeals.

- 124** Ultimately, the appeal option was offered 10 months after the fifth and final program closed in March 2023.
- 125** We were told the appeals process was intentionally not widely publicized, to keep appeal volumes low. Because the appeal process did not exist at the time the program was launched, there was no information about it on the application form or on the initial version of the Catch Up Payments web page. Information about the appeal process was added to the website in January 2024, ten months after the program was closed. Only those applicants who checked the status of their application after the program had already closed, checked the ministry website after January 2024, or who called the ServiceOntario helpline would have been aware of this option. There were 1.7 million applications for the fifth program, but our investigation found that there were only 25 formal appeals.
- 126** In practice, there was little difference in the Ministry's handling of these 25 appeals and its earlier approach to escalated complaints. Ministry staff told us they used the same review and verification methods for appeals as they had for the previous escalation processes.
- 127** Of those 25 people who managed to appeal a direct payment funding decision to the Ministry, four raised concerns about funds that were incorrectly paid based on custody status. For the first time, the Ministry reversed course on its hardline response to these complaints, in some cases issuing a second payment for a child or youth. Although this small group of parents and guardians finally received the payments to which they were entitled, we were told the Ministry never sought repayment from the non-custodial individuals who had claimed the funds first.
- 128** Any future such programs should include an accessible and widely publicized appeal process.

Recommendation 12

The Ministry of Education should establish an appeal process at the outset of any future direct payment program and ensure that it remains accessible throughout the program's delivery period and for a sufficient time after the close of the program.

Recommendation 13

The Ministry of Education should clearly communicate the fact of the appeal process and how to file an appeal to the public.

Preparing for the next direct payment program

- 129** This investigation identified problems at every stage of the Ministry's process, from a failure to properly plan for and administer payments involving custody arrangements, and to a failure to respond appropriately once problems were identified. Ministry officials we spoke with attributed many of the problems with the programs to the urgency of the situations they were designed to address. The problems were exacerbated by the Ministry's lack of experience in administering direct payment programs.
- 130** Governments have a duty to respond quickly in the face of urgent circumstances, but expediency cannot justify administering public funds with the lack of planning and care that we observed in this case. In other contexts, governments carefully plan for emergencies in advance, identifying roles and responsibilities, resource allocation, available tools and mechanisms, and communication protocols. Had the Ministry created such a plan before embarking on these five payment programs, it might have been better able to prevent or respond to the issues that our investigation identified.
- 131** I encourage the Ministry to adopt and implement all of my recommendations to prevent a recurrence of the problems identified in this report. The Ministry should also consider how it can leverage existing income and benefit eligibility processes available through the Canada Revenue Agency (CRA) in future. For instance, a number of provincial and territorial child benefit programs, including the Ontario Child Benefit Program, are administered by the CRA. They rely on the Canada Child Benefit eligibility criteria, which stipulate that the applicant must have custody or primary responsibility for the child. The Ministry should explore whether it would be possible to leverage existing income and eligibility processes administered by the Canada Revenue Agency when designing any future direct payment programs.

Opinion

- 132** The Ministry of Education faced pressure to deliver a direct payment program quickly to help families affected by labour disruptions in 2020. This pressure did not let up over the next two years, as the Ministry was tasked with delivering four more payment programs to respond to the COVID-19 pandemic. To meet these

timing expectations, the Ministry pushed out programs that were poorly planned and inadequately resourced.

- 133** The programs' design did not account for the many different types of families in Ontario, including single parents, shared custody arrangements, estranged parents, families facing domestic violence, or the many grandparents and other guardians raising children and youth. Anyone who knew a student's name, date of birth, and school board could claim the funds meant for them, regardless of whether they lived with or even had contact with the child.
- 134** Our investigation found that the Ministry failed to take the time needed to carefully plan for program delivery. It did not put safeguards in place to verify that recipients were eligible for funding, making it easy for non-custodial parents and others with no connection to a child or youth to claim and receive their payments.
- 135** When it became clear that funds meant to support children were being claimed by ineligible recipients, the Ministry failed to change course. It doggedly maintained that it could not – or would not – become involved in custody matters. Frustrated parents and guardians were left without funding meant to support their children, while an unknown and untracked amount of public funds went into other people's pockets.
- 136** To expedite subsequent programs, the Ministry chose to replicate or “roll over” the programs, transferring eligibility from one program to another, resulting in more payments going to people it had already been told were ineligible. It instituted a complaint process, but it was inadequately staffed and resourced. Instead of being an opportunity to identify and address problems with the programs, it was, overwhelmed, ineffective and largely inaccessible.
- 137** Under the circumstances, it is my opinion that the Ministry's actions with respect to its administration of the direct payment programs were unreasonable, unjust, and wrong under sections 21(1)(b) and (d) of the *Ombudsman Act*.
- 138** The Ministry has not been asked to administer any direct payment programs since 2023. Nonetheless, given the serious failings we identified in this investigation, I am making 14 recommendations to ensure that any future direct payment programs it delivers are carefully planned and administered. It is essential that the Ministry identify how it will define and verify eligibility for any future program to ensure that funds reach the intended recipient children and youth, and how complaints about misdirected public funds will be responded to.
- 139** I will carefully monitor the Ministry of Education's progress in implementing my recommendations.

Recommendation 14

The Ministry of Education should report back to my Office on its plans to implement my recommendations prior to its announcement of any future direct payment programs which might be contemplated.

Recommendations

140 I make these recommendations with the aim of ensuring that future direct payment programs are administered by the Ministry of Education in a fair and transparent manner:

- 1. The Ministry of Education should ensure that all aspects of program design and delivery are comprehensively planned before launching any future direct payment program.**
- 2. The Ministry of Education should ensure that any future direct payment program is supported by adequate staffing resources and supports at every stage.**
- 3. Prior to launching any future direct payment program, the Ministry of Education should establish and communicate clear eligibility criteria for applicants.**
- 4. The Ministry of Education should ensure that any future direct payment program includes a clear and consistent method to verify eligibility and that verification takes place before funds are released.**
- 5. The Ministry of Education should regularly conduct internal audits to assess the strength and effectiveness of its eligibility verification processes throughout the course of any future direct payment program and respond swiftly to any identified gaps or weaknesses in the process.**
- 6. If the Ministry of Education relies on information rolled over from a previous program to establish eligibility for any future direct payment program, it should establish and apply a clear process to verify the continued eligibility of any rolled-over recipients.**
- 7. If the Ministry of Education relies on information rolled over from a previous program to establish eligibility for any future direct payment program, it should ensure that applicants have a means to inform the Ministry of any changes that might impact eligibility.**

8. The Ministry of Education should ensure that frontline staff responding to complaints about any future direct payment program have access to all the information required to assess and respond to the complaint, and that they are empowered to do so.
9. The Ministry of Education should ensure that the complaints resolution process for any future direct payment program is adequately resourced to allow every complaint or inquiry to receive a response.
10. The Ministry of Education should adopt service standards for any complaints process it adopts relating to a direct payment program to ensure that complaints are properly documented and responded to in a timely fashion.
11. The Ministry of Education should ensure that any future direct payment program includes an accessible and effective mechanism to recover improperly distributed funds and redirect them to the intended recipient.
12. The Ministry of Education should establish an appeal process at the outset of any future direct payment program and ensure that it remains accessible throughout the program's delivery period and for a sufficient time after the close of the program.
13. The Ministry of Education should clearly communicate the fact of the appeal process and how to file an appeal to the public.
14. The Ministry of Education should report back to my Office on its plans to implement my recommendations prior to its announcement of any future direct payment programs which might be contemplated.

Response

- 141** The Ministry of Education was provided with the opportunity to review and respond to a preliminary version of this report and recommendations, as is our normal process. The Ministry's comments and input were carefully considered in the preparation of this final report.
- 142** In its response, the Ministry noted that the direct payment programs were designed and delivered outside the ministry's usual program delivery model during an unprecedented period that required rapid action to support families and learners across Ontario. The Ministry accepted all 14 recommendations and committed to ensuring that they are carefully considered when designing and implementing any future direct payment programs.

143 I appreciate the cooperation received from the Ministry during this investigation and am encouraged by its positive response to my report and recommendations. We will monitor its progress closely in implementing them.



Barbara Finlay
Acting Ombudsman of Ontario

Ce rapport est aussi disponible en français