CHILD, YOUTH AND FAMILY SERVICES ACT, 2017 (CYFSA)

GUIDE TO SUPPORT THE IMPLEMENTATION OF SELECT PROVISIONS OF THE CYFSA

Prepared by

Child Welfare Secretariat
Policy Development and Program Design Division

Ministry of Children and Youth Services

Disclaimer: This is a plain language guide to help you better understand elements of the Child, Youth and Family Services Act, 2017 and its regulations. The Act and regulations are available on the Government of Ontario e-Laws website. This guide should not be relied on for legal guidance or legal advice. You should consult a lawyer for any legal questions or advice.
Guide to Support the Implementation of Select Provisions of the CYFSA

Introduction ........................................................................................................................................ 4

CYFSA: Questions and Answers ......................................................................................................... 6

- Regulations Governing the Transition from the CFSA to the CYFSA ........................................ 6
- Duty to Report .................................................................................................................................. 10
- Best Interests of the Child Test .................................................................................................... 13
- Extra-provincial Child Protection Orders ...................................................................................... 14
- Bands and First Nations, Inuit or Métis Communities .................................................................... 16
- Customary Care for Indigenous Children and Youth .................................................................... 22
- Regulation 552 under the Health Insurance Act ......................................................................... 25
- Place of Safety and Kinship Service Requirements .................................................................... 26
- Children in Care Regulatory Requirements .................................................................................. 29
- Orders for Access to a Child in Extended Society Care .............................................................. 30
- Adoption and Openness ................................................................................................................ 32
- Complaints to Societies or the Child and Family Services Review Board .................................... 40
- Ontario Child Benefit Equivalent (OCBE) Directive .................................................................... 44
- Registered Education Savings Plan (RESP) Directive .................................................................. 51
- Continued Care and Support for Youth ......................................................................................... 65
- Society Governance and Accountability ....................................................................................... 71
- Society Staff Qualifications .......................................................................................................... 74
- Child Abuse Register .................................................................................................................... 78
- New Forms under the Act .............................................................................................................. 78

Appendices

Appendix A: Interpreting CFSA Policies under the CYFSA
Appendix B: Updated Duty to Report Brochure
Appendix C: Notification Protocol to the Office of the Children’s Lawyer (OCL) and Covering Sheet
Appendix D: New Standard Complaints Form
Appendix E: Information package concerning Ontario Child Benefit Equivalent funding, consisting of:
  - “Policy Directive CW 002-18” on Ontario Child Benefit Equivalent funding, which will replace “Policy Directive CW001-14” upon proclamation into force of the CYFSA; and,
  - Fact sheets respecting the Ontario Child Benefit Equivalent

Disclaimer: This is a plain language guide to help you better understand elements of the Child, Youth and Family Services Act, 2017 and its regulations. The Act and regulations are available on the Government of Ontario e-Laws website. This guide should not be relied on for legal guidance or legal advice. You should consult a lawyer for any legal questions or advice.
funding, for societies and their finance departments, and for children, youth and their caregivers.

**Appendix F:** A package respecting Policy Directive CW004-18 on Registered Education Savings Plans, which includes:

- “Policy Directive CW 004-18 Registered Education Savings Plans”, which will replace “Policy Directive CW005-16 Registered Education Savings Plans” upon proclamation into force of the CYFSA; and,
- Fact sheets respecting Registered Education Savings Plans, for societies and their finance departments, and for children, youth and their caregivers.

**Appendix G:** Policy Directive CW001-18 Continued Care and Support for Youth (CCSY), including the CCSY agreement template

**Appendix H:** Updated “Protection Services for 16-17 Year Olds” Implementation Package, with:

- “Policy Directive: CW 003-18 Protection Services for 16-17 Year Olds,” which will replace “Policy Directive: CW-003-17 Protection Services for 16-17 Year Olds” upon proclamation of the CYFSA;
- Updated Questions & Answers document respecting protection services for 16-17 year olds, with answers to questions received since proclamation of the change to the CFSA that raised the age of protection effective January 1, 2018;
- Updated brochure for youth entitled “Protection Services for 16- and 17-Year-Olds: Information for Youth”;
- Updated fact sheet for youth-serving agencies that describes protection services for 16- and 17-year-olds;
- Updated form to provide notice to the Office of the Children’s Lawyer (OCL) when societies are providing services for 16 – 17 year olds; and
- Updated Voluntary Youth Services Agreement (VYSA) template.
Introduction

On June 1, 2017, the Supporting Children, Youth and Families Act, 2016, which contains the Child, Youth and Family Services Act, 2017 (CYFSA), received Royal Assent. The provisions in the CYFSA and its regulations were informed by feedback received as part of the 2015 Review of the Child and Family Services Act, throughout the legislative process, and in response to regulation summaries posted on Ontario’s Regulatory Registry.

When proclaimed, the CYFSA and supporting regulations will provide a modern legislative framework that:

- Strengthens the delivery of high-quality child, youth and family-centered services;
- Supports continuing transformation efforts focused on building a more integrated system and consistent services;
- Enhances effective system governance, accountability, information-sharing and transparency; and,
- Supports a culturally appropriate approach to service provision as part of the broader implementation of the Ontario Indigenous Children and Youth Strategy and Ontario’s Three-Year Anti-Racism Strategic Plan.

Most critically, the CYFSA places the child at the centre of all services, to better support children and youth with opportunities to succeed and reach their full potential. Children and youth receiving services under the Act will have their voices heard and respected. They will also have a more consistent service experience.

In areas related to the delivery of child protection and adoption services, the CYFSA, its regulations and related policy directives contain provisions that are different than those under the Child and Family Services Act (CFSA). Most regulations have been remade without substantive changes and a number of policy directives revised, while other policy directives will be updated in the coming months.

This Implementation Guide is intended to support children’s aid societies, both their management teams and their frontline staff, as they put into effect certain provisions in the CYFSA, its regulations and related policy directives, in the delivery of child protection and adoption services. It contains an overview of specific areas of change, with detailed Questions & Answers organized by subject area. Attached as appendices you will find an information sheet setting out policy directives that have not yet been updated and significant terminology changes between the CFSA and the CYFSA, updated brochures, pertinent fact sheets, revised policy directives, new and revised forms, and other supports. Also included is an updated package on protection services for 16- and 17-year-olds, including answers to questions received since the age of
This is a plain language guide to help you better understand elements of the Child, Youth and Family Services Act, 2017 and its regulations. The Act and regulations are available on the Government of Ontario e-Laws website. This guide should not be relied upon for legal guidance or advice. You should consult a lawyer for any legal questions or advice.

Thank you for your ongoing commitment to supporting the initiatives and programs which contribute to improved outcomes for children, youth and families across the province.
REGULATIONS GOVERNING THE TRANSITION FROM THE CFSA TO THE CYFSA

A transition regulation under the CYFSA clarifies the rules respecting processes and procedures that started under the CFSA and are ongoing at the time the CYFSA comes into force, including with respect to child protection and adoption and openness proceedings. The regulations provide that processes and procedures related to child protection and adoption service delivery, which commenced under the CFSA will, subject to limited exceptions, continue under the corresponding provisions of the CYFSA (e.g. child protection and status review applications, applications for adoption court orders, warrants, and openness proceedings).

A significant consideration for transition is that the terms “Indian” and “native” in the CFSA are replaced with the terms “First Nations, Inuit and Métis” in the CYFSA. The new statutory scheme recognizes a broader cohort of First Nation, Inuit and Métis children and enhances the participation by the bands and the listed First Nations, Inuit or Métis communities with which the child identifies or is a member of in court proceedings and Board Reviews. In particular, the transition provisions for child protection proceedings provide that in every case, the court is required to determine whether the subject child is First Nations, Inuk or Métis, and, if so, to determine the child’s bands and First Nations, Inuit or Métis communities. This determination must be made as soon as practicable regardless of any determination of whether a child is an “Indian” or “native” child that was made under the CFSA.

Additionally, the transition regulation provides that in a proceeding related to a First Nations, Inuk or Métis child, the parties to the proceeding will include representatives chosen by each of the child’s bands or First Nations, Métis and Inuit communities (consistent with s.79(1) para. 4 of CYFSA), unless the court makes an order in the child’s best interests that the parties to the proceeding are those who were parties before proclamation of the CYFSA. Conversely, the provisions provide that where the proceeding is completed and the court has reserved its decision before proclamation, the parties remain those who were parties immediately before proclamation (i.e., no new representatives of the child’s First Nations, Métis and Inuit communities become parties), unless the court orders otherwise in the child’s best interests.

With respect to adoption service delivery, provisions are intended to clarify the obligations of a society with respect to a First Nation, Inuk or Métis child whose adoption planning is underway at the time that the CYFSA comes into force. The transition
provision requires that a society give notice to a child’s bands and listed First Nations, Inuit or Métis communities of its intention to begin planning for a child’s adoption, unless the society has already formed the intention to place the child for adoption. Giving the child’s bands and listed communities notice gives the bands and listed communities the opportunity to propose their own plan for the care of the child.

Since the CYFSA provides greater participatory rights to children and youth in openness proceedings than under the CFSA, transition provisions clarify that a child’s right to participate in openness proceedings under the CYFSA is to apply to openness applications that started under the CFSA and that continues under the CYFSA, unless the court orders otherwise on the basis of the child’s best interests. However, in cases where the court has completed its hearing of openness proceedings but reserved its decision (i.e. no decision has yet been made) at the time the CYFSA comes into force, then the CFSA provisions respecting a child’s participation in the proceeding are to apply, unless a court orders otherwise based on the child’s best interests.

1. **Will processes or actions taken by a society under the CFSA remain valid under the CYFSA?**

Yes. The transition regulation provides that any steps (e.g. processes or actions) taken by a society under the CFSA for the purposes of performing its functions (e.g. a child protection investigation) are deemed to have been taken under the CYFSA for the purposes of performing and carrying out its functions.

2. **Will directives that are made under the CFSA be valid under the CYFSA?**

Transition provisions provide that a directive issued under section 20.1 of the CFSA and in effect immediately before the CYFSA comes into force continue as a directive made under section 42 of the CYFSA. Certain directives have been updated and issued under the CYFSA (see contents of this package for more information respecting directives).

3. **Do processes and procedures like warrants and temporary care agreements that were made under the CFSA continue under the CYFSA?**

Processes and procedures related to child protection service delivery started under the CFSA will continue under the CYFSA, including:

- Warrants to bring a child to a place of safety;
- Where a child is apprehended, a court application will proceed under the CYFSA;
- Agreements (e.g. temporary care agreements, customary care agreements and Voluntary Youth Services Agreements);
- Child Protection Orders;
- Child and Family Services Review Board (CFSRB) reviews/hearings; and,
- Child protection hearings.

4. **Will orders made under Part VII (Adoption) of the CFSA continue under the CYFSA?**

A regulatory provision respecting the transition from the CFSA to the CYFSA clarifies that orders made under Part VII of the CFSA are in effect with respect to an adoption application under Part VIII of the CYFSA.

5. **For child protection cases started under the CFSA and not concluded when the CYFSA comes into force, what law applies?**

Regulatory provisions respecting the transition from the CFSA to the CYFSA provide that child protection proceedings that started under the CFSA but are not concluded when the CYFSA comes into effect are to continue under the CYFSA (i.e. the CYFSA will be the law that applies to the proceeding).

6. **How do the transition provisions affect ongoing cases respecting First Nations, Inuit and Métis children?**

A significant consideration for transition is that the terms “Indian” and “native” in the CFSA are replaced in the CYFSA with the terms “First Nations, Inuit and Métis”. As a result, the CYFSA’s language recognizes a broader cohort of First Nations, Inuit, and Métis children and enhances the participation of Bands and First Nations, Inuit, and Métis communities (who may be listed in the future) in court proceedings and Board reviews. Accordingly, the transition provisions for child protection proceedings provide that in every case (including cases that are ongoing at the time the CYFSA is proclaimed into force), the court is required to determine whether the subject child is First Nations, Inuk or Métis, and, if so, determine the child’s bands and First Nations, Inuit or Métis communities. This is required regardless of any determination of whether the child is an “Indian” or “native” child under the CFSA (see s.90(2)(b) of the CYFSA).

7. **What happens to a case that is ongoing at the time the CYFSA comes into effect and the subject child identifies with or is a member of a band or listed First Nation, Inuit and Métis community?**

The regulatory provisions respecting the transition from the CFSA to the CYFSA provide that in a proceeding related to a First Nations, Inuk or Métis child, the parties to the proceeding will include a representative chosen by each of the child’s First Nations, Métis, and Inuit communities (consistent with s.79(1) para. 4 of the CYFSA), unless the court makes an order in the child’s best interests that the parties to the

Disclaimer: This is a plain language guide to help you better understand elements of the Child, Youth and Family Services Act, 2017 and its regulations. The Act and regulations are available on the Government of Ontario e-Laws website. This guide should not be relied on for legal guidance or legal advice. You should consult a lawyer for any legal questions or advice.
proceeding are those who were parties before proclamation of the CYFSA. There is one exception to this provision: where the proceeding is completed and the court has reserved its decision before proclamation, the parties remain those who were parties immediately before proclamation (i.e., no new representatives of the child’s First Nations, Métis and Inuit communities become parties), unless the court orders otherwise in the child’s best interests.

8. **Are there any exceptions to when the parties to a case would not be expanded to those that would have been parties had the case started under the CYFSA?**

Yes, where the proceeding is completed and the court has reserved its decision before proclamation, the parties remain those who were parties immediately before proclamation (i.e., no new representatives of the child’s First Nations, Métis and Inuit communities become parties), unless the court orders otherwise in the child’s best interests.

9. **With respect to adoption, how do the transition provisions apply with respect to a society’s obligations relating to a First Nations, Inuk or Métis child?**

For a case where a society is planning for the adoption of a First Nations, Métis or Inuk child, a society’s obligation under section 186 of the CYFSA to provide the child’s bands and First Nations, Inuit or Métis communities with notice of a society’s intent to begin planning for the adoption of the child applies unless the society formed the intention to place the child for adoption before the day that the CYFSA came into force. In a situation where an adoption is being planned for a First Nations, Inuk or Métis child under the CFSA but there is no intention to place the child for adoption at the time the CYFSA is coming into force, then the procedures set out in section 186 of the CYFSA would apply, such that the society is required to:

- give written notice of its intention to a representative chosen by each of the child’s bands and First Nations, Inuit or Métis communities; and,
- not place the child for adoption until:
  - 60 days following each representative chosen by the child’s bands/communities receiving the notice.
  - if a band or First Nations, Inuit or Métis community has submitted a plan for the care of the child, the society has considered the plan.

The CYFSA imposes a new requirement on societies respecting adoption planning for a First Nations, Inuk or Métis child (i.e., section 187 of the CYFSA). For cases where a society is planning for the adoption of a First Nations, Inuk or Métis child at the time the CYFSA comes into force, a society’s obligation under section 187 of the CYFSA (i.e. to consider the importance of developing or maintaining the child’s connection to the child’s bands and First Nations, Inuit or Métis communities) continues to apply until the society places the child for adoption. For example, in a situation where an adoption is being planned for a First Nations, Inuk or Métis child...
10. How do the transition provisions relate to the rights of a child to participate in openness proceedings?

Since the CYFSA provides greater participatory rights to children and youth in openness proceedings than in the CFSA, transition provisions clarify that a child’s rights to participate in openness proceedings under the CYFSA apply to openness applications that started under the CFSA and that continues under the CYFSA, unless the court orders otherwise on the basis of the child’s best interests. However, in cases where the court has completed its hearing of openness proceedings but reserved its decision (i.e. no decision has yet been made) at the time the CYFSA comes into force, then the CFSA provisions respecting a child’s participation in the proceeding are to apply, unless a court orders otherwise based on the child’s best interests.

DUTY TO REPORT

The Duty to Report brochure, Reporting Child Abuse and Neglect: It’s Your Duty, has been revised to reflect the amendments to the duty to report provisions that will come into effect with the proclamation of the Child, Youth and Family Services Act (CYFSA), and clarifies reporting child protection concerns with respect to 16- and 17-year-olds following the amendments to the Child and Family Services Act (CFSA) that came into force on January 1, 2018 and raised the age of protection, and which are carried forward in the CYFSA.

The revised brochure is included as Appendix B.

1. Why is the Duty to Report brochure being revised?

The brochure is being revised to reflect the amendments to the Child, Youth and Family Services Act (CYFSA) that relate to reporting concerns that a child is or may be in need of protection.
2. **What changes have been made to the brochure?**

The brochure is updated to reflect specific provision references to, and language of, the CYFSA (e.g., legislative citations).

The new brochure also reflects the legislative amendments to raise the age of protection from 16 to 18, which were proclaimed on January 1, 2018, and clarifies reporting a concern that a youth who is 16 or 17 is or may be in need of protection.

Legislative amendments to increase the financial penalty for professionals who fail to report suspected cases of child abuse and/or neglect (an increase from $1,000 to $5,000) are reflected in the brochure.

The brochure also adds content regarding the role of societies in providing child protection services to children, youth and families, and references obligations to provide culturally appropriate services.

3. **Does the Duty to Report apply to 16- and 17-year-olds?**

A person may make a report where they have a reasonable suspicion that a youth age 16 or 17 is or may be in need of protection. The duty to report applies in respect of children under 16. The CYFSA takes into consideration that a different approach is needed for 16- and 17-year olds that will protect them and encourage their voluntary participation in service. These amendments took effect under the CFSA on January 1, 2018, and have been carried over into the CYFSA.

4. **Are protections in place for professionals and members of the public who report concerns about 16- and 17-year-olds?**

Section 125(10) of the CYFSA states that, “No action for making the report shall be instituted against a person who acts in accordance with this section unless the person acts maliciously or without reasonable grounds for the suspicion.” This applies to professionals and members of the public reporting child protection concerns about any child, including 16- and 17-year-olds.

5. **Will the grounds for protection be different for 16- and 17- year olds?**

No. When the age of protection amendments to the CFSA were proclaimed, the existing grounds for protection applied to 16- and 17-year-olds. The amendments to the CFSA included a new provision that provided regulation-making authority should additional grounds with respect to 16- and 17-year-olds be needed. The regulation-making authority provision has been imported into the CYFSA. A regulation has not been made at this time. Under the CYFSA (s. 125(1)) the grounds that apply to...
younger children remain applicable to 16- and 17-year-olds, and include, physical, sexual and emotional abuse, neglect, and risk of harm.

6. Are societies required to investigate all new reports that a 16 and 17-year-old youth may be in need of protection, even if the youth is not consenting to the investigation?

The Ontario Child Protection Standards (2016) guide child protection workers in each phase of service delivery and are the mandatory framework in which child protection services are delivered. Societies are required to assess all reports that a child is or may be in need of protection.

In the case of a 16 and 17-year-old youth who is not consenting to an investigation, societies will take into consideration the degree of risk to the youth in question, consider alternative ways to engage the youth and make a determination about whether other measures may be required to address safety concerns (e.g., Alternative Dispute Resolution, or as a last resort, court application). The youth’s age and views will be one of the factors considered in making such a determination.

7. If a society becomes aware that a professional is involved with a 16 and 17-year-old youth who is or may be in need of protection, is there a mechanism to compel the professional to make a report?

The duty to report applies only in respect of children under 16. Nevertheless, a person may make a report where they have a reasonable suspicion that a youth age 16 or 17 is or may be in need of protection.

8. Why did the ministry not amend the legislation to include fines for the general public who fail to report suspicions that a child is or may be in need of protection?

The CYFSA recognizes that professionals who work closely with children have a special awareness of the signs of child abuse and neglect, and a particular responsibility to report their suspicions.

The ministry did not proceed with the recommendation to implement financial penalties on the public because, unlike professionals, the public is presumed not to have special awareness of the signs of child abuse/neglect.

9. When will the brochure be available in hard copy?

The brochure will be available for order through ServiceOntario in Spring 2018. To order by phone:
1-800-668-9938
BEST INTERESTS OF THE CHILD TEST

The CYFSA makes changes to the best interests of the child test that existed under the CFSA. The best interests of the child test under the CYFSA requires that the child’s views and wishes be considered, and given due weight in accordance with the child’s age and maturity, unless they cannot be ascertained. Additionally, for a First Nations, Inuk or Métis child, the importance of preserving the child’s cultural identity and connection to community must be considered.

In addition, for any other circumstances that are considered relevant, including a list of 11 circumstances similar to those listed in the CFSA, the following changes are of note:

- the CFSA includes the child’s cultural background in this list, whereas the CYFSA includes the child’s cultural and linguistic heritage; and,
- the CFSA includes the religious faith in which the child is being raised, whereas the CYFSA refers to the child’s creed (including religion) and also includes the child’s race, ancestry, place of origin, colour, ethnic origin, citizenship, family diversity, disability, sex, sexual orientation, gender identity and gender expression.

1. **What has changed between the CFSA and the CYFSA respecting the best interests of the child test?**

When determining the best interests of a child under Part V (Child Protection) and Part VIII (Adoption) of the CYFSA, the factors to be considered in determining the best interests of a child are changed from those factors to be considered under the CFSA. The following must be taken into consideration: the child’s views and wishes, given due weight in accordance with the child’s age and maturity, unless they cannot be ascertained; and in the case of a First Nations, Inuk or Métis child, the importance of preserving the child’s cultural identity and connection to community.
In addition, any other circumstances that are considered relevant, including a list of
11 circumstances similar to those listed in the CFSA, are to be considered.
Differences include:
- the CFSA included the child’s cultural background in this list whereas the CYFSA
  includes the child’s cultural and linguistic heritage; and,
- the CFSA includes the religious faith in which the child is being raised, whereas
  the CYFSA refers to the child’s creed and also includes the child’s race,
  ancestry, place of origin, colour, ethnic origin, citizenship, family diversity,
  disability, sex, sexual orientation, gender identity and gender expression.

2. Why have changes been made to the best interests of the child test?

Changes are intended to promote the voice of children, including giving
consideration to characteristics of a child’s identity (e.g. based on race, ethnic origin,
family diversity), when decisions about their best interests are being made, and in
the case of First Nations, Inuit or Métis children, to promote the importance of
maintaining a child’s connection to their cultural identity and connection to
community.

EXTRA-PROVINCIAL CHILD PROTECTION ORDERS

Under the CYFSA, a children’s aid society (society) has the authority to bring a child to
a place of safety who is the subject of a temporary or final extra-provincial child
protection order respecting their custody, and return the child to the extra-provincial
child protection authority or other person named in the order.

1. What has changed between the CFSA and the CYFSA respecting extra-
   provincial child protection orders?

When children move between provinces, there may be child protection orders that
were made pursuant to child welfare legislation in the child’s province/territory of
origin. The CFSA did not provide for the enforcement of these orders. The CYFSA
includes provisions that authorize Ontario child protection workers to take steps in
relation to children who are the subject of extra-provincial child protection orders.

2. Why have provisions respecting extra-provincial child protection orders been
   added to the CYFSA?

The Child and Family Services Act (CFSA) did not include provisions for the
enforcement of extra-provincial child protection orders made in jurisdictions outside
of Ontario. This legislative need was highlighted in the 2013-2014 child protection proceedings involving children who came to Ontario from Québec while protection proceedings were in progress.

3. **What is required by a society that is looking to bring a child to a place of safety on the basis of an extra-provincial child protection order with a warrant?**

The provisions in the CYFSA provide legislative authority for an Ontario society to bring a child who is the subject of a temporary or final extra-provincial child protection order respecting their custody to a place of safety, and return the child to the extra-provincial child protection authority or other person named in the order.

When a society seeks to bring a child to a place of safety, or return the child who is the subject of a temporary or final extra-provincial child protection order respecting their custody to a place of safety, or return the child to the extra-provincial child protection authority or other person named in the order, the society may seek a warrant from a justice of the peace under section 83(1) of the CYFSA. Under that section, a justice of the peace may issue a warrant authorizing a child protection worker to bring a child to a place of safety if the justice of the peace is satisfied on the basis of a child protection worker’s sworn information that:

- the child is actually or apparently younger than 16;
- the child is the subject of an extra-provincial child protection order and has left or been removed from the lawful care and custody of the child welfare authority or other person named in the order; and,
- there are reasonable and probable grounds to believe that there is no course of action available other than bringing the child to a place of safety that would adequately protect the child.

A child protection worker is to provide sworn information using the form prescribed in regulations under the CYFSA, entitled “Information in Support of a Warrant to Bring to a Place of Safety and Return a Child in Care.” A justice of the peace shall issue a warrant using the form prescribed in regulations entitled “Warrant to Bring to a Place of Safety and Return a Child in Care.”


4. **Can a society bring a child to a place of safety on the basis of an extra-provincial child protection order without a warrant?**

Under subsection 83(4) of the CYFSA, a peace officer or child protection worker may, without a warrant, bring the child to a place of safety and return the child to the
extra-provincial child protection authority or other person named in the extra-provincial order if the peace officer or child protection worker believes on reasonable and probable grounds that:

- the child is actually or apparently younger than 16, and,
- the child is the subject of an extra-provincial child protection order and has left or been removed from the lawful care and custody of the child welfare authority or other person named in the order; and,
- there would be a substantial risk to the child’s health or safety during the time necessary to obtain a warrant under subsection 83(1).

5. Under the CYFSA, when must a child be returned to the extra-provincial child welfare authority or other person after the child is brought to a place of safety?

Whenever a child is brought to a place of safety (i.e. with or without a warrant), the child must be returned to the extra-provincial child welfare authority or other person named in the extra-provincial order as soon as practicable but in any event within 5 days of being brought to a place of safety (see s.88(c) of the CYFSA)

6. How do the provisions in the CYFSA respecting extra-provincial child protection orders relate to the Provincial/Territorial Protocol on Children and Families Moving between Provinces and Territories?

The provisions in the CYFSA further support the safety and protection of children who cross provincial and territorial borders, and are consistent with the guidance contained in the Provincial/Territorial Protocol on Children and Families Moving between Provinces and Territories respecting the repatriation of children and youth (s. 7.5 of the Protocol).

**BANDS AND FIRST NATIONS, INUIT OR MÉTIS COMMUNITIES**

While the CFSA referred to “Indian and native” children and bands or “native communities”, the CYFSA refers to First Nations, Inuit and Métis children, and gives rights of notice and participation to a representative chosen by each of the child’s bands, and First Nations, Inuit or Métis communities. The term “First Nations, Inuit and Métis community” is defined under the CYFSA as a community listed by the Minister in a regulation made under section 68 of the Act. The change is intended to replace outdated language with language that is inclusive of all bands as well as other First Nations, Inuit and Métis communities, cultures and traditions. Additionally, all references to a child’s or young person’s bands and First Nations, Inuit or Métis communities in the
1. What has changed between the CFSA and the CYFSA respecting the use of the terms “Indian” and “native”?

The CFSA refers to “Indian and native” children, and band and “native communities”. The CYFSA refers to First Nations, Inuit and Métis children, and gives rights of notice and participation to a representative chosen by each of the child’s bands, and First Nations, Inuit or Métis communities. The change is intended to replace outdated and under-inclusive language with more inclusive language.

The term “First Nations, Inuit and Métis community” is defined under the CYFSA as a community listed by the Minister in a regulation made under section 68 of the Act. All references to a child’s or young person’s bands and First Nations, Inuit or Métis communities in the CYFSA include: any band of which the child is a member; any band with which the child or young person identifies; any First Nations, Inuit or Métis community of which the child or young person is a member; and, any First Nations, Inuit or Métis community with which the child or young person identifies.

2. What does “First Nations, Inuit or Métis community” mean under the CYFSA?

The term “First Nations, Inuit and Métis community” is defined under the CYFSA as a community listed by the Minister in a regulation made under section 68 of the Act. The CYFSA provides the Minister with the authority to list First Nations, Inuit and Métis communities for the purposes of the Act, with the consent of the community’s representatives. Once a community is listed, a representative from the community then has rights to notice and participation as determined under the CYFSA and its regulations (see below for notification and consultation obligations).
CONSULTATION AND NOTIFICATION WITH BANDS OR FIRST NATIONS, INUIT OR MÉTIS COMMUNITIES

3. What has changed between the CFSA and CYFSA respecting notification and consultation with bands or First Nations, Inuit or Métis communities?

The CYFSA and its regulations set out requirements for societies to provide notice to and consult with bands or First Nations, Inuit or Métis communities. These requirements are different than those in Regulation 70 under the CFSA respecting societies providing notice to and consulting with bands and native communities. Changes have been made in the following areas:

- Until an agreement is made, requiring that societies provide a written invitation every six months to each First Nations, Inuit or Métis community that is wholly or partially located within the territorial jurisdiction of the society to discuss the establishment of a written agreement setting out how consultations under sections 72 and 73 of the CYFSA will be carried out;
- Expanding the powers and services that trigger a requirement that notice be provided to a band or First Nations, Inuit or Métis community during the lifespan of a case;
- Requiring that notice be provided prior to the exercise of certain powers under the CYFSA, unless it is impractical to do so; and
- Requiring that consultation with a band and First Nations, Inuit or Métis community occur within the next two business days following the society’s receipt of the response, unless the band or listed community agrees to the consultation occurring on a later date.

The table below provides a detailed comparison between the CFSA’s requirements respecting providing notice to and consulting with a child’s band and native community and the CYFSA’s requirements respecting providing notice to and consulting with a child’s bands and First Nations, Inuit or Métis communities.

<table>
<thead>
<tr>
<th>CFSA</th>
<th>CYFSA</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Requirements respecting societies developing protocols with local bands or First Nations, Inuit or Métis communities regarding procedures for notice and consultation</strong></td>
<td></td>
</tr>
<tr>
<td>The CFSA’s regulations did not require societies to provide an invitation to develop protocols with bands or First Nations, Inuit or Métis communities.</td>
<td>If a protocol is not already in place between a society and a band or First Nations, Inuit or Métis community within the society’s territorial jurisdiction, a society must provide a written invitation every six months to each First Nations, Inuit or Métis community within the society’s catchment area to discuss the establishment of a written agreement setting out how consultations will be carried out.</td>
</tr>
</tbody>
</table>

Disclaimer: This is a plain language guide to help you better understand elements of the Child, Youth and Family Services Act, 2017 and its regulations. The Act and regulations are available on the Government of Ontario e-Laws website. This guide should not be relied on for legal guidance or legal advice. You should consult a lawyer for any legal questions or advice.
Requirements respecting when a society is to provide notice to a band or First Nations, Inuit or Métis community (under the CYFSA) or native community (under the CFSA)

Under the CFSA, a society is to provide notice to a child’s band or native community upon:

- The completion by a society of a full child protection investigation, if after the investigation there is a determination that a child is in need of protection and the society makes a determination that the case requires a plan for ongoing protection services;
- The apprehension of a child by a child protection worker under the CFSA; and,
- The placement of a child, by a society, in a children’s residence as defined in section 192 of the CFSA or in a foster home as defined under subsection 3(1) of the CFSA.

Under the CFSA, unless it is impracticable, a society is to provide notice to a band or First Nations, Inuit or Métis community prior to doing any of the following:

- developing a safety plan;
- developing a service plan;
- determining that the disposition of an investigation is to transfer a case to ongoing service;
- conducting a case review;
- choosing a residential placement for the child, unless the placement relates to a kinship service placement or a placement under Part VIII of the Act (Adoption);
- removing a child from a residential placement, unless the removal is of a child in extended society care who has lived in the foster home for two years, or in relation to a removal or placement under Part VIII of the CYFSA (Adoption) (in these cases, other notification requirements exist under the Act);
- continuing a child’s placement following removal of the child as described above if the placement was changed before notice was provided or consultation could occur;
- transferring a case to another society;
- developing a plan to transition a child from being in a society’s care to living independently, but only if the child consents; and,
- deciding to terminate child protection services.

If, in the opinion of the society, it would be expedient to do so, a single notice may be given in respect of multiple powers or services if the society expects that the services or powers described above will occur within the same 14-day period.
<table>
<thead>
<tr>
<th>Requirement respecting how notice is to be provided</th>
<th>Requirement respecting when consultation is to occur</th>
</tr>
</thead>
</table>
| The CFSA required that a society may provide notice verbally to a band or native community within the society’s territorial jurisdiction, so long as the society records the date and time of the notice and the name of the person to whom notice was given. Where a society provides written notice (e.g. in situations where the band or native community is outside the society’s territorial jurisdiction), the notice may be provided by regular mail, or by fax. | Under the CYFSA, if a band and/or listed First...

**Provide written notice to the child’s band or native community within five days after exercising the power.**

In situations where it is impracticable to send a notice prior to doing one of the actions listed above (e.g. in situations where there is an urgency), the society must give the notice to the band or listed community:
- no later than one business day after the power was exercised or service was provided, if the band or community is wholly or partially within the territorial jurisdiction of the society; or
- no later than two business days after the power was exercised or service was provided, if the band or community is outside the territorial jurisdiction of the society.

**Requirement respecting how notice is to be provided**

- Under the CYFSA, notices shall be given verbally or in a written format that provides a confirmation of delivery, unless the band and/or listed community has entered into an agreement with the society regarding the manner of giving notice, in which case the notice shall be given in the manner agreed upon.

- If a notice is provided verbally, the society shall record the date and time of the notice and the name and role of the person to whom the notice was given and shall keep the record. If a notice is provided in any other manner, the society shall obtain a record confirming delivery and keep the record.

**Requirements respecting the information contained in a notice**

Under the CFSA, the notice is to request that a case consultation occur between the society and the band or community.

Under the CYFSA, the notice shall include the following information:
- A description of the service proposed to be provided or the power proposed to be exercised in relation to the child.
- The society’s estimated timeline for providing the service or exercising the power, based on information available to the society.
- An invitation to consult with respect to the service proposed to be provided or the power proposed to be exercised.

**Requirements respecting when consultation is to occur**

Under the CFSA, a society is to...

Under the CYFSA, if a band and/or listed First...
4. When must a society and band and/or listed First Nations, Inuit or Métis community consult following the notice being served?

If a band or listed First Nations, Inuit or Métis community responds to a notice and indicates that it wishes to engage in consultation on the matter referred to in the notice, the society shall engage in the consultation within the next two business days following the society’s receipt of the response, unless the band and/or listed community agrees to the consultation occurring on a later date.

5. How is a society to know who to contact when providing notice to a band and/or listed First Nations, Inuit or Métis community that is listed under the CYFSA?

With respect to bands, Indigenous and Northern Affairs Canada maintains a list, including the contact of bands as defined under the Indian Act. Information respecting bands listed under the Indian Act may be found at the following website: http://fnp-ppn.aandc-aadnc.gc.ca/fnp/main/search/SearchFN.aspx?lang=eng.

The CYFSA defines the term “First Nations, Inuit and Metis community” as a community listed by the Minister in a regulation made under section 68 of the CYFSA. For each listed community, MCYS plans to publish and periodically update the list with contact information for all communities.

There will not be any newly listed communities at the time the CYFSA is proclaimed into force. A regulatory provision lists the Inuit Tapiriit Kanatami (ITK) community as a First Nations, Inuit or Métis community under the Act, but the provision will not come into effect until July 2019.

Disclaimer: This is a plain language guide to help you better understand elements of the Child, Youth and Family Services Act, 2017 and its regulations. The Act and regulations are available on the Government of Ontario e-Laws website. This guide should not be relied on for legal guidance or legal advice. You should consult a lawyer for any legal questions or advice.
6. What is a society to do if the society is unable to comply with the regulation?

Societies are to document how they have complied with the notice and consultation requirements under the CYFSA. In situations where a society did not comply, a society is to document the reasons for not complying.

CUSTOMARY CARE FOR INDIGENOUS CHILDREN AND YOUTH

To support culturally appropriate permanency options for First Nations, Inuit and Métis children and youth, the CYFSA requires societies to make all reasonable efforts to pursue a plan for customary care for all First Nations, Inuit and Métis children and youth in need of protection so that wherever possible these children and youth remain in their home communities, and maintain strong community connections and their cultural identity.

1. What has been changed under the CYFSA with respect to customary care?

Under the CYFSA, First Nations, Inuit and Métis communities will be able to provide customary care. The CYFSA will require all children’s aid societies to pursue a plan for customary care for a First Nations, Inuk or Métis child if the child is in need of protection (s. 80), is a member of or identifies with a band, or is a member of or identifies with a First Nations, Inuit or Métis community.

Customary care is a culturally appropriate placement option for First Nations, Inuit, and Métis children and youth in need of protection who cannot remain in the care of their parents. In customary care arrangements, children remain connected to their communities, cultures, and traditions by being placed with a person who is not the child’s parent, according to the custom of the child’s band or First Nations, Inuit or Métis community.

Provisions related to customary care under the Child and Family Services Act (CFSA) as a culturally appropriate placement option for children and youth in need of protection were limited to “Indian and native” children and youth (s. 63.1). The CYFSA has expanded existing provisions that were specific to “Indian or native” children to include First Nations, Inuit, or Métis children. Additionally, the CYFSA repeals the term “native community” and replaces it with “First Nations, Inuit, or Métis community.” The term “First Nations, Inuit and Métis community” is defined under the CYFSA as a community listed by the Minister in a regulation made under section 68 of the Act.

Disclaimer: This is a plain language guide to help you better understand elements of the Child, Youth and Family Services Act, 2017 and its regulations. The Act and regulations are available on the Government of Ontario e-Laws website. This guide should not be relied on for legal guidance or legal advice. You should consult a lawyer for any legal questions or advice.
Under the CYFSA, First Nations, Inuit and Métis communities will be able to provide customary care that may be funded pursuant to the *Ontario Permanency Funding Policy Guidelines (2016)*. The CYFSA will require all children’s aid societies to pursue a plan for customary care for a First Nations, Inuk or Métis child if the child is in need of protection (s. 80), is a member of or identifies with a band, or is a member of or identifies with a First Nations, Inuit or Métis community.

For requirements respecting notification and consultation with bands or First Nations, Inuit or Métis communities when a society is making all reasonable efforts to pursue a plan for customary care, please see section above, "Requirements to Notify and Consult with a Child’s Bands or First Nations, Inuit or Métis Community."

2. **Why have these changes with respect to customary care been made in the CYFSA?**

The revisions to customary care provisions in the CYFSA directly respond to Indigenous partner feedback from the 2010 and 2015 CFSA Reviews. Partners and stakeholders noted that customary care continues to be underutilized, in particular by non-Indigenous societies, and that provisions are needed in legislation requiring societies to make every reasonable effort to place a First Nations, Inuk or Métis child into a home within their respective culture and nation.

3. **What is the intended impact of the legislative changes that require societies to pursue customary care for all First Nations, Inuit and Métis children and youth in need of protection?**

The above changes to the CYFSA have been made to emphasize the importance that is to be placed on customary care as a culturally appropriate placement option for First Nations, Inuit and Métis children and youth in need of protection, and that there is a requirement that it be pursued.

The requirement to pursue customary care for all First Nations, Inuit and Métis children and youth in need of protection is one of the legislative amendments that aligns with the long-term goal of system transformation through the Ontario Indigenous Children and Youth Strategy.

4. **How will customary care be funded under the CYFSA?**

Section 71 of the CYFSA provides that, if a band or First Nations, Inuit or Métis community declares that a First Nations, Inuk or Métis child is being cared for under customary care, a society or entity may grant a subsidy to the person caring for the child.

Disclaimer: This is a plain language guide to help you better understand elements of the *Child, Youth and Family Services Act, 2017* and its regulations. The Act and regulations are available on the Government of Ontario e-Laws website. This guide should not be relied on for legal guidance or legal advice. You should consult a lawyer for any legal questions or advice.
Policy Directive 003-16 requires societies to implement the Ontario Permanency Funding Policy Guidelines (OPFPG) when considering the provision of financial assistance, for the purposes of facilitating admission prevention, kinship service, place of safety, customary care, legal custody and adoption options.

There will be no changes to funding for customary care for First Nations children and youth who currently meet eligibility criteria under the CFSA. Once a First Nations, Inuit or Métis community is listed in regulation, caregivers from this community may be eligible for financial assistance for customary care provided by societies in accordance with the OPFPG. Eligible customary caregivers will be provided financial support at foster care rates in accordance with the child’s needs and be entitled to the same reimbursements, training and support systems as foster parents.

A society may provide one-time funding of up to $5,000 per child subject to a customary care agreement to assist customary caregivers with initial costs associated with accommodating a child in the home (e.g. furniture/mattress) and home modifications in order to meet foster care licensing regulations and standards. One-time financial assistance may be provided to customary caregivers in addition to the ongoing subsidy for customary care.

5. Will First Nations, Inuit and Métis children and youth residing in urban centres have access to customary care?

First Nations, Inuit and Métis children and youth residing in urban centres can identify with a band and listed First Nations, Inuit or Métis communities. These children and youth may also be members of bands or First Nations, Inuit or Métis communities. Bands and listed First Nations, Inuit and Métis communities are able to develop customary care options for their children and youth.

To be eligible for funding for customary care under the OPFPG, customary caregivers from bands or listed First Nations, Inuit or Métis communities are required to meet OPFPG criteria and conditions, including:

- A society determines that a First Nations, Inuk or Métis child is in need of protection and removal of the child from the parents/caregiver is required;
- There is a band council/community declaration of the First Nations band or First Nations, Inuit or Métis community of either parent that declares that the child will be cared for under customary care according to the custom of the band/community;
- The home must meet foster care licensing regulations and standards;
- The child is supervised by a society pursuant to the band council/community declaration; and
- There must be a customary care agreement in place.

Disclaimer: This is a plain language guide to help you better understand elements of the Child, Youth and Family Services Act, 2017 and its regulations. The Act and regulations are available on the Government of Ontario e-Laws website. This guide should not be relied on for legal guidance or legal advice. You should consult a lawyer for any legal questions or advice.
First Nations, Inuit and Métis children and youth who do not identify with, or are not members of, a band or listed First Nations, Inuit or Métis community will be able to access culturally appropriate services. In particular, proposed regulations will require service providers to facilitate linkages between First Nations, Inuit and Métis children and services and programs offered by organizations closely linked to their culture, tradition and heritage. This requirement is for First Nations, Inuit or Métis children who do not identify with or are not a member of a band or First Nations, Inuit or Métis community listed under the Act.

REGULATION 552 UNDER THE HEALTH INSURANCE ACT

The Ministry of Health and Long Term Care (MOHLTC) recently amended Regulation 552 under the Health Insurance Act (HIA) respecting Ontario Health Insurance Plan (OHIP) eligibility of children in the care of a society in order to align with amendments to the CFSA that raised the age of protection to 18, and were incorporated in the CYFSA. The amendments to the Regulation would align the treatment under the HIA of youth who are the subject of a Voluntary Youth Services Agreement (VYSA) with the treatment of children who are in the care of a society.

1. How has Regulation 552 under the Health Insurance Act been amended?

Under Regulation 552, children under 16 years of age in the legal care of a society, by court order or by agreement, are eligible for OHIP coverage, without being subject to a waiting period. Children who are over 16 or 17 years of age and in the court-ordered care of a society are also eligible for immediate OHIP coverage.

Since youth who are receiving services and supports under a VYSA are not considered to be in the legal care of a society, these youth did not fall within the scope of Regulation 552 as it was written prior to the amendment.

Subsection 1.3 of Regulation 552 has been amended to include 16- and 17-year-old youth in a VYSA, to ensure they are eligible for OHIP coverage and not subject to a waiting period.

2. Why was this amendment necessary?

An amendment to Regulation 552 was required in order to align the regulation with the age of protection legislation, and to provide immediate OHIP coverage for 16- and 17-year-old youth receiving services and supports through a VYSA.

Disclaimer: This is a plain language guide to help you better understand elements of the Child, Youth and Family Services Act, 2017 and its regulations. The Act and regulations are available on the Government of Ontario e-Laws website. This guide should not be relied on for legal guidance or legal advice. You should consult a lawyer for any legal questions or advice.

25
3. What is the impact for youth in a VYSA?

Youth aged 16 and 17 years old who have entered into a VYSA with a society will be ensured the same OHIP eligibility provisions as children and youth who are in the care of a society, and will not be subject to a waiting period.

4. When does this change come into effect?

The amendment to the Regulation 552 under the Health Insurance Act was made on February 8, 2018 and came into effect retroactive to January 1, 2018. The regulation can be found at the following webpage: https://www.ontario.ca/laws/regulation/900552.

PLACE OF SAFETY AND KINSHIP SERVICE REQUIREMENTS

The majority of provisions that existed under the CFSA respecting place of safety and kinship service requirements have been remade under the CYFSA. The changes that have been made under the CYFSA are intended to support consistency in assessment procedures, clarify that First Nations, Inuit and Métis authorities may assist in the assessment procedures for these placements, and strengthen assessments for kinship service placements and places of safety by requiring use of the FastTrack Information System.

1. What has changed between the CFSA and the CYFSA respecting kinship service and place of safety assessment procedures?

The place of safety and kinship service assessment procedures from Regulation 70 and Regulation 206/00 under the CFSA are largely remade under the CYFSA, with some changes, including:

- The kinship service assessment procedures have been re-drafted and further clarified to support increased understanding and improved compliance by those who apply them (e.g. societies, designated First Nations, Inuit, and Métis authorities).
- It has been made clearer that First Nations, Inuit or Métis authorities may assist with the assessment procedures for kinship service and place of safety homes, where appropriate.
- Procedures which did not appear in the place of safety regulation, but which appeared in the kinship service procedures have been added to the place of safety procedures (e.g. requirements to conduct searches of society records for information about primary caregivers).
· Requirements have been added to obtain consents for, and conduct searches of the FastTrack Information System (FTIS) for primary caregivers and other adults over 18 in a kinship service or place of safety home.

· Provisions have also been added to the application section of the procedures for kinship service to clarify that the procedures apply to 16- and 17-year-olds where a Voluntary Youth Services Agreement will be terminated and the child will be placed with kin, and where a youth who can no longer remain safely at home proposes a placement with kin.

2. **What has changed respecting kinship service placements?**

The majority of provisions respecting kinship service assessment procedures that existed under regulation 206 under the CFSA have been remade in regulations under the CYFSA. Some changes have been made to increase clarity and readability of the provisions, and to more clearly outline that First Nations, Inuit or Métis authorities may assist with many of the assessment procedures for kinship service and place of safety homes (see below for further information).

Requirements have been added to obtain consents for, and conduct searches of the FastTrack Information System (FTIS) for primary caregivers and other adults over 18 in a kinship service or place of safety home. Also, provisions have been added to the application section of the procedures for kinship service to clarify that the procedures apply to 16- and 17-year-olds where a Voluntary Youth Services Agreement will be terminated and the child will be placed with kin, and where a youth who can no longer remain safely at home proposes a placement with kin.

3. **What has changed under the CYFSA respecting place of safety assessment procedures?**

The majority of provisions respecting place of safety assessment procedures that existed in regulation under the CFSA have been remade under the CYFSA. Changes have been made in order to align place of safety assessment procedures with kinship service assessment procedures. Procedures that did not appear in the place of safety regulations under the CFSA but did appear in the kinship service procedures under the CFSA have been added to place of safety regulations under the CYFSA (e.g., requirements to conduct searches of society records for information about primary caregivers). Additionally, place of safety assessment procedures include a new requirement to obtain consents for, and conduct searches of, the FastTrack Information System (FTIS) for primary caregivers and other adults over 18 in a kinship service or place of safety home.
4. How do regulations under the CYFSA affect the role of designated child and family service authorities in kinship service and place of safety assessments?

The majority of regulations respecting designated child and family service authorities under the CYFSA remake requirements that existed under the CFSA with changes to make clearer that designated child and family service authorities (e.g. First Nations, Inuit or Métis authorities) may assist with the assessment procedures for kinship service and place of safety homes, where appropriate. A “child and family service authority” is defined in regulation under the CYFSA as a First Nations, Inuit or Métis child and family service authority designated under section 70 of the Act.

Regulations respecting place of safety and kinship service are intended to clarify that child and family service authorities may assist societies in most assessment procedures, including:

- Obtaining information from and interviewing caregivers in the kinship service placement or place of safety;
- Obtaining information respecting other adults in the home, including obtaining consents for screening requirements;
- Meeting with and interviewing the child;
- Assessing the physical environment of the home; and,
- Conducting follow up visits when a child is placed in a place of safety and kinship service home.

Further, regulations under the CYFSA clarify procedures and set timelines for a society respecting screening requirements, including requirements that a society:

- search its internal records relating to each person who is over 18 and resides in the home and respond as soon as possible to the authority indicating whether or not information relating to the person exists in the society’s records and whether, on the basis of this information, the society has reasonable grounds to suspect that a child may be at risk if placed in the home;
- Conduct FastTrack Information System searches respecting certain persons as soon as practicable, but no later than seven days after the authority or society obtains consent of the caregiver; and,
- make a request to the appropriate authority in any jurisdiction in which the person has resided for the results of the person’s police record check and to any society or any child welfare authority outside Ontario for any information or records they may have relating to the person.
5. Why is FastTrack to be used when assessing caregivers and other adults over 18 in a kinship service home or place of safety?

The changes made to regulations under the CYFSA respecting place of safety and kinship service assessments are intended to align with changes introduced in 2015 through the Ministry’s “Policy Directive 003-15: Modernized FastTrack Information System Policy on Security and Sharing of Information Among Children’s Aid Societies”, to reinforce the policy requirement in regulation and provide more specific direction regarding when FTIS searches are to be completed during the assessment process (e.g. within 7 days of obtaining the consent to search FTIS), and to the disclosure of information from other societies in Ontario.

6. What does the ministry expect from a society when conducting a police records check under the regulation?

Further regulatory work respecting police record checks is expected following the proclamation of the CYFSA.

**CHILDREN IN CARE REGULATORY REQUIREMENTS**

Most provisions under the CYFSA related to children in care remake requirements that existed under the CFSA without substantive changes. Changes have been made to regulations to remove the discretion afforded to a local director under the CFSA to direct that a child in care be visited at an interval that is longer than once every three months, and provide that each required visit with a child in care include a meeting in private between the worker and the child, and that this private meeting be documented.

1. How do the proposed regulations affect the frequency that a society is to visit a child who is in care?

Changes have been made to remove the discretion under the CFSA for a local director to direct that a child in care be visited at an interval that is longer than once every three months. Children in care will need to be visited at minimum once every three months.
2. Why has a change been made to the requirements respecting the frequency of visits to a child in care?

Children in care need to be visited by a worker on a regular basis to assess their safety, well-being and adjustment to their placement, and to ensure there is continuity in planning for their care.

3. Are societies able to visit a child more frequently than prescribed in regulation under the CYFSA?

Yes. Regulations under the CYFSA prescribe a minimum frequency that children in care must be visited (i.e. once every three months). This is following the required visits in the first 7 days, and in the first 30 days.

4. What changes were made in the CYFSA respecting visits with a child in care?

A new requirement will be added for the society to ensure that each required visit with a child in care includes a meeting in private between the worker and the child and that the private meeting be documented. The addition respecting private visits with children in care is consistent with the approach for requiring private interviews of children during child protection investigations and in assessments of kinship service and place of safety homes. The intent of private visits is to ensure children and youth have an opportunity to speak freely about issues relevant to their care and without undue influence (e.g. from a caregiver).

5. Is a society worker required to interview a child in private for every visit with the child, even if visits occur more frequently than required under the regulation?

No. The regulation provides that each child in care is to be visited a minimum of once every three months and each required visit must include a meeting in private between the worker and the child.

ORDERS FOR ACCESS TO A CHILD IN EXTENDED SOCIETY CARE

When a court makes or varies an order for access to a child in extended society care under the CYFSA, a court must consider a child’s best interests, including whether the relationship between the person and the child is meaningful and beneficial or if the access order would impair a child’s opportunities for adoption. Also, the court must specify which parties hold a right of access, and to whom access has been granted.
1. **What has changed between the CFSA’s provisions respecting making or varying an order for access to a Crown ward, and the CYFSA’s provisions respecting making or varying an access order to a child in extended society care?**

Under both the CFSA and the CYFSA, all access orders to a child are terminated when the child becomes a child in extended society care (under the CYFSA) or a Crown ward (under the CFSA).

Under the CFSA, a court shall not make or vary an order for access involving a child who is a Crown ward unless the court is satisfied that two preconditions are met: that the access would not impair the child’s opportunities for adoption, and that the relationship between the child and the person is meaningful and beneficial to the child. Once these preconditions are met, the court may then make or vary an access order in the best interests of the child (as defined under the CFSA).

Under the CYFSA, there are no longer preconditions that must be satisfied prior to the court considering the child’s best interests when making or varying an access order to a child in extended society care. Rather, the preconditions that existed under the CFSA (i.e. a meaningful and beneficial relationship between the person and the child, and that the order would not impair the child’s opportunities for adoption) are now additional factors to be considered along with other factors set out in s. 74(3) to determine the child’s best interests.

2. **What is the intention that underlies the change between the CFSA’s provisions respecting access to a Crown ward, and the CYFSA’s provisions respecting access to a child in extended society care?**

The ministry heard from stakeholders that the preconditions contained in the CFSA respecting orders for access to a Crown ward (i.e. that the relationship between the person and the child is meaningful and beneficial to the child, and that the order would not impair the child’s opportunities for adoption) were too restrictive, resulting in the termination of access between children and those who are important to them (including siblings). Feedback indicated that the CYFSA should reinforce that an access order may be made if it is in the best interests of a child in extended society care, which includes consideration of permanency planning for the child.

3. **Have provisions respecting the termination of an access order to a child in extended society care been amended as well?**

Yes. Provisions respecting termination of an access order to a child in extended society care have been changed under the CYFSA to align with the changes made to the provisions respecting making and varying an access order to a child in extended society care.
extended society care. Under the CYFSA, a court shall terminate an order for access to a child in extended society care if the order is no longer in the child’s best interests, which is modified to include consideration of whether the relationship between the person and the child is meaningful and beneficial to the child, and whether the order would impair the child’s opportunities for adoption.

4. Why are siblings explicitly listed under the CYFSA as persons who may apply for an access order to a child in extended society care?

Under the CFSA, siblings were not explicitly referenced as being able to apply for an access order to a child in extended society care. The CYFSA explicitly lists siblings as being permitted to apply for access in order to promote consideration of this type of access application, and as part of efforts to promote the rights and voice of children and youth throughout the Act.

5. How does the CYFSA help clarify who may apply for an openness order respecting a child in extended society care who is being placed for adoption?

Under the CYFSA, when an access order is in effect with respect to a child who is in extended society care, only parties who have been granted a right of access have the right to apply for an openness order if the child is to be placed for adoption. MCYS was informed by stakeholders through the 2015 Child and Family Services Act Review that it is sometimes unclear which person has a right of access and which person would have a right to apply for an openness order. In response, provisions have been included in the CYFSA that require a court, when making or varying an access order for a child in extended society care, to specify which persons have been granted a right of access and to which persons access has been granted. This requirement is intended to make it clearer which parties have a right to apply for openness if the child is to be placed for adoption, and support societies in correctly serving notices of their intention to place the child for adoption.

**ADOPTION AND OPENNESS**

The CYFSA clarifies and enhances provisions respecting adoption openness in order to support children in extended society care who are being adopted to maintain post-adoption contact with those who are important to them, and, in the case of a First Nations, Inuk and Métis child, with the child’s bands and First Nations, Inuit or Métis communities. The CYFSA also includes provisions that give rights to children to participate in openness proceedings, and to apply to vary or terminate openness orders after adoption. Changes have also been made to enhance the Office of the Children’s Lawyer (OCL) Notification Protocol and to align the Protocol with the CYFSA’s new provisions respecting the process for providing notices to children related to adoption.
1. What has changed between the CFSA and the CYFSA respecting adoption openness?

The chart below outlines many of the changes between the CFSA and the CYFSA respecting adoption and openness.

<table>
<thead>
<tr>
<th>Theme</th>
<th>Description of Changes within the CYFSA</th>
</tr>
</thead>
</table>
| Supporting Indigenous children in developing and maintaining a connection with each child's First Nations, Inuit or Métis cultures, heritages and traditions and to preserve the child's cultural identity and connection to community | - The move from the terms “Indian” and “native” in the CFSA to “First Nation, Inuit and Métis” in the CYFSA, results in the statutory scheme applying to a broader cohort of First Nations, Inuit or Métis children and enhancing participation by the bands and the listed First Nations, Inuit or Métis communities with which the child identifies or is a member.  
- The CYFSA requires societies to make all reasonable efforts to pursue a plan for customary care for all First Nations, Inuit and Métis children and youth who are in need of protection, cannot remain in or be returned to the care and custody of the person who had charge of the child immediately before intervention under Part V of the CYFSA (or where there is an order for the child’s custody that is enforceable in Ontario, of the person entitled to custody under the order), and the child is a member of or identifies with a band, or First Nations, Inuit or Métis community.  
- The CYFSA includes a new type of openness between a child and a representative chosen by each of the child's bands and First Nations, Inuit or Métis communities that is not contingent on an existing access order being in place between the child and the representative.  
- Societies must now provide notice to the child being placed for adoption, and to a representative of each of the child’s bands or communities, when intending to place a First Nations, Inuk or Métis child for adoption.  
- The CYFSA includes a new requirement on societies |
respecting adoption planning for a First Nations, Inuk or Métis child. The CYFSA requires that, where a society begins planning for the adoption of a First Nations, Inuk or Métis child, the society shall consider the importance of developing or maintaining the child’s connection to the child’s bands and First Nations, Inuit or Métis communities.

### Supporting children’s legal rights and preventing young children from receiving notices and applications

- The CYFSA provides new procedures for providing adoption/openness-related notices and applications to children. Whenever a notice of intention to place a child for adoption or an application relating to adoption openness is to be provided to a child, the person providing the notice or application must leave a copy with: the Children’s Lawyer (i.e. the Office of the Children’s Lawyer); the child’s lawyer, if any; and the child if they are 12 or older.
- A provision has been included in the CYFSA which provides that the child who is adopted has a right to apply to vary or terminate an openness order after an adoption order is made and to appeal an order to vary or terminate an openness order after adoption.

### Supporting children to maintain connections to those who are important to them in situations where an adoption disrupts or breaks down

- The CYFSA provides that societies must make reasonable efforts to assist children whose adoptions have broken down or disrupted and who return to, or remain in, society care, to maintain relationships with persons who are important to them, and clarify the manner through which they may be maintained.
- Also, the CYFSA clarifies that existing openness orders continue to be in effect following an adoption disruption or breakdown.

## ADOPTION, OPENNESS, AND FIRST NATIONS, INUIT, AND MÉTIS CHILDREN

### 2. When a society determines that adoption is a culturally appropriate permanency option for a First Nations, Inuk or Métis child and begins planning for the adoption of the child, what does the CYFSA require a society to do?

Since the terms “Indian” and “native” in the CFSA are replaced by “First Nation, Inuit and Métis” in the CYFSA, the statutory scheme recognizes a broader cohort of First Nations, Inuit and Métis children and enhances participation by the bands and the listed First Nations, Inuit or Métis communities with which the child identifies or is a member. Under the CFSA, when a society intends to begin planning for the adoption of an Indian or native child, the society shall give written notice of its intention to a representative chosen by the child’s bands and native community. Under the
CYFSA, if a society intends to begin planning for the adoption of a First Nations, Inuk or Métis child, the society shall give written notice of its intention to a representative chosen by each of the child’s bands and First Nations, Inuit or Métis communities. Each band and community that receives the notice may, within 60 days of the representative receiving the notice, prepare its own plan for the care of the child and submit its plan to the society. Accordingly, a society shall not place a First Nations, Inuk or Métis child with a person for adoption until at least 60 days have elapsed since giving notice to a representative chosen by each of the bands and First Nations, Inuit or Métis communities; or if a band or First Nations, Inuit or Métis community has submitted a plan for the care of the child, until the society has considered the plan.

Additionally, the CYFSA imposes a new requirement on societies respecting adoption planning for a First Nations, Inuk and Métis child. The CYFSA requires that, where a society begins planning for the adoption of a First Nations, Inuk or Métis child, the society shall consider the importance of developing or maintaining the child’s connection to the child’s bands and First Nations, Inuit or Métis communities, including through an openness agreement or openness order.

3. Under the CYFSA, what’s changed respecting when a society intends to place a First Nations, Inuk and Métis child for adoption when adoption has been determined to be an appropriate permanency plan?

Whenever a society intends to place a First Nations, Inuk and Métis child for adoption, the society must give notice to a representative chosen by each of the child’s bands and First Nations, Inuit or Métis communities, and to the child. The notification must include notice that the society intends to place the child for adoption. Under the Family Law Rules, this notice is to be provided using Form 8D.3, which has been updated to reflect the requirements under the CYFSA respecting notices (see subsection 197(3) of the CYFSA), stating that where the society intends to place the child for adoption, that the person has a right to apply for an openness order within 30 days after notice is received. A copy of Form 8D.3 may be found on the Ontario Court Forms website at http://ontariocourtforms.on.ca/en/family-law-rules-forms/.

4. What’s changed in the CYFSA respecting openness between a First Nations, Inuk and Métis child and his or her bands and communities?

MCYS was informed by First Nations, Inuit and Métis partners through the 2015 CFSA Review that the ability to seek an openness order should not be contingent upon there being an access order in place with a representative of the child’s First Nations, Inuit and Métis communities. As a result, a new type of openness order is added under the CYFSA for situations where a society intends to place a First Nations, Inuk or Métis child who is in extended society care for adoption. In such
circumstances, even if there is no access order in effect, the child, the society, or a representative chosen by each of the child’s bands and First Nations, Inuit or Métis communities may apply for an openness order.

A court may make this type of openness order if it is satisfied that the order is in the child’s best interests; that the order would help the child to develop or maintain a connection with the child’s First Nations, Inuit or Métis cultures, heritages and traditions and to preserve the child’s cultural identity and connection to community; and, if the child is 12 or older, that the child consents.

5. How is a society to know where to provide notice to a representative of a band or First Nations, Inuit or Métis community?

Please see section “Requirements to Notify and Consult with a Child’s Bands and First Nations, Inuit or Métis Community”.

PROVIDING NOTICES TO CHILDREN AND THE OCL NOTIFICATION PROTOCOL AND COVERING SHEET

6. Under the CYFSA, how are children to be provided with notices related to adoption openness?

The CYFSA modifies the procedures for serving children with notices and applications respecting openness-related proceedings. In order to support children’s legal rights and to prevent direct service on young children, the new procedures for providing notices to, and serving applications on, children are to serve the Office of the Children’s Lawyer (OCL), the child’s lawyer (if any), and the child, if the child is 12 years or older.

7. Why has the CYFSA changed the notice provisions respecting adoption/openness-related processes and procedures?

The changes to the procedures for providing notices to and service on children respecting adoption/openness-related proceedings, are intended to help ensure children have an opportunity to understand the notice/applications being served on them, to know what their legal rights are, and to have an opportunity to access legal representation in openness proceedings, where appropriate. It would also ensure that children under 12 would not be served directly, given that this may cause emotional harm to the child and that they may not be able to understand the information without support.
8. What is the OCL Notification Protocol?

In 2011, amendments were made to the CFSA respecting openness in order to remove legal barriers to placing Crown wards with an access order for adoption. The amendments provided that all access orders respecting a child being placed for adoption automatically terminate upon adoption placement, including access orders made under the CFSA. Additionally, provisions required that, at the time that a society intends to place a child for adoption, a society is to provide notices to all those who have a right of access under the CFSA to the child being placed for adoption that advises of that person’s right to apply for an openness order within 30-days of receiving the notice.

In conjunction with the 2011 CFSA amendments respecting openness, MCYS developed a Notification Protocol to the OCL and Notice Form to be used between societies and the OCL so that children who have the right to apply for an openness order have an opportunity to understand their legal rights and have access to legal representation. The 2011 OCL protocol provides that when a society serves notice to a child of its intention to place a child for adoption, the society must also provide the OCL Notice Form to the OCL by fax on the same business day, and attach the following documents:

- A copy of the notice advising the child of their right to apply for an openness order;
- A copy of any child protection order that is currently in force with respect to the child who has the right to apply for an openness order; and,
- A copy of any access order that is currently in force with respect to the child who has the right to apply for an openness order.

The 2011 Notification Protocol to the OCL also established procedures respecting a society obtaining the contact information of its prospective client(s) on a timely basis (i.e. within two days of the OCL contacting the society).

9. Why is the Notification Protocol to the OCL changing under the CYFSA?

Through the 2015 Review of the CFSA, MCYS received feedback from the OCL that the existing protocol under the CFSA should be revised to support children’s rights to openness by making sure that the OCL has the information it needs to make a determination about bringing an openness application within the 30-day period. Feedback also indicated that some societies are not providing a child’s contact information to the OCL in a timely manner, thereby risking that the 30-day window to make an openness application may lapse before an application is made. It was also noted that the OCL often does not have sufficient information respecting the child to provide effective legal representation within the 30-day period (e.g. whether the child...
has a developmental delay, whether certain relationships are traumatic to the child, the history of the child’s time in the care of a society).

10. How has the Notification Protocol to the OCL changed under the CYFSA?

As a result of the feedback received through the 2015 Review of the CFSA, the requirement contained in the 2011 Notification Protocol that the OCL be provided with notices respecting a child’s placement for adoption was added as a requirement under the CYFSA. Accordingly, under the CYFSA, whenever a society provides a child with notice of its intention to place a child for adoption, a society is to leave a copy of the notice with:

- the Children’s Lawyer (i.e. the Office of the Children’s Lawyer);
- the child’s lawyer, if any; and
- the child, if they are 12 or older.

The revised OCL notification protocol outlines additional information that a society is to provide directly to the OCL when providing notice to a child respecting a society’s intention to place a child for adoption (either under section 195 or 197 of the CYFSA). A child who has the right to apply for an openness order under sections 195 or 197 of the CYFSA must do so within 30 days after the notice is received. The OCL may represent the child when bringing an openness application. Given that openness applications may only be made within the 30-day period following receipt of the notice of intention to place, the OCL must be provided with further information respecting their client(s) in order to provide legal representation on behalf of their client(s), including potentially making an application for openness.

11. What information does the OCL Notification Protocol and Covering Sheet require that a society provide to the OCL?

The OCL notification protocol requires that the society provide additional information respecting the child being placed for adoption, and any children who have a right to apply for access, including:

- The contact information of the child;
- The contact information for a designated contact person at the children’s aid society;
- Whether the child has been identified as First Nations, Inuk or Métis;
- A copy of the order making the child a child in extended society care, including the court’s decision (if available);
- A copy of all access orders in effect respecting the child being placed for adoption;
- Information related to the child’s plan of care; and,
- Information related to other children who are part of an access order respecting the child being placed for adoption.
12. Does the OCL notification protocol require that the documents provided to the OCL be filed in any court records?

No. The information to be provided under the OCL notification protocol is to be provided directly to the OCL, and not filed in any court records.

PARTICIPATION OF CHILDREN IN OPENNESS PROCEEDINGS

13. How has the CYFSA changed provisions relating to the rights of children to participate in openness proceedings?

The provisions respecting notice to be given to a child and the child’s rights to participate are different in the CYFSA compared to the CFSA. Under the CFSA, a child under the age of 12 who is being placed for adoption is given notice of an openness proceeding only if a court is satisfied that the child is capable of understanding the hearing and will not suffer emotional harm by being present. With respect to the participation of the child in an openness proceeding, the CFSA provides that a child who received notice is entitled to participate in the proceeding as if he or she were a party (see section 153.4).

Under the CYFSA, the child is always given notice of an openness proceeding but the child is not always given notice directly. Rather, the CYFSA provides that a copy of the notice be given to the OCL and the child’s lawyer, if any, but only directly to the child if they are 12 or older. As a result, the CYFSA now provides that a child may participate in an openness proceeding as if they were a party, without restriction.

14. How has the CYFSA changed provisions relating to whether a child being placed for adoption may apply to vary or terminate an openness order after adoption?

A provision has been included in the CYFSA which provides that the child who is adopted has a right to apply to vary or terminate an openness order after an adoption order is made. As a consequence, the CYFSA also provides a child who is adopted with a right to appeal an order to vary or terminate an openness order after adoption.
PROVISIONS RELATED TO ADOPTION DISTURBANCE OR BREAKDOWN

15. How does the CYFSA affect a society’s obligations in the case that the adoption breaks down or disrupts?

Societies must make reasonable efforts to assist a child who was placed for adoption or was adopted to maintain relationships with persons who are meaningful and beneficial to the child in situations where:

- The child was placed for adoption by the society and the society has decided not to finalize the adoption of the child by the person with whom the child was placed (i.e. adoption disruption); or,
- A child returns to the care of a society after an adoption order was made (i.e. adoption breakdown).

The CYFSA requires a society to facilitate contact or communication provided for under an existing openness order or openness agreement and to consider whether to apply for an order for access under Part V (Child Protection) of the CYFSA.

16. Does an openness order survive the breakdown or disruption of an adoption?

A provision is included in the CYFSA to clarify that openness orders made respecting a child who had been placed for adoption or adopted continue to be in force following an adoption disruption or breakdown.

COMPLAINTS TO SOCIETIES OR THE CHILD AND FAMILY SERVICES REVIEW BOARD

Under sections 119 and 120 of the Child, Youth and Family Services Act, 2017, a person may make a complaint to a society’s Internal Complaints Review Panel (ICRP) or the Child and Family Services Review Board (CFSRB). These are similar provisions to those under s. 68 and s. 68.1 of the CFSA respectively, with one substantive difference: under s. 119(3) of the CYFSA, it is now required that information regarding the ICRP complaint process be made available to the public, as well as to individuals upon request. This differs from the CFSA, which did not include the requirement that information about the complaint process be made available to the public.

Regulations related to complaints processes under the CYFSA are consistent with those under the CFSA. Generally, timelines and processes related to complaining to
1. Why does the CYFSA (s. 119(3)) require that societies make information on their complaints processes available to the public?

In response to the 2015 review of the CFSA, the Ontario Child Advocate (OCA; formally the Provincial Advocate for Children and Youth) noted that children and youth reported that they were not consistently being informed of their rights to complain and of the various complaint bodies and processes available to them. Societies take different approaches to making such information available; for example, some societies include complaints information on their websites, while others do not. This variability in the information made available by societies about their complaints processes can create confusion for potential complainants. Requiring all societies to make information about their complaints processes available to the public will help ensure children and families as well as other interested parties have access to clear information on the complaints processes available to them.

2. How should societies make information on their complaints processes available to the public?

Societies can make information on their complaints processes available to the public through their websites, and through paper formats as required. The Ontario Association of Children’s Aid Societies and the Ministry of Children and Youth Services also provide information about complaints processes on their respective websites.

3. Why is a standard complaints form being introduced in regulation for complaints to a society’s Internal Complaints Review Panel (ICRP)?

The ministry frequently receives letters from members of the public seeking information about how to make a complaint about services sought or received from a society. The ministry also hears concerns that the complaints process is difficult to navigate and understand. The lack of guidance regarding what to include in a written complaint can make it challenging for some people to advocate for themselves and
clearly explain the nature of their complaint. It also contributes to a variation in levels of information provided to ICRPs by complainants. This may make it more challenging for societies and complainants to reach a timely, fair and effective resolution to a complaint.

Stakeholders such as the Child and Family Services Review Board (CFSRB), the Ontario Child Advocate (OCA) and the Office of the French Language Services Commissioner (FLSC) have echoed these concerns and have called for the ministry to improve the accessibility and navigability of the complaints process.

4. **How will the standard complaints form help improve the accessibility and navigability of the complaints process?**

The standard complaints form provides those who have sought services from a society with clear information about the complaints process, what information should be included in a complaint, and the right to access other complaint bodies. It consists of two parts:

1. **Information section** – this section, which can be detached from the form and retained by the complainant for reference:
   - Provides clear and concise information about a person’s right to complain through a society’s ICRP, including complaint eligibility, timelines and processes;
   - Indicates a person’s rights to complain to other bodies and provides information on other complaints bodies/processes; and,
   - Describes how a person may obtain further information and support (e.g., from the OCA) to make a complaint, including links and contact information.

2. **Complaints Form** – this section is to be submitted to the society. The complainant is requested to provide:
   - Demographic and contact information;
   - Preferred language and mode of communication;
   - Complaint type, including specified multiple-choice options to facilitate data collection, and an open-ended question to detail the complaint; and
   - The complainant’s desired resolution.

The form also includes a notice regarding the collection of personal information.

5. **Will the standard complaints form affect societies’ informal dispute resolution processes (e.g. Elder’s Forums)?**

A person who has sought or received services from a society has a right to start a formal complaints process at any time. The standard complaints form is required to be used when a person submits a formal complaint to a society.
However, a person may choose to talk to their worker or the worker’s supervisor, or someone else at the society, if they have a question or concern, without submitting a formal complaint. Societies may also have informal dispute resolution processes in place that a person can use without filing a formal complaint. The standard complaint form is not required in these circumstances. It is only required when a person submits a formal complaint to a society’s Internal Complaints Review Panel.

6. **Who was engaged in the development of the standard complaints form?**

The standard complaints form was developed through engagement with the Ontario Association of Children’s Aid Societies (OACAS), the Association of Native Child and Family Service Agencies of Ontario (ANCFSAO), the Office of the Ontario Child Advocate (OCA), the Office of the Information and Privacy Commissioner (IPC), the Office of the French Language Services Commissioner (FLSC), the Child and Family Services Review Board (CFSRB), a child welfare sector working group, and youth with lived experience with the child welfare system. Across these engagements, there was support for the form as a means to improving the accessibility and navigability of the complaints process.

The form is based on the Office of the OCA’s *Initial Complaint to a CAS Form*, a voluntary form that OCA developed in consultation with a child welfare sector working group. The ministry’s form was also informed by a review of available society complaint forms.

7. **How should societies share the standard complaints form?**

Societies are to provide a link to the form on their respective websites and make hard copies of the form available.

8. **How do people submit a formal complaint?**

Complainants have the option to complete and submit the complaint form either electronically or in hard copy. The standard complaints form will also be available on the Ontario Central Forms Repository, which can be accessed through the following link: [http://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf?opendatabase&ENV=WWE](http://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf?opendatabase&ENV=WWE)

9. **What if a person needs support in completing the form or in navigating the complaints process?**

OCA provides advocacy services to children and youth. A child or youth may contact OCA at any time during the complaint process for support.
A society may offer support to a prospective complainant as needed. For example, in cases where there may be a language barrier, an interpreter may be provided by the society.

10. What if a person has questions about making complaints to other bodies listed in the form (i.e., the Child and Family Services Review Board, the Ontario Child Advocate, the French Language Services Commissioner)?

The information section of the complaints form outlines a complainant’s rights to access other complaints bodies (i.e., CFSRB, OCA, FLSC) and provides their contact information. These bodies are in the best position to answer questions related to their specific processes. As such societies should encourage people to contact those complaints bodies directly should they have questions related to their services or processes.

11. Will the ministry be collecting data from societies on the use of the form, or on the types of complaints received?

At this time, there is no requirement that societies collect or report data through the complaints form. The standard complaints form has been structured to enable data collection (e.g. by categorizing the type of the complaint). Societies may have or wish to develop mechanisms to track and analyze complaints they have received. The structure of the standard complaints form may assist with this work. Following the implementation of the standard complaints form, the ministry will consider data collection from societies on complaints information, and will engage with societies to inform next steps.

ONTARIO CHILD BENEFIT EQUIVALENT (OCBE) DIRECTIVE

These questions and answers address changes to the Ontario Child Benefit Equivalent (OCBE) Policy Directive. These changes include an expansion of the program to include eligibility for youth in a Voluntary Youth Services Agreement (VYSA) with a society under s. 37.1(1) of the Child and Family Services Act (CFSA) or s. 77(1) of the Child, Youth and Family Services Act (CYFSA).

For detailed information, including Policy Directive CW002-18 and a related fact sheet, please see Appendix E.

1. Why is the OCBE Policy Directive being revised?

On January 1, 2018, legislative amendments to the CFSA to raise the age of protection were proclaimed. These amendments include the VYSA for youth who are
16 or 17. This cohort of youth is not in the legal care of a society, but they are provided with supports comparable to youth in care, and the society is responsible for the maintenance of youth in a VYSA. The provisions concerning the age of protection are carried forward in the CYFSA.

On April 30, 2018, an amendment to Ontario Regulation 257/09 under the *Ontario Child Benefit Equivalent Act*, which expands OCBE eligibility to include youth in a VYSA, will come into force. The directive is being revised to extend OCBE Program eligibility to youth in a VYSA for whom the society is in receipt of the Children’s Special Allowance (CSA). The directive is also updated to reflect the language of the CYFSA, which will come into force on April 30, 2018.

2. **What changes have been made to the OCBE Policy Directive?**

The following chart outlines the requirements under the 2014 Policy Directive, and the changes that have been made in the 2018 Directive:

<table>
<thead>
<tr>
<th>ACTIVITIES PROGRAM</th>
</tr>
</thead>
<tbody>
<tr>
<td>ISSUE</td>
</tr>
<tr>
<td>-------</td>
</tr>
<tr>
<td>Eligibility</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SAVINGS PROGRAM</th>
</tr>
</thead>
<tbody>
<tr>
<td>ISSUE</td>
</tr>
<tr>
<td>-------</td>
</tr>
<tr>
<td>Eligibility</td>
</tr>
</tbody>
</table>

3. **How does the CSA relate to the OCBE Program?**

Societies receive the OCBE based on the number of children for whom they were receiving the Children’s Special Allowance (CSA) in the previous month. This data is provided by the Canada Revenue Agency (CRA), and the numbers are used by the province to determine the amount of OCBE funds that should be provided to societies.

When an agency is primarily responsible for the maintenance of a child, the agency is eligible to apply for the CSA for that child. When a youth enters a VYSA with a
society, the society is primarily responsible for the youth’s maintenance, and is eligible to apply for the CSA. Once the CSA is approved for the society, the Canada Child Benefit is ceased for the parent, and by extension, the Ontario Child Benefit.

4. What informed the changes to the OCBE Policy Directive?

Policy Directive CW003-18 Protection Services for 16-17 Year Olds requires that societies provide youth in a VYSA with supports comparable to youth in care. Stakeholders who were engaged to inform the Directive recommended that programs for youth in care be extended to youth in a VYSA.

5. How do the revisions to the OCBE Policy Directive align with the age of protection legislation?

Policy Directive CW003-18 Protection Services for 16-17 Year Olds requires that as part of developing the Voluntary Youth Services (VYS) Plan, societies engage youth in planning with respect to transitioning to adulthood and independence, including plans to build financial literacy and household management skills. Both the OCBE Activities and Savings Programs support this intent. Extending the Activities Program to youth in a VYSA gives them access to activities to support their transition to adulthood (e.g., financial literacy course). Extending the Savings Program to youth in a VYSA gives them the opportunity to accumulate savings that will assist in their transition to adulthood (e.g., housing start-up costs).

The OCBE Policy Directive has been revised to better align with the policy intent of Policy Directive CW003-18.

6. Applying for the CSA can be a time consuming process. Can youth in a VYSA receive savings and activities funding while the application for the CSA on their behalf is being processed?

Once the application for the CSA for a youth in a VYSA is approved and the society starts to receive payments, savings contributions to the youth’s account must be made retroactively to the month in which the youth entered into a VYSA with the society (e.g. if the youth entered into a VYSA in September, but CSA payments for the youth did not start until November, the society would have to retroactively deposit savings for September and October).

Once the society starts receiving CSA payments on behalf of a youth in a VYSA, the youth automatically becomes eligible for OCBE activities funding.

7. Should a youth in a VYSA, for whom the society is in receipt of the CSA, elect to receive Registered Education Savings Plan (RESP) payments as personal savings, as per the RESP Policy Directive CW004-18, can monies from the
OCBE Savings Program be combined with RESP savings funds in one personal ledger account for that youth?

Yes, OCBE Savings Program funds and RESP personal savings funds can be kept in one account for a youth who elects to receive RESP funds as personal savings, rather than having an RESP account established.

8. When does the revised OCBE Policy Directive come into effect?

The new OCBE Policy Directive (CW002-18) will come into force and effect with the proclamation of the CYFSA on April 30, 2018.

9. Have the reporting requirements for the OCBE changed?

Yes. Societies will now have to include youth in a VYSA for whom they are in receipt of the CSA when reporting on the following categories:

Savings Program
- Total Eligible Youth with OCBE Funds Held in Savings Program Year
- Number of Youth Who Received Savings (by age)
- Total Number of Youth Who Received Savings

Activities Program
- Children and Youth In Care in Year (Age 15-17)
- Total Children and Youth that Participated in Activities in Year (Age 15-17)
- Children and Youth in Care in Year (Total)
- Total Children and Youth that Participated in Activities in Year (Total)
- Outcome A: Higher Educational Achievement
  - Children and Youth that Participated in Activities in Year (Age 15-17)
  - Children and Youth that Participated in Activities in Year (Total)
- Outcome B: Higher Degree of Resilience
  - Children and Youth that Participated in Activities in Year (Age 15-17)
  - Children and Youth that Participated in Activities in Year (Total)
- Outcome C: Smoother Transition to Adulthood
  - Children and Youth that Participated in Activities in Year (Age 15-17)
  - Children and Youth that Participated in Activities in Year (Total)

ADDITIONAL QUESTIONS AND ANSWERS

The following questions and answers were originally distributed with the release of the 2014 OCBE Policy Directive. They have been slightly modified to reflect the amendments to Policy Directive CW002-18 for ease of reference.
ELIGIBLE ACTIVITIES

1. Which children and youth can benefit from participation in the OCBE?

Societies are to provide all children and youth in care or in customary care with an opportunity to benefit from the OCBE, regardless of whether or not the society receives or has received OCBE payments on their behalf.

Children and youth aged 0-17 may participate in the Activities Program; youth aged 15-17 may participate in the Savings Program. Youth participating in the Savings Program may also benefit from the Activities Program.

Youth in a VYSA for whom the society is in receipt of the CSA are also eligible for the OCBE Activities and Savings programs.

2. Are the activity program examples listed in the Policy Directive exhaustive?

The examples listed in the Policy Directive are included for illustrative purposes only. The OCBE Policy Directive is intended to be inclusive of a wide range of recreational, educational, cultural and social activities that eligible children and youth can participate in. Societies are not limited to the examples provided.

3. What expenditures are not eligible under the OCBE program?

Per requirement #8 of the Activities Program section of the Policy Directive, societies cannot use OCBE funding for the following:

- Staffing or staffing-related costs;
- Expenditures relating to medical, dental, clinical, and/or therapeutic services for a child, including assessments; or
- Travel for access visits that in the normal course of business would be managed within a society’s approved budget allocation.

4. Why is travel for access visits excluded?

Travel for routine access visits is excluded from OCBE funding. Societies should use funding from their approved operating budget allocation to cover this expense.

5. What about family visits? Can OCBE funding be used to enhance a young person’s contact with their family?

Yes, visiting family can be an important way to promote a young person’s social skills and interpersonal relationship development. As such, OCBE funding can be used for activities that enhance contact with family or significant others and are not part of routine access visits (for example, non-routine transportation costs so a child...
may visit with a family member in another jurisdiction or to permit a family member to accompany a child to a culturally significant event).

6. Can you provide some examples of what constitutes early learning activities?

Early learning activities are activities that present an opportunity for young, non-school-aged children in care (i.e. aged 0 to 4) to maximize their learning potential and promote educational achievement later in life. Examples of early learning activities may include participation in child care, school readiness programs or other early years programming.

Child care refers to the definition of a “day nursery” as defined in the Day Nurseries Act: “a premises that receives more than five children who are not of common parentage, primarily for the purpose of providing temporary care, or guidance, or both temporary care and guidance, for a continuous period not exceeding twenty-four hours…”

7. Can OCBE funding be used to cover expenses related to tutoring and homework clubs?

Yes, tutoring and homework clubs may be essential components to supporting the educational achievement of a child or youth in care.

8. Can per diems related to educational, recreational, social and cultural activities that are paid to Outside Paid Resources (OPRs) be covered under the OCBE?

Yes, societies can use OCBE funding to cover the portion of the per diem cost paid to OPRs specifically for educational, recreational, social and/or cultural activities (i.e. those activities that societies would use OCBE funding for directly). In so doing, societies will need to request detailed, itemized invoices from each OPR so that the amount spent on these activities is clearly identified.

9. Can OCBE funding be used to pay for a support person to attend an activity with a child who has special needs?

Yes, as long as having a support person attend with the child is a requirement for the child to participate in the activity (i.e. without this individual, the child would not be able to participate) and the cost of that support person is embedded into the child’s participation fees (i.e. the society is not paying for the support person separately). The support person cannot be an employee of the society as OCBE funding cannot be used for staffing or staffing-related costs.

10. Can OCBE funding be used to pay for educational assessments?

Disclaimer: This is a plain language guide to help you better understand elements of the Child, Youth and Family Services Act, 2017 and its regulations. The Act and regulations are available on the Government of Ontario e-Laws website. This guide should not be relied on for legal guidance or legal advice. You should consult a lawyer for any legal questions or advice.
No, OCBE funding may not be used for expenditures relating to medical, dental, clinical, and/or therapeutic services for a child, including assessments.

Educational assessments are available through the local school board and societies are encouraged to work in collaboration with their local school board to support the educational needs of young people in their care.

11. If a society is unsure whether an activity would qualify under the OCBE, who should they seek guidance from?

Societies should contact their Program Supervisor at their ministry Regional Office with questions regarding eligibility for the OCBE, or any other questions about the program in general. The Regional Offices will work with the Child Welfare Secretariat to address any questions that require additional information and to identify frequently asked questions so they may be shared with all societies.

MENTORSHIP

12. What is the intent of highlighting mentorship activities in the OCBE Policy Directive?

The Youth Leaving Care Hearings and Working Group identified the importance of establishing permanent, supportive relationships with caregivers, staff, community members and extended family for children and youth in and leaving care. In their final report, the Youth Leaving Care Working Group recommended increased mentorship opportunities for this vulnerable group of young people.

The OCBE Working Group was asked to consider the integration of mentorship opportunities into the OCBE. Based on their advice, “activities that support a mentorship relationship or connection with caring, responsible adults” has been added as an eligible OCBE program activity.

13. Can you provide some examples of mentorship activities that could be covered under the OCBE Activities Program?

Activities that support a mentorship relationship or connection with caring, responsible adults are eligible for OCBE program funding. Examples of these types of activities include, but are not limited to:

- Fees to support a child/youth’s participation in a club or activity that would foster a mentorship relationship (e.g. Boy Scouts, Girl Guides), including their travel to the club/activity;
- Covering the costs for a child/youth to participate in an activity with their mentor (e.g. going to a movie or other event, covering travel expenses); and
Supporting the development of peer-to-peer mentoring.

TIMING AND METHOD OF OCBE SAVINGS DISBURSEMENT

14. What is the intent of the requirements for societies to discuss the timing and method of disbursement with youth and seek their agreement?

Under the OCBE Policy Directive, societies are required to discuss the possible timing and disbursement methods for the OCBE savings as outlined in the Directive with the youth involved, with a view to developing an agreed upon approach. This is intended to provide the youth with more information to support and encourage them to make good decisions about their savings as they leave care.

15. What does it mean to document the discussion with youth and their agreement?

Societies should record the discussion they had with the youth about the possible timing and disbursement methods for the OCBE savings in the youth’s plan of care or Voluntary Youth Services (VYS) plan. In addition, the society should record if the agreement respecting timing and disbursement was reached with the young person.

FUNDING

16. Is funding being increased for the OCBE?

Funding for the OCBE is determined by the Ontario Child Benefit (OCB) maximum benefit rate per child. As of July 1, 2017, the maximum annual OCB benefit per child is $1,377.96 (or $114.83/month). In 2016-17, $13,120,490.04 in OCBE funding was provided to societies.

REGISTERED EDUCATION SAVINGS PLAN (RESP) DIRECTIVE

These questions and answers address changes to the Registered Education Savings Program (RESP) Policy Directive. These changes include an expansion of the program to include eligibility for youth in a Voluntary Youth Services Agreement (VYSA) with a society under s. 37.1(1) of the Child and Family Services Act (CFSA) or s. 77(1) of the Child, Youth and Family Services Act (CYFSA).

For detailed information, including Policy Directive CW004-18 and a related fact sheet, please see Appendix F.
1. Why has the RESP Policy Directive been revised?

On January 1, 2018, legislative amendments to the CFSA to raise the age of protection were proclaimed. These amendments include the VYSA for youth who are 16 or 17 and who require out of home placements. This cohort of youth is not in the legal care of a society, but they are provided with supports comparable to youth in care, and the society is responsible for the maintenance of youth in a VYSA in accordance with the terms of the Agreement. The provisions concerning the age of protection are carried forward in the CYFSA.

The directive has been revised to extend RESP eligibility to youth in a VYSA for whom the society is in the receipt of the Children’s Special Allowance (CSA). It also includes an option for youth in a VYSA to choose an alternate savings account in lieu of the RESP. The directive is also updated to reflect the language of the CYFSA, which will come into force on April 30, 2018.

2. What changes have been made to the RESP Policy Directive?

The following chart outlines the requirements under the 2016 Policy Directive, and the changes that have been made in the 2018 Directive.

<table>
<thead>
<tr>
<th>ISSUE</th>
<th>ORIGINAL PROVISION (2016)</th>
<th>NEW PROVISION (2018)</th>
</tr>
</thead>
</table>
| Eligibility - The VYSA was introduced on January 1, 2018 with the legislative amendments to raise the age of protection. | Societies shall establish RESPs for children under the age of 18 for whom they are receiving, or have received, the Children’s Special Allowance and who are:  
- Crown wards;  
- Society wards who have been society wards for at least twelve consecutive months; or  
- Children subject to customary care agreements who have been in customary care for at least twelve consecutive months. | Societies shall establish RESPs for children under the age of 18 for whom they are receiving, or have received, the Children’s Special Allowance and who are:  
- In extended society care;  
- In interim society care, if they have been in interim society care for at least twelve consecutive months; or  
- Children subject to customary care agreements who have been in customary care for at least twelve consecutive months;  
- Youth in a VYSA. |
<p>| The Savings Account option is introduced for | Societies are required to establish RESPs for all eligible children and youth. | At the time of entering a VYSA, the youth will be informed of the RESP program, as well as an alternative option to have the society establish |</p>
<table>
<thead>
<tr>
<th>ISSUE</th>
<th>ORIGINAL PROVISION (2016)</th>
<th>NEW PROVISION (2018)</th>
</tr>
</thead>
<tbody>
<tr>
<td>youth in a VYSA</td>
<td>a personal savings account (savings account). Youth in a VYSA who choose this option will have an RESP equivalent amount deposited into a savings account that will become accessible when transitioning to independence upon expiry or termination of the VYSA.</td>
<td></td>
</tr>
</tbody>
</table>

3. **Has the eligibility criteria for opening an RESP for a child or youth in care changed?**

   Yes. Societies shall establish RESPs for children and youth under the age of 18 for whom they are receiving, or have received, the CSA and who are:
   - In extended society care;
   - In interim society care if they have been in interim society care for at least twelve consecutive months;
   - Children subject to customary care agreements who have been in customary care for at least twelve consecutive months; or
   - Youth in a VYSA, if the youth is choosing the RESP option.

4. **How do the revisions to the RESP Policy Directive align with the age of protection legislation?**

   Policy Directive CW004-18 Protection Services for 16-17 Year Olds requires that as part of developing the Voluntary Youth Services (VYS) Plan, societies engage youth in planning with respect to educational needs and transitioning to adulthood and independence, including plans to build financial literacy and household management skills. The objective of the RESP policy directive is to promote increased educational attainment for eligible children and youth. Extending eligibility to youth in a VYSA is consistent with this objective. Youth in a VYSA who wish to pursue post-secondary education are afforded the benefits of the RESP. Providing an option to open a savings account in lieu of an RESP would provide the youth with support for transitioning to independence, if the youth does not intend to pursue post-secondary education or would prefer to save for transition start-up costs.

   The RESP Policy Directive has been revised to better align with the policy intent of Policy Directive CW004-18.
5. **What informed the changes to the RESP Policy Directive?**

Policy Directive CW004-18 requires that societies provide youth in a VYSA with supports comparable to youth in care. Stakeholders who were engaged to inform the Directive recommended that programs for youth in care be extended to youth in a VYSA.

6. **How does approval of the CSA impact a youth’s eligibility for the RESP program?**

The CSA is a tax-free monthly payment for a child who is under the age of 18, physically resides in Canada, and is maintained by an agency. For qualified children, the CSA payment is equivalent to the maximum amount of the Canada Child Benefit.

When a youth enters a VYSA, the society is responsible for the youth’s maintenance and the society may apply for the CSA. Upon approval of the CSA, the youth is eligible for the RESP program, or alternative savings program in lieu of the RESP.

The first CSA payment is made for the month after the child starts to be maintained by the agency. The society will contribute funds to the RESP, or an alternative savings account, retroactive to the date that the youth entered the VYSA.

7. **Are youth in a VYSA who choose the savings account option still eligible for the Canada Learning Bond (CLB) and the Canada Education Savings Grant (CESG)?**

No. Youth in a VYSA who choose the savings account option are not eligible for the CLB or the CESG as these grants must be used towards post-secondary education. In order to receive the CLB or the CESG, the child or youth must be enrolled in an RESP.

8. **What are the options for opening a savings account for the youth in lieu of an RESP?**

Societies may open a separate savings account or combine the RESP-equivalent savings with the OCBE savings account. When a savings account has been opened or combined with OCBE savings for an eligible child, the society shall deposit an amount equivalent to the June 2016 federal UCCB payment received for the child into that child’s savings account at monthly intervals. Policy Directive CW002-18 should be consulted for direction with respect to maintaining the account.

Each society shall establish a separate general ledger account to hold and pool all RESP equivalent funds and OCBE savings funds made by the ministry. These
Payments shall be separate from the society’s child welfare operating fund(s) and from any other accounts. These funds shall not be used for expenditures other than those articulated in this Directive.

Societies may hold the savings for eligible youth within their pooled savings fund with ledger accounting for individual youth, or in a separate general ledger account with ledger accounting for individual youth, in accordance with the society’s business practices and generally accepted accounting principles. Funds allocated to the savings account shall not be used by societies for any purposes other than providing savings to assist youth with their basic needs upon leaving care or the expiry or termination of the youth’s VYSA.

9. Can a society contribute more than the specified $160 per month for eligible children in care under the age of six and $60 per month for eligible children and youth in care aged six through 17?

Yes. Under the Directive societies are required to direct funding of $160 per month for eligible children in care under the age of six and $60 per month for eligible children and youth in care aged six through 17. This is a minimum requirement and societies may use other funds such as charitable contributions to establish RESPs for all children and youth in care, or savings accounts for youth in a VYSA who choose this option in lieu of the RESP.

10. What happens to funds if youth in a VYSA who have RESP equivalent savings and OCBE savings cannot be located within a one year period of the youth leaving care or the VYSA expiring?

For joint accounts with RESP equivalent funds and OCBE savings, if the savings are not disbursed to the eligible youth by the end of the 12 months following the expiry or termination of the VYSA, the society shall use ledger accounting practices to distribute RESP equivalent funds equally across all other RESPs for which the Society is a subscriber, and re-allocate OCBE savings funds to the OCBE Activities Program.

11. Have the reporting requirements for RESPs changed?

Yes. Societies will now have to include youth in a VYSA for whom they are in receipt of the CSA when reporting on RESPs, and report specifically on the number of youth for whom an RESP has been established. Societies are also required to report on the number of youth for whom a savings account has been established in lieu of the RESP.

Societies will be required to report on the following elements on an annual and cumulative basis:
- Number of children eligible (i.e., children and youth who are in extended society care, in interim society care for at least 12 consecutive months, subjects of customary care agreements for at least 12 consecutive months, and youth in a VYSA) to have RESPs opened;
- Number of RESPs opened;
- Number of RESPs where a transfer occurred;
- Number of RESPs redeemed and collapsed;
- Total contributions to RESPs;
- Total payments made from redeemed RESPs; and,
- Number of youth in a VYSA for whom a savings account has been established in lieu of the RESP.

12. When does the revised RESP Policy Directive come into effect?

The revised RESP Policy Directive (CW004-18) will come into force and effect with the proclamation of the CYFSA on April 30, 2018.

2012/2016 RESP POLICY DIRECTIVE

The following questions and answers were originally distributed with the release of the 2012 RESP Policy Directive, and the 2016 Policy Directive. They have been slightly modified to reflect the revisions in Policy Directive CW004-18 for ease of reference.

RESP ESTABLISHMENT AND ELIGIBILITY

1. How do I obtain a Birth Certificate and/or Social Insurance Number (SIN) for a child in care?

Most societies across Ontario and their local Service Canada Centres (SCC) have worked together to set up convenient arrangements for the issuance of SINs when required, either at an SCC, or where data connectivity exists, on site at society premises. Any society that does not yet have a working relationship with a SCC can find the nearest location and contact information by calling:
Toll-Free: 1 800 O-Canada (1-800-622-6232)
TTY: 1-800-926-9105

Obtaining a Birth Certificate
A. If the birth occurred outside this province and within Canada, contact the Vital Statistics Office in the province or territory where the birth took place.
B. If the birth took place in another country, contact the country in which the birth took place.
C. For births occurring in Ontario, societies should contact Service Ontario, Office of the Registrar General.
Obtaining a Social Insurance Number (SIN)

Societies can apply for a SIN for a child in their care through Service Canada. To apply for a SIN, a society must provide:

- An original or a certified copy of the court order giving care and custody of the child to the society; and
- Proof of identity of the society employee who is making the application (e.g., employee identification card, delegation letter, or a delegation card). If the card does not have a photo, an additional valid identity document is required (e.g., driver’s license or passport. Note that personal proof of identity such as a marriage or birth certificate is not required).

As part of the process, the society must provide one "primary document" with the application. These include:

- **Certificate of Birth or Birth Certificate** – issued in Ontario by the Office of the Registrar General (ORG) or by the Vital Statistics Branch of the province or territory of birth (note: they do not accept Québec proof-of-birth documents issued prior to 1994).
- **Certificate of Canadian Citizenship** – issued by Citizenship and Immigration Canada (CIC).
- **Certificate of Registration of Birth Abroad** – issued prior to 1977 by CIC.
- **Adoption Order** – certified by a Canadian Court (applies to adoptions in Canada only).

If the application and identity document(s) are in order, the SIN can be obtained in one visit and the card should be received within five working days.

The nearest Service Canada location can be found by calling 1 800 O-CANADA or online at: [http://www.servicecanada.gc.ca/cgi-bin/sc-srch.cgi?ln=eng](http://www.servicecanada.gc.ca/cgi-bin/sc-srch.cgi?ln=eng).

2. Who has the authority to request a Birth Certificate and a Social Insurance Number?

Parents and legal guardians can apply for a Social Insurance Number for children under the age of majority. Children who are 12 years of age or older may apply for their own SIN, and children who are 13 years of age or older may apply for their own birth certificate.
For children and youth in care, the society is the guardian and therefore has the authority to request a SIN. Documentation that indicates guardianship is required to request a SIN. A birth certificate is required to obtain a SIN. Parents or societies with legal care and custody of a child may apply for birth certificates and SINs. For youth in a VYSA, the society will support the youth to apply for these documents.

It is recognized that many children enter care with no birth or other records, in some cases, because parents have not registered the births. The Office of the Registrar General in the Province of Ontario (ORG) is responsible for processing birth registration applications. Registering the birth is a pre-requisite to obtaining a birth certificate. Children born in other jurisdictions must have appropriate birth records from those jurisdictions.

3. **What should be done in circumstances where the child is the subject of a customary care agreement and is eligible for an RESP, where the society is unable to obtain the SIN?**

Where a child is the subject of a customary care agreement, parents must apply for SINs on behalf of children. The society should make reasonable efforts to meet with the family to explain the benefits of the RESP. If the family does not wish to or is unable to provide the SIN, the society should document these efforts on file.

Where reasonable efforts have been made but the society is unable to obtain the SIN, the society should then allocate funds collected on behalf of these children across all RESPs for which the society is a subscriber and the beneficiary is under the age of 18 years (see #3 of the Directive).

4. **What funds must the society contribute to RESPs for eligible children?**

Societies must deposit funding of $160 per month for eligible children in care under the age of six and $60 per month for eligible children and youth in care aged six through 17. For youth in a VYSA who choose the savings account option, RESP-equivalent funds must be deposited into the savings account.

Societies must also distribute funds (i.e., principal and accumulated interest) from collapsed RESPs (which are collapsed in the circumstances set out in paragraph 16 of the policy directive) equally across all other RESPs for which the society is the subscriber, the beneficiaries are under the age of 18, and the beneficiaries are in the care of the society or customary care.

Societies must also distribute funds from collapsed RESP savings accounts established on behalf of youth in a VYSA, if these funds are not distributed to the youth because they cannot be located within twelve months of expiry or termination of the VYSA. The society shall use ledger accounting practices to distribute RESP...
equivalent funds equally across all other RESPs, and re-allocate OCBE savings funds to the OCBE Activities Program.

COMMUNICATION WITH CHILDREN AND YOUTH REGARDING RESPs

5. Why is communication with children and youth regarding RESPs required?

Children and youth are more likely to achieve improved educational outcomes when they are provided with supports and guidance. Awareness of these supports is critical to this process.

6. What are “reasonable efforts” to search for a youth when the youth cannot be located and is the beneficiary of an RESP or savings account funds?

Reasonable efforts may include sending a letter to the last known address, inquiring through family or friends, or using social media. The sector may consider developing guidelines to more explicitly define “reasonable efforts”.

RESP MAINTENANCE

7. What is the Canada Education Savings Program? How can it benefit children and youth with RESPs?

RESPs are eligible to attract federal funding available through the Canada Education Savings Program. When an RESP is opened by a society pursuant to this directive, it will attract the following additional federal funds:

1. The Canada Education Savings Grant (CESG) of 40%, or $200, on the first $500 invested each year, and 20% on subsequent investments of up to $2,500 (i.e. a maximum of $500 in a given year). The maximum CESG that can be attracted by an RESP is $7,200 over the lifetime of the RESP.
2. A one-time $500 Canada Learning Bond (CLB) upon opening the RESP and $100 in every year the child remains eligible, until the calendar year they turn 15.

8. How can a society maximize a beneficiary’s eligibility for the Canada Education Savings Grant (CESG)?

Annual contributions are calculated based on a calendar year ending December 31. As such, societies are encouraged to make contributions into RESPs that take full advantage of available federal funding on this annual basis.

9. Can a child or youth have more than one RESP open in their name?

Yes. A child may be the beneficiary of more than one RESP.
10. How long does a society have to maintain an RESP?

The society is required to hold RESPs on behalf of a child or youth until the:
1. Youth is in a position to access the funds (i.e. enrolled in a qualifying postsecondary education or training program);
2. Reaches 25 years of age; or
3. Society has transferred the funds in the RESP to the child or youth’s caregiver where the child or youth has left care.

RESP TRANSFER

11. When should societies notify caregivers of the existence of an RESP for which the child is named as a beneficiary?

Societies can determine when is the appropriate time to advise caregivers of the existence of an RESP (e.g., either upon closing the case file, or at the end of a 12 month period during which the file has not been reopened).

12. Transition Provision: What happens to funds being held for a child who has left care, if the RESP was not opened on behalf of the child while the child was in care?

If a society has held funds of $160 per month for eligible children in care under the age of six and $60 per month for eligible children and youth in care aged six through 17 received on behalf of a child who was eligible for an RESP while in care, but for whom the society did not open an RESP, and the child has left care before the effective date of this Directive, the society can transfer the funds into an RESP that has been opened by the child’s caregiver if the:

- Society has informed the caregiver that the funds have been held for the child; and
- Caregiver opens an RESP for which the child is named as beneficiary within 12 months of the child leaving care.

If the society has not transferred the funds into an RESP for the child by the end of the 12th month following the child leaving care, then the society must distribute the funds equally across all other RESPs for which the society is a subscriber, the beneficiaries are under the age of 18 years, and the beneficiaries are in the care of the society or customary care.

On and following the effective date of the Directive, societies must distribute the funds of $160 per month for eligible children in care under the age of six and $60 per month for eligible children and youth in care aged six through 17 received on behalf of children who are not eligible for the establishment of RESPs equally across all other RESPs for which the society is a subscriber, the beneficiaries are under the
age of 18 years, and the beneficiaries are in the care of the society or customary care.

13. What happens if a child or youth is adopted and their name or SIN changes?

Societies should be aware that in order to transfer funds in an RESP to an adoptive parent, the RESP provider must have the current name and/or SIN of the child or youth. Where a change to the name and/or SIN has occurred, the RESP provider will update it with the Social Insurance Registry.

14. Are the Canada Learning Bond (CLB) and Canada Education Savings Grant (CESG) still applied to RESPs where RESP funds have been transferred from the society to the caregiver of a beneficiary who has returned home or has been adopted?

The eligibility of the caregiver to receive the CLB and Additional CESG is determined by an income test applied by the Canada Revenue Agency.

15. Are the Canada Learning Bond (CLB) and Canada Education Savings Grant (CESG) still applied to RESPs that are retained by a society for children and youth who have left care and for who the society is no longer the primary caregiver?

Where a child has left care and is residing with a caregiver in a permanent placement and the society allows the caregiver to apply for the Canada Child Benefit and discharges the Children’s Special Allowance, the society must obtain the caregiver’s signature on the appropriate federal form in order to maintain the RESP’s eligibility to attract the CLB and additional CESG.

16. Can RESP funds be transferred to a caregiver who is not a Canadian resident or citizen?

Yes. Both non-residents and non-Canadians can subscribe to an RESP as long as they have a valid Social Insurance Number.

17. Does a society have to open an RESP for children who previously had RESPs opened on their behalf by the society that were subsequently transferred to the caregiver, if the child returns to society care and meets the eligibility criteria again?

Yes. If eligibility criteria are met, the society must invest $160 per month for eligible children in care under the age of six and $60 per month for eligible children and youth in care aged six through 17 received for the child or youth in an RESP.
RESP REDEMPTION OR COLLAPSE

18. When should an RESP be redeemed?

Societies as subscribers can redeem an RESP if the beneficiary is enrolled on a full or part-time basis in a qualifying program at a designated institution. Designated institutions are broadly defined by the federal government, and include:

- A university, college, or other educational or vocational institution in Canada designated under the Canada Student Loans Act, or under the Canada Student Financial Assistance Act;
- An educational institution certified by the federal government that develops or improves a person’s skills for an occupation; or
- Postsecondary institutions outside of Canada.

The Government of Canada has a complete list of certified institutions that are also recognized for RESP purposes. The list is available online at: http://www.canlearn.ca/eng/tools/designated/index.shtml.

For youth in a VYSA who choose the savings account option in lieu of an RESP, societies shall disburse total savings, including any interest, to the youth or the identified third party, no later than six months after the VYSA has ended for that youth with no prospect of resumption unless otherwise agreed to by the youth, but no later than 12 months after the VYSA has ended. The discussion with the youth about the timing of disbursement and the agreed upon approach shall be documented in the youth’s file.

19. What is the process for redeeming the RESP if the youth goes on to postsecondary education?

A youth choosing to pursue postsecondary education should notify the society and provide them with proof of enrolment in a recognized postsecondary institution or training program. The society must authorize any and all payments and make decisions with respect to payments as appropriate to the beneficiary’s situation.

Educational Assistance Payments (EAPs) are amounts paid from an RESP to an eligible beneficiary in order to assist with education-related expenses at the post-secondary school level. An eligible beneficiary receives EAPs to assist with the real cost of educational expenses. To determine if a beneficiary meets the requirements for receiving EAPs from their RESPs, it must be confirmed that the beneficiary is enrolled in a qualifying educational program.

More information on EAPs and qualifying educational programs is available online at: https://www.canada.ca/en/revenue-
20. What can RESP funds be used for?

RESP funds may be used for reasonable expenses related to participation in a program (e.g., tuition, room and board, books, transportation, supplies and equipment). Societies must have established policies to provide consistent direction for the disbursement of RESP funds. If a dispute arises with respect to the disbursement of funds, youth will be informed of the complaint process.

21. What happens to the remaining funds if, after the first year of postsecondary enrolment, the beneficiary chooses not to continue their studies?

As there may be circumstances where an individual may choose to return to their studies at a later date, societies are required to hold the remaining funds until the beneficiary turns 25. At that time, societies should follow the directions for RESP redemption or collapse identified in the policy directive.

22. Is interest earned on an RESP taxable?

The interest earned within the RESP plan will not be taxed until the funds are withdrawn to pay for the beneficiary’s education. Funds paid out of the RESP as an Educational Assistance Payment are taxed in the hands of the youth (i.e., student). Since many students have little or no other income, they can usually withdraw the funds tax-free.

23. When an RESP is collapsed, what happens to the federal contributions?

When the RESP is collapsed for non-educational purposes, the federal bond and grant contributions are returned to the federal government.

24. What happens if, after making reasonable efforts to locate a beneficiary, the beneficiary’s RESP funds have been distributed equally amongst other active RESPs, and then the beneficiary returns and requests the funds?

Until the beneficiary turns 25, a society must continue to hold the RESP.

Where reasonable efforts have been made and the society has been unable to locate the beneficiary, the RESP should be collapsed, and remaining funds must then be dispersed equally across all other RESPs for which the society is a subscriber, the beneficiaries are under the age of 18 years, and the beneficiaries are in the care of the society or customary care. From that time, the original beneficiary
will no longer benefit from the RESP. This is also applicable to youth in a VYSA who have a savings account opened by the society.

GENERAL

25. Where can I find more information about how RESPs work?

Information about how to open an RESP, choosing a provider, choosing the right plan, and using the RESP can be found online at: https://www.canada.ca/en/employment-social-development/services/student-financial-aid/education-savings/resp.html.

26. Where can I find more information about federal contributions to RESPs?

Information about the Canada Education Savings Grant (CESG) and the Canada Learning Bond (CLB) can be found online at: http://www.canlearn.ca/eng/savings/cesg.shtml and http://www.canlearn.ca/eng/savings/clb.shtml.

27. Can fund transfers go monthly from the federal government electronically directly to the RESP provider?

No. At this time this is not an option as the Canada Child Benefit is sent to the parent or guardian of the beneficiary.

28. What reports or statements will societies receive from RESP providers?

Policies regarding reporting will vary from provider to provider. All providers must provide at least an annual statement to RESP subscribers. Copies of account-specific reports should be included in the child or youth’s file.

29. What and why must societies report to their Boards?

On an annual basis, societies must report the number of children and youth (ages 0-6, and ages 6 and older) who were eligible for RESPs during the fiscal year, and the number of children for whom RESPs were established during the fiscal year.

By reporting information on RESPs to, and engaging in discussion with, their Boards, societies will be continuing to support the implementation objective of the Directive: to increase the likelihood that more children and youth who are or who have been in the care of societies, will, with the incentive of increased financial resources, pursue postsecondary education and vocational training.
30. To whom should questions about the Directive be directed?

Societies should contact their Program Supervisor with any questions related to the Directive.

CONTINUED CARE AND SUPPORT FOR YOUTH

The Continued Care and Support for Youth policy directive has been revised to reflect the increased age of protection and the provision under the Child, Youth and Family Services Act (CYFSA) that makes Continued Care and Support for Youth (CCSY) an entitlement. Several provisions previously outlined in the policy directive have been moved into Regulation. The revised directive includes requirements pertaining to the CCSY Agreement, the Youth Plan, termination processes, dispute resolution and documentation. It also includes updated language to align with the CYFSA.

For Policy Directive CW 001-18, please see Appendix G.

1. Why is this revised policy directive required?

On January 1, 2018 amendments to the Child and Family Services Act (CFSA) that raised the age of protection were proclaimed. The amendments provide a full range of child protection services to youth up to their 18th birthday, including a new Voluntary Youth Services Agreement (VYSA) for those youth who require an out of home placement. The amendments also include changes to the eligibility requirements for Continued Care and Support for Youth to include youth in a VYSA at the time of their 18th birthday.

On April 30, 2018, the CFSA will be repealed and the Child, Youth and Family Services Act (CYFSA) will come into force.

The directive is revised to reflect the new legislation.

2. What are the key changes reflected in the Policy Directive?

The key changes include:
- Several topics that were previously addressed in Policy Directive CW 004-16 Continued Care and Support for Youth are now set out in the CYFSA and the regulation entitled “General Matters Under the Authority of the Minister” (Ontario Regulation 156/18).
- Updating terminology and references in the directive to reflect language in the CYFSA.
3. What changes have been made to CCSY?

The following chart provides detail on the changes being made to CCSY:

<table>
<thead>
<tr>
<th>Element</th>
<th>CW 004-16 Continued Care and Support for Youth</th>
<th>Policy Requirement</th>
<th>Change in the New Directive</th>
</tr>
</thead>
<tbody>
<tr>
<td>Program Delivery</td>
<td>Under section 71.1 of the <em>Child and Family Services Act</em> (CFSA), a society “may” provide extended care and maintenance to eligible youth. The Policy Directive outlined the expectation that societies will offer the CCSY program to all eligible youth.</td>
<td>#1</td>
<td>Under section 124 of the <em>Child, Youth and Family Services Act</em> (CYFSA), a society “shall” enter into an agreement to provide care and support to eligible youth. The Policy Directive has been revised to state that societies are required to offer the CCSY program to all eligible youth. This support can include financial and/or non-financial support.</td>
</tr>
</tbody>
</table>
| Eligibility | Eligibility requirements were listed in the Policy Directive as follows:  
- Was subject to a Crown wardship or legal custody order (s. 65.2) immediately prior to the youth’s 18th birthday;  
- Was subject to a Crown wardship or legal custody order (s. 65.2) immediately before the youth’s marriage if the marriage occurred before the youth’s 18th birthday;  
- Was the subject of a customary care agreement for which the society paid a subsidy immediately prior to the youth’s 18th birthday; or  
- Was eligible to receive Renewed Youth Supports (RYS) at ages 16 and/or 17, whether or not the youth actually received RYS. | #11 | Eligibility requirements are no longer listed in the Policy Directive. Eligibility requirements are set out in section 124 of the CYFSA as follows: “A society or prescribed entity shall enter into an agreement to provide care and support to a person in accordance with the regulations in each of the following circumstances:  
1. A custody order under clause 116 (1) (b) or an order for extended society care under paragraph 3 of subsection 101 (1) or clause 116 (1) (c) was made in relation to that person as a child and the order expires under section 123.  
2. The person entered into an agreement with the society under section 77 and the agreement expires on the person’s 18th birthday.  
3. The person is 18 or older and was eligible for the prescribed support services.  
4. In the case of a First Nations, Inuk or Métis person who is 18 or older, paragraph 1, 2 or 3 applies or the person was being cared for under customary care immediately before their 18th birthday and the person who was caring for them was receiving a subsidy from the society or an entity under section 71.” |
| Continued Care and Support for Youth Agreement | The Policy Directive provided the following detail on the term requirements of a CCSY agreement (also outlined in regulation): | #2 and #4 | Details around the term of an agreement are now listed under Ontario Regulation 156/18 and have been removed from the Policy Directive. The term for a CCSY agreement has not changed (a term not exceeding 12

Disclaimer: This is a plain language guide to help you better understand elements of the *Child, Youth and Family Services Act, 2017* and its regulations. The Act and regulations are available on the Government of Ontario e-Laws website. This guide should not be relied on for legal guidance or legal advice. You should consult a lawyer for any legal questions or advice.
<table>
<thead>
<tr>
<th>Element</th>
<th>CW 004-16 Continued Care and Support for Youth</th>
<th>Policy Requirement</th>
<th>Change in the New Directive</th>
</tr>
</thead>
</table>
|         | • The agreement shall be in effect for a 12 month period unless before the expiry of 12 months, the youth will turn 21 years old.  
• The agreement shall terminate on the day before the youth’s 21st birthday.  
• The agreement must be renewed on an annual basis, or earlier, if necessary. | #11 and #14 | months). The agreement may be extended for a further period or periods not exceeding a total of 36 months.  
Language has been added to the Policy Directive to reflect the requirement for societies to engage with youth on an agreement prior to the expiry of their court order, customary care agreement or Voluntary Youth Services Agreement (e.g., 3-6 months prior to the youth’s 18th birthday).  
Language has also been added to clarify the expectation that the continuation of an agreement is not contingent on whether the youth meets his or her goals as stated in the Youth Plan. |

**Provision of Supports**  
The Policy Directive outlined the following:  
• Societies can provide financial support directly to the youth or through a third party on their behalf.  
• Monthly payments should be provided as per Appendix B of the Directive.  
• Circumstances where the youth may not receive financial supports (i.e. their caregiver is receiving a subsidy from the society, the youth is receiving income supports under the Ontario Disability Supports Program or Ontario Works etc.)  
• The ability for youth to update their agreement when circumstances regarding their caregiver income or their own income changed (i.e., no longer receiving Ontario Works financial support).  
• Details around youth receiving supports while residing outside Ontario. | #11 and #14 | Details around the provision of supports that are now listed under Ontario Regulation 156/18 have been removed from the Policy Directive.  
As per Ontario Regulation 156/18, societies are still permitted to provide financial supports directly to the youth or through a third party. Societies must continue to make monthly payments as per Appendix B of the Directive, and are also permitted to not provide financial supports in certain circumstances as listed in the regulation (s. 54 (6)).  
Details pertaining to supports for youth residing outside Ontario remain in the Policy Directive. |

Disclaimer: This is a plain language guide to help you better understand elements of the Child, Youth and Family Services Act, 2017 and its regulations. The Act and regulations are available on the Government of Ontario e-Laws website. This guide should not be relied on for legal guidance or legal advice. You should consult a lawyer for any legal questions or advice.
<table>
<thead>
<tr>
<th>Element</th>
<th>CW 004-16 Continued Care and Support for Youth</th>
<th>Policy Requirement</th>
<th>Change in the New Directive</th>
</tr>
</thead>
<tbody>
<tr>
<td>Termination of Agreement</td>
<td>Under the CFSA, societies were permitted to terminate a CCSY agreement. The Policy Directive provided a detailed process for which a society can terminate a CCSY agreement with youth.</td>
<td>#12 to #14</td>
<td>Under the CYFSA, societies are no longer permitted to terminate a CCSY agreement. The 2018 Policy Directive has been updated to reflect this change. Information regarding how a youth can terminate an agreement at any time remains in the Policy Directive.</td>
</tr>
</tbody>
</table>

The following has been added to the policy directive to provide further clarity:
- Details on how a society may cease to provide financial supports if the society has made reasonable efforts to contact the youth without success for a period of 3 months and the requirement to resume financial supports when the youth resumes contact with the society.
- Information that youth who no longer receives support under the Ontario Disability Support Program Act, 1997 or the Ontario Works Act, 1997 should be permitted to enter into a new CCSY agreement to reflect this change.

Information regarding the ability for a youth to begin receiving financial supports if their caregiver no longer receives a targeted subsidy or financial assistance through the Stay Home for School Policy has also remained unchanged in the Policy Directive.

4. What changes have been made to CCSY to reflect the new legislation?

Under s. 124 of the CYFSA, a society or prescribed entity “shall enter into an agreement to provide care and support” to eligible youth. Societies are now required to provide continued care and support to eligible youth so that youth are provided with financial and non-financial supports as they transition to adulthood. CCSY is an entitlement for eligible youth under the CYFSA.

As outlined in Ontario Regulation 156/18 a society shall make reasonable efforts to renew the care and support agreement between the youth and the society before expiry. Societies are no longer able to terminate or refuse to renew or initiate an eligible youth’s CCSY agreement.

Societies may cease providing financial supports, if they have made reasonable efforts to contact the youth without success for a period of three months. Youth can choose to terminate their agreement with a society at any time by providing notice to

Disclaimer: This is a plain language guide to help you better understand elements of the Child, Youth and Family Services Act, 2017 and its regulations. The Act and regulations are available on the Government of Ontario e-Laws website. This guide should not be relied on for legal guidance or legal advice. You should consult a lawyer for any legal questions or advice.
the society. They can also negotiate a new agreement at any time in the future provided the youth meets the eligibility requirements.

Changes have also been made in legislation as it pertains to eligibility and are outlined in s. 124 of the CYFSA. Pursuant to the Act, eligibility for CCSY is as follows:

1. An order granting custody of that person as a child on status review, or an order for placing that person as a child in extended society care\(^1\) was made, and the order expires when the child turns 18 or marries (whichever comes first).
2. The person entered into a VYSA with the society under section 77 and the agreement expires on the person’s 18th birthday.
3. The person is 18 or older and was eligible for the Renewed Youth Supports program.
4. In the case of a First Nations, Inuk or Métis person who is 18 or older, paragraph 1, 2 or 3 applies or the person was being cared for under customary care immediately before their 18th birthday and the person who was caring for them was receiving a subsidy from the society or an entity under section 71.

The new eligibility requirements reflect the language of the CYFSA (e.g. Crown wardship order is now referred to as extended society care) and extend eligibility for CCSY to youth who has entered into a Voluntary Youth Services Agreement (VYSA).

5. **What is the term for a CCSY agreement?**

The term for a CCSY agreement has not changed, but reference to it has been moved to Ontario Regulation 156/18.

As outlined in s. 54 (2) of Ontario Regulation 156/18, a CCSY agreement (made under section 124 of the Act) shall not be made for a term exceeding 12 months. The agreement may be extended for a further period or periods if the total term of the agreement, as extended, does not exceed 36 months.

A society or prescribed entity shall not provide care and support under a CCSY agreement if the person to whom care and support is to be provided is 21 or older (s. 54 (5)).

\(^1\) Previously referred to as a “Crown Wardship order” under the CFSA.
6. Can a society cease providing financial support during the term of a CCSY agreement?

A society may cease providing care and support under section 124 of the Act that is financial support if the society has made reasonable efforts to contact the youth and has been unable to contact the youth for three months (s. 54 (4)).

7. When is a society not required to provide financial supports through a CCSY agreement?

The circumstances where a society is not required to provide financial supports through a CCSY agreement were previously outlined in the directive. They have been moved to s. 54 (6) of Ontario Regulation 156/18 and include:

a. The youth is receiving financial assistance under the Ontario Works Act, 1997.
b. The youth is receiving income support under the Ontario Disability Support Program Act, 1997.
c. The youth is living with a caregiver who is receiving a targeted subsidy from a society to care for the youth.

d. The youth is living with a caregiver who is receiving financial assistance under the Stay Home for School Policy with respect to the youth.

8. Are there requirements around how societies provide financial supports?

Societies continue to have the discretion to disburse funds to third parties on behalf of the youth if it is in the best interests of the youth to do so, and the youth is in agreement. For example, rather than provide direct financial support to a youth, a society may pay rent on behalf of the youth, as well as provide other supports in the form of grocery gift cards or transportation passes. However, the total monthly support provided shall not total less than the monthly payment outlined in Appendix B of the Policy Directive.

In determining the supports to be provided to youth, and where a youth’s caregiver is not receiving a targeted subsidy or financial assistance through the Stay Home for School Policy, societies are encouraged to negotiate an alternate arrangement between youth and their current caregivers (e.g., legal guardian, foster parent, group home provider, or customary caregiver) to enable them to continue living at the same residence at ages 18, 19 and 20, where the youth is completing secondary school or is enrolled in post-secondary education, training, or an apprenticeship program, if this is in the best interests of and sought by the youth. Where an alternate arrangement has been negotiated, the society shall coordinate the provision of:

- Supports to youth, which could include a monthly payment; and
- Supports to the caregiver.
The sum total of the financial support provided to the youth and the caregiver shall not be less than the monthly payment specified in Appendix B of the Policy Directive.

In the event that youth acquire alternate housing (i.e., youth are no longer residing with their caregivers), eligible youth shall be given a monthly payment in accordance with the rate specified in Appendix B of the Policy Directive. Society workers are encouraged to support youth to identify alternate stable housing placements, if youth are not able to remain with their previous caregivers.

9. Are societies still required to provide financial supports to a youth if they reside outside Ontario?

Where an eligible youth resides outside Ontario, it is expected that the youth will continue to receive supports, including financial supports.

10. What are the requirements around terminating a CCSY agreement?

The CCSY agreement will remain in effect for the term agreed upon, or up to a period of 12 months as outlined in Ontario Regulation 156/18, unless action is taken by the youth to terminate the agreement. The agreement can be terminated by the youth upon giving notice to the society. The society will continue to provide the youth with the same level of supports for a period of 3 months commencing on the date that the notice was received by the society.

The youth can enter into a new CCSY agreement at any time in the future permitted eligibility requirements are met.

11. When do changes to Policy Directive CW 001-18 come into effect?

The effective date of the revised Policy Directive is April 30, 2018 to coincide with the coming into force of the CYFSA.

SOCIETY GOVERNANCE AND ACCOUNTABILITY

The CYFSA provides the ministry with new, more flexible tools to address society compliance or performance issues, should the need arise, including the authority for the ministry to issue a compliance order, appoint or replace a minority of Board members, or appoint a supervisor to temporarily operate and manage a society. The CYFSA also extends liability protection to society board directors.
1. Why has the ministry added new child welfare governance and accountability provisions to the CYFSA?

The 2015 report of the Office of the Auditor General of Ontario called for improved society oversight and accountability, echoing concerns of other reports from the Ontario Child Advocate (OCA), the former Commission to Promote Sustainable Child Welfare, and recommendations from numerous Coroner’s inquests.

Under the CFSA, when a society did not comply with the CFSA nor meet performance expectations, the Minister had limited options between issuing a policy directive and using more extreme measures such as operating and managing the society in the place of the board of directors. Provisions under the CYFSA provide the Minister with additional options that are stronger than issuing directives, but less extreme than taking control of the management of a society. This includes powers to address societies’ non-compliance, and public interest concerns such as quality of services, the financial and operational management of societies, and capabilities with respect to their corporate governance.

The ultimate goal of strengthening the ministry’s accountability and oversight tools is to promote improved quality of care for children, youth and families, and to improve outcomes for children, youth and families receiving society services. The changes are also intended to improve public trust through increased transparency and enhanced powers for ministry oversight over societies.

2. What are the new governance and accountability provisions under the CYFSA?

The new provisions allow the Ministry to take additional actions to address society compliance and/or performance issues, as appropriate to the circumstances of the issue. Specifically:

- The Director may issue a compliance order to direct a society to undertake specific action(s) to achieve compliance or prepare, submit and implement a plan for achieving compliance, when a society has failed to comply with the CYFSA, regulations, directives, accountability agreements, or a condition imposed on the society’s designation. A summary of each compliance order will be posted publically. Failure to comply with a compliance order may result in the exercise of the Minister’s powers over societies, including further orders and the powers below, as needed and as appropriate to the issue;

- The Minister may appoint a supervisor to temporarily operate and manage a society, where the Minister considers it to be in the public interest to do so, or a society has failed to comply with a compliance order within the specified time period; and,
• The Minister may appoint or replace a minority of society board members, including designating or replacing the board chair, where the Minister considers it to be in the public interest to do so, or a society has failed to comply with a compliance order.

The Minister will be required to provide written notice with reasons to a society before taking the above actions, with the society having a right to respond and have this response considered by the Minister before the Minister takes the proposed action. Where immediate intervention is required to avert an immediate threat to the public interest or to a person’s health, safety or well-being, notice and opportunity to respond will occur after the Minister’s action.

3. **How would appointing and/or removing a minority of society board members improve society accountability and compliance?**

Society boards of directors are composed of volunteers who are locally elected. The profile (e.g., skill sets, knowledge and experience) of individual society board chairs and members therefore varies. The new CYFSA provisions are focused on strengthening oversight and accountability over society boards of directors – where the Minister has public interest concerns with the society’s capabilities with respect to its corporate governance – by allowing for the appointment or replacement of board members, including designating or replacing the board chair.

4. **Will extending liability protection to society board directors affect their accountability to their communities?**

Extending liability protection to all society board members will allow them to perform their required duties without concerns about personal liability when they are acting in good faith, which is intended to improve governance and help attract strong candidates. This will not protect board members where they have failed to act in good faith.

5. **What are the new supervisor powers and why were these provisions added?**

The new supervisor provisions will provide the Minister with the authority to appoint a supervisor to temporarily operate and manage a society where it is in the public interest to do so, there is a situation requiring immediate intervention, or a society has failed to comply with a compliance order. The appointment of a supervisor is consistent with other legislation in Ontario (e.g., the *Public Hospitals Act* and the *Education Act*).

Unless the appointment provides otherwise, the supervisor would have the exclusive right to exercise all the power and perform all the duties of the society and its members, directors, Executive Director and officers. This provides an additional tool amongst a suite of options that the Minister can use where there are concerns with
society compliance and operational effectiveness, and which can be invoked on broader “public interest” grounds. The Minister may also “grant back” certain roles and responsibilities to a society board and/or its Executive Director, while the society is under supervision.

6. How do these new governance and accountability provisions apply to Indigenous societies?

These new enhanced governance and accountability provisions apply to all societies that are incorporated, including Indigenous societies. Consistent with the Ontario Indigenous Children and Youth Strategy, the ministry remains committed to working with Indigenous partners on matters related to governance, accountability and compliance in culturally and contextually appropriate ways.

SOCIETY STAFF QUALIFICATIONS

Regulations under the CYFSA strengthen qualification requirements for society local directors and supervisors, including requiring that local directors be registered with the Ontario College of Social Workers and Social Service Workers.

1. What are the new qualification requirements for local directors, child welfare service supervisors and child protection workers?

Regulations under the CYFSA have been amended respecting the qualifications of society local directors (LDs) and supervisors. The new requirements are as follows:

Local directors are required, at minimum, to:
  a)  i) hold a degree in social work from an accredited school of social work, or an equivalent educational degree,
     ii) be a member of the Ontario College of Social Workers and Social Service Workers (the College) who holds a general certificate of registration for social work, and
     iii) have three years of experience in child welfare services,

Or:

  b) have equivalent education and professional experience that are deemed suitable by the Minister

Or:

  c) Be an LD of a society on the day the Child and Family Services Act is repealed.
LDs who are qualified in (a) must continue to be registered with the College throughout the course of their tenure as LD.

LDs who are grandparented in under (c) must meet the qualifications in (a) or (b) within 18 months of this regulation coming into force (i.e. April 30, 2018).

Supervisors who supervise society employees providing child welfare services, defined as child protection, residential services and adoption services, are required, at minimum, to:
   a) hold a professional degree in social work from an accredited school of social work, or social service diploma; or
   b) have equivalent education and experience that, in the opinion of the D, are suitable for the position of supervising child protection workers and others.

It should also be noted that regulatory provisions under the CFSA which specify various classifications of “social workers” have been revoked and do not continue under the CYFSA, as they do not align with the Social Work and Social Service Work Act, 1998.

Under the CYFSA, “child protection worker” means a Director, a LD or a person who meets the prescribed requirements and who is authorized by a Director or LD for the purposes of section 81 (commencing child protection proceedings) and for other prescribed purposes. Under the CYFSA’s regulations, a person who is a child protection worker must be an employee of a society.

2. Who is a local director?

Under the CYFSA, and the CFSA before it, it is required that “Every society shall appoint a local director (LD) with the prescribed qualifications, powers and duties” (s. 38). These qualifications, powers and duties are described throughout the CYFSA and its regulations. There is no specific requirement under the CYFSA respecting which person in a society should be appointed as a LD nor how many LDs a society can or must have.

In some societies, the LD (or one of the LDs) is the Executive Director, but this is not consistent across societies. The CYFSA does not specify qualifications for an Executive Director, nor does it require that the Executive Director be the LD.

3. Why have these new qualification requirements been established?

Local Directors of societies have a number of powers, duties and procedural rights under the CYFSA related to child protection and adoption and, as such, require specific expertise. Similarly, society supervisors provide clinical oversight of key decisions affecting the safety, permanency and well-being of children and, as such,
require specific expertise. Qualification requirements under the CFSA did not adequately reflect the realities and needs of societies.

Regarding the removal of classifications of “social workers” under the CFSA, the Social Work and Social Service Work Act establishes the Ontario College of Social Workers and Social Service Workers, and provides that only registered social workers or social service workers can use the title “social worker” or “social service worker.”

4. **What if current local directors do not meet the new qualifications?**

The new regulations provide an 18-month period for local directors who do not currently meet the minimum qualifications, to either meet these requirements or to seek to have their educational and professional experience deemed suitable by the Minister.

5. **What is the process for an LD to have their educational and professional experience found to be suitable by the Minister?**

A society would submit a request in writing to the society’s ministry program supervisor who would, in turn, process the request through the appropriate approval process. The request must provide an explanation of how the LD’s education and professional experience make them suitable for the role. At this time, there is no ministry form to request this exemption.

6. **Who is a society supervisor?**

The new regulations use the term “society child welfare service supervisor” to differentiate between supervisors that provide clinical oversight and those who do not (e.g. a Human Resources Supervisor). The qualification requirements in regulation are for those supervising child protection workers and other society employees providing child welfare services, defined as child protection, residential services, and adoption.

Society child welfare service supervisors are also distinct from “supervisors” who may be appointed by the Minister under the Governance and Accountability provisions to manage a society.

7. **Do all supervisors need to meet these requirements?**

All supervisors must either meet the educational requirements, or be found by the Local Director to have the equivalent experience and education that would prepare them for their positions.
8. Why are local directors required to register with the College? Why isn’t the ministry requiring registration for all society workers now?

The qualification requirements for both society LDs and supervisors have been strengthened in the new regulations. At this time, the requirement for registration with the College is being put in place for LDs only. Moving forward, the ministry will engage with partners, including the Ontario Association of Children’s Aid Societies (OACAS), the Association of Native Child and Family Service Agencies of Ontario (ANCFSAO), and the College on an approach to strengthening society staff requirements which may include registration requirements for certain other society staff positions. Details regarding this engagement will be communicated at a later date.

9. Will Indigenous societies be exempt from these requirements?

The intention of the regulation is to allow for a culturally appropriate set of qualifications for workers. As noted above, the Minister may approve individuals as LDs without the need for them to have a degree in social work and be registered with the College. Consistent with the Ontario Indigenous Children and Youth Strategy, the ministry remains committed to working with Indigenous partners to design and implement Indigenous-specific, culturally appropriate programs and services, including alternative, culturally appropriate employee qualification requirements.

10. Who was consulted in the creation of the qualification requirements?

The Ministry’s regulatory proposal respecting qualification requirements for society LDs and supervisors was posted on Ontario’s Regulatory Registry for public consultation and input. Feedback from OACAS, the College, Justice for Children and Youth, the Ontario Association of Social Workers, and the Information and Privacy Commissioner, as well as some individual members of the public, was considered and incorporated into the requirements.

11. How do these requirements relate to the Pathways to Authorization created by OACAS?

In addition to the requirements, the ministry has supported the OACAS in developing and implementing an authorization process for child protection workers. These requirements are separate from OACAS’s Pathways to Authorization. Completion of this Pathways to Authorization process does not exempt any LD, supervisor or worker from the qualification requirements. Currently, many societies have voluntarily adopted Pathways to Authorization. Although the CYFSA gives the Minister the authority to prescribe requirements, including training, for the
authorization of child protection workers, the Pathways to Authorization process is not required by the Minister at this time.

**CHILD ABUSE REGISTER**

The CYFSA proposes to decommission the Child Abuse Register (CAR) once the Child Protection Information Network (CPIN) is fully implemented in all children aid societies. CPIN will contain more detailed and updated information and will provide a modernized, streamlined approach to collecting and checking child abuse information.

1. **Why do provisions in Schedule 3 of the Supporting Children, Youth, and Families Act provide for the eventual repeal of the Child Abuse Register (CAR)?**

   MCYS is currently rolling out the Child Protection Information Network (CPIN) across non-Indigenous societies in Ontario. CPIN is scheduled to be fully implemented in non-Indigenous societies in 2019-20. The ministry is also engaging with Indigenous partners and societies with respect to data management and CPIN.

   Once CPIN is fully implemented, it will provide societies with more detailed and updated information than the CAR, thereby eliminating the need to continue the CAR. Additionally, decommissioning the CAR will reduce administrative burden by eliminating duplication of records-checks through two separate systems, and the effort required to maintain a redundant system.

2. **When will the provisions in Schedule 3 of the Supporting Children, Youth, and Families Act that repeal the CAR come into force?**

   The provisions to repeal the CAR would be proclaimed into force once CPIN has been implemented across all societies (both Indigenous and non-Indigenous) and the ministry and societies are confident that all functions performed by the CAR are being carried out by CPIN.

**NEW FORMS UNDER THE ACT**

Forms under the regulations to the CYFSA have been updated and can be found on the Ontario Public Service Central Forms Repository.

Disclaimer: This is a plain language guide to help you better understand elements of the Child, Youth and Family Services Act, 2017 and its regulations. The Act and regulations are available on the Government of Ontario e-Laws website. This guide should not be relied on for legal guidance or legal advice. You should consult a lawyer for any legal questions or advice.
1. Where can I get a copy of the new or updated forms under the Act?

Forms under the CYFSA’s regulations are intended to support societies and others (e.g. the judiciary) to include all relevant information when exercising powers under the Act (e.g. obtaining a warrant, placing a child for adoption). The forms under the CYFSA include:

- Temporary Care Agreement
- Extension or Variation Agreement
- Warrant to Bring to a Place of Safety and Return Child in Care
- Information in Support of Warrant to Bring to a Place of Safety and Return Child in Care
- Warrant to Bring to a Place of Safety a Child who has withdrawn from a Parent’s Control
- Information in Support of a Warrant to Bring to a Place of Safety a Child who has withdrawn from a Parent’s Control
- Registration of Placement of Child for Adoption
- Director’s Registration of Adoption Placement
- Acknowledgment
- Statement by Physician
- Warrant for Access to Records
- Information in Support of Warrant for Access to Records
- Telewarrant for Access to Records
- Information in Support of Telewarrant to Access Records

All forms referenced in the regulations under the CYFSA are available at the Central Forms Repository at:

Forms that are not referenced in the CYFSA’s regulations (e.g. Notice: Where Alternative Dispute Resolution is Proposed Under the Child, Youth and Family Services Act, 2017, the OCL Notification Protocol Covering Sheet (see Appendix C)) will also be posted at the Central Forms Repository website in the near future.