

*Child, Youth and Family Services Act, 2017*  
(CYFSA)

**Supporting Regulations**

New rules to improve services for children,  
youth and families in Ontario

May 2018

# Disclaimer

This is an overview of **the regulations** that support the *Child, Youth and Family Services Act, 2017*. It is not a detailed presentation. It is not intended to be used as legal advice or to replace the regulations.

To read the complete Act and its regulations, please visit: <https://www.ontario.ca/laws/statute/17c14>

# Overview

In this presentation, the *Child, Youth and Family Services Act, 2017* is called “the new Act”.

Most of the new Act comes into force on **April 30, 2018**.

Personal Information (Part 10) will come into force **January 1, 2020**.

The new Act replaces the *Child and Family Services Act*. In this presentation, we call this “the old Act”.

The old Act is repealed and no longer in effect as of April 30, 2018.

# Overview (continued)

This presentation is meant to give you a high-level overview of what the new regulations say and in which regulation the information can be found.

More information will be made available to the public over the coming weeks and months.

# What's a regulation?

Regulations are rules that derive their authority from the Act.

While the Act establishes the general law, regulations provide more specific details and rules. Regulations have the same legal effect as the Act, and the Act's regulations set out the rules in areas such as: forms that must be filled out; training that a service provider must undertake; or, processes that must be followed.

# Important definitions

- “child” means a person younger than 18;
- “child in care” means a child or young person who is receiving residential care from a service provider and includes,
  - (a) a child who is in the care of a foster parent, and
  - (b) a “young person”.

## Important definitions (continued)

- “young person” means,
  - (a) a person who is or appears to be 12 or older but younger than 18 and who is charged with or found guilty of an offence under the *Youth Criminal Justice Act* (Canada) or the *Provincial Offences Act*, or
  - (b) any person who is charged under the *Youth Criminal Justice Act* (Canada) with having committed an offence while they were a young person or who is found guilty of an offence under the *Youth Criminal Justice Act* (Canada).

Other official definitions can be found in the new Act.

# 10 key parts of the new Act

1. Purposes and Interpretation
2. Children's and Young Persons' Rights
3. Funding and Accountability
4. First Nations, Inuit and Métis Child and Family Services
5. Child Protection
6. Youth Justice
7. Extraordinary Measures
8. Adoption and Adoption Licensing
9. Residential Licensing
10. Personal Information

An overview presentation of the *Child, Youth and Family Services Act, 2017* is available. Obtain a copy by emailing [CYFSA@ontario.ca](mailto:CYFSA@ontario.ca).



## 6 supporting regulations

1. General Matters under the Authority of the Lieutenant Governor in Council (LGIC) (Ontario Reg. 155/18)  
[Starts on page 11](#)
2. General Matters under the Authority of the Minister (Ontario Reg. 156/18) [Starts on page 31](#)
3. Transitional Matters (Ontario Reg. 157/18) [Starts on page 47](#)
4. Personal Information (Ontario Reg. 191/18) [Starts on page 57](#)
5. Adoption Information Disclosure (Ontario Reg. 158/18)  
[Starts on page 61](#)
6. List of First Nations, Inuit and Métis Communities (Ontario Reg. 159/18) [Starts on page 63](#)

# Summary: CYFSA regulation in force dates

## Regulations in force

**April 30, 2018**

- Adoption & Adoption Licensing
- Adoption Information Disclosure
- Child Protection Services
- Child/Youth Mental Health Lead Agencies
- Diversity & Inclusion
- First Nations, Inuit, and Métis provisions
- Funding & Accountability
- Physical Restraint
- Residential Licensing
- Rights of Children & Young Persons
- Secure De-escalation
- Secure Treatment
- Serious Occurrence Reporting
- Transfer Payment provisions
- Youth Justice (Searches, Mechanical Restraint Use, Custody Review Board)
- Select authorized uses of mechanical restraints
- Transitional provisions

**Age of Protection provisions in force January 1, 2018**

## Regulations in force

**January 1, 2019**

- Residential Licensing (new written complaints procedures, new written policies and procedures)
- Mechanical Restraints Use in Secure Treatment Programs
- Diversity and Inclusion (written procedures for staff)

## Regulations in force

**July 1, 2019**

- Listing Inuit Tapiriit Kanatami (ITK) as an Inuit community under the CYFSA
- Residential services (new requirements for staff-model home care)

## Regulations in force

**January 1, 2020**

- Personal Information
- Adoption Information Disclosure (service standard)

January 2018

April 2018

January 2019

July 2019

January 2020

**1. GENERAL MATTERS UNDER THE  
AUTHORITY OF THE LIEUTENANT  
GOVERNOR IN COUNCIL  
Ontario Regulation 155/18**

Available on e-Laws at:

<https://www.ontario.ca/laws/regulation/180155>

**Note:** Provisions take effect April 30, 2018 unless otherwise noted

## **This regulation includes the following sections (and other sections not included here)**

- Determining when a child is a First Nations, Inuk or Métis child for the purposes of the Act
- Rights of children and young persons
- Use of physical restraint
- Use of mechanical restraint
- Complaints procedures
- Child and youth mental health lead agencies
- Searches in youth justice facilities
- Secure de-escalation rooms

# Determining First Nations, Inuk or Métis child for the purposes of the Act

A child is considered a First Nations, Inuk or Métis child for the purposes of the Act if:

- A. The child identifies as a First Nations, Inuk or Métis child or their parent identifies them as a First Nations, Inuk or Métis child;
- B. The child is a member of or identifies with one or more bands or First Nations, Inuit or Métis communities; or
- C. A determination can't be made under (a) or (b), but there is information demonstrating: that a relative or sibling of the child identifies as a First Nations, Inuk or Métis person; or that there is a connection between the child and a band or a First Nations, Inuit or Métis community.

Note: a child does not have to be a member of a band or listed First Nations, Inuit or Métis community in order to be considered a First Nations, Inuk or Métis child for the purposes of the Act.

# New rules for rights of children and young persons

Service providers must:

- Work with the child or young person to help them understand their rights;
- Provide supports to help a child or young person exercise their rights. If it is not possible to provide these supports, this must be documented.

Children's rights are listed in the new Act in Part 2.

# New rules for rights of children and young persons (continued)

Service providers must:

- Document the following information about the child or young person's views in their file when making a decision that affects them:
  - How and when the service provider gave the child or young person the chance to have their views heard and to have a say in the decision;
  - How the child or young person participated and any views they expressed.

# New rules for physical restraint

## Service providers:

- Are prohibited from using or permitting the use of physical restraint, except as set out in the regulations. For example, where there is an imminent risk that the child or young person will injure themselves or others;
- Must have written policies and protocols on the use of physical restraint as well as ways to prevent its use;
- Prepare a monthly record on every use of physical restraint. This report is to be made available to the ministry director upon request.



# New rules for physical restraint (continued)

After using physical restraint, service providers must:

- Record specific details about the physical restraint;
- Notify the parent(s) and in the case of a child in care, the agency or the person who placed the child;
- Hold or offer a debriefing. This includes:
  - Persons who administered the restraint (debrief mandatory);
  - The child or youth who was restrained (debrief mandatory);
  - Any child or young person who witnessed the use of the physical restraint (debrief must be offered to the child or young person).

# New rules for physical restraint (continued)

- Service providers including licensees operating a children's residence must ensure that those who provide direct care to a child or young person complete training on the use of physical restraint and the use of less intrusive measures;
- Licensees operating a children's residence must complete ministry-approved training, even if they have a "no restraint" policy;
- The following slide outlines the education that service providers must undertake.

# New rules for physical restraint (continued)

Education on physical restraint includes:

- **The provisions of the Act and regulations on the use of physical restraint** *within 30 days of April 30, 2018 and within 30 days of any amendment to the Act or regulations;*
- **The policies established by the ministry concerning the use of physical restraint** *within 30 days after each new or revised policy is received by the service provider;*
- **The service providers' policy concerning the use of physical restraint required under section 11** *within 30 days after each new or revised policy of the service provider.*

# New rules for mechanical restraints

- Within youth justice secure custody/detention facilities, the regulation establishes procedures for using mechanical restraints within the facility and during transportation;
- In secure treatment programs, provisions include new requirements for clinical oversight and approval of mechanical restraints use, monitoring, debriefing, training and documentation.

**In Force Date:** January 1, 2019

- Authorizes service providers to use or permit the use of mechanical restraints for select purposes intended to benefit a child or young person's health or well-being. For example, a wheelchair lap belt used to assist with positioning or balance, or velcro wrist straps used to prevent the removal of an intravenous tube.

# New rules for complaints and reviews for children's aid societies

- Introduces a standard form for formal complaints to children's aid societies.

# New rules for complaints and reviews for residential licensees

- Introduces new rules for informing children, young persons and youth in care about:
  - Their rights;
  - Disciplinary procedures;
  - What's expected of them while in care;
  - How to file a complaint;
  
- Introduces new written procedures for hearing and dealing with complaints.

# New rules for complaints and reviews for residential licensees (continued)

Service providers who provide residential care or place children or young persons in residential care must:

- Have a written procedure for the way they will deal with both verbal and written complaints;
- Answer complaints from the child or young person, their parent(s) or another person representing the child or young person;
- Acknowledge receipt of a complaint within 24 hours and determine if any actions can be taken to help the child or young person while the complaint is being investigated;
- Update everyone involved in the complaint on request and at least every 30 days until the complaint is resolved.

# New rules for complaints and reviews for other service providers

All other service providers (other than children's aid societies and residential licensees) who provide services under the new Act must:

- Have a complaints process for anyone to make a complaint about the violation of a child or youth's rights whom the service provider serves;
  - This process must allow for complaints to be anonymous and allow for these complaints to be made verbally or in other accessible formats;
- Unless the complaint is anonymous, acknowledge receipt of the complaint within one business day and determine if any actions can be taken to help the child or young person while the complaint is being investigated.



# New rules for complaints and reviews for other service providers (continued)

- Where possible, have the complaint reviewed by someone independent from the person(s) the complaint is about;
- Update everyone involved in the complaint on request and at least every 30 days until the complaint is resolved;
- Provide the results of the investigation in writing to the person who made the complaint and/or the child/youth and discuss the results with them;
- Keep a complete record of the complaint process in the child or young person's file.

# Complaints and reviews (continued)

All service providers must inform the child or young person that they may contact the Ontario Child Advocate to ask for help.

The Ontario Child Advocate can be reached here:

[http://www.provincialadvocate.on.ca/  
advocacy@provincialadvocate.on.ca](http://www.provincialadvocate.on.ca/advocacy@provincialadvocate.on.ca)

416-325-5669 in Toronto

1-800-263-2841 Toll Free

# New rules for child and youth mental health lead agencies

## NEW

- Creates new role of child and youth mental health lead agency;
- Sets out both local and provincial roles and supports accountability by:
  - Outlining how child and youth mental health service area plans should be developed;
  - Listing the matters for which the ministry may issue directives to child and youth mental health lead agencies.

More information on mental health lead agencies can be found at:

<http://www.children.gov.on.ca/htdocs/English/professionals/specialneeds/momh/moving-on-mental-health.aspx>

# New rules for searches in youth justice facilities

## **NEW**

- Introduces new rules for conducting searches of young persons and their property;
- Puts new rules in place for documenting searches;
- Provides criteria around training and education for staff;
- Establishes rules for the seizure, handling and disposal of contraband.

*This is general information on the regulations that support the Child, Youth and Family Services Act, 2017. It is not intended to be used as legal advice or to replace the regulations.*

# New processes for secure treatment programs

- Introduces updated forms for secure treatment programs that provide court ordered and emergency psychiatric treatment for children in Ontario.

## **UNCHANGED**

- Allows representative(s) of a child or youth who is in secure treatment to examine and copy the child or youth's records.

# New requirements for secure de-escalation

- Establishes new standards for secure de-escalation rooms and the role of the Director in approving the room;
- The frequency of the review of a placement of a young person who is held in a secure custody/detention facility and is 16 years or older has changed; those reviews must now take place at the end of the first hour and at least every 60 minutes thereafter;
- Updates rules for documentation, record-keeping and reporting to the ministry whenever a secure de-escalation room is used.

## 2. GENERAL MATTERS UNDER THE AUTHORITY OF THE MINISTER Ontario Regulation 156/18

Available on e-Laws at

<https://www.ontario.ca/laws/regulation/180156>

**Note:** Provisions take effect April 30, 2018 unless otherwise noted

## **This regulation includes the following sections (and other sections not included here)**

- Providing services to children and families (Diversity and inclusion)
- Child protection service delivery
- Complaints and reviews
- Extraordinary measures
- Adoption
- Residential licensing
- Foster homes
- Reporting a serious occurrence
- Consultation with bands and First Nations, Inuit or Métis communities



# New rules for providing services to children and families (Diversity and inclusion)

Service providers must:

- Take into account a child's identity characteristics and regional differences when making decisions that affect them;
  - A child's identity characteristics include a child's race, ancestry, place of origin, colour, ethnic origin, citizenship, family diversity, disability, creed, sex, sexual orientation, gender identity and gender expression.

# New rules for providing services to children and families (Diversity and inclusion) (continued)

A provision sets out when a child is a First Nations, Inuk or Métis child for the purposes of the Act ([see page 13](#)).

When providing service to First Nations, Inuit or Métis children and their families, service providers must take into account:

- A child's cultures, heritages, traditions, connection to their community;
- The concept of the extended family.

# New rules for providing service to children and families (Diversity and inclusion) (continued)

- Rules allow for a child and their parents to name resource persons to assist service providers in taking into account a child's identity;
- Rules require service providers to determine the availability of complementary programs, activities or services related to the child's unique identity and facilitate linkages with these programs, activities or services if the child agrees.
- Rules require service providers to develop written procedures for how they are to meet the requirements for taking a child's identity into account by January 1, 2019.

# New rules for child protection service delivery

- Updates and strengthens qualifications required for society local directors and society child welfare service supervisors;
- Requires that children or youth in care be visited by a society worker at least once every three months;
- Each required visit must include a meeting in private between the worker and the child or youth.

# New rules for child protection service delivery (continued)

- Clarifies and strengthens place of safety and kinship service assessment requirements and promotes culturally appropriate practices for First Nations, Inuit and Métis children and families;
- Streamlines and updates requirements related to financial records for children's aid societies;
- Sets out a new process to apply for and approve transfer payment capital funding.

# New rules for extraordinary measures

The regulation outlines:

- Forms to be used for application for emergency admission to a secure treatment program;
- Forms to be used for secure de-escalation rooms.

# Adoption

Regulatory requirements under the old Act were mostly carried over with some changes including:

- Requiring the adoption licensee to ascertain whether a child is a First Nations, Inuk or Métis child when contemplating placing a child for adoption;
- Requiring the adoption licensee to consider the benefits of an openness agreement between the child who is going to be placed for adoption and member(s) of the child's band(s) and First Nations, Inuit or Métis communities.

# Adoption (continued)

- Sets out the responsibilities of adoption licensees to give notice to a child or youth's bands, and listed First Nations, Inuit or Métis communities;
- The societies and adoption licensees can arrange to have the home of prospective adoptive parents visited by persons other than social workers. (In private adoption, adoption practitioners are approved to conduct home study assessments and supervise adoption placements).



# New rules for residential licensing

The regulation sets out:

- The offences that would prevent a person from operating a children's residence or providing residential care under a licence;
- New requirements related to quality of care, children's rights and physical safety;
- New requirements for all licensees to develop an emergency and fire procedures plan;
- New requirement that all settings must be kept safe and clean and in a good state of repair.

**In Force Date:** Most on April 30, 2018 with a small number of provisions on January 1, 2019 and on July 1, 2019.

# New rules for residential licensing

- New rules require that children and young persons in residences receive meals that respect their food preferences, culture, traditions and creed. Also requires that reasonable access to food is not restricted to meal or snack times;

**In Force Date:** April 30, 2018 with a small number of provisions on January 1, 2019.

# New rules for residential licensing

- Requirements for licensees providing residential care, directly or indirectly to three or more children using a staff model across one or more sites that are not a children's residence;
  - These sites will be required to meet the requirements outlined for children's residences, with some minor modifications.

**In Force Date:** July 1, 2019.

# Rules on reporting a serious occurrence

- Rules applicable to licensees operating a children's residence to report serious occurrences continue to apply.

# Consultation with a child's bands and listed First Nations, Inuit, and Métis Communities

## UNCHANGED

- A society must consult with a child's band at certain points during the lifespan of a child protection case, including for the placement/removal of child from a residential placement;

## NEW

- A society must now also consult with a child's bands and listed First Nations, Inuit or Métis communities and consultation is required more frequently, including during:
  - Developing a safety plan;
  - Developing a service plan;
  - Transferring a case to ongoing services following an investigation;
  - Conducting a case review and evaluation;
  - Recommending a case be transferred to another society;
  - Transitioning child out of care (with child's consent);
  - Terminating child protection services.

*This is general information on the regulations that support the Child, Youth and Family Services Act, 2017. It is not intended to be used as legal advice or to replace the regulations.*

# Consultation with a child's bands and listed First Nations, Inuit, and Métis Communities (continued)

## **NEW**

- Requires that societies provide a written invitation to each band and each First Nations, Inuit or Métis community located within the territorial jurisdiction of the society to discuss the establishment of a written agreement setting out how consultations under the new Act will be carried out, unless a protocol is already in place.

### 3. TRANSITIONAL MATTERS

## Ontario Regulation 157/18

Available on e-Laws at

<https://www.ontario.ca/laws/regulation/180157>

**Note:** Provisions take effect April 30, 2018

# This regulation includes the following sections

- Funding and accountability
- Child protection
  - Including court proceedings and Child and Family Services Review Board (CFSRB)
- Youth justice
  - Including Custody Review Board matters
- Adoption
  - Including court proceedings and CFSRB reviews
  - Notice to bands, or First Nation, Inuit and Métis communities
- Licensing
  - Including residential licensing

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# Transition: Funding and accountability

The transition regulation covers:

- Terms and conditions imposed on an approved agency until it enters into a funding agreement with the Minister;
- Designations of children's aid societies and steps taken by a society to perform its functions;
- Accountability agreements (until new agreements are entered into under the new Act);
- Directives issued to children's aid societies;
- Funding agreements and arrangements.

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# Transition: Child protection

## UNCHANGED

Clarifies that processes and procedures started under the old Act continue under the new Act, including:

- Warrants;
- Court applications;
- Agreements;
- Child Protection Orders;
- Child and Family Services Review Board\* reviews and hearings.

\* The Board will continue to hold hearings for complaints related to corrections for society records until Part X (Personal Information) comes into force into January 2020. At that time, complaints will be heard by the Information and Privacy Commissioner.

# Transition: Child protection (continued)

## Child Protection Proceedings:

- When the new Act comes into force, a First Nations, Inuk or Métis child may have additional bands or First Nations, Inuit or Métis communities. The representatives of these bands and communities of a First Nations, Inuk or Métis child will be added as parties to a proceeding started before the new Act comes into force **unless** the court does not believe that this would be in a child's best interest;
- No new parties are added where a proceeding is completed and the court has reserved its decision **unless** the court orders otherwise.

# Transition: Youth Justice

## UNCHANGED

- Appointments of Provincial Directors, Probation Officers, Inspectors, etc.;
- Designations of secure/open detention and custody programs;
- Applications for a review of secure temporary detention placements that began but were not completed under the old Act;
- Applications to the Custody Review Board that began but were not completed under the old Act.

*This is general information on the regulations that support the Child, Youth and Family Services Act, 2017. It is not intended to be used as legal advice or to replace the regulations.*

# Transition: Adoption

In the case of a First Nation, Inuk or Métis child, the transition rules set out whether the old Act or the new Act applies to the following society obligations. It will depend on the stage of adoption planning for the child when the new Act comes into force:

- Giving notice to the child's bands or listed First Nations, Inuit or Métis communities of the society's intentions to begin planning for the adoption of the child;
- Considering the importance of developing or maintaining a First Nations, Inuk and Métis child's connection to their bands or listed First Nations, Inuit and Métis communities, including the benefits of an openness agreement or order.

## Transition: Adoption (continued)

- For family intercountry adoptions: if a prospective adoptive parent has applied to sponsor a child under the *Immigration and Refugee Protection Act (Canada)* prior to proclamation of the new Act and the prospective adoptive parent is the child's relative, the child's parent or a spouse of the child's parent: then the provisions for family intercountry adoptions in the old Act apply instead of the new Act.

# Transition: Adoption Participation by bands, or First Nation, Inuit and Métis communities

- Transition provisions clarify the rules around participation by bands or listed First Nation, Inuit and Métis communities in proceedings or reviews started under the old Act and are ongoing at the time the new Act comes into force.

# Transition: Licensing (Residential)

- Existing licenses under the old Act are subject to the same terms and conditions, expiry date and limit on the maximum number of children for whom residential care may be provided;
- Inspections started under the old Act continue under the new Act;
- Licence Appeal Tribunal hearings which started under the old Act continue under the new Act;
- Notices of proposal to refuse to issue or to revoke a licence and provisional suspension of a licence under the old Act continue under the new Act;

**Note:** Applications for a new licence or renewal of a licence for which there is not yet a decision will continue as applications under the new Act.



# PERSONAL INFORMATION

## Ontario Regulation 191/18

Available on e-Laws at

<https://www.ontario.ca/laws/regulation/180191>

**Note:** Provisions take effect January 1, 2020

## What's new

- Allows service providers to disclose personal information for planning and managing services to the Institute of Clinical Evaluative Sciences and to the Canadian Institute for Health Information;
- Names specific personal information (information documenting conversations that took place during a counselling session) that service providers are not authorized to disclose for system/service planning and management purposes;
- Sets out rules for the use of personal information for research purposes and ensures that research is conducted ethically, privacy is protected, conflicts of interest are avoided, and First Nations, Inuit or Métis community agreement is obtained as required.

*This is general information on the regulations that support the Child, Youth and Family Services Act, 2017. It is not intended to be used as legal advice or to replace the regulations.*

# Personal information (continued)

- Specifies what information service providers must provide as part of their annual report to the Information and Privacy Commissioner;
- The Act requires service providers to obtain a child's or youth's consent to collect, use and share their personal information. Their ability to consent is based on capacity, not age;
  - The regulation names the Consent and Capacity Board as the body authorized to settle complaints about capacity decisions by following specific procedures.

# Personal information (continued)

- Prescribes rules for notifying individuals of privacy breaches (i.e. if personal information is used or disclosed without authority, stolen or lost);
- Based on factors outlined in the regulation, service providers must notify the minister and the Information and Privacy Commissioner of privacy breaches;
- Requires service providers to develop and maintain policies and schedules for keeping personal information safe. This includes safe disposal of records.

# ADOPTION INFORMATION DISCLOSURE

## Ontario Regulation 158/18

Available on e-Laws at

<https://www.ontario.ca/laws/regulation/180158>

**Note:** Most provisions take effect April 30, 2018 with one requirement taking effect January 1, 2020.

# What's new

## NEW

- Eliminates the option to provide summaries of information contained in an adoption file;
- Establishes new service standard for responding to the request for non-identifying adoption information.

**In Force Date:** Timing aligned with Part 10, January 1, 2020

**Note:** Adoption Information Disclosure continues to be administered by the Ministry of Community and Social Services.

# LISTING OF FIRST NATIONS, INUIT AND MÉTIS COMMUNITIES

## Ontario Regulation 159/18

Available on e-Laws at

<https://www.ontario.ca/laws/regulation/180159>

**Note:** Will take effect July 1, 2019

# What's new

- Lists Inuit Tapiriit Kanatami (ITK) as an Inuit community under the new Act.

**In Force Date:** July 1, 2019



**Questions about the new Act and/or  
supporting regulations? Send us an email at:  
[cyfsa@ontario.ca](mailto:cyfsa@ontario.ca)**