



Section 10 – Administration

Standard 10.15

Commitment to Indigenous children, youth, and families

PURPOSE

This standard has three purposes:

1. To provide guidance to GNWT child and family service providers around engagement with Indigenous governing bodies;
2. To promote collaboration with Indigenous governing bodies on matters related to child and family services ; and
3. To outline how *An Act respecting First Nations, Inuit and Métis children, youth and families* ('Federal Act') modifies the powers of the Director of Child and Family Services ('Director') under the NWT's *Child and Family Services Act* ('CFS Act').

LIVING DOCUMENT

This Standard is meant to be a living document, also known as an evergreen document. It will be revised on an ongoing basis to ensure the Standard remains current and reflects the best ways for GNWT child and family services providers to work with Indigenous children, youth and families.

The Department of Health and Social Services invites ongoing feedback and suggestions on this document from Indigenous governments, children, youth, and their families, and frontline service providers.

If you have any comments, please send them to: CFS_StandardsFeedback@gov.nt.ca

OVERVIEW

The Federal *Act* sets out national standards for the provision of child and family services in relation to all Indigenous children/youth. Many existing practice standards already comply with requirements under the Federal *Act*. However, where there is a conflict or inconsistency with the national standards under the Federal *Act* and the CFS Act, the national standards prevail. This

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changes both the Director's obligations and the factors the court must consider in relation to Indigenous children/youth.

Definitions:

- **Applicable Aboriginal Organization** means an Indigenous government or organization set out in accordance with the NWT's Child and Family Services Regulations. A list of Applicable Aboriginal organizations will be maintained by the Director and can be found [here](#). (CFS Regulations)
- **Care provider** means a person who has primary responsibility for providing the day-to-day care of an Indigenous child/youth who is not in the care/custody of the Director, other than the child/youth's parent, including in accordance with the customs or traditions of the Indigenous group, community or people to which the child belongs. (Federal Act).

A care provider does not include a regular foster home for the purposes of this Standard or **Standard 10.16 Requirement to provide notice before taking a significant measure in relation to an Indigenous child or youth.**

- **Family** includes a person whom a child/youth considers to be a close relative or whom the Indigenous group, community or people to which the child/youth belongs considers, in accordance with the customs, traditions or customary adoption practices of that Indigenous group, community or people, to be a close relative of the child. (Federal Act)
- **Indigenous governing body** means a council, government or other entity that is authorized to act on behalf of an Indigenous group, community or people that holds rights recognized and affirmed by section 35 of the *Constitution Act, 1982*. (Federal Act)

Paramount consideration: When making a decision, taking an action, or not taking an action in relation to a child/youth under this standard, the Director must always consider the **child/youth's best interests**. The Federal Act and the CFS Act both identify this principle as the primary consideration when making decisions affecting children/youth.

The Federal Act sets out the best interests for Indigenous children/youth in section 10. The Federal Act prevails over the best interests of the child/youth provisions set out under the CFS Act, in the context of providing services to Indigenous children/youth. When determining best interests, the Act gives primary consideration to the following factors, recognizing the criteria should be considered equally as a starting point and then applied as a matter of importance based on the particular circumstance:

- I. The child/youth's physical, emotional and psychological safety, security, and well-being; as well as

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- II. The importance of the child/youth maintaining a connection to their culture and having an ongoing relationship with their family and with the Indigenous group, community and people to whom they belong.

The best interests of the child/youth must be considered when making all decisions and taking all actions (or not taking actions) respecting Indigenous children/youth, not just where there is a specific reference to best interests of the child/youth in the CFS Act.

COMMITMENT TO INDIGENOUS GOVERNING BODIES

Collaboration/engagement, as a standard practice

The Director should collaborate and engage with Indigenous governing bodies on programs and services for children/youth. This collaboration and engagement can, and should, extend past any opportunities identified under the Federal Act or CFS Act (with parental/care giver consent). The engagement and collaboration will be in accordance with the best practices to improve Client and Community Experience as referenced in the Department of Health and Social Services [Caring for our People: Cultural Safety Action Plan 2018-2020](#).

- (a) During initial communication, ask the child/youth and family about whether they have an Indigenous identity.
- (b) If the child/youth is Indigenous, identify and document the Indigenous identity or identities of the child/youth, including both maternal and paternal Indigenous identities.
 - The child/youth may belong to more than one Indigenous group, community, or people including one or more Indigenous groups, communities, or people outside the NWT. Regardless of where the decision-making body of the Indigenous group, community, or people is located, all requirements under this Standard remain the same.
- (c) Adhere to any existing agreements between the Director and the child/youth's Indigenous governing body, under s.57 or s. 58.1 of the CFS Act.
- (d) Prior to the need to take any significant measures (i.e. child protection interventions), seek to collaborate with the child/youth's Indigenous governing body, disclosing information pursuant to s.71(1), (2), and (3) of the CFS Act when:
 - I. Identifying the child/youth's connection to their Indigenous group, community, or people;
 - II. Identifying family and community members who can support the child/youth and their family; and
 - III. Considering the impact of colonialism and other state sanctioned marginalization

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(i.e. residential schools, 60s Scoop, etc.) to assess strengths, and recognize resiliency when planning and delivering services specific to the child/youth and their family.

REFERENCE

- NWT's *Child and Family Services Act*
- Federal government's *Act respecting First Nations, Inuit and Métis children, youth and families*
- NWT's *Aboriginal Custom Adoption Recognition Act*
- NWT's *Guardianship and Trusteeship Act*
- Standard 10.16 Requirement to provide notice before taking significant measure in relation to an Indigenous child or youth
- Standard 2.1 Voluntary Services Agreements
- Standard 4.1 Apprehending a Child
- Standard 6.12 Case Review
- Standard 7.1 Placement Priorities for Children and Youth
- Standard 9.1 Concurrent Planning for Children and Youth
- Standard 9.5 Long-term Planning for Children and Youth
- Caring for Our People: [Cultural Safety Action Plan 2018-2020](#)

PROCEDURE

As an overarching standard of practice, the procedures below apply to all members of the Child and Family Services system.

Determining the cultural identity of an Indigenous child/youth

The Child Protection Worker or Designate (including Authorized Persons, Foster Care and Adoptions Worker, or Supervisor/Manager) will ensure they follow all procedures in **Standard 9.1 Concurrent Planning for Children and Youth** and **Standard 9.5 Long-Term Planning for Children and Youth**.

Engaging and Collaborating with Indigenous Governing Body (prior to providing Notice of

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any Significant Measure)

- (a) The Director will work with the child/youth's Indigenous Governing Body to advance regional Community Planning Tables* as a means to formalize engagement opportunities and protocols.
- (b) If the child/youth's Indigenous governing body has an agreement under s.57 or s. 58.1 of the CFS Act or if the Indigenous governing body is exercising jurisdiction over child and family services through a finalized self-government agreement or through the Federal Act, conduct assessments, engage in planning, make decisions, and act in accordance with the applicable agreement.
- (c) With parental/care provider consent, involve the child/youth and family's Indigenous governing body.
 - Involving the child/youth and family's Indigenous governing body upholds the principles in s.2 of the CFS Act, the principles in section 9 of the Federal Act, as well as the best interests of an Indigenous child/youth in set out in section 10 of the Federal Act.
- (d) With a child/youth's parent's / care provider's consent, determine if the Indigenous governing body or applicable Aboriginal organization may be party to a voluntary support services agreement under s.5 of the CFS Act.
- (e) With the youth's consent, determine if the Indigenous governing body may be party to a support services agreement under s. 6 of the CFS Act or an extended support services agreement under s. 6.3.
- (f) With a child or youth's parent's / care provider's consent, invite the Indigenous governing body or applicable Aboriginal organization to be a member of a Plan of Care Committee under s. 15(3.1) of the CFS Act.
- (g) Consider the impact of colonization, in particular residential schools, to assess strengths and recognize resiliency when planning and delivering services specific to the child/youth

* Community Planning Tables will be established when Indigenous governing bodies inform the GNWT they want to receive notice of Significant Measures (Section 12 of the Federal Act). Community Planning Tables will include the Statutory Director (or their Designate) and person(s) nominated by the Indigenous governing body. The regional Manager/Supervisor and the Deputy Director of Practice will also be represented. The group will establish a Terms of Reference to identify mechanisms for working collaboratively.

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and their family.

- (h) Honour the vision, goal, and objectives identified under the [Cultural Safety Action Plan](#) as the foundation for building and maintaining mutually respectful relationships with Indigenous governing body and to ensure collaborative decision-making
- (i) Prior to initiating communicating, determine how to approach the child/youth's Indigenous governing body by:
 - i. Referring to any local protocol or applicable agreement under s.57 or s. 58.1 of the CFS Act;
 - ii. Consulting the child/youth and family; and
 - iii. Where applicable, consulting the Indigenous organization providing child and family services.
- (j) Document all efforts to establish communication with and involve the Indigenous governing body.

Notice before taking significant measures

- (a) See **Standard 10.16: Requirement to provide notice before taking a significant measure**

Prioritizing preventive services (preventative care) and support services

- (a) When working with Indigenous children/youth and families, give priority to preventative care and support services, including prenatal services, over more disruptive measures. Services can and should be provided via Voluntary Services Agreements (see **Standard 2.1 Voluntary Services Agreements**).
- (b) Giving priority to preventative and support services will often require additional steps beyond a referral.
- (c) Give priority to the provision of support and preventive services to support the child/youth's family.
 - i. Explore with parent/care provider(s) the support services, as outlined in Voluntary Support Services Agreements, including services to expectant parent(s).
 - ii. Review with the Supervisor/Manager what support services have been explored before assessing whether a more significant intervention is required and is in the child/youth's best interests, such as family preservation and extended family supports/placement.

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- (d) Document the provision or consideration of support and preventative services, including why preventative and support services could not be offered (if applicable).

Decisions and actions respecting apprehension

- (a) To the extent that it is in the best interests of the child, do not apprehend a child solely on the basis of socio-economic conditions, including poverty, lack of adequate housing or infrastructure, or the state of health of their parent or the care provider.
- (b) Unless the child's health or safety is in immediate danger, prior to apprehending a child:
- I. Prioritize prevention and support services; and
 - II. Make reasonable efforts to have the child continue to reside with one of the child's parents or another adult member of the child's family.

*See **Standard 4.1 Apprehending a Child** for additional information.

Placement priority for an Indigenous child/youth

*See **Standard 7.1 Placement Priorities for Children and Youth**

- (a) Give priority to placing the Indigenous child/youth as follows:
- I. With one of the child/youth's parent/care provider(s);
 - With the custodial parent's consent, a child or youth may be placed with a non-custodial parent. If the custodial parent objects to this placement option, do not place the child or youth with non-custodial parent* until you have consulted further with others who are involved with planning for the child/youth and completed an assessment.
 - II. With another adult member of the child/youth's family who resides in the child/youth's home community, region and/or within the NWT;
 - III. With an adult who belongs to the same Indigenous group, community, or people as the child/youth;
 - IV. With an adult who belongs to an Indigenous group, community, or people other

* Non-custodial parents must be informed of their right to seek legal counsel and may be assisted by the Child Protection Worker or Designate in obtaining legal counsel to deal with custodial issues. Placement decisions and subsequent assessments must be clearly documented in the child/youth's file (hard copy and MatrixNT).

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than the one which the child/youth belongs; or

V. With another adult.

- (b) When determining if a placement is in the child/youth's best interests, take into account the possibility of placing the child/youth with or near children/youth who have the same parent as the child/youth, or who are otherwise members of the child/youth's family.
- (c) Consider the customs and traditions of the child/youth's Indigenous group, community, or people, such as custom adoption, that may identify family members.

Considering Indigenous customs and traditions in placement decisions

- (a) Consult with the child/youth's Indigenous governing body to determine if customary care or custom adoption traditions specific to the child/youth's Indigenous group, community, or people may be considered when determining placement.
- (b) Customary placements such as extended family or provisional care providers can be financially supported through a parent giving care of the child/youth to another person who is supported by a Voluntary Services Agreement.

Ongoing reassessment of placement

- (a) When an Indigenous child/youth has been placed with anyone other than their parent or adult member of the family, reassess the placement on an on-going basis to determine if it is in their best interests to be placed with their parent or other adult member of their family.

*See **Standard 6.12 Case Review**

*See **Standard 7.1 Placement Priorities for Children and Youth**

Promoting child/youth's attachment and emotional ties to family when separated

- (a) As part of Concurrent or Long-Term Planning, develop a plan to promote the child/youth's attachment and emotional ties to family members when separated, including but not limited to:
 - i. Visitation and access;
 - ii. Role of the caregiver in promoting attachment and emotional ties through supporting ongoing communication with family members; and
 - iii. Promoting attachment and emotional ties through changes in placement and transitioning out of care.

* See **Standard 9.1 Concurrent Planning for Children and Youth**

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* See **Standard 9.5 Long-Term Planning for Children and Youth**

FORMS

- Form 10.15.1 **Letter inviting collaboration/engagement** (not significant measure) as part of prevention (with consent)

TOOLS

- Tool 10.15.2 **Bill C-92 Compliance Guide for Social Workers and Service Providers by Wahkohtowin Law and Governance Lodge**
- Tool 10.16.1 **Notice of Significant Measures Flowchart**
- Tool 10.16.2 **Significant Measures Notice Schedule**

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