

Protocol Service Agreement Reporting Child Abuse Allegations / Children in Need of Protective Services

between



Payukotayno: James and Hudson Bay Family Services

and

Moosonee District School Area Board (Moosonee Public School)
James Bay Lowlands Secondary School Board (Northern Lights Secondary School)

Effective date: September 1, 2023

Review date: August 31, 2027



Preamble

The *Child, Youth and Family Services Act*¹ and its supporting regulations were proclaimed on April 30, 2018. Of particular relevance to schools and daycares is Section 125, which sets out the duty to report any concerns or suspicions of child abuse, neglect or sexual exploitation to a Children's Aid Society. That duty is of heightened importance for teachers, early childhood educators, school social workers, and other support staff of schools and daycares as their regular duties and responsibilities place them in close contact with children and youth on a daily basis. The duty to report response with the person who has the suspicion or to whom the child of youth has made a disclosure, is to report as quickly as possible to ensure the matter can receive immediate investigation and action taken by the relevant Children's Aid Society.

Definitions

In this agreement:

"Student" or "Child" or "Youth" means a person younger than 18 years of age.

"Child abuse and neglect" is defined as the circumstances in which a child would be found to be "in need of protection". These circumstances are directly incorporated in Section 74 (1) of the Act which sets out the duty to report. They include risk of or actual physical harm, sexual molestation or exploitation, emotional harm and neglect. [*Child and Family Services Act* Section 74 (2 A (i, ii.), B(i, ii.), c - o.)]

"Duty to report" means that if a person has reasonable grounds to suspect that a child is in need of protection, the person must immediately report the suspicion and the information on which it is based to Payukotayno: James & Hudson Bay Family Services. [*Child and Family Services Act* Section 125 (1).]

"Board" means one of the administrative and governance organization of one of the following schools and daycares: James Bay Lowlands Secondary School Board, Moosonee District School Area Board; Moose Factory Island District School Area Board; Northeastern Catholic District School Board – Moosonee; Moose Factory Academy of Christian Education Board; Waweniwin Learning Centre Board, Tikinagan Day Care – Northern College; Moose Cree Education Authority, (Delores D. Echum Composite School, Small Steps Child Care Centre, and Headstart).

"Agency" or "Child Welfare Society" or "CAS" means Payukotayno: James & Hudson Bay Family Services.

"Protocol" means this protocol service agreement.

Parties

Payukotayno: James & Hudson Bay Family Services is a First Nations Child and Family Service agency, established by the Mushkegowuk communities. The Agency was designated by the Government of Ontario as a society within the meaning of s.34 of the *Child, Youth, and Family Services Act, 2017* and with this designation, there are also responsibilities under Ontario Law for certain child/youth protection

¹ On April 30th, 2018, the *Child and Family Services Act (CFS)* was repealed, and replaced by the *Child, Youth and Family Services Act (CYFSA)*. The *Child, Youth, and Family Services Act, 2017*, S.O. 2017, c. 14, Sched. 1 is available at <https://www.ontario.ca/laws/statute/17c14>

matters and other services. The Agency's services are consistent with the standards and guidelines as outlined in *Ontario Child Protection Standards of Ontario, 2016*⁷ and the *Child Youth and Family Services Act (CYFSA)*. The Agency provides both services to non-Indigenous and Indigenous children and families within the Ministry of Children, Community and Social Services' James and Hudson Bay catchment area.

This Protocol is designed to assist in a coordinated approach with respect to ensuring the safety and protection of all students within the jurisdictions of the James Bay Lowlands Secondary School Board, Moosonee District School Area Board, Moose Factory Island District School Area Board, Northeastern Catholic District School Board – Moosonee, Moose Factory Academy of Christian Education Board, Waweniwin Learning Centre Board, Tikinagan Day Care – Northern College, and the Moose Cree Education Authority, (Delores D. Echum Composite School, Small Steps Child Care Centre, and Headstart) located in the geographical area in which child welfare is provided by Payukotayno: James and Hudson Bay Family Services.³

This Protocol aligns with the Omushkego world view of the concept of Payukotayno ᐅᓴᓴᓴᓴ⁸ as one family. We share the responsibility of keeping the most vulnerable members of our community safe, as one family.

Purpose

Goals and objectives for this Protocol include:

- A consistent approach across the jurisdictions for Payukotayno: James and Hudson Bay Family Services, the District School Boards, Private Schools, and Daycares when responding to children who may be in need of protection, and the applicable legislative requirements, legal principles, and confidentiality are respected
- Delivery of the best possible services to children and their caregivers and families
- Promotion of a coordinated, cooperative and collaborative approach to child harm prevention, detection, reporting, investigation which supports a child-centric approach and minimizes the opportunity for, and the potential of, re-victimization
- Increased safety and protection of children and prevention of abuse
- Procedures and responses of signatory service providers and their understanding of the 'duty to report' all suspicions of child abuse or neglect
- Accountability to each other and to the children and families we serve
- Collaborative, adaptive and responsive partnerships enhancing the safety and well being of children in the community, "as one family"

This Protocol was developed jointly by the provincial school boards, the private denominational school board, the First Nation education authority board, and the licensed daycare boards (Board, respective of

⁷For more information about the *Ontario Child Protection Standards (2016)*. Ministry of Children and Youth Services, see <https://www.ontario.ca/document/ontario-child-protection-standards-2016>

⁸Children's Aid Societies are independent legal entities (non-profit corporations run by volunteer boards of directors or, a First Nation operating under the *Indian Act*), accountable to the communities they serve. Societies are designated under Section 34 of the *Child, Youth and Family Services Act (CYFSA)*.

each Board's jurisdiction) within the Moosonee, Moose Factory, and Moose Cree First Nation area, and Payukotayno: James & Hudson Bay Family Services (Agency). It replaces the previous agreement of 2014.

This Protocol applies to the Boards of public and private schools and daycares, as defined by the Ontario Ministry of Education's *Education Act*⁴ and *Child Care and Early Years Act*⁵ within the Agency's jurisdiction, as defined by the Ministry of Children, Community and Social Services. Legislative references in this Protocol are to the *Child, Youth and Family Services Act*, with the result that where the word "child" or "children" is used in this Protocol it is inclusive of young persons who are 16- and 17-years of age.

Section 1 of this Protocol is an introduction to the application of *the Child, Youth, and Family Services Act* in schools and daycares and outlines each school's and daycare's respective Board's obligation to report suspicions of child abuse, and to whom such a report must be made. It also indicates the steps which would normally be followed by a child protection worker conducting an abuse investigation at a school on behalf of the Agency.

Under Section 125 of the *Child, Youth and Family Services Act* every person who has reasonable grounds to suspect that a child is or may be in need of protection must promptly report the suspicion and the information upon which it is based to a Children's Aid Society. This includes persons who perform professional or official duties with respect to children, such as health care workers, teachers, early childhood educators, social workers, and operators or employees of childcare programs or centres, police and lawyers. Section 2 and Appendices of this Protocol document contains numerous informational materials to assist the Boards' employees in identifying child abuse, neglect, and sexual exploitation.

The Board is charged with the responsibility of ensuring that policies and procedures regarding child abuse reporting conform to the legislative provisions of the *Child and Family Services Act*. The Agency assumes that each Board's commitment to a safe, respectful, and nurturing environment correspondences to internal policies and procedures relating to hiring, staff training, reporting suspicion of child abuse and neglect, responding to students with special needs, investigating employee misconduct and cooperating with appropriate investigative agencies. The Board's commitment to a coordinated response also includes providing information to educate students about personal safety.

Section 3 – Allegations Against Board Employees of this protocol outlines steps that shall be taken by each party (Board and Agency) in the event the concerns being reported are about the conduct of a Board employee in the performance of their duties. The Protocol meets the requirements of both the *Child, Youth and Family Services Act* and the obligations the school boards have to their employees in both respecting due process concerning the investigation of allegations, and in keeping children and youth safe throughout the process.

In addition to Ontario's legislation, the Agency incorporates the requirements of the new federal legislation. *An Act respecting First Nations, Inuit, and Métis children, Youth and Families (FNIM-CYF Act)*⁶ was passed in 2019, and contains specific provisions that affect the legal rights of First Nation, Inuit, and

⁴ For more information about the *Education Act*, R.S.O. 1990, c. E.2 see <https://www.ontario.ca/laws/statute/90e02>

⁵ For more information about the *Child Care and Early Years Act*, 2014, S.O. 2014, c. 11, Sched. 1, see <https://www.ontario.ca/laws/statute/14c11>

⁶ For more information about *An Act respecting First Nations, Inuit and Métis children, youth and families* (S.C. 2019, c. 24). Canada, see <https://laws.justice.gc.ca/eng/acts/F-11.73/index.html>

Métis children, families, and communities. It informs this Protocol. These provisions must be referenced and followed whenever a child welfare matter concerns an Indigenous child or youth.

On October 26, 2021, Moose Cree First Nation and Payukotayno: James and Hudson Bay Family Services signed and completed a Protocol Agreement. The Protocol Agreement is the first of its kind in the Mushkegowuk Region and is the result of work between Moose Cree Leadership, First Nation Representative Services Program and Payukotayno Executive and staff. The Protocol Agreement clearly defines and provides a path for the Agency and the First Nation to work together to ultimately support the safety and well-being of all children, youth and families that will require services from Payukotayno.

Section 4 – Protocol Maintenance of this document reinforces the importance of the numerous Boards and the Agency to continue to work together, as each has a responsibility to protect children and youth from harm, and all parties believe that all members of the educational community have the right to be educated in and work in an environment which is safe, free from violence, and which promotes respect for self, for others, and for the property. A formal review of the protocol will occur every four years, following the signing of the document, and coordinated by the Agency.

Appendices to this Protocol are intended to assist the reader to understand what constitutes harm or maltreatment of a child or the risk thereof, how to respond effectively to a child's disclosure of harm or maltreatment or a risk thereof, the duty to report harm or maltreatment of a child or the risk thereof, the limits in relation to confidentiality, and the respective roles of the Board and Agency in regard to the investigation of harm to or maltreatment of a child or the risk thereof.

References

Child, Youth, and Family Services Act, 2017
Ontario Child Protection Standards of Ontario, 2016
Education Act, 1990
Child Care and Early Years Act, 2014
An Act respecting First Nations, Inuit, and Métis children, Youth and Families, 2019
Professional Misconduct Regulation of the Ontario College of Teachers Act, 1996
Early Childhood Educators Act, 2007
Social Work and Social Service Work Act, 1998
Freedom of Information and Protection of Privacy Act, 1990
Personal Health Information Protection Act, 2004

Statement of Principles

The principles below provide a context for this document:

- I. All children and youth have the right to a safe, nurturing environment in which to grow to their full potential free from violence, harm and maltreatment. It is a shared community responsibility to ensure that these conditions are fulfilled.
- II. The views, wishes, and preferences of the child or youth must be considered and acted upon.
- III. The Board and Agency recognize and value the diversity among children, youth, families and the many communities covered by this Protocol. This includes supporting anti-oppressive/equity/trauma-informed practice approaches which respects all persons, including but not exclusive of culture, religion, creed, sex, ableism, age and all the other factors that make up a person's identity. As such, all children and youth who have experienced or witnessed maltreatment will be treated with dignity, respect and care. The Board and Agency also recognize the unique heritage and cultures of Indigenous peoples in Canada, and their inherent rights to care for, support and cherish their children and youth according to their traditions and values.
- IV. Educators and other Board employees play a crucial role in the identification and reporting of suspected harm of children and youth and in offering a supportive, caring environment for such children and youth. Every child spends a considerable part of their childhood interacting with teachers, daycare workers, and other educational resource professionals. Research shows children and youth disclose to someone they trust. In order to be able to intervene appropriately, it is important to be well-informed about the relevant definitions associated with children and youth in need of protection.
- V. All actions taken will be in the best interest of the child(ren). A coordinated, cooperative and collaborative approach to child harm prevention, detection, reporting, investigation and support puts the best interest of the child(ren) first. This approach also minimizes the opportunity for, and the potential of, re-victimization.
- VI. In the context of a collaborative investigative process, the applicable legislative requirements, legal principles and privacy will be respected.

The Protocol articulates the shared responsibility and commitment amongst and between the provincial District School Boards, the Moose Factory Academy of Christian Education, Moose Cree Education Authority, Waweniwin Learning Centre Board, Tikinagan Day Care – Northern College and Payukotayno: James & Hudson Bay Family Services for the prevention, detection, reporting and investigation of child maltreatment. Early detection and community education provide the ultimate keys to ending the cycle of child harm and maltreatment and its destructive consequences.

Signatories



Executive Director or Chairperson
Payukotayno:J&HBFS



Date Signed



Director of Education or Chairperson
Moosonee District School Area Board



Date Signed



Director of Education or Chairperson
James Bay Lowlands Secondary School Board



Date Signed

This Protocol will remain in effect without further amendments until August 31, 2027 unless there are changes to legislation or there are requests for amendments made by any of the signing parties above.

Contents

Preamble	2
Definitions	2
Parties	2
Purpose	3
References.....	5
Statement of Principles	6
Signatories.....	7
Section 1 - Introduction.....	9
<i>Child, Youth, and Family Services Act, 2017 (CYFSA)</i>	9
Role and Functions of the Children’s Aid Society	10
Role of District School Boards, Private School Board, Daycare Boards, and Education Authority.....	10
Section 2 – Reporting Guidelines	14
A. When to Report Child in Need of Protection.....	14
B. How To Report	16
C. What to Expect Following the Report.....	21
Section 3 – Allegations Against Board Employees.....	25
Section 4 – Protocol Maintenance	28
Appendix A – Causes and Indicators of Child Harm and Maltreatment	29
Appendix B – Child Sexual Behaviour	35
Appendix C – Protection Services for 16 – 17 Year Olds.....	36
Appendix D – Legal Status of Children in Care.....	41
Appendix E – Glossary of Terms	44
Appendix F – Supervision Guidelines.....	46
Appendix G – Guide for Identifying Indigenous Persons	48
Appendix H – Indigenous Child Welfare and the Education System in Canada.....	50
Appendix I – Extraordinary Circumstances Due to a Pandemic or Other Extended Emergency.....	52
Appendix J - Provincial, Federal and Indigenous Child Welfare Legislation and Legal Requirements	53
Appendix K – Letter to School: Investigation Completed	54
Appendix L – Duty to Report Professional Advisories, Ontario College of Teachers (2018), College of Early Childhood Educators (2019), and Ontario College of Social Workers and Social Service Workers (2018) ..	55
Appendix M – Ontario Ministry of Education Policy/Program Memoranda	79

Section 1 - Introduction

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

The paramount purpose of this Act is to promote the best interests, protection and well-being of children and youth. The overall intent of the CYFSA legislation remains the same, but there are new and modified additional purposes under s. 1(2). Broadly, the CYFSA has a preamble that makes explicit reference to the *United Nations Convention on the Rights of the Child*, the *Ontario Human Rights Code*, the *Canadian Charter of Rights and Freedoms*, *Jordan's Principle*, and the *United Nations Declaration on the Rights of Indigenous People*. It includes several principles respecting diversity, inclusion and connection to community, as well as recognizing the existence of systemic racism as a barrier to service delivery for children and youth and families.

The additional purposes of this Act, as long as they are consistent with the best interests, protection and well-being of children and youth, are:

- a. To recognize that, while parents may need help in caring for their children, help should give support to the autonomy and integrity of the family unit and, wherever possible, be provided on the basis of mutual consent.
- b. To recognize the least disruptive course of action that is available and is appropriate in a particular case to help a child should be considered.
- c. To recognize that children and youth's services should be provided in a manner that:
 - i. Respects children and youth's needs for continuity of care and for stable family relationships and,
 - ii. Takes into account physical and mental developmental differences among children and youth.
- d. To recognize that, wherever possible, services to children and youth and their families should be provided in a manner that respects cultural, religious and regional differences.
- e. To recognize that Indigenous people are entitled to provide, wherever possible, their own child and family services and that all services to Indigenous children and youth and families should be provided in a manner that recognizes their culture, heritage and traditions and the concept of the extended family.

On January 1, 2018, the Ontario government introduced legislation that increased the age of protection to 18 years of age. By increasing the age of protection, 16- and 17-year-olds who are in need of protection will be eligible for the full range of child protection services, which will give them a better opportunity to get the support they need and to have better outcomes as they transition to adulthood.⁷

On January 1, 2020, Part X of the *Child, Youth and Family Services Act* came into force. Part X addresses personal information and places additional requirements upon Children's Aid Societies around the collection, storage, usage, and disclosure of information concerning children, youth and families with whom they interact. It also gives to service users access rights. A capable child/youth's wishes are always followed and over-ride that of parents when it comes to their personal information. In particular, this

⁷ For more information about the Ministry of Children, Community and Social Services protection services for 16- and 17-year-olds, see <https://www.ontario.ca/page/protection-services-16-and-17-year-olds>

part of the *CYFSA* requires consent to disclose information to be sought from both the parents (and documented), and children or youth considered to have capacity to make sure a decision.

Role and Functions of the Children's Aid Society

The mandate of the Children's Aid Societies is outlined in Section 15(3) of the *Child, Youth and Family Services Act* and states:

- a. Investigate allegations or evidence that children and youth who are under the age of eighteen (18) or are in the CAS's care or are under its supervision may be in need of protection.
- b. Protect, where necessary, children who are under the age of eighteen (18) years and may be in need or are in the CAS's care or are under their supervision.
- c. Provide guidance, support and other services to families for protecting children or for the prevention of circumstances requiring the protection of children.
- d. Provide care for children assigned or committed to its care under this Act.
- e. Supervise children assigned to its supervision under this Act.
- f. Place children for adoption under Part 7 of this Act.
- g. Perform any other duties given to it by this or any other Act. (*CYFSA*, s.15 (3)).

In this region, Payukotayno: James and Hudson Bay Family Services has the primary responsibility to investigate abuse and child protection allegations, and thereafter to support children and families. Services that a CAS provides include investigating allegations of abuse, caring for children who come under their supervision, providing guidance and counselling to families as it relates to child protection and adoption services. The Agency has a multi-service that includes prevention and early intervention.

Role of District School Boards, Private School Board, Daycare Boards, and Education Authority

Board personnel will cooperate with the Agency in the course of conducting any investigation related to child protection. This includes facilitating making meeting space available at the school to conduct interviews, and ensuring timely communication and providing documentation where required under legislation, and according to Board policy.

Board personnel will consult with the Agency in any situation where there is doubt regarding the necessity to report and will act in accordance with the guidance of the Agency personnel.

Board personnel will provide any pertinent information to the Agency which is necessary in conducting an investigation.

Board personnel, and the Agency will work collaboratively in striving to maintain a safe environment for all students and staff during the course of an investigation.

Duty to report (Section 125)

The Child Youth and Family Services Act provides that:

125(1) Despite the provision of any other Act, if a person, including a person who performs professional or official duties with respect to children, has reasonable grounds to suspect grounds for protection, the person shall forthwith report the suspicion and the information on which it is based to a CAS.

The CYFSA requires all professionals working with children and youth, including teachers and Board personnel, to report promptly any information or situation where a child has suffered physical harm or where there are reasonable grounds to suspect risk of harm caused by the person in charge of the child or the child has been inadequately cared for, neglected or maltreated. This includes any operator or employee of a school or daycare.

Ongoing duty to report:

125(2) A person who has additional reasonable grounds to suspect one of the matters set out in subsection (1) shall make a further report under subsection (1) even if he or she has made previous reports with respect to the same child.

Professional obligation and protection from liability

The paramount purpose of the Act is to promote the best interests, protection and well-being of children and youth. The legal duty to report under the CYFSA overrides the provisions of the *Education Act* and any other statute.

Under the *Professional Misconduct Regulation of the Ontario College of Teachers Act (OCTA)*,⁸ the *Professional Misconduct Regulation of the Early Childhood Educators Act (ECEA)*⁹, and the *Social Work and Social Service Work Act (SWSSWA)*¹⁰ members of their respective college can be found guilty of professional misconduct if they fail to comply with duties under the CYFSA.

An individual's responsibility to report cannot be delegated to anyone else. The Ontario College of Teachers,¹¹ the College of Early Childhood Educators¹², and the Ontario College of Social Workers and Social Service Workers¹³ each provide duty to report professional advisories for their members, (Appendix L).

Section 125 (2, x.) of the CYFSA confirms the obligation to report applies even if the information is confidential or privileged. As well, it states no action for making a report shall be brought against the person making the report, unless such person acts maliciously or without reasonable grounds.

A Board employee who makes a report must provide their name and contact information for at least two reasons. First, it may be necessary for the CAS to follow up with them to clarify information. Secondly, such information allows the report to be properly documented, thereby ensuring the staff member is able to establish he/she has fulfilled the legal and professional obligation to report. Any information

⁸ O. Reg. 437/97: Professional Misconduct under Ontario College of Teachers Act, 1996, S.O. 1996, c. 12 <https://www.ontario.ca/laws/regulation/970437>

⁹ *Early Childhood Educators Act, 2007*, S.O. 2007, c. 7, Sched. 8 <https://www.ontario.ca/laws/statute/07e07>

¹⁰ *Social Work and Social Service Work Act, 1998*, S.O. 1998, c. 31. <https://www.ontario.ca/laws/statute/98s31>

¹¹ *Professional Advisory, Duty to Report Updated*. Ontario College of Teachers. <https://www.oct.ca/-/media/PDF/Duty%20to%20Report%20Updated%20July%202018/2018%20Professional%20Advisory%20Duty%20to%20ReportENPUBLISH.pdf>

¹² *Professional Advisory, Duty to Report*. College of Early Childhood Educators. https://www.college-ecce.ca/en/Documents/Professional_Advisory_Duty_to_Report.pdf

¹³ *The Duty to Report under the Child, Youth and Family Services Act, 2017*. Ontario College of Social Workers and Social Service Workers. <https://www.ocswssw.org/wp-content/uploads/The-Duty-to-Report-under-the-Child-and-Family-Services-Act-20180430.pdf>

provided to the CAS is subject to the rules and limitations for further disclosure under Part X of the *CYFSA*. Exceptions under Part X protect the reporting person's identity from disclosure s. 312(1)(d)(ii).

Failure to Report

The duty to report under the *CYFSA* is of such importance that there can be legal consequences for failing to uphold the duty to report. Under the *CYFSA*, every person who performs professional or official duties with respect to children, including teachers, registered early childhood educators, social workers, and school principals, is liable on conviction to a fine of up to \$5,000 if they fail to report a suspicion based on information obtained in the course of their professional or official duties (s. 125(6), *CYFSA*), Section 2(21) of Ontario Regulation 223/08 on Professional Misconduct (Misconduct Regulation) indicates that "contravening a law, if the contravention has caused or may cause a child who is under the member's professional supervision to be put at or remain at risk," may constitute professional misconduct. There are several other provisions under the Misconduct Regulation that could also apply such as failing to maintain the standards of the profession and acting or failing to act in a manner that, having regard to the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

If a person who performs professional or official duties with respect to children and youth aged 0- 16 years fails to make a report when they have "reasonable grounds to suspect" a child may be in need of protection, such failure may lead to prosecution and if convicted, a fine of up to \$5000. Additionally, a failure to fulfill their reporting obligations under the *CYFSA* constitutes professional misconduct under the applicable professional regulatory body which may include the Ontario College of Teachers, College of Early Childhood Educators, Ontario College of Social Workers and Social Service Workers, College of Audiologists and Speech and Language Pathologists of Ontario, and the College of Psychologists of Ontario.

Reporting suspicions that a youth age 16 and 17 may be in need of protection

As of January 1, 2018, 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 penalty of conviction or fine of failure to do so (as in above paragraph) does not apply to this age group. However, the legislated or mandatory duty to report will continue to apply in respect to children and youth under 16 years of age.

If in doubt, call the CAS's intake service to consult on duty to report if you have suspicions of a child or youth in need of protection/assistance. Where possible this report should be made with the youth.

Non-Employees also have a duty to report

Non-employees who work or deal with children and youth (e.g., mentors, coaches, volunteers, student teachers, etc.) also have a duty to report.

Note. It is your duty to report. It is the responsibility of the CAS and the Police Services (where involved), to investigate all suspected child protection reports and to determine if the child protection concerns have been verified. When in doubt about whether you have reasonable grounds to report child protection, contact an Intake Worker to consult.

This protocol is consistent with the Ontario Ministry of Education's policy/program memoranda *PPM9 – Duty to report children in need of protection (2019)*, *PPM 166 - Keeping Students Safe: Policy Framework*

for School Board Anti-Sex Trafficking Protocols (2021), and PPM 120 - Reporting violent incidents to the Ministry of Education (2011). Each policy/program memorandum reflects the Child, Youth and Family Services Act, and are appended to this Protocol document as Appendix M.

Section 2 – Reporting Guidelines

A. When to Report Child in Need of Protection

Sections 74(2) and 125(1) of the *CYFSA* define what is meant by a “child in need of protection” and include references to physical, emotional and sexual harm as well as maltreatment. The *CYFSA* identifies a child in need of protection to include not only the suffering of maltreatment but also the risk of future harm. The *CYFSA* refers to the duty to report when there is “a risk that the child is likely to suffer” maltreatment. See Appendix E - *Glossary of Terms*

Ground for protection

All allegations of child harm and maltreatment must be taken very seriously. Reports of child maltreatment should proceed on the assumption that a child or youth’s disclosure warrants full consideration for assessment and/or investigation and should be reported to the CAS forthwith.

The sections of the Act that apply are listed below.

Under subsection 74(2) of the *CYFSA*, a child is in need of protection where:

The child has suffered physical harm inflicted by the person having charge of the child or caused by the person’s

- i. Failure to adequately care for, provide for, supervise or protect the child; or*
- ii. Pattern of maltreatment in caring for, providing for, supervising or protecting the child.*

There is a risk that the child is likely to suffer physical harm inflicted by the person having charge of the child or caused by or resulting from that person’s

- iii. Failure to adequately care for, provide for, supervise or protect the child; or*
- iv. Pattern of maltreatment in caring for, providing for, supervising or protecting the child.*

Refer to Appendix F for guidelines about supervision.

The child has been sexually molested or sexually exploited by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual molestation or sexual exploitation and fails to protect the child.

There is a risk that the child is likely to be sexually molested or sexually exploited as described in clause (c).¹⁴

The child requires medical treatment to cure, prevent or alleviate physical harm or suffering and the child’s parent or other person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, the treatment.

The child has suffered emotional harm, demonstrated by serious:

¹⁴ (c) the child has been sexually abused or sexually exploited, by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual abuse or sexual exploitation and fails to protect the child, *CYFSA*: Part V 74 (1)

- v. Anxiety,
- vi. Depression,
- vii. Withdrawal,
- viii. Self-destructive or aggressive behaviour, or
- ix. Delayed development.

And there are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of maltreatment on the part of the child's parent or the person's having charge of the child.

- (g) The child has suffered emotional harm of the kind described in sub clause (f) (1) - (i), (ii), (iii), (iv)¹⁵ or (v) and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm.*
- (h) Harm of the kind described in sub clause (f) (1) - (i), (ii), (iii), (iv) or (v) resulting from the actions, failure to act or pattern of maltreatment on the part of the child's parent or person having charge of the child.*
- (i) There is a risk that the child is likely to suffer emotional harm of the kind described in sub clause (f) (1)- (i), (ii), (iii), (iv) or (v) and that the child's parent or other person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to prevent the harm.*
- (j) The child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition.*
- (k) The child's parent has died or is unavailable to exercise his or her custodial rights over the child and has not made adequate provision for the child's care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody.*
- (l) The child is less than twelve (12) years old and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or other person having charge of the child does not provide, refuses or is unavailable or unable to consent to, those services or treatment.*
- (m) The child is less than twelve (12) years old and has, on more than one occasion, injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately; or*
- (n) The child's parent is unable to care for the child and the child is brought before the court with the parent's consent and, where the child is twelve (12) years of age or older, with the child's consent, to be dealt with under this Part. R.S.O. 1990, c. C.11, s. 37(2); 1999, c.2, s.9.*

¹⁵ (f) the child has suffered emotional harm, demonstrated by serious, (i) anxiety, (ii) depression, (iii) withdrawal, (iv) self-destructive or aggressive behaviour, or (v) delayed development, and there are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child; CYFSA- Part V /4 (1)

Domestic violence

The Ministry of Children, Community and Social Services child protection standards, require all reports to CAS's be screened for the presence of intimate partner violence and/or adult conflict (also referred to as domestic violence). When a report regarding domestic violence is received by a CAS, the primary focus will be upon gathering information and assessing how the violence has resulted in, or is raising the risk of, emotional and/or physical harm or maltreatment as defined in the CYFSA.

Domestic violence remains a potential indicator of harm and therefore should be taken seriously. Although the presence of domestic violence alone may not be sufficient to establish that a child is in need of protection, it is a sufficient concern for a report to the CAS. The CAS's role is to determine what, if any, further action may be appropriate, taking into account several child protection factors. The following are a few examples of when a report concerning domestic violence should be made:

- any situation in which police had to be called to the home to intervene,
- one or both of the parents used demeaning and/or derogatory names and language toward the other parent and/or partner,
- a repeated pattern of conflict in the home is disclosed,
- threats of harm were made toward a partner and/or a child during an argument,
- an argument during which destruction of the home and/or possessions occurred,
- an argument in which violence and/or the use of force occurred,
- a conflict involving an adult(s) in the home that may result in a potentially negative impact to the child as demonstrated by crying, unable to focus, withdrawn, preoccupied and/or other concerning behaviors.

Age inappropriate sexualized behaviour

Where there is a concern a child is exhibiting sexualized behaviour indicative of knowledge/experience beyond their age and development, but no specific maltreatment allegation has been disclosed, the situation still meets the criteria for making a report to a CAS. Questionable sexual activity by a caregiver of the child is also reportable (for example, adults being indiscreet in performing sexual relations, adults continuing to bathe with older children and youth, adults continuing to share a bed with older children and youth, etc.).

Another form of sexual abuse concern can be related to child sexual exploitation including: sexual abuse imaging and exploitation for the purposes of child pornography. It can encompass all forms of imaging and social media related to child sexual abuse for the purposes of engaging children and youth in the gratification of others.

For further information, see Appendix A - *Causes and Indicators of Child Harm and Maltreatment* and Appendix B - *Child Sexual Behaviour*

B. How To Report

Person must report directly

125(3) A person who has a duty to report a matter under subsection (1) or (2) shall make the report directly to the CAS and shall not rely on any other person to report on his or her behalf.

Report accurately and cooperatively

The CYFSA states that, no person shall:

- a) knowingly give false information in an application under the Part; or
- b) obstruct, interfere with or attempt to obstruct or interfere with a child protection worker or peace officer who is acting under sections of the CYFSA. (141).

When to report

When making a report, every effort must be made to contact the appropriate CAS as early as possible in the day in order to provide the CAS with sufficient time to assess, if needed, before the child returns home. If the report must be made after 4:30 pm, then you will be referred to the appropriate CAS after hours service.

Note: If lunch or dismissal time is approaching when the report is made, the principal/designate shall, if requested by the CAS, detain the child at school pursuant to the principal's rights and discretion under the Education Act in order to ensure the child's safety. The CAS shall provide the employee making the report with an approximate child welfare response time. The principal/designate must ensure an employee remains with the student unless or until the CAS directs otherwise.

Making the report

It is important to be prepared when making the call to the appropriate CAS by ensuring all pertinent information is available.

The CAS's recognizes that a person making a report may not have answers to all of the questions asked by the intake worker at the time of the initial call. The intent is to gather as much relevant information as possible to determine the risk to the child and the protective supports that may be available to the child and/or the family. This information also assists the appropriate CAS in developing an intervention plan and appropriate response time.

When a report is being made, it is important that the employee complete any required Board / education authority documentation. Copies of any completed forms should not be placed in the Ontario School Record (OSR), as per Board policy.

The person making the report will be asked to provide the following information:

- identifying information about the child subject of the concern including name, age, date of birth, sex, address and telephone numbers,
- names and ages of siblings or other children and youth being cared for in the home, the child's parent/caregiver(s), other adults living in the home, including family address and telephone number; any specific court or custody orders if known,
- identifying information of the person identified as the alleged child maltreater if known and the relationship to the identified child(ren),
- whether the alleged child maltreater or person of concern is a Board employee,
- any information about language spoken in the home, culture, creed and race, including, Indigenous heritage, the name of the affiliated First Nation or Indigenous community (if known)

and other information that may be of assistance in determining Indigenous heritage (refer to *Appendix G: Guide for Identifying Indigenous Persons*)

- a full and detailed report of the situation that gave rise to the concern, the location and timing of the incident, as well as any physical or behavioural indicators,
- information about the functioning of the family and its individual members, particularly the child who is the subject of the concern (i.e. current custody arrangements, financial hardships, etc.),
- information about the child and family's support network (i.e., relatives, kinship family or kith/community members) who may be potential protective supports for the child and the family,
- other potentially relevant information, including comments of others,
- names and contact information of others who may have knowledge,
- details as to any previous reports to the CAS,
- any information related to signs of protective ability by caregivers as well as previous maltreatment or observed patterns of neglect or concern,
- if known, names and contact information of family doctor, other previous or currently involved community agencies, collaterals or family supports¹⁶,
- any known information related to domestic violence and substance abuse, including prior history of domestic or adult partner violence
- any history of violence or information related to safety of workers or employees of either organization.

During or after the initial call, the CAS may ask the reporting person for additional information about the child. To assist in developing next steps, it is important to cooperate with and promptly communicate back to the CAS.

The information provided will assist the CAS in determining:

- the present whereabouts of the child and members, if other than at the home address,
- whether there is an immediate concern,
- whether there are any injuries evident on the child,
- whether the child is fearful of going home,
- whether the family is aware of the report,
- which of the CAS's is responsible for determining the appropriate response,
- how to best establish contact with the family,
- what considerations may be required.

Note: It is the responsibility of the appropriate CAS to notify the parents/guardians of the child that a report has been made and that an investigation is occurring. Should the employee making the report feel it is in the best interests of the child to notify the family, the employee should first consult with the CAS before determining next steps.

The CAS investigating worker shall, as soon as is possible in the investigative process, make a determination as to whether the child is able to return home at the end of the school day through regular

¹⁶ In regards to information related to health and mental health information, the Agency collects information that is directly related to safety.

means (i.e. be released by the school by bus or other travel), and communicate that information to the school. As well, the worker shall update the school if at any point in the investigation this will be subject to change. At any point where a determination is made that a child cannot be released by the school to return home at the end of the school day, and that decision has not been consented to by the child's parent or guardian, the school is notified and the CAS assumes the responsibility for the child.

In some situations, the cause of a child's injuries, the nature of the child's disclosure or the behaviours observed are not clear. **Before speaking further with a child or caregiver, school/child care personnel will consult with the CAS to discuss the appropriateness of clarifying a situation and to obtain direction.**

Children and youth should not be pressed for answers or details they are unable or unwilling to give, and answers should not be suggested to them. Any attempt to clarify information must be done through open-ended questions. A child narrative approach is the best way to elicit information. Educators are not expected to be responsible for investigating or validating risk of harm or child maltreatment.

Confidentiality of reporting

School and educational personnel are required to identify themselves when making a report, so that their obligation to report suspected abuse or neglect is documented and fulfilled.

Information sharing and privacy considerations

Due to privacy considerations, the CAS is restricted in its ability to disclose investigation outcomes. This may create a challenge for a Board employee who has an ongoing relationship with the child and/or the family, yet is unaware of the investigation outcome. It also creates challenges for the Boards and the CAS in their efforts to work collaboratively. This aspect must be addressed on a case-by-case basis and the school principal or daycare supervisor should be involved in determining when an authorization is required. A CAS worker may seek written consent from the family to further speak to the school or daycare for coordination of supports or services to a child, youth and family, or where a Board employee or Board official may be invited to participate in Family Group Decision-Making, Circles or case conferences. Privacy considerations and the implications of s.72 and s. 73 of *An Act respecting First Nations, Inuit, and Métis children, Youth and Families* must be applied in the communication protocols of the CAS with the First Nation Representative Services.

CAS shall advise the school where there are any changes to the child's place of residence, guardianship, or where there are changes concerning who is authorized to pick up the child from school, or where the child's school placement is changing as a result of the investigation.

A referent's name cannot normally be kept confidential where their testimony is required or used in any Court proceedings, or where the child or family requests disclosure of their file. As a result, the CAS cannot promise that the identity of the person making the report will not be disclosed. The CAS does not disclose this information in court unless the judge makes a demand for it and that they have made an argument as to why it is not required for the court process. The referent's name is not disclosed to children or families when they request access to their file; it is an exception under Part X that allows it to be redacted. Sometimes, it is necessary to the child safety plan and in the child's best interest for the CAS to be able to identify the source of the report. In those cases, the investigating worker will make reasonable efforts to advise the referring person. It is also quite possible for the parent or guardian to deduce the source of the referral given the nature of allegations or concerns being investigated. It is the

responsibility of the CAS to protect that information as much as possible and respectful of how they discuss the allegation with the family. Board personnel may wish to consider whether making the child and family aware of their role in reporting is best in maintaining trust and relationship between the family and school, once CAS has been able to conduct their initial investigation.

CAS/Police parallel investigations

When a referral is made to the CAS and it is determined by the CAS that an investigation is warranted due to the possibility of violation of the criminal code, Police Services will be contacted by the CAS. Administrators must also contact Police according to requirements as outlined in the Police/Board Protocol.

Throughout the joint investigation, the Police/CAS will communicate with the school to the full extent possible. **School and child care personnel will not conduct an investigation or make inquiries of the child regarding a suspicion or disclosure of harm.** It is the responsibility of the CAS and/or police to investigate, gather evidence, assess the child and family's situation and decide on the appropriate action to be taken on behalf of the child.

Student over the age of 18 years

The mandate of the CAS is to work principally with children and youth up to the age of 18. Subject to the exceptions outlined below, a suspicion of maltreatment relating to a student who is 18 years of age or older generally should be referred to the police rather than a CAS.

However, there are two situations which will require that a report be made to a CAS in regard to a student who is 18 years of age or older and they are:

1. If you are aware of a student over the age of 18 receiving support services from a CAS the suspicion should be reported to the CAS. In those circumstances, if the report received is eligible for investigation, the CAS will, where appropriate, contact the police for assistance and possible joint investigation.
2. If the student is not under the care or supervision of a CAS but there are reasonable grounds to suspect such student has been or is being maltreated, and such suspicion in turn gives rise to reasonable grounds to suspect other children and youth may be at risk (including younger siblings). When a report is made in such a situation, the CAS will investigate to determine whether other children and youth are at risk and where appropriate, will contact the police for assistance and possible joint investigation.

Past abuse

The Children's Aid Society occasionally receives complaints from the victims of child abuse concerning abuse alleged to have occurred in the past when under the age of eighteen (18). In some instances, the abuse was alleged to have taken place many years ago. The person over the age of seventeen (17) who reports past abuse should be encouraged to report the abuse to the police and should be encouraged to take advantage of whatever victim assistance and legal assistance resources exist in the community.

The Children's Aid Society will initiate an investigation depending on the identifying information. With issues such as maltreatment or sibling/peer relations or other matters, it is often hard to know if a report should be made. It may feel that the known information may not be enough to warrant CAS intervention,

however, it is important to appreciate that any information is one piece of a larger puzzle and the CAS may have additional information that may prompt the CAS to intervene or to reassess a situation. Together a Board staff member and the CAS worker may also be able to, create a plan to gather additional information needed to support/assist the child.

C. What to Expect Following the Report

Notifying School Principal or Daycare Supervisor

The school principal or daycare supervisor must immediately be made aware by the employee following the report (see also Section 3 - Allegations Against Board Employees for steps where the report concerns another Board employee)

Activity by the CAS

Once a referral is made, the CAS will assess the information and determine the most appropriate response in keeping with the severity of the situation and known family strengths. *The Ontario Child Protection Standards (2016)*¹⁷ will guide child protection workers at each phase of service delivery and is the mandatory framework for service to children/youth and families. *The Ontario Child Welfare Eligibility Spectrum (2021)*¹⁸ will be applied to determine the appropriate response and make decisions on the referral disposition and response time (in case of an investigation).

The CAS may provide a variety of services and an investigation is only one type of response. When the severity of the concerns is assessed to be very low risk or there are sufficient supports already in place, the CAS may:

- document the report and deem further activity unwarranted,
- develop a plan for monitoring or action by the reporting source,
- provide a short-term telephone service to connect a family with community services and resources.

When the severity of the concerns is assessed to be significant, the CAS will:

- plan for the investigation and assessment of child safety,
- determine when and where these interviews will take place dependent upon the information reported and other information available to the CAS,
- arrange interviews with the child(ren),
- arrange face to face contact with family members.

Investigation process

Whenever a report is made to the CAS, the CAS will determine the most appropriate response to assess the potential concerns. Where possible, the CAS makes contact with parents and children and youth at mutually agreed upon times and locations. A report may result in the need for an investigation to occur on school premises. In this case, the School Principal or Daycare Supervisor or designate and the CAS staff

¹⁷ For more information about the *Ontario Child Protection Standards (2016)*, see <https://www.ontario.ca/document/ontario-child-protection-standards-2016>

¹⁸ For more information about the *Ontario Child Welfare Eligibility Spectrum*, see <https://www.oacas.org/programs-and-resources/professional-resources/eligibility-spectrum/>

shall follow the procedure as identified in this Protocol. Where the child or family are members of a First Nation, the CAS also has an obligation to involve the First Nation Representative or other person designated by that First Nation at the beginning of the Investigation process.

- (a) Identification of Investigating Worker and notice of Investigation. Wherever possible, the CAS will attempt to contact the School Principal or Daycare Supervisor or designate prior to arriving at the school. Should neither be available at the time of the call, the worker will communicate with the school secretary who will facilitate contact with the appropriate designate in charge. The Investigating Worker will:
- i. Identify themselves by name.
 - ii. Advise if the police will be attending (if known at the time of the call).
 - iii. Advise the school of the time the Investigating Worker or Team will arrive.
 - iv. Advise the school that a private meeting space will be required.
 - v. Staff will adhere to the school Pandemic Policy (see Appendix I, *Extraordinary circumstances due to a Pandemic or Other Extended Emergency*)
- (b) Upon arrival at the school, the Investigating Worker or team will:
- i. Meet with the School Principal or Daycare Supervisor or designate.
 - ii. Provide evidence of the “authorized child protection worker” photo identification badge; (in addition to collecting the worker's business card).
 - iii. Request pertinent information regarding the child including any relevant observations of interactions and behaviour.
 - iv. Request to interview the child and siblings if they attend the same school. The School Principal or Daycare Supervisor or designate will extend full cooperation to the investigators.
- (c) Before interviewing the child, the Investigating Worker or Team will:
- i. Determine the best location to conduct the interview (on or off school premise) taking into consideration the safety of all. If on site, the School Principal or Daycare Supervisor or designate will provide appropriate private space for the interview.
 - i. Determine when they will contact the legal guardian(s).
 - ii. Take into account the wishes of the child and determine whether an adult support person will be present at the school interview.

If requested by the investigating worker, participation by the School Principal or Daycare Supervisor, designate and/or support person is voluntary. In situations where a support person or School Principal or Daycare Supervisor or designate is present during the interview, their role will be limited to reassuring and providing support to the child.

School board personnel are not required to take notes during the course of an interview if participating as a support person. It is recognized that participation as a support person during any stage of the investigation could result in the support person acting as a witness in a court hearing.

Note: The investigating worker with parental consent can take the child off school property for the purposes of interviewing and seeking medical attention. In the absence of parental consent, the investigating worker can remove the child from the school premise in accordance with law. The CAS then becomes the interim guardian and can make decisions based on the needs of the child.

(d) If information and/or evidence indicate a child is in need of protection during the investigation at the school, and it is determined a need to take to a place of safety is required, the Investigating Worker:

- Will advise the School Principal or Daycare Supervisor or designate if the child is to be 'brought to a place of safety' (formerly known as take to a place of safety).
- Will inform the child's legal guardian(s) of the plan to remove or bring to a place of safety (formerly apprehension) or involvement before the end of the school day when possible.

In case of a worker bringing a child to a place of safety (formerly referred to as Apprehension), in follow-up, the Investigating Worker will:

- Whenever possible, advise the School Principal or Daycare Supervisor or designate before the commencement of the next school day whether the child will be in class that day.
- Advise the school of the child's alternate living arrangement (foster home, relatives, Customary Care) and identify any part of the safety plan that involves the school (see Appendix D - *Legal Status of Children in Care*).
- If the child is transferring, notify the School Principal or Daycare Supervisor or designate of the school to which the child will be transferring to begin the enrolment procedure and discuss the child's transportation needs.

If the child remains in the CAS's care beyond five days and further planning is needed, the responsibilities of the relationships will be mutually developed.¹⁹

(e) Safety planning

Where the CAS has determined that a safety plan is required that involves the school, the school will be advised, and the school will inform the CAS if there is any infraction of the plan. If the child remains at home and it is determined that protection concerns exist, the worker may include the school as part of the safety plan for the child. The investigating worker will ask the school to inform the CAS of any information that would indicate that the risk to the child has increased or decreased.

Reporting of child protection involvement to the Board's Administration

- (a) When involved in a joint investigation, the CAS and Police Services share information about the investigation. Sharing of information by the CAS with any other community service will require the following:
- ii. Consent from the child's parents or caregivers.
 - iii. Consent from the child who has been determined to have capacity to consent.

¹⁹ The process to develop a regional *Joint Protocol for Student Achievement (JPSA)* will be developed in partnership with the Boards and the Agency.

- iv. When the school is identified as part of the safety plan, the school administration will be provided with information as it relates to their role in the safety plan.
 - v. Where the child or family are members of a First Nation, Metis or Inuit community, some information must be shared with a designated representative of that community, and that representative is part of the investigation and assessment process unless that First Nation or Metis or Inuit community chooses not to.
- (b) If the CAS obtains interim or extended care (formerly known as CAS wardship) of the child and, therefore, becomes the child's legal guardian, they may choose to release information.
- (c) The worker will provide the following:
- i. The placement of the child (the name, address, contact number of the foster parents or guardian).
 - ii. The legal status of the child.
 - iii. In writing, any concerns regarding parental contact, and any other requirements of the school concerning the Safety Plan.
 - iv. The child's change in legal status and alternative placement such as the child returning home.
 - v. The name and contact number of the worker.

Section 3 – Allegations Against Board Employees

This section delineates guidelines and practices when allegations are made against a school board employee, former employee, volunteer or service provider under contract with the Board.

Reporting Responsibilities of the Employee

Duty to Report (CYFSA, Part 5 (125(1))). Despite the provision of any other Act, if a person, including a person who performs a professional or official duties with respect to children and youth, has reasonable grounds to suspect grounds for protection, the person shall forthwith report the suspicion and the information upon which it is based to a CAS.

In keeping with the CYFSA Duty to Report and applicable Board policies and procedures, all employees of the local schools report suspected cases of children and youth in need of protection to Payukotayno: James and Hudson Bay Family Services.

Development of Action Plan

When an allegation is made against an employee, the relevant Administrator of the Board, in collaboration with the CAS, shall be involved in the planning process and develop an action plan confirming that the Administrator of the Board is the Board point of contact.

Responsibilities and Investigation by the CAS

- If the CAS receives a report against a Board employee from a community source, the CAS will notify the Administrator of the Board, who will in turn, notify the School Principal/Manager/Daycare Supervisor and relevant Board Administrator.
- All reports of persons in a professional role with children and youth, such as daycare providers, educators, clinicians etc. will be treated with the utmost confidentiality and professional courtesy.
- Such reports may be assigned to the CAS team of highly trained investigators with experience in dealing with the sensitive nature of these type of referrals.
- The CAS has an internal procedure for addressing such reports quickly and in collaboration with those involved in ensuring the safety of the children and youth and communities.
- Without consent of the employee being investigated, information exchanged between the CAS and the Board is limited to where there is a belief that other children and youth may be at risk.

Communication between the Board and the CAS

- With consent of the employee being investigated, the CAS can share information with the Board.
- Without consent, the information exchanged is limited to where there is belief that other children and youth may be at risk.
- If the allegation against the Board employee is in relation to their own children and youth or other children and youth in the community, the CAS will contact the Administrator of the Board when there is a belief that other children and youth may be at risk.

Possible Outcomes of Investigations by the CAS

When the investigation is concluded, the employee will be notified of the outcome. Outcomes will be one of the following:

- Inconclusive – there is insufficient information to establish, on a balance of probabilities, whether harm or risk of harm occurred or did not occur.
- Not verified – the information causes the CAS to conclude, on a balance of probabilities, it is more probable than not the harm or risk of harm did not occur.
- Verified – the information causes the CAS to conclude, on a balance of probabilities, it is more probable than not that harm or risk of harm occurred, currently exists, or is likely to occur.

When the CAS Concludes an Investigation or Further Action is Not Warranted

The CAS will:

- Verbally notify the Administrator of the Board.
- Notify the employee who was the subject of the allegations.
- Send a letter to the Superintendent responsible for Human Resources. (See Appendix K - *Letter to School or Daycare: Investigation Completed*)

The School Principal/Manager/Daycare Supervisor and Administrator of the Board will:

- Determine a plan for notifying the parent/guardian of the student(s) involved.
- Determine a plan for following up with the employee who was the subject of the allegations.

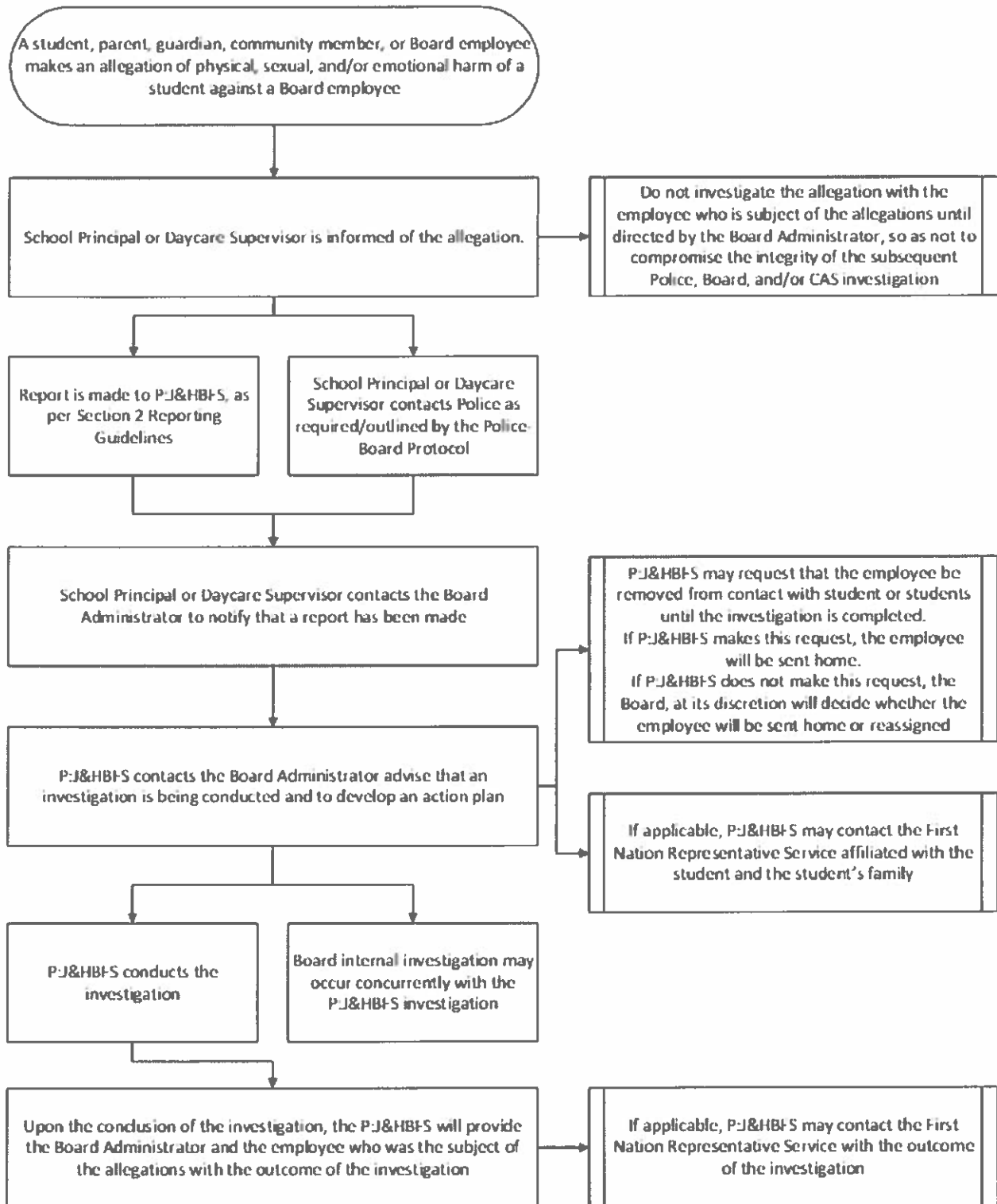
If Charges are Laid, the School Principal/Manager/Daycare Supervisor and Administrator of the Board must:

- Where required, arrange for support to be provided to students as per Board processes for dealing with critical/traumatic events.
- Where required, inform staff of services provided through their Employee Assistance Program.
- In consultation with the relevant Administrator of the Board, prepare a statement to be shared with staff, parents, and students regarding the reasons that the employee is no longer at the school or daycare.
- If required, under the direction of the Administrator of the Board, prepare a communication to be shared with the community.

Responsibilities of the Board

To conduct its own review of the matter; however, to avoid interference with the CAS's investigation, the investigation should be conducted in consultation with the CAS and/or police. Each Board has its own internal policies that it will follow to ensure meeting obligations under relevant legislation.

Process When Reporting Allegations Against Board Employee



Section 4 – Protocol Maintenance

The purpose of monitoring and evaluating the Protocol is:

1. To ensure that the process in the Protocol is attending to the needs of the children and youth.
2. To facilitate ongoing problem solving, updating and revisions in order to provide more effective and coordinated services for children and youth.
3. To ensure that protocol participants are upholding the commitments that were agreed to as part of this document.

The signatory organizations of this Protocol will commit to embrace the principles and the practice of this Protocol and will develop means to share this Protocol with their staff through staff training. It is a desired outcome of this Protocol that through building capacity there will be improved working relationships amongst all signatory organizations.

A semi-formal review will occur one year following the signing of the Protocol. Due to the importance of monitoring and evaluating the Protocol, it is recommended by the partners involved in this Protocol that there is a review of the contents every year. Staff to review the Protocol could include the Board Administrator, School Principal, Daycare Supervisor, and Agency case workers. A formal review will occur every four years following the signing of the Protocol, coordinated by the Agency.

Any party may call for a review if needed at any time. The reviews will be scheduled by the parties on an annual basis or as required.

The reviews will take into consideration any changes in the applicable governing legislation and any policies or procedural changes that are required by the various parties to this agreement that mandate their respective services.

The Director of Services or Senior Manager for the Agency shall convene the first annual review.

The Protocol will be shared with all newly hired Board employees and Agency workers.

The parties agree that ongoing education regarding the Protocol is necessary to the continued success of this Protocol. Therefore, the involved parties agree to ensure that the information is disseminated amongst the staff in their respective organizations.

Appendix A – Causes and Indicators of Child Harm and Maltreatment

We don't know all the causes of child harm and maltreatment. We do know that parenting is a big responsibility that at times, when combined with other life stressors, can become too much.

Children and youth exhibit signs of harm and maltreatment in many different ways. Often, they exhibit a number of behavioural and physical indicators. Children and youth may exhibit some of the indicators listed below, but this is not necessarily conclusive evidence of harm.

Physical Harm

Physical harm is any harm to a child or youth caused by the action (or lack of action) of the child's caregiver. Injuries that may occur include, but are not limited to bruising, welts, cuts, fractures, burns or internal injuries. Physical harm can occur as an isolated incident or continue over a period of time.

Signs of physical harm may include:

- Presence of various injuries over a period of time.
- Facial injuries in infants and preschool children.
- Injuries inconsistent with the child's age.
- Presence of several injuries that are in various stages of healing.
- Child cannot recall how injuries occurred.
- Offers an inconsistent explanation.
- Wary of adults.
- May flinch if touched unexpectedly.
- Extremely aggressive.
- Extremely withdrawn.
- Indiscriminately seeks affection.
- Complaints of pain as a result of physical discipline.

Emotional Harm

Emotional harm includes all acts that result in the lack of a nurturing environment for a child or youth. It occurs when the caregiver treats the child or youth in such a negative way that the child's or youth's concept of "self" is seriously impaired. Emotional harm can be the most difficult to identify and prove.

Emotionally harmful behaviour by the caregiver may include:

- constant yelling,
- demeaning remarks,
- rejecting, ignoring or isolating the child or youth,
- terrorizing the child or youth,
- self-harming behaviour ,
- exposing children and youth directly or indirectly to adult conflict/court matters,
- speaking negatively about the other parent to the child or youth,
- expressed fear of another caregiver.

Signs of emotional harm may include:

- Severe depression.
- Extreme withdrawal.
- Extreme aggression.
- Extreme attention seeking.
- Extreme inhibition.
- Bed wetting that is non-medical in origin.
- Frequent psychosomatic complaints (headaches, nausea, abdominal pains).
- Failure to thrive.
- Expressed fear of a caregiver.
- Self-harming behaviour.

Neglect

Neglect usually results from the lack of knowledge about appropriate care for children and youth or an inability to plan appropriately for the child's needs.

Neglect includes a caregiver failing to provide:

- adequate food, shelter and hygiene,
- safety,
- medical or psychological treatment,
- supervision,
- adequate sleep,
- clothing.

Signs of neglect may include:

- Poor hygiene.
- Unattended physical problems or medical needs.
- Consistent lack of supervision.
- Frequent absence from school.
- Engaged in delinquent acts or alcohol/drug harm.
- Frequently arriving at school without a lunch.
- Inappropriate clothing for the weather.
- Consistently dirty clothes.

Inadequate medical treatment

The caregiver has a responsibility to ensure the child's medical needs are met. This includes ensuring appropriate treatment for a child's mental, emotional or developmental conditions.

Parent Unwilling to Provide Care or Unavailable to Care for a Child or Youth

A child or Youth where a parent or caregiver is deliberately unwilling or unavailable to care becomes a child/youth who "is in need of protection." This may include the following:

- inappropriate substitute care (e.g. child frequently left with a variety of caregivers who are unknown to the child),

- caregiver refuses to resume care of a child once the child is discharged from a residential/treatment setting,
- the child has been out of the family home or is at risk of being out of the home because of conflict and the caregiver refuses to assume care of the child.

Inadequate Supervision

A child may be at risk of harm if the caregiver fails to adequately care for, provide for, supervise or protect the child.

Sexual Harm

Sexual harm is any sexual exploitation of a child by an older person. *The Criminal Code of Canada* identifies a number of types of sexual assault, including:

- Invitation to sexual touching.
- Sexual exploitation.
- Procuring sexual activity from a child.
- Caregiver permitting sexual activity.
- Exposing genitals to a child.
- Incest.
- Exposing to or engaging in pornography.
- Exposing child to questionable sexual activity.

Signs of sexual harm may include:

- Age-inappropriate play with toys, self or others.
- Unusual or excessive itching in the genital or anal area.
- Injuries to the genital or anal areas, e.g. bruising, swelling or infection.
- Displaying explicit sexual acts (see Appendix B – *Child Sexual Behaviour*).
- Torn, stained or bloody underwear.
- Age-inappropriate sexually explicit drawing or descriptions.
- Bizarre, sophisticated or unusual sexual knowledge.
- Prostitution.
- Seductive behavior.
- Indiscriminately seeks affection.

When Does Discipline Become Abuse?

Attitudes towards what constitutes appropriate and lawful discipline of a child differ among families and caregivers. Consensus on this issue is difficult, if not impossible to reach. On the other hand, however, it is clear there are limits upon what a parent or caregiver can justify as being appropriate disciplinary action.

Any conduct resulting in reasonable grounds to suspect a child may be in need of protection must be reported to a CAS. This can include conduct that a parent or caregiver seeks to justify as being disciplinary and therefore falling within his/her right to correct and discipline a child. Differentiating between appropriate and inappropriate discipline can be difficult. The following are a few of the factors that should be considered when making this assessment:

- method (e.g., use of a weapon, punching, kicking, slapping, food deprivation, confinement, etc.),
- severity,
- frequency or pattern,
- age of the child,
- family context or circumstances (including parental emotional or social problems).

Limits To Working with Parents on Appropriate Disciplinary Strategies

The child must always remain the primary focus of educators, principals, daycare supervisors, and support staff. They have an obligation under the *CYFSA* to make a report to a CAS when confronted with a situation giving rise to reasonable grounds to suspect a child may be in need of protection.

Accordingly, intervention by Board employees to assist parents alter and improve their child rearing practices generally should be limited to assisting them to explore services in the community that are better placed to assist parents in this regard.

Inappropriate Discipline – Teachers and Daycare Workers

Teachers and daycare workers stand in the place of parents when children and youth are under their charge and accordingly, have all of the obligations and responsibilities this entails. It is essential that teacher-student and daycare worker-student relationships be based on mutual respect at all times. Conduct or comments by a teacher or daycare worker that demean or embarrass a student is not acceptable. Physically disciplining students also is not acceptable. Conduct by a teacher or daycare worker that does not meet these requirements places the teacher or daycare worker at risk of being the subject of a report to a CAS.

Resources are available to assist teachers and daycare workers to develop effective approaches and strategies towards discipline. School Principals and Daycare Supervisors, in the performance of their supervisory responsibilities, may recommend professional development sessions for teachers and daycare workers.

Peer Sexual Assault

Peer sexual assault should be reported to the police as per the Police/ Board Protocol. Peer sexual assault is not considered to be sexual harm under the *CYFSA* and therefore, is not subject to the mandatory reporting requirement. However, a report should be made to a CAS when such assault results in a situation that gives rise to reasonable grounds to believe either the victim or the offender is in need of protection under the *CYFSA*.

Witnessing or Exposure to Environments of Family Violence

Children and youth who witness or are exposed to environments of family violence often exhibit symptoms similar to those of harmed children and youth. A child who has witnessed or is living in an environment of family violence may give rise to him or her being considered to be “in need of protection”.

In addition to reporting suspicions of harm, a Board employee may support a child living with adult conflict and/or violence in a variety of ways:

- gaining an understanding of partner violence and its possible effect on children and youth who witness it,
- being alert to indicators of having witnessed violence and/or adult conflict (listed below),
- teaching appropriate knowledge, skills and values to promote healthy relationships,
- recognizing that other employees who use power and control tactics may reinforce a child's world view that adults misuse power and that "might is right",
- being aware that the indicators which are outlined in this section must not be viewed simplistically or singularly, but as part of a continuum.

The following are some potential indicators that a child has experienced, witnessed or may have been exposed to violence and/or adult conflict at home:

- impaired concentration,
- difficulty with schoolwork,
- poor attendance,
- clumsy, accident-prone behavior,
- fear of attending school,
- aggressive behaviour in the class and playground,
- perfectionist standards (a strong fear of failure),
- overly responsible,
- boys who are aggressive and controlling,
- girls who are passive, overly accommodating and withdrawn.

Young children who live in violent homes may experience or exhibit:

- physical complaints such as stomach-aches or headaches,
- sleep disturbance, such as insomnia, heightened fear of the dark, resistance to bedtime,
- bed-wetting,
- excessive separation anxieties,
- whining, clinging,
- failure to thrive.

Elementary children and youth may experience or exhibit:

- staying close to home, believing their presence will control the violence and will protect their mother, or they may do the exact opposite, avoiding their home as much as possible, believing their absence will improve the parent's relationship,
- fear of being abandoned,
- fear of being killed or fear of someone else being killed,
- fear of their own anger and/or the anger of others,
- exhibit eating disorders, such as overeating, under eating or hoarding food,
- insecurity and distrustfulness of their environment, especially if parental separation is frequent and unpredictable,
- seductiveness or manipulative behaviour as a way of reducing tension in the home.

In addition, teenagers and youth may experience, exhibit or engage in:

- escapist, self-destructive behavior,
- sexual activity, pregnancy, marriage,
- criminal activities, such as drug dealing, theft and assault,
- homicidal thoughts and actions,
- suicidal thoughts and actions.

Caregiver Response to a Child Under 12 Years who has Committed a Serious Crime

For children under the age of 12 who commit serious criminal acts or have repeated legal problems the caregiver has an obligation to seek service designed to assist the child.

Students Under 12 Years of Age who Caused Serious Injury

Following the proclamation of the Youth Criminal Justice Act/2003, the age of criminal responsibility was raised from 7 to 12 years of age. The behaviour of a child under 12 may be grounds for protection when there are reasonable and probable grounds to believe the child has committed an act for which an older child could be found guilty in court.

Section 74. (2) of the CYFSA states a child is in need of protection where:

- (l) the child is less than twelve years old and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, those services or treatment.

Caregiver-Adolescent Conflict

A referral to a CAS is appropriate in situations where it is alleged that due to very high caregiver/adolescent/youth conflict that:

- children or youth in the home are at risk of physical harm and/or,
- the identified adolescent or youth is at potential risk of separation from the family (for example, the caregiver has requested an out-of-home placement or the adolescent or youth desires a placement),
- identified risk of harm to other children and youth at home.

Note: that the level of severity of the adolescent's behaviour is not necessarily the concern of the CAS but rather, the parent's refusal and inability to cope. If there is potential a child will be separated or other children are at risk of harm due to the adolescent's behaviour please report. If not, please consider other community resources.

Appendix B – Child Sexual Behaviour

Normal Experimentation vs. Potential Sexual Harm

Children and youth may display sexual behaviors or engage in sexual activity with other children and youth beyond their developmental stage and knowledge.

According to The Children's Aid CAS (Minimal Practice Standard on Child Sexual Behaviour), when intervening, it must be determined whether the sexual behaviour is the result of normal childhood curiosity and experimentation or potential sexual harm. Potential sexual harm and normal childhood experimentation can be differentiated in the following ways:

Childhood Experimentation

- Sexual behaviour does not preoccupy the children and youth; they are not constantly interested in it.
- Children and youth feel free to "take it or leave it"; no force, bribery or trickery is involved.
- The age, or power, differential between the children and youth is minimal.
- Sexual behaviour tends to involve undressing and observation.

Potential Sexual Harm

- Force and/or bribery and/or threats may be involved.
- Moderate to significant difference of age, power or maturity between the children and youth is present.
- Child seems to display excessive interest in, or preoccupation with, sexual activity.
- Sexual activity between children and youth is more adult-like in nature such as attempted or simulated intercourse or oral sex; such children and youth may have been prematurely exposed to sexual knowledge through pornography, purposeful demonstration or accidental observations, or have been victims of sexual harm.

Note: If the child at risk and/or the alleged maltreater involved in the sexual behaviour exhibits indicators that would lead you to suspect that they themselves may have been sexually harmed, The Children's Aid CAS must be contacted.

Appendix C – Protection Services for 16 – 17 Year Olds

Protection Services for 16 – 17 Year Olds

Information for Youth-Serving Agencies

On January 1st, 2018 Ontario will increase the age of protection to include all children under the age of 18 years. By increasing the age of protection, 16- and 17-year-olds who are in need of protection will be eligible for the full range of child protection services, which will give them a better opportunity to get the support they need, and have better outcomes as they transition to adulthood.

A youth may be eligible for protection services if they are experiencing physical abuse, sexual abuse, emotional abuse, neglect and/or abandonment, or if they are at risk of any of these things. Youth who have left home because of concerns about safety or risk of harm at home, and youth who are homeless, may be eligible for services from a children's aid society¹. If you are concerned that a youth may be in need of protection, you can contact the society in your area. Contact information can be found at:

<http://www.children.gov.on.ca/htdocs/English/childremsaid/index.aspx>

A new Voluntary Youth Services Agreement (VYSA) will be available for youth who:

- are aged 16 or 17;
- cannot be adequately protected at home or in their current living situation;
- have no other safe options with family or friends; and
- need an out-of-home placement.

Societies and youth-serving community agencies are encouraged to work collaboratively to develop protocols and processes to support services for 16- and 17-year old youth in need of protection.

Reporting Suspicions that a Youth may be in Need of Protection

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 legislated duty to report will continue to apply in respect of children under 16.

¹ Children's Aid Societies (societies) are independent legal entities (non-profit corporations run by volunteer boards of directors or, in one case, a First Nation under the Indian Act), accountable to the communities they serve. Societies are designated under Section 15 of the Child and Family Services Act (CFSA).

A professional or member of the public who is concerned that a 16-or 17-year old is or may be in need of protection may make a report to a society and the society is required to assess the reported information in accordance with the *Ontario Child Welfare Eligibility Spectrum* (2016).²

Service Delivery to Youth who are 16-17

Societies provide protection services to youth to help keep them safe and provide support to their families. Societies begin their work after receiving a request or referral for service; this can come from the youth or from a concerned member of the community.

When a society receives a report, the *Ontario Child Protection Standards* (2016)³ will guide child protection workers at each phase of service delivery and is the mandatory framework for service to youth and families. The *Ontario Child Welfare Eligibility Spectrum* (2016) will be applied to determine the appropriate response and make decisions on the referral disposition and response time (in the case of an investigation).

If the information warrants an investigation, the society will want to hear from youth about their experiences and concerns to help them assess whether they are in need of protection and, if so, what services are appropriate for them. At the end of the investigation, the society will determine whether the youth is in need of protection, and determine what, if any, further intervention is required.

Where appropriate, societies will work with youth and their families (or if the youth isn't living with their family, in their current living situation) to improve things at home. This may include referrals to community services and programs that can help.

At any point of service, it may be determined that the youth is in need of protection and an **out-of-home placement** is required to secure the youth's safety. If an out-of-home placement is required to secure the youth's safety, the following options may be considered by the society in consultation with the youth:

- **Kinship Service** – if a member of the youth's family or community can care for the youth.
- **Customary Care** – for Indigenous youth, a placement can be arranged according to the custom of the youth's band or native community.
- **Voluntary Youth Services Agreement (VYSA)** – youth may enter an agreement with a society for services and supports, including developing a plan and securing an appropriate living arrangement.
- **Temporary Care Agreement (TCA)** – a TCA is an option if the parent is temporarily unable to care adequately for the youth, and the parent and the society make a written agreement for the society's care and custody of the youth. Before entering a TCA with a youth, the society will consider whether a VYSA is appropriate.
- **Admission by Court Order** – this is an option to be used where less disruptive options are not available. In such situations, societies are required to offer the VYSA, and that VYSA must be refused by the youth prior to proceeding to court.

² For more information about the Ontario Child Welfare Eligibility Spectrum (2016), see: <http://www.ocas.org/publications-and-newsroom/professional-resources/eligibility-spectrum/>

³ For more information about the Ontario Child Protection Standards (2016), see: <http://www.children.gov.on.ca/htdocs/English/professionals/childwelfare/protection-standards/index.aspx>

When a society determines that a youth is in need of protection and is considering a VYSA, a kinship service placement, a TCA, or seeking a court order to bring the youth into the society's care, a referral will be made to the **Office of the Children's Lawyer**, who may provide legal representation to the youth.

If a youth enters a VYSA, or is admitted to society care, the society will work with the youth to develop a plan and secure an appropriate living arrangement that will best meet the youth's needs, is informed by the youth's wishes, and is appropriate to the youth's development and readiness for independence.

What is a Voluntary Youth Services Agreement (VYSA)?

A youth can enter an agreement with a society in the jurisdiction where the youth resides to receive services and supports, subject to the following eligibility criteria:

- the society has determined that the youth is or may be in need of protection;
- the society has determined that the youth cannot be adequately protected through any other means such as being cared for by a family member or someone in the youth's community; and
- the youth wants to enter into the agreement.

When a youth enters a VYSA, the society will work with the youth to develop a plan and secure an appropriate living arrangement that will best meet the youth's needs and is informed by the youth's wishes, and is appropriate to the youth's development and readiness for independence.

A VYSA is a voluntary agreement and a youth can leave the agreement at any time. Where a VYSA has been terminated, the youth and the society may enter into a new VYSA at any time in the future as long as the youth meets the eligibility requirements, including a determination that the youth is or may be in need of protection.

What happens when a youth turns 18?

If a youth has a VYSA in place with a society on their 18th birthday, they are eligible for the Continued Care and Support for Youth (CCSY) program. CCSY provides eligible youth with financial and non-financial supports (e.g. service from a society worker) from age 18 until their 21st birthday.

More information on services and supports available to youth leaving care can be found on the Ministry's website: <http://www.children.gov.on.ca/htdocs/English/childrensaid/leavingcare.aspx>

Supporting a Youth through Decision-making

In your role, you may be providing support to a youth who is making a significant decision about their care, or who is involved in a dispute with a society. Several supports are available to youth, including the Office of the Children's Lawyer and the Office of the Provincial Advocate for Children and Youth. There are also Alternative Dispute Resolution and complaints processes available to assist in resolving disagreements between a youth and the society.

The Office of the Children's Lawyer (OCL)

If a society determines that a youth is in need of protection and an out-of-home placement is being considered, the society is required to make a referral on behalf of the youth to the Office of the Children's Lawyer (OCL). The youth will have the opportunity to consult with an OCL lawyer, who may provide advice to the youth about the options that are available, as well as legal representation if the youth is entering a VYSA.

If a youth is in a VYSA and a termination notice is received or issued by a society, the society is also required to notify the OCL of the plan to terminate the agreement, and the youth will have the option to access the OCL respecting the termination.

Youth can contact the OCL by calling (416) 314-8000 or at: <http://www.ontario.ca/ccnw>

The Office of the Provincial Advocate for Children and Youth (PACY)

The Office of the Provincial Advocate for Children and Youth (PACY) provides an independent voice for children and youth across the province receiving services in Ontario's child welfare system. PACY has the authority to receive and respond to complaints, conduct reviews, represent the views and preferences of children and youth, make reports and provide recommendations.

Prior to entering or terminating a VYSA, or at any time you request, youth will be given an opportunity to consult with an advocate and/or another trusted adult and/or to have a support person attend a meeting with the youth.

Youth can contact PACY by calling 1-800-263-2841 or at: <http://provincialadvocate.on.ca>

Alternative Dispute Resolution (ADR)

If a youth is working with a society, the society is required to inform the youth about options to resolve any issue related to the plan for the youth, including access to Alternative Dispute Resolution (ADR).

ADR is an approach to resolving disagreements between a youth and a society. This approach encourages the involvement and support of the family and extended family, where appropriate, and community, in planning and decision-making for the youth. ADR focuses on bringing the right people together to work out the best plan for the youth.

If you are working with a youth, and you think ADR will help or the youth is interested in obtaining information about ADR, the youth can discuss ADR with their society or the OCL. Aboriginal Approaches to ADR, which have been established by First Nations communities or Indigenous organizations, are also available.

Complaints Processes

Societies are required to inform youth about options to resolve any issue related to the plan for their care, in a manner that the youth can understand. This includes information about the complaints procedure and providing the youth with written information about the complaints process. Complaints procedures include:

- Contacting the society directly. All societies must have a complaint review process. You can learn more about this process at:
<http://www.children.gov.on.ca/htdocs/English/childrensaid/societies/ocascomplaint.aspx#CAS>
- Contacting the Provincial Advocate for Children and Youth at 1-800-263-2841 or (416) 325-5669 or visit: <http://provincialadvocate.on.ca>
- Contacting the Child and Family Services Review Board. This independent body can review some complaints or society decisions. The board can be reached at 1-888-728-8823 or (416) 327-4673 or through its website: <http://www.cfsrb.ca/>

How can you contact a society and get more information?

You can find your local society in your local telephone listings or, where available, by dialing 411. In some communities, the Children's Aid Societies are known as "family and children's services" or "child and family services". You can also find information about all of Ontario's Children's Aid Societies at <http://www.children.gov.on.ca/htdocs/English/childrensaid/index.aspx>.

For more information on any of the items noted above, please contact Lori Bennett, Manager (A), Child Welfare Secretariat at Lori.Bennett@ontario.ca.

Appendix D – Legal Status of Children in Care

Children and youth are admitted into CAS care or receive services through two approaches – voluntary agreement or by court order.

Customary Care

Customary Care is an important option that is facilitated whenever possible for children and youth with indigenous heritage who are not able to remain with their immediate family. It is a model of Indigenous child welfare service that is based on the belief that a child is a sacred gift from the Creator. Customary Care is defined under the *CYFSA* as “The care and supervision of a First Nations Inuk or Metis child by a person who is not the child’s parent, according to the custom of the child’s Band or First Nations, Inuk or Metis community.” It is a family-based care model reflective of the culture, values and traditions of the child’s parents and community. It recognizes that members of the child’s immediate and extended family and community share responsibility in the provision of care to a child, who is or may be in need of protection. Customary Care may be either Formal (where the First Nation has passed a Council Resolution to authorize the placement) or Informal (also known as Traditional) where the arrangement is agreed upon by parents and a caregiver on a voluntary basis. Informal Customary Care may or may not include involvement by a Children’s Aid Society or Indigenous Child Well-being agency. Unless otherwise agreed upon, the parent continues legal guardianship of the child and decision-making rights.

Extended CAS Care (formerly known as Crown Wardship under the CFSA)

A Family Court Order has determined that it is in the child’s best interest to be made a permanent ward of the Crown. Under this order, the Crown (CAS on behalf of the province) exercises the rights and responsibilities of a parent until the youth is discharged from care or turns 18 years of age. These orders can either be with or without parental access.

Interim CAS Care (formerly known as Society Wardship under the CFSA):

A Family Court has determined that it is in the best interest of the child to be placed in care. The Wardship lasts up to 12 months but may be extended to 24 months. Generally, the parents retain access, but the CAS assumes most of the daily parenting responsibility. Parents may have input into the child’s care but final decision-making rights rests with the CAS.

Kinship or Kith in Care

Refers to a caregiving arrangement where the child is in the care of the CAS by way of a court order or Temporary Care Agreement as defined by the *CYFSA*, and the kinship in care provider is subject to the Structured Analysis for Family Evaluation (SAFE) and all Ministry licensing requirements. The CAS remains the decision maker and the ‘parent’ for as long as the child remains in the care of the CAS or until such time as permanency is determined and/or the kinship home is no longer required for the child. A kinship in Care home typically is one where the child has an emotional or ‘kin’ relationship with the caregiver/s, for example, grandparent, aunt, uncle or other family relationship; Kith refers to a placement in a home that has important connections to the child and/ or parents, but is not a “blood relative”, such as a teacher, daycare worker, volunteer support person, scout leader, etc..

Temporary Care Agreements

The caregiver has entered into a written agreement (including the child if over the age of 12) with the CAS to provide care to the child on a temporary basis. There is no court order and the agreement may be terminated by either party at any point. The parent continues legal guardianship of the child and decision-making rights. The Temporary Care Agreement cannot last longer than 12 months.

Temporary Care and Custody

A Family Court Order that the CAS has temporary custody of the child during the course of an adjournment of a child protection hearing. This is not a final order and there is no defined period of care. The responsibility for decision-making may vary. It is best for the School Principal or Daycare Supervisor to call and consult with the CAS worker.

Children and youth not in the care of the CAS

Children and youth may also be placed with family or community members but are not in the care of the CAS. These are often referred to as kinship service placements. In this situation, the caregivers have responsibility for the day-to-day activities of the child, but the parents remain as the guardians and have decision-making authority. It is also possible that, in some situations, the kinship caregivers may have been assigned care and custody of the children and youth under a supervision order. In that situation, The CAS, while not the custodians, will supervise the placement with the kinship family. Supervision orders are time-limited, and may be made for a duration of up to 12 months, and/or may be extended for further periods of up to 12 months. See also Customary Care (Traditional).

Kinship or Kith Service

Refers to a caregiving arrangement, serviced through the Ministry of Children, Youth Services, and the Ontario Kinship Service Standards, which is a structured admission prevention service to keep children and youth out of care and living within their family or other support systems. It involves, an in-depth assessment of a (relative) family member's home (or in the case of Kith Service, someone with connections to the child or parents) and ability to provide alternate care to a child who is unable to remain with their parent/s. These arrangements are typically but not always based on written family agreements and do not require any court order due to their temporary nature. These arrangements can last days, months or even years. The parent retains formal custody while the kinship family retains caregiving and decision making over the care of the child in collaboration with the CAS. A kinship worker is assigned to the child and the kinship home in order to provide support services. In some cases this type of arrangement can lead to permanency for children and youth by way of a custody order through the Child Law Reform Act or through a Child Welfare order under the CYFSA.

Voluntary Service Agreement (VYSA)

A youth aged 16 and 17 is able to receive a full range of CAS services if deemed to be 'a child in need of protection'. Any CAS service beyond investigation to determine the finding of a child/youth in need of protection as outlined in the CYFSA must amplify the voice of the youth and must include their consent. Services for this age group are voluntary on the part of the young person and with mandatory involvement of legal counsel from the Child Advocate's office. They are not considered children and youth in care but rather have special standing as a VYSA recipient. The agreement outlines the

relationship and responsibilities of both the youth and the CAS. This can include a youth living in or out of a CAS foster home.

Appendix E – Glossary of Terms

Abuse. A child in need of protection under the *CYFSA* sections 74(2) as defined in the *CYFSA*.

Anti-Oppression Approach. An approach to “anti-oppression can be defined as the lens through which one understands how ‘race, gender, sexual orientation and identity, ability, age, class, occupation and social service usage,’ can result in systemic inequalities for particular groups” (OACAS, August 2010)

“Band Rep” or “Band Representative” or “First Nation Representative.” An individual selected by a First Nation to act on their behalf in Child Welfare matters, including working directly with the family, and the assigned worker of the Children’s Aid Society/ Indigenous Child Well-Being agency.

Case Consultation. Refers to a one-on-one conversation between the worker and supervisor that involves a full or partial review of the factors regarding a case or situation that results in a collaborative case decision.

Child’s Community. Refers to a person who has ethnic, cultural or religious ties in common with the child or with a parent, sibling or relative of the child. A person who has a beneficial and meaningful relationship with the child or parent, sibling or relative of the child. It is important to note that an Indigenous child may have connections to more than one First Nation, and therefore to more than one community.

Child Protection Worker. As defined in the *CYFSA* as, a Director, a local director or person authorized by a Director or local director for the purposes of commencing child protection proceedings. Depending upon the CAS and the work being carried out, the Child Protection Worker may also identify as a Family Services Worker, Child in Care Worker, etc.

Community Caregiver. Refers to anyone who is providing care to a child in an out of home setting. For the purposes of the Child Protection standards, there are two categories of community caregivers.

Community Caregivers in Family-Based, Out-Of-Home settings. Any child care setting that is within the context of a family, such as; homes of babysitters, kinship care/Kinship Service homes, day care homes, and other formal customary homes.

Community Caregivers in Institutional Out-of-Home settings. Any non-family-based care such as; daycares, group homes, schools and other school facilities (such as school bus), religious organizations and institutions, sporting, cultural or recreational organizations)

Community Link Service. A community Link Service is a referral disposition that a CAS can chose for families who do not require child protection services but who may benefit from other services available in their community.

Customary Care. see Appendix D

Differential Response. Differential response is a method of service delivery—a system of alternatives/options determined by the type and severity of the maltreatment. It provides two possible approaches of investigation: traditional and customized. A traditional response is used for moderate and low severity situations. Both response models emphasize a stronger reliance on extended family and community service supports (e.g. widening of the family’s circle of support).

Domestic Violence. Refers to violence between partners or a parent/caregiver and his/her partner. While it is recognized that partner violence can occur where men are the victims and in same sex relationships, overwhelmingly, women are most often the victims and in same sex relationships, overwhelmingly, women are most often the victims of violence. A gender-based analysis of violence in an intimate relationship is required to understand the relationships between men and women, their access to resources, their activities, and the constraints they face relative to one another (OACAS, 2010).

Adult Conflict. Refers to violence within the home that occurs between adults, whose relationship is something other than partners/parent (for example, neighbour, friend, relative etc.)

Intimate Partner Violence. Refers to violence between partners or a parent/caregiver and his/her partner (includes parent/caregivers that are living in the same household as well as those who are living separately).

Kith. Refers to an arrangement that is the same as above but typically any individual or a community with whom the child has a pre-existing emotional connection, but where there is no immediate blood relation, for example, a baby-sitter, teacher, daycare worker, community member, neighbour, etc.

Protective Supports Community. Services/Resources or individual/family supports/resources that lessen the danger to the child (e.g., person who is suspected of endangering the child is out of the home; parent was not previously aware of concerns and is now prepared to protect the child; there is another person in the family who will protect the child, community services reduce the risk of harm to a child etc.).

Referral. A referral is any report or information received by a CAS from any source (e.g. a child, a community member, the police), and through any method (e.g. by phone, in person, in writing) that a child is or might be in need of protection.

Referent. The person having made a report or referral to a CAS about a concern pertaining to a child.

Relative. Refers to a person who is the child's grandparent, uncle, aunt, great-uncle or great-aunt, etc., where by blood, through a spousal relationship or through adoption.

Appendix F – Supervision Guidelines

Frequently Board employees become aware of children and youth left unsupervised for various lengths of time. Lack of supervision needs to be brought to the parent's/guardian's attention and alternatives recommended. In instances of lack of supervision, school staff should consult with the CAS's Intake Service to determine the most appropriate course of action. Consultation with the school social worker is also always an option in these situations.

The CYFSA deals with lack of supervision of children and youth in the following sections:

136(3) No person having charge of a child less than sixteen years of age shall leave the child without making provision for his or her supervision and care that is reasonable in the circumstances;

136(4) Where a person is charged with contravening subsection (3) and the child is less than ten years of age, the onus of establishing that the person made provision for the child's supervision and care that was reasonable in the circumstances rests with the person.

Recommended Guidelines for Leaving a Child Alone

Infant - 9 years. A child of this age should not be left unsupervised at any time of the day or night. A competent caregiver should be on the same premises as the children.

10 -12 years. Short periods of indirect supervision of 1-2 hours may be acceptable for this age range. These short periods of indirect supervision may be provided by an adult in the next house or apartment-if the adult is aware of the parents' absence and agrees to look in on the child during specified periods of time.

Note: Indirect supervision via telephone contact is generally unacceptable for this age range.

13 - 14 years. Longer periods of indirect supervision (2 - 5 hours) are acceptable for this age range. An adult/babysitter should be available by telephone to the children and youth in case of an emergency, or if the child requires assistance.

15 -16 years. At this age, the child should be able to be left alone for a full day. The parent should be readily available by telephone to the child in case of an emergency.

These are guidelines only. Every child and situation are different, and should be assessed individually.

Tip Sheet

If a child says:	You may be requested to ask the child:	This helps clarify if:
"I'm scared/worried to go home".	"Tell me what makes you scared/worried?"	The initial statement relates to a child protection concern or other issues happening in the home.
"I'm scared/worried that I'm going to get in trouble when I get home". This often relates to an unfavourable progress report or when a letter is being sent home due to behaviours at school.	"Tell me what you're scared/worried will happen when you get home?"	The initial statement relates to possible use of inappropriate physical discipline or the child's concern the parent(s) may implement consequences.
"Mom/dad aren't going to be home after school."	"Tell me who else is at home after school?" or "Tell me who takes care of you after school?"	There may be someone else in the home providing supervision/care for the child in the absence of the parent(s).
"_____ hit/hurt me."	"Who is ___?" "Tell me more about what happened?" "When did this happen?" "Who was there when this happened?" "Where did ___ hit/hurt you?"	The named person is an adult or child in the home and some information regarding the circumstances of the situation leading to the child's statement.
A child appears with a suspicious or concerning bruise but offers no explanation about its cause.	"What happened to you?"	The child was harmed/injured through play or if the injury/bruise may be the result of an interaction with a caregiver.

Responding To Disclosures

Children and youth usually disclose risk of harm or maltreatment in two ways:

- in a planned/purposeful manner; or
- in an unintentional/accidental manner.

In a planned or purposeful disclosure, a child typically will have spent time working up the courage to disclose to a person he/she knows and trusts. As well, such disclosure may be prompted by an escalating risk of harm or maltreatment, causing greater concern on the part of the child.

On the other hand, an unintentional disclosure typically is triggered by something that brings the risk of harm or maltreatment to mind (e.g., a presentation about maltreatment or hearing about the subject from another child, etc.). Sometimes a child will bring to an adult's attention information communicated to him/her by another child. In any of these situations, it is important to be aware of, and sensitive to the fact, the child disclosing to an adult will view the adult as someone he/she can trust.

There are several things to keep in mind when handling a disclosure and ensuring the child's sense of trust is maintained:

- Listen openly and calmly.
- Reassure the child.
- No leading questions.
- Allow the student to do the majority of the talking. Refer to the above chart for additional suggestions.

Appendix G – Guide for Identifying Indigenous Persons

The Guide is appended to this Protocol to assist teachers, daycare workers, and staff and the Boards in determining which CAS to contact with concerns, or to make a referral.

Definitions

Agency or CAS. Payukotayno: James and Hudson Bay Family Services

Ancestry. A person's family or ethnic descent

Heritage. The customs, traditions, and beliefs passed down from a person's ancestors.

Indigenous. The purpose of this guide means any person who identifies as or is identified as having Métis, Inuit, Status Indian, or Non-status Indian heritage or ancestry

Inuit. The purpose of this guide means any person who self-identifies or is identified as an Inuk individual

Métis. The purpose of this guide means any person who self-identifies or is identified as a Métis individual

Non-status Indian. For the purpose of this guide means any person who has Status Indian ancestry or heritage but is not entitled to be registered as an Indian under the Indian Act R.S.C., 1985, c. I-5 .

Status Indian. For the purpose of this guide means any person who is registered or entitled to be registered as an Indian under the Indian Act R.S.C., 1985, c. I-5 .

Identifying Indigenous Persons

All Agencies are responsible at the initial point of contact with a child, youth, or family and in an ongoing manner for confirming whether a person is Indigenous.

As per the *United Nations Declaration on the Rights of Indigenous Peoples* it is important that children and youth who are identified as Indigenous or identify as Indigenous receive services appropriate to their culture. The Indigenous Identity of a child or youth in a family shall be the primary determinant in whether or not Payukotayno will provide service.

The Agency shall determine whether any member of a family is Indigenous by using any of the following methods:

- asking the parent(s);
- asking the referral source;
- asking the child;
- asking the youth;
- asking someone who knows the child, youth, or family;
- asking the First Nations Designated Person;
- consulting a relevant First Nation membership clerk;
- with consent, consulting with any Indigenous agency or organization that may have knowledge of the child, youth or family;

Keeping in mind that a youth or child might not necessarily know (or self -identify) whether they are Indigenous, in cases where there are legal proceedings, or if there is any question whether a child or

youth is Indigenous, the Agency will contact Indigenous and Northern Affairs Canada's Ontario Regional Office in an effort to confirm Indian status. However, note that contacting the government will only identify Indigenous persons who are registered as Status Indians; if a person is not registered by the government, it does not mean they are not Indigenous.

Consultation with Payukotayno

At any point during an involvement when an employee of an Agency is uncertain about identifying an Indigenous child, youth or family they may call Payukotayno for a consultation. During the conversation, the child, youth or family need not be identified by name.

Documentation of Indigenous Identity

The Agency will ensure their staff updates the case management system immediately and on an ongoing basis once the Indigenous identity of each person is determined.

Appendix H – Indigenous Child Welfare and the Education System in Canada

Schools are the largest referral source for Children's Aid Societies/ Indigenous Child Well-Being agencies, and those referrals include a disproportionate number of indigenous (and other racialized) children and youth. Indigenous families are overrepresented in child welfare and the criminal justice system (self-reported victimization, police-reported homicide and provincial and federal custody). Over the last 150 years, the legacy of the Residential School system in Canada has resulted in grievous harm to Indigenous people, communities and Nations, harm compounded by the removal of Indigenous children from their families and communities in the name of "Child Protection".

The social determinants of health for Indigenous children, youth and families, include food security, connection to the land, housing, potable water, income distribution and employment, mental and physical wellness, early childhood education and education, prevention of family violence and access to language and culture. The *World Health Organization Social Determinants and Indigenous Health: The International Experience and its Policy Implications*, 2007. pg. 2, advised "colonization of Indigenous peoples...(is) a fundamental underlying broader health determinant." Whereas decolonization and self-determination is mission critical at achieving equitable outcomes.

"The need to decolonize and Indigenize education stems from shared experienced if colonialism across the globe...Decolonizing education entails identifying how colonization has impacted education and working to unsettle colonial structures, systems, and dynamics in educational contexts."²⁰

The Truth and Reconciliation 2015, Calls to Action for Education 6-12 include addressing gaps in education, funding discrepancies, providing annual comparative funding (Inc. educational and income attainments) reports, establishing federal education legislation among others. Call to Action 57 states, "We call upon federal, provincial, territorial, and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism." Calls to Action 62 and 63 outline curriculum development, best practices, teacher training among others.

The education system must act and answer the Calls to Action, they must listen and seek to understand, to be educated about First Nations, Inuit and Métis peoples, to have empathy for our children, youth and families before making a call to the Children's Aid Society, Indigenous Child Well-being Agency or Police force. To first look within, what additional well-being supports could be put in place, what additional educational supports could be accessed and what has been done to develop relationship with the parents/caregivers? Educators, School Principals, Daycare Workers, and Daycare Supervisors should speak with their Indigenous leads or teachers within their Board of Education in situations where it may be unclear whether all additional internal and/or community resources have been engaged to address the child or family's needs, short of requiring a Child Protection response.

At an individual school or daycare level, teachers, daycare workers, school principals, and daycare supervisors will have varied levels of expertise or experience working in/with/for Indigenous peoples and

²⁰ Poitras Pratt, Y., Louie, D., Hanson, A., & Ottmann, J. (2018). *Indigenous Education and Decolonization*. Oxford: Oxford University Press.

communities. Where possible, deferring to the most senior or knowledgeable member of the team about the types and availability of supports is recommended, as is consulting with the Board Indigenous Lead if needed to acquire cultural community supports.

This recommendation must not be interpreted to in any way reduce or mitigate against the responsibility of ANY professional, including teachers, daycare workers, guidance counsellors, etc., to immediately report any concerns about the safety and well-being of a child or youth to a Children's Aid Society. It is, rather, intended only to ensure that all available resources that might support the best futures for Indigenous children and youth are sought out.

Payukotayno: James and Hudson Bay Family Services is firmly committed, along with our partners in Education and Child Welfare, to finding new and innovative approaches to the protection and well-being of children in the context of their families, communities and Nations; we seek approaches and relationships that rebuild capacity, that remove colonial barriers, that support and strengthen traditional Indigenous ways of caring for children and youth and families, and that seek to reduce and eliminate institutionalized and systematic barriers to healthy living. We are determined to ensure that our children and youth and the future generations of our children and youth experience opportunities and outcomes that support their best lives.

Appendix I – Extraordinary Circumstances Due to a Pandemic or Other Extended Emergency

There have been, and will doubtless continue to be circumstances, such as those experienced during the Covid-19 pandemic, special arrangements and practices that may supersede those of ordinary practice and understanding. In such situations it is necessary that all parties do their utmost to accommodate the needs and circumstances of the other parties in carrying out their duties, while recognizing that limitations to normal practices are sometimes required in order to safeguard children and youth.

During such circumstances, the Agency recognizes that:

1. Boards are within their rights to limit the number of visitors to schools to only those that are necessary, and that, whenever possible, virtual contact or contact outside of a school setting may be preferable to protect the safety of all students.
2. Wherever possible, when on-site contact is necessary, advance notice shall be given to the School Principal or Daycare Supervisor to ensure appropriate arrangements can be made to accommodate the contact in a safe and appropriate manner.
3. Agency staff or alternative care providers who are to be physically present within the school or daycare shall use all required Personal Protective Equipment while onsite, and shall follow the direction of the School Principal or Daycare Supervisor or lead as to location of the contact within the school or daycare, and any school, daycare, or Board- or First Nation-specific rules about physical distancing, signing in and out, etc.

Similarly, teachers, daycare workers, principals, supervisors, and other employees at recognize that:

- CAS staff have legal obligations in the investigation of allegations that a child may be in need of protection. Those obligations may include interviewing a child to determine their immediate safety, or escorting that child for a medical examination within specific periods of time, that may require the contact to occur or be initiated at the school.
- The School Principal or Daycare Supervisor shall work with the child welfare staff to accommodate any such contact that is required to protect that child in such circumstances. The School Principal or Daycare Supervisor shall communicate any specific requirements or expectations to the CAS staff that may be in place within that school, daycare, or Board.
- Any difference of opinion or dispute between the School Principal or Daycare Supervisor and CAS staff about how to address any request for access that cannot be resolved by them is to immediately be referred to the designated senior staff within the respective organization for resolution.

Appendix J - Provincial, Federal and Indigenous Child Welfare Legislation and Legal Requirements

The Ontario *Children Youth and Family Services Act (CYFSA)* provides for additional rights and responsibilities for Indigenous children, youth and families. Rights and obligations under *CYFSA* include the notification of First Nations or Indigenous communities whenever a matter may result in the need to admit a child into care or otherwise make a change to the child's placement. That right extends to any investigation or assessment of a child or youth's safety and well-being; it also requires notice and opportunity to participate by a representative of any First Nation or Indigenous community to which the child, youth or family is connected, as well as in the development of any Plan of Care or other assessment developed by or in conjunction with a Children's Aid Society or Indigenous Child Well-Being Agency.

Furthermore, the Federal legislation known as *An Act Respecting First Nations, Inuit and Métis Children, Youth and Families (FNIM-CYF Act)* which came into force in 2019 extends additional rights to First Nations, Inuit and Métis children and youth, their families and communities, with regard to their interface with the Child Welfare system.

This federal legislation adds to and amplifies many of the rights contained in the *CYFSA*, but also allows for First Nations, Inuit, and Métis communities to develop and declare their own legislation, and to enter into an agreement with both the federal and provincial government where the Indigenous law is seen as superseding any provisions of the provincial law. The Indigenous law may also follow the child or youth and their family, so that even if they live outside their community, that law may apply. There are currently a number of First Nations across Ontario (and Canada) who are at various stages of developing or negotiating implementation of their own Child Well-Being laws.

Appendix K – Letter to School: Investigation Completed



PAYUKOTAYNO

James and Hudson Bay Family Services

HEAD OFFICE: MUSHKUMBI COMPLEX
P.O. Box 2094, 22 Jonathan Cheechoo Drive
MURKIN FACTORY, Ontario L0L 1W0
(705) 658-3866

ADMINISTRATION: P.O. Box 1894, 50 Bay Road
MORISONBEE, Ontario L0L 1Y0
(705) 336-2229 Fax # 1 (705) 336-2492
1-888-298-2916

Date

Name of Principal

Name of School

Address and Postal Code

Principal's email address

Dear *Principal's Name*

This correspondence is to notify you that our investigation has been completed and the school file is being closed.

As discussed with you previously, we received a referral regarding (*enter the reason*) from your staff member about a specific child.

Please be aware that you can contact myself or the Agency in the future should you require assistance.

Sincerely,

Name of Worker, Position

Worker's contact information

Appendix L – Duty to Report Professional Advisories, Ontario College of Teachers (2018), College of Early Childhood Educators (2019), and Ontario College of Social Workers and Social Service Workers (2018)

Professional Advisory

Duty to Report
UPDATED

The Council of the Ontario College of Teachers approved this professional advisory on June 4, 2015. This advisory applies to all members of the Ontario College of Teachers, including, but not limited to, teachers, consultants, vice-principals, principals, supervisory officers, directors of education and those working in non-school-board positions. This advisory was revised by Council on June 7, 2018 in order to reflect the introduction of the *Child, Youth and Family Services Act, 2017*.

Ontario
College of
Teachers
Ordre des
enseignantes et
des enseignants
de l'Ontario

Duty to Report

Professional advisories inform professional judgment and practice. The Council of the Ontario College of Teachers approved this advisory on June 4, 2015 to remind members that they have a duty to report abuse and/or neglect of children and youth. This may be read in conjunction with previous advisories such as *Professional Misconduct Related to Sexual Abuse and Sexual Misconduct*, and *Safety in Learning Environments: A Shared Responsibility*. This advisory was revised by Council on June 7, 2018 in order to reflect the introduction of the *Child, Youth and Family Services Act, 2017*.

Introduction

Each of us has a responsibility to protect children and youth from harm. As a professional educator working directly with students and supporting others who are, you have a legal and ethical duty to report to a children's aid society when you have reasonable grounds to suspect that a child is or may be in need of protection.

Ontario's *Child, Youth and Family Services Act* (CYFSA) requires those who perform professional or official duties with respect to children to report suspected child abuse where there are reasonable grounds. This requirement applies with respect to children who are under 16. However, if you have reasonable grounds to suspect that a child who is 16 or 17 is in need of protection, a report may be made even though it is not required.

You don't have to be certain that a child may need protection. Suspicion on reasonable grounds – information that an average person, using normal and honest judgment would need to decide – is reason enough to report. You have to report to a children's aid society so that they can assess and determine what the child needs.

Do you notice when children and youth have unexplained injuries, they're not eating, they have

poor hygiene or are falling asleep in class? These may be signs of family problems, abuse or neglect.

Do you know what prompts your duty to report? Do you know to whom you report? Do you know the consequences of not reporting?

This advisory will help to address those questions.

It applies to all Ontario Certified Teachers (OCT) at all times and includes teachers, consultants, vice-principals, principals, supervisory officers, directors of education and those working in non-school-board positions. Each has a different role. All share the responsibility for the protection of children and youth.

What is abuse?

"Abuse occurs when a child is hurt intentionally or when a parent or caregiver does not provide the protection a child needs. Physical and sexual abuse are often the most recognizable, but neglect and emotional abuse can be just as damaging."

The Ontario Association of Children's Aid Societies

The CYFSA requires that you report suspicions of physical, sexual and emotional abuse, neglect and risk of harm to a children's aid society.

Ethical Underpinnings

The College's *Ethical Standards for the Teaching Profession* and the *Standards of Practice for the Teaching Profession* provide moral and practical groundwork for this advice. Developed by College members and members of the public to guide and inform Ontario Certified Teachers, the standards – reflected in this advice and found on the College's website – inform your professional judgment.

The responsibility of Ontario Certified Teachers for student safety extends to their treatment of students during daily interactions. As a professional, it is your responsibility to always model behaviour that aligns with the *Standards of Practice for the Teaching Profession* and the *Ethical Standards for the Teaching Profession*. The ethical standards of care, respect, trust and integrity hold that members express their commitment to students' well-being and learning through positive influence, professional judgment and empathy in practice.

All professionals have a legal duty to report and an ethical and moral duty to take responsibility for carrying out the duties of their profession.

Educational Context

- A provincial coroner's investigation into the death of Jeffrey Baldwin from abuse, maltreatment, and neglect resulted in jury recommendations for a number of professionals, including doctors, police, firefighters and teachers. The coroner's report¹ directs regulators, including the Ontario College of Teachers, to promote the duty to report and ensure that the legal

obligations of teaching professionals are given adequate attention.

- In its accreditation role, the College requires that a program of professional education provide its students with knowledge of the teacher's duty to report and the ability to recognize when a child may be in need of protection.

Legal and Disciplinary Implications

- Under the CYFSA, every person who performs professional or official duties with respect to children, including teachers, early childhood educators and principals, is liable on conviction to a fine of up to \$5,000 if they fail to report a suspicion based on information obtained in the course of their professional or official duties. (s. 125(9), CYFSA)
- Under the Professional Misconduct Regulation of the *Ontario College of Teachers Act* (OCTA), College members can be found guilty of professional misconduct if they fail to comply with duties under the *Child, Youth and Family Services Act*. (s. 1, para. 27)
- Employers who are aware or made aware of a member's failure to make a report under the CYFSA are required to report the failure to act to the College. (s 43.2, OCTA)
- Where a member reports their suspicions of abuse of a child by another member, the reporting member, if subject to the *Teaching Profession Act*, is required to provide the other member with a copy of the adverse report. A copy need not be provided where the adverse report concerns suspected sexual abuse of a student by the other member. (s. 18.(1)(b) and (c) under the regulation)

¹ Inquest Touching the Death of Jeffrey Baldwin – Jury Verdict and Recommendations, February 2014

Advice to Members

Your duty to report is immediate. If you have reasonable grounds to suspect that a child is in need of protection, report your suspicion, and the information on which it is based, immediately to your local children's aid society.

Your duty to report is direct. You cannot rely on anyone else to report on your behalf, nor can you delegate your legal duty. A supervisor cannot instruct you to do otherwise.

Your duty to report is ongoing. Even if you have reported previously, you must make a further report to a children's aid society if you suspect the child still requires protection.

Your duty to report overrides concerns about confidentiality. You are still legally obliged to report if a student tells you something "in confidence."

Once you have reasonable grounds to suspect abuse or neglect, your duty is to report not investigate. A children's aid society will investigate.

Be aware of your employer's policies and protocols and the advice of your professional associations.

Document your actions.

When in doubt about whether to make a report, call your local children's aid society.

Know Your Professional Responsibilities

Know your obligations

- Everyone has a duty to protect children and a duty to report suspected child abuse or neglect, according to the CYFSA.
- Become familiar with the legislation and your employer's policies and protocols.
- The duty to report supersedes all other obligations.
- You do not have to prove suspected abuse or neglect. Your report enables the children's aid society to investigate the information.
- You cannot be held liable for making a report as long as you have reasonable grounds for your suspicion and are not acting maliciously. (CYFSA, s. 125 (10))

A Framework for Action

Recognize

- the signs of abuse and neglect
- children may not know their rights and what constitutes abuse and neglect
- your duty to report is initiated when you have reasonable grounds to suspect that a child is or may be in need of protection. Abuse or neglect may include:
 - a child is hurt intentionally
 - a parent or caregiver does not adequately care for or protect the child or protect the child from others
 - a child has suffered emotional harm demonstrated by serious anxiety, depression, withdrawal, self-destructive or aggressive behavior or delayed development.
- not all symptoms of poverty constitute neglect. Poverty is a reality for many marginalized children and their families.

- child protection investigations may occur at school
- parents may approach you for information about a report. You must refer them to your school administrator or the local children's aid society. Your interaction may compromise an investigation or impact the child.
- the duty to report is ongoing, which means that if you have made a report about a child and suspect further abuse or neglect, you must report to the CAS again.
- the act of making a report under the CYFSA is, by nature, stressful. Members may seek support and guidance from their school administrators, through their Employee Assistance Programs or from their professional associations.

Report

A child in need of protection is one who is or who appears to be suffering from abuse and/or neglect, who may demonstrate this through actions, spoken word, artistic drawings or other means.

Possible signs observed by the member and/or shared by the child may include:

- **Physical Abuse**
 - the use or threat of deliberate physical force that results in pain or injury or creates a genuine risk of harm to the child, which can occur as an isolated incident or over a period of time
 - punching, slapping, shaking, burning, biting, throwing, hair pulling, beating, kicking, cutting and throwing objects. Signs or indicators may include such things as bruising, burns, bites and cuts
 - consistent and intentional neglect and failure to supervise or protect a child adequately
- **Sexual Abuse**
 - sexual touching/activity, exposure, sexual suggestiveness, harassment, underage pregnancy, or observation of sexual behaviour
 - grooming for sexual abuse, sexual exploitation, incest, interference or molestation, including child pornography
- **Emotional Abuse**
 - repeated treatment that negatively affects the child's sense of self-worth or self-esteem and impairs the child's growth, development and psychological functioning
 - yelling, ignoring, rejecting, demeaning, isolating or exposing the child to domestic violence
- **Domestic Violence**
 - violent or abusive behavior occurring within the child's home, usually involving the abuse of a partner or spouse
 - all acts that eliminate a nurturing environment for the child
- **Neglect**
 - failure of a parent or caregiver to provide the child with basic needs such as adequate food, sleep, safety, supervision, clothing or medical treatment
 - failure to provide, support or consent to treatment where a child has a medical, mental, emotional or developmental condition requiring treatment
- **Caregiver Death/Absence/Separation**
 - failure to provide adequate care and custody of the child when the child's parent or caregiver has died or is absent

- failure of a residential care facility to resume custody, care and supervision of the child when the parent or caregiver refuses to.

- **Caregiver Incapacity**

- substance abuse or mental health concerns that have an impact on a child's safety or well-being.

A referral should be made when members are aware that abuse or neglect is suspected in a household where children under the age of 16 may reside.

Even if you've reported previously, be aware that you may need to report again.

Notwithstanding the examples provided, College members are expected to demonstrate professional judgment, which is informed at all times by the *Ethical Standards for the Teaching Profession* and the *Standards of Practice for the Teaching Profession*.

- **When reporting**

- know the number of your local child protection agency ahead of time. In some communities, you can dial 411 and ask for a children's aid society or family and children's services
- check the Ontario Association of Children's Aid Societies' website at oacas.org for your local children's aid society
- make and keep accurate and factual notes that lead you to suspect child abuse or neglect (your employer may have templates or guidelines to follow). Store these notes in a secure place as they may be required at a later date.

- where possible, have family information available such as names, addresses, dates of birth, and other children in the household when making the call to a children's aid society
- remember that abuse and neglect shared in confidence is still subject to your duty to report.

- **Reflect**

- have I read and understood this advice and am I aware of my employer's policies and protocols, and advice from my professional association?
- have I inquired about additional training, resources and support to help me?
- have I shared my learning with others?
- do I fully understand my obligation to report when I suspect that a child is or may be in need of protection?

- **Be Able to Say with Confidence...**

- I have reported my suspicions and the information on which they are based appropriately and promptly to protect and safeguard the child.
- I have let the children in my care know that they have rights.
- I have done all I can as an ethical teaching practitioner to inform myself, seek training and support and take prompt and immediate action when required in suspected matters of child neglect and abuse.



[oct-oooo.ca/fb](https://www.facebook.com/oct-oooo.ca/)



[oct-oooo.ca/tw](https://twitter.com/oct-oooo.ca/)



[oct-oooo.ca/ig](https://www.instagram.com/oct-oooo.ca/)



[oct-oooo.ca/li](https://www.linkedin.com/company/oct-oooo.ca/)



[oct-oooo.ca/pi](https://www.pinterest.com/oct-oooo.ca/)



[oct-oooo.ca/yt](https://www.youtube.com/channel/UC-oooo-ca/)



Ontario
College of
Teachers

Setting the Standard
for Great Teaching

Cette publication est également disponible en français sous le titre
Recommandation professionnelle : Devoir de signaler

For additional information:
Ontario College of Teachers
101 Bloor Street West
Toronto ON M5S 0A1

Telephone: 416-961-8800
Fax: 416-961-8822
Toll-free in Ontario: 1-888-534-2222
info@oct.ca
oct.ca

Professional Advisory

Duty to Report

The intent of this advisory is to address the requirement to report child abuse, the suspicions of harm or the risk of harm to children, under section 125 of the **Child, Youth and Family Services Act, 2017** (CYFSA). This is part of the College of Early Childhood Educators' (College) ongoing commitment to advise Registered Early Childhood Educators (RECEs) on their roles and responsibilities set out through legislation. As RECEs have a responsibility to protect children from harm, it is essential that they are knowledgeable about their duty to report to a Children's Aid Society (CAS) under the CYFSA. This professional advisory is designed to explain the duty to report section of the CYFSA and to emphasize the responsibilities of the early childhood educators, outlined in the CYFSA and the **Code of Ethics and Standards of Practice**. It is not intended to provide specific legal advice.

Updated January 2019



Introduction

RECEs are expected to be accountable for their actions as regulated professionals. They are required to abide by the College's **Code of Ethics and Standards of Practice** as well as all applicable legislation, regulations, by-laws and policies that are relevant to their professional practice.

Registered Early Childhood Educators should familiarize themselves with reporting requirements under the CYFSA and abide by them, as the failure to do so is contrary to the law and, in addition, may constitute professional misconduct.

RECEs work with a vulnerable population and it is among their responsibilities to build positive, trusting relationships with families and children. As such, they are in a unique position to recognize possible signs of child abuse, neglect and family violence. It is important that RECEs are aware of, and prepared to act on, their legislated duty to report suspicions of harm or abuse towards children.

The CYFSA and the Children's Aid Society

The primary purpose of the CYFSA is to promote the best interests, protection and well-being of children.¹

In pursuit of that purpose, section 125 of the CYFSA focuses on the duty to report suspicions of harm and the risk of harm to a child. Section 125(1) outlines suspicions that must be reported and are described within this advisory.

A Children's Aid Society (CAS) is a non-profit agency established under section 34 of the CYFSA to provide help and support to children and families. Services that a CAS provides include investigating allegations of abuse, caring for children who come under their supervision, providing guidance and counselling to families as it relates to child protection and adoption services.² CAS may also be known as Family and Children's Services, or other names depending on the region or if it is a faith-based agency.

Who is a Child in Need of Protection?

The CYFSA defines a child in need of protection as a child who has suffered or is at risk of suffering certain defined types of harm, or falls within certain circumstances.³

What are Reasonable Grounds?

It is not necessary for a person to be certain that a child is or may be in need of protection in order to make a report to a CAS. Reasonable grounds refers to the information that an average person, using normal and honest judgement, would need in order to decide to report.⁴ If a person, including a professional, has reasonable grounds to suspect that one of the harms, risks or other listed circumstances exist, they have a duty to immediately report it to a CAS. RECEs do not require certainty or probability that a child is in need of protection before they report to a CAS.

Section 125 of the CYFSA

Reportable Harms, Risks and Circumstances

Section 125 of the CYFSA imposes a duty to report for everyone, including RECEs, where there are reasonable grounds to suspect one or more of the following with respect to a child:

Physical Harm

The child has suffered physical harm or there is a risk that a child is likely to suffer physical harm inflicted by the person having charge of the child or as a result of that person's neglect of, or failure to adequately care for, provide for, supervise or protect the child.⁵

The child requires medical treatment to cure, prevent or alleviate physical harm or suffering and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, the treatment.⁶

Sexual Harm

The child has been sexually molested or sexually exploited, or there is a risk that the child is likely to be sexually molested or sexually exploited, by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual molestation or sexual exploitation and fails to protect the child.⁷

Emotional Harm

The child has suffered emotional harm, or there is a risk that the child is likely to suffer emotional harm demonstrated by serious:

- anxiety
- depression
- withdrawal
- self-destructive or aggressive behaviour, or
- delayed development

and there are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child.⁸

The child has suffered emotional harm of the type described above, or there is a risk that the child is likely to suffer such emotional harm, and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm.⁹

The child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition.¹⁰

Abandonment

The child's parent has died or is unavailable to exercise his or her custodial rights over the child and has not made adequate provision for the child's care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody.¹¹

Acts of a Criminal Nature

The child is less than 12 years old and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, those services or treatment.¹²

The child is less than 12 years old and has on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately.¹³

Duty to Report to a CAS

The CYFSA clearly states that a person who has a duty to report shall make the report directly to a CAS and shall not rely on any other person to report on his or her behalf.¹⁵

Further, a person who has additional reasonable grounds to suspect a child is in need of protection is required to make another report even if he or she has made previous reports with respect to the same child.¹⁶

Family Violence

Children may also be exposed to family violence, which can take the form of physical, sexual, emotional or financial harm as well as neglect. Children may experience family violence in different ways, including directly seeing or hearing violence, being manipulated by the perpetrator, and experiencing the repercussions of violence, such as an injured family member or police intervention. Family violence can create a toxic home environment for children and have an impact on their well-being and development.¹⁷ Although there is no specific reference in the CYFSA to reporting children exposed to family violence, if an RECE has a concern that a child is at risk of harm due to exposure to family violence, the College's position is that they have a duty to report to a CAS.

Implications of Reporting and Not Reporting

In some instances a person may be required to provide privileged or confidential information when making a report to a CAS. Section 125(10) of the CYFSA states that no action shall be instituted against a person who makes a report including confidential information unless the person acts maliciously or without reasonable grounds for the suspicion.

Consequences of Not Reporting under the CYFSA

The duty to report under the CYFSA is of such importance that there can be legal consequences for failing to uphold this duty. The CYFSA states that a person who performs professional or official duties with respect to children, including an early childhood educator, is guilty of an offence if he or she does not report a reasonable suspicion that a child may be in need of protection (i.e. that one of the harms, risks or circumstances listed in section 125(1) may exist), and the information on which it was based was obtained in the course of his or her professional or official duties.¹⁷ If a person, such as an RECE, fails to report when they are obligated to do so, they may be liable of a fine up to \$5,000.¹⁸

There are also implications for employers if they or their employees fail to report under the CYFSA. Section 125(8) states that a director, officer or employee of a corporation who authorizes, permits or concurs in a contravention of an offence by an employee of the corporation is guilty of an offence. They may also be liable of a fine up to \$5,000.¹⁹

Consequences of Not Reporting under the ECE Act

Failure to report under the CYFSA may also have consequences for members of the College under the ECE Act and the regulations of the College.

Section 2(21) of Ontario Regulation 223/08 on Professional Misconduct (Misconduct Regulation) indicates that “contravening a law, if the contravention has caused or may cause a child who is under the member’s professional supervision to be put at or remain at risk,” may constitute professional misconduct. There are several other provisions under the Misconduct Regulation that could also apply such as failing to maintain the standards of the profession, and acting or failing to act in a manner that, having regard to the circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

If a complaint is made against a member for failure to report under the CYFSA, or the Registrar believes on reasonable and probable grounds that a member has failed to report as required under the CYFSA, the matter will be investigated and considered by the College’s Complaints Committee. The Complaints Committee may refer the matter to the Discipline Committee for a hearing. A discipline hearing may result in a finding of professional misconduct against a member, in which case the College’s Discipline Committee may make various orders, the most serious of which is an order directing that a member’s Certificate of Registration be revoked.

Roles and Responsibilities of the Registered Early Childhood Educator

In order to effectively protect children, it is important that RECEs, employers and families communicate openly. They should each know their own roles and responsibilities in a situation where it is suspected that a child may be in need of protection, as well as the roles and responsibilities of each other. RECEs should also familiarize themselves with the sections of the College’s *Code of Ethics and Standards of Practice* that are relevant to the duty to report under the CYFSA, including, but not limited to, Standard VI: Confidentiality, Release of Information and Duty to Report.

RECEs have a responsibility to children, families, colleagues, the community, the public and the profession. The Code and Standards states:

IV: B.1 – states that RECEs have a responsibility to be knowledgeable about current legislation, policies and procedures that are relevant to their professional practice and to the care and education of children.

RECEs must know the procedure for reporting and documenting a suspicion that a child is in need of protection, should they witness or otherwise become aware of any of the harms, risks or circumstances listed in section 125 of the CYFSA. RECEs should be familiar with their employer’s policy on reporting child abuse, which is expected to be in agreement with the CYFSA reporting requirements under section 125.

VI: B.5 – RECEs need to understand that the CYFSA provisions about reporting suspected abuse or neglect take precedence over an organization’s policies and procedures.

VI: B. 4 – RECEs understand that they are recognized by the CYFSA as being in a unique position to recognize the signs of child abuse, neglect and family violence, and have a particular duty to report their suspicions.

I: A – that RECEs understand that maintaining caring and responsive relationships with children and families is fundamental to their practice.

When RECEs engage in supportive and respectful interactions with children, and ensure they feel a sense of security and belonging, they create a welcoming program where families and children may feel comfortable approaching an RECE with concerns.

V: C.2 – RECEs do not use their professional position to coerce, improperly influence, harass, abuse or exploit a child who is under their professional supervision.

IV: C.11 – If an RECE has a concern about the conduct of a colleague, which could create a risk to the health or well-being of children, they must report to the appropriate authorities. This includes reporting to a CAS. If the concern relates to colleague who is an RECE, a report must also be made to the College.

If an RECE suspects that a child is in need of protection, they are required to promptly report it to a CAS. Although RECEs may choose to speak with their employer before contacting a CAS, they are not required to do so. If an RECE does speak with their employer about the matter, this does not remove the RECE's responsibility to contact a CAS to make a report.

Expectations of RECEs Employed as Supervisors

RECEs employed as supervisors in early learning and child care settings should be aware that they may have duties under the CYFSA in addition to their own direct duty to report. They should ensure that employer policies outlining the duty to report are in line with CYFSA requirements and that all staff members are familiar with these policies.

RECEs employed as supervisors should not prevent or discourage staff members from contacting a CAS. If an RECE comes to a supervisor with concerns of suspected child abuse, the RECE should expect to be provided with support and encouragement in carrying out the duty to report.

As previously noted in this advisory, a person who performs professional or official duties with respect to children is guilty of an offence if he or she does not report a reasonable suspicion that a child may be in need of protection. In addition, employers are also guilty of an offence if they impede or prevent the exercise of this duty.

Communication between RECEs and Families

Ethic B, Responsibilities to Families states that “RECEs build and maintain responsive and collaborative relationships with families. These relationships are based on mutual trust, openness and respect for confidentiality”. However, regarding the duty to report, RECEs are not required to consult with a family prior to contacting a CAS, nor are they required to notify a family that a call to a CAS has been made. In fact, it is best practice to consult with a CAS child protection worker about whether and how the parent or caregiver should be informed.

It can be challenging for RECEs to balance their ethical responsibility to families with their duty to report to CAS. RECEs can maintain and encourage communication and collaboration with families in the following ways:

- Informing families that their child’s educator should be notified of any injuries the child may have sustained outside of the early learning and child care setting and how these injuries occurred.
- Notifying families of the incident reporting procedure, so they can be aware of what to expect if an injury occurs to a child while in the child care setting.
- Informing families in a clear manner of an RECE’s duty to report under the CYFSA and how families can also report, if they have concerns that a child may be in need of protection.

Contact Information

If you have questions about the information presented in this professional advisory please contact the College at:

College of Early Childhood Educators
438 University Avenue, Suite 1900
Toronto ON M5G 2K8

Telephone: 416 961-8558

Toll free: 1 888 961-8558

Email: practice@college-ecce.ca

Website: college-ecce.ca

If you have questions about the Child, Youth and Family Services Act, 2017, please contact the Ministry of Children, Community and Social Services:

Telephone: 1 866 821-7770

Email: mcsinfo@mcys.gov.on.ca

Website: children.gov.on.ca

To locate the Children's Aid Society in your area, please contact the Ontario Association of Children's Aid Societies at:

Ontario Association of Children's Aid Societies

Telephone: 416 987-7725

Toll free: 1 800 718-1797

Website: oacas.org

References

- ¹ CYFSA Section 1 (1)
- ² "Children's aid societies," Ministry of Children and Youth Services. http://www.children.gov.on.ca/htdocs/English/children_said/index.aspx
- ³ CYFSA section 74(2) and section 125(1)
- ⁴ "Reporting Child Abuse and Neglect: It's Your Duty," Ministry of Children and Youth Services. <http://www.children.gov.on.ca/htdocs/English/childreusaid/reportingabuse/abusandneglect.aspx>
- ⁵ CYFSA section 125(1) paragraphs 1 and 2
- ⁶ CYFSA section 125(1) paragraph 5
- ⁷ CYFSA section 125(1) paragraphs 3 and 4
- ⁸ CYFSA section 125(1) paragraphs 6 and 8
- ⁹ CYFSA section 125 (1) paragraphs 7 and 9
- ¹⁰ CYFSA section 125(1) paragraph 10
- ¹¹ CYFSA section 125(1) paragraph 11
- ¹² CYFSA section 125(1) paragraph 12
- ¹³ CYFSA section 125(1) paragraph 13
- ¹⁴ Boost Child and Youth Advocacy Centre. "Children exposed to family violence." Information sheet #14 <https://boostforkids.org/wp-content/uploads/2016/06/INFO-SHEET-14-CHILDREN-EXPOSED-TO-FAMILY-VIOLENCE.pdf>
- ¹⁵ CYFSA section 125(3)
- ¹⁶ CYFSA section 125(2)
- ¹⁷ CYFSA sections 125(5) and 125(6)
- ¹⁸ CYFSA section 125(5) and 125(9)
- ¹⁹ CYFSA section 125(8) and 125(9)

College of Early Childhood Educators

438 University Avenue, Suite 1900

Toronto ON M5G 2K8

Telephone: 416 961-8558

Toll free: 1 888 961-8558

Email: practice@college-ece.ca
college-ece.ca

Cette publication est aussi disponible en français
sous le titre: **Avis professionnel: Devoir de faire rapport**

If you require an accessible format and/or communication
support, please contact the College at
1 888 961-8558 communications@college-ece.ca.



April 30, 2018

The Duty to Report under the *Child, Youth and Family Services Act, 2017*

Introduction:

In 2014, the Office of the Chief Coroner of the Province of Ontario released 103 recommendations relating to an inquest into the death of a young child who had involvement with the child protection system. Of the 103 recommendations, a number focus on the duty to report child abuse and neglect as set out in the former *Child and Family Services Act, R.S.O.1990* (the “CFSA”). The inquest jury also recommended that the Ministry of Children and Youth Services further promote public and professional awareness to ensure suspected child abuse and neglect are consistently reported across the province. On April 30, 2018, the CFSA was repealed and the majority of the *Child, Youth and Family Services Act, 2017* (the “CYFSA”) was brought into force.¹ This article has been developed to assist members of the Ontario College of Social Workers and Social Service Workers (the “College”) to better understand their **duty to report** under section 125 of the CYFSA. It does not provide specific legal advice.^{2, 3}

The Duty to Report:

Protecting the confidentiality of clients’ information is a professional, ethical, and legal obligation, and a central value in social work and social service work practice. Principle V: Confidentiality in the Standards of Practice requires members to “hold in strict confidence all

¹ Part X (Personal Information) of the CYFSA does not come into force until January 1, 2020.

² Members should consider obtaining legal advice to help them with a specific situation.

³ This article is current as of April 30, 2018.

information about clients” and to “disclose such information only when required or allowed by law to do so or when clients have consented to disclosure”.⁴ The College’s Professional Misconduct Regulation, O. Reg. 384/00, also prohibits the disclosure of client information without consent, subject to certain exceptions. One of the exceptions is “as required or allowed by law”. Members have a **duty to report** (an obligation to disclose certain confidential client information without consent) as required by section 125 of the CYFSA. Because social workers and social service workers engage frequently (both directly and indirectly) with children who may be at risk of harm or in need of protection, they are in a unique position to recognize possible signs of child abuse and neglect; it is therefore imperative that they be well-informed with respect to their duty to report under the CYFSA.

The CYFSA and a Child Who Is In Need of Protection:

Section 125 of the CYFSA imposes a **duty to report** on any person, including those who perform professional or official duties with respect to children (including social workers and social service workers) if they have **reasonable grounds to suspect** that a child is in need of protection. The CYFSA provides that a child is in need of protection if they have suffered or are at risk of suffering certain defined types of harm, or they fall within certain circumstances, listed in the CYFSA.

Set out below is a description of the harms, risks or circumstances listed in section 125 of the CYFSA:

Physical harm includes situations in which:

- a child has suffered physical harm, or there is a risk that a child is likely to suffer physical harm, inflicted by the person having charge of the child. This can include the use of deliberate physical force that results in pain or injury.
- a child has suffered physical harm, or there is a risk that a child is likely to suffer physical harm, as a result of that person’s neglect of or failure to adequately care for, provide for, supervise or protect the child.

⁴ *Code of Ethics and Standards of Practice Handbook, Second Edition 2008*, Principle V: Confidentiality

- a child requires treatment to cure, prevent or alleviate physical harm or suffering and the child's parent or the person having charge of the child does not provide the treatment or access to the treatment, or, where the child is incapable of consenting to the treatment under the *Health Care Consent Act, 1996* (the "HCCA") refuses to provide the treatment, or is unavailable or unable to consent to, the treatment.

Sexual harm includes situations in which:

- a child has been sexually abused or sexually exploited, or there is a risk that the child is likely to be sexually abused or sexually exploited, by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual abuse or sexual exploitation and fails to protect the child.

Emotional harm includes situations in which:

- a child has suffered emotional harm, or there is a risk that the child is likely to suffer emotional harm, demonstrated by serious anxiety, depression, withdrawal, self-destructive or aggressive behaviour or delayed development, and there are reasonable ground to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child.
- a child has suffered emotional harm as described above or there is a risk that the child is likely to suffer such emotional harm, and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the HCCA, refuses or is unavailable or unable to consent to, treatment to remedy or alleviate or prevent the harm.
- a child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or the person having charge of the child does not provide the treatment or access to the treatment, or where the child is incapable of consenting to the treatment under the HCCA, refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition.

Death or unavailability of parent includes situations in which:

- a child's parent has died or is unavailable to exercise his or her custodial rights over the child and has not made adequate provision for the child's care and custody
- a child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody.

Acts of a criminal nature include situations in which

- a child is younger than 12 and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to the treatment under the HCCA, refuses or is unavailable or unable to consent to treatment.
- a child is younger than 12 and has on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately.

Issues to Consider When Making a Report:

- As a social worker or social service worker, you are in a unique position to recognize possible signs of abuse and neglect.
- Reports of suspected child abuse or neglect and the information on which the suspicion is based must be made immediately to a **Children's Aid Society (CAS)**.
- A **child** is anyone under the age of 16.
- **You** must report **directly** to a CAS. You cannot rely on another person to make the report on your behalf.
- Your obligation to report is **ongoing**. You must make another report to a CAS if you have additional reasonable grounds to suspect a child is in need of protection, even if you have already made previous reports with respect to the same child.
- You have a legal obligation to make a report to a CAS if you have additional **reasonable grounds** to suspect that one of the harms, risks or other circumstances listed in section 125 of the CYFSA exists. The Ministry of Children and Youth Services states that "reasonable grounds" refers to information that an average person, using normal and honest judgment, would need in order to decide to report.⁵
- If a child is 16 or 17, you do not have a legal obligation to report to a CAS if the harms, risks or circumstances listed in section 125 of the CYFSA exist. However, you **may**

⁵ The Ministry of Children and Youth Services typically has helpful information about reporting child abuse which can be found at <http://www.children.gov.on.ca/htdocs/English/childrensaidthereportingabuse/index.aspx>.

make a report if any of those harms, risks or circumstances exist⁶, or if a circumstance or condition described in a regulation exists.⁷

- A person who performs professional or official duties with respect to children is guilty of an offence if he or she does not report a reasonable suspicion that a child may be in need of protection and the information on which it was based was obtained in the course of his or her professional or official duties. A person convicted of such offence is liable to a fine of up to \$5,000.00.
- The CYFSA specifies that a person who acts in accordance with the duty to report is protected from civil actions, unless the person acts maliciously or without reasonable grounds for the suspicion.
- You may need to weigh several factors and exercise **professional judgment** when determining whether or not you have a duty to report in a particular situation. This includes careful consideration of the case-specific details, relevant standards of practice and applicable legislation. In addition to seeking supervision/consultation, you may also choose to seek an opinion from a lawyer.
- In addition to the duty to report, you may have additional obligations to the client based on the **standards of practice**.
- For contact and other information about Ontario's CAS's, please visit the Ontario Association of Children's Aid Societies' website at: www.oacas.org. You can also locate a CAS in the local telephone listings or, where available, by dialing 411.
- The Ministry of Children and Youth Services typically has helpful information about reporting child abuse which can be found at <http://www.children.gov.on.ca/htdocs/English/childrensaidthereportingabuse/index.aspx>.

For further information about this issue, members are strongly encouraged to review *[The Code of Ethics and Standards of Practice Handbook, 2nd Edition, 2008](#)* and the Practice Notes called "[Meeting Professional Obligations and Protecting Clients' Privacy: Disclosure of Information without Consent](#)" which are available on the College's website at www.ocswww.org.

⁶ The circumstances with respect to acts of a criminal nature only apply to a child younger than 12.

⁷ As of April 30, 2018, no regulation has been made that describes any additional circumstances or conditions with respect to a child who is 16 or 17.

Appendix M – Ontario Ministry of Education Policy/Program
Memorandum 9: Duty to report children in need of protection, PPM166
- Keeping Students Safe: Policy Framework for School Board Anti-Sex
Trafficking Protocols, and PPM120 - Reporting violent incidents to the
Ministry of Education (2011)

Policy/Program Memorandum 9

Date of issue: January 7, 2019

Effective: Until revoked or modified

Subject: Duty to report children in need of protection

Application: Directors of Education

Supervisory Officers and Secretary-Treasurers of School Authorities Principals of Elementary Schools

Principals of Secondary Schools

Principals of Provincial and Demonstration Schools

Reference: This memorandum replaces Policy/Program Memorandum No. 9, “Reporting of Children in Need of Protection”, August 10, 2001.

Note: This memorandum reflects the *Child, Youth and Family Services Act*, [\[1\]](#) which came into force on April 30, 2018.

Requirements for reporting

The *Child, Youth and Family Services Act* contains provisions under Part V, Child Protection, for reporting a child [\[2\]](#) who is or may be in need of protection. If any person – “including a person who performs professional or official duties with respect to children” – has reasonable grounds to suspect that a child is or may be in need of protection, the act requires that the person report their suspicions “immediately” to a children’s aid society and provide the information on which the suspicions are based. Therefore, teachers, principals, and other professionals who, in the course of performing their professional or official duties, suspect that a child is or may be in need of protection must report this information without delay to a children’s aid society. Details are given in subsection 125(1), which is quoted below in its entirety:

125(1) Despite the provisions of any other Act, if a person, including a person who performs professional or official duties with respect to children, has reasonable grounds to suspect one of the following, the person shall immediately report the suspicion and the information on which it is based to a society:

1. the child has suffered physical harm inflicted by the person having charge of the child or caused by or resulting from that person's
 - i. failure to adequately care for, provide for, supervise or protect the child, or
 - ii. pattern of neglect in caring for, providing for, supervising or protecting the child
2. there is a risk that the child is likely to suffer physical harm inflicted by the person having charge of the child or caused by or resulting from that person's
 - i. failure to adequately care for, provide for, supervise or protect the child, or
 - ii. pattern of neglect in caring for, providing for, supervising or protecting the child
3. the child has been sexually abused or sexually exploited by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual abuse or sexual exploitation and fails to protect the child

4. there is a risk that the child is likely to be sexually abused or sexually exploited as described in paragraph 3
5. the child requires treatment to cure, prevent or alleviate physical harm or suffering and the child's parent or the person having charge of the child does not provide the treatment or access to the treatment, or, where the child is incapable of consenting to the treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, the treatment on the child's behalf
6. The child has suffered emotional harm, demonstrated by serious
 - i. anxiety
 - ii. depression
 - iii. withdrawal
 - iv. self-destructive or aggressive behaviour, or
 - v. delayed development
 and there are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child
7. the child has suffered emotional harm of the kind described in subparagraph 6 i, ii, iii, iv or v and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the harm
8. there is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph 6 i, ii, iii, iv or v resulting from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child
9. there is a risk that the child is likely to suffer emotional harm of the kind described in subparagraph 6 i, ii, iii, iv or v and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, treatment to prevent the harm
10. the child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or the person having charge of the child does not provide the treatment or access to the treatment, or where the child is incapable of consenting to the treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition
11. the child's parent has died or is unavailable to exercise custodial rights over the child and has not made adequate provision for the child's care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody
12. the child is younger than 12 and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide services or treatment or access to services or treatment, or, where the child is incapable of consenting to treatment under the *Health Care Consent Act, 1996*, refuses or is unavailable or unable to consent to treatment
13. the child is younger than 12 and has on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately

In addition to the above-mentioned details, further details concerning the requirements for reporting are provided in subsections 125 (2), (3), and (4) of the act, as summarized below.

Duty to report is ongoing

Subsection 125(2) of the act states that the duty to report is an *ongoing obligation*. If a person has made a report about a child to a children's aid society and has additional reasonable grounds to suspect that the child is or may be in need of protection, that person must make a further report to the children's aid society.

Report(s) must be made directly to a children's aid society

Subsection 125(3) of the act requires every person who has reasonable grounds to suspect that a child is or may be in need of protection to make a report *directly* to a children's aid society and *not rely on anyone else* to report on their behalf.

Duty to report does not apply to older children

Subsection 125(4) of the act clarifies that, if the child is 16 or 17 years old, there is no duty to make a report, but a person may make a report concerning older children if either a circumstance or condition described in paragraphs 1 to 11 of subsection 125(1) or a prescribed ^[3] circumstance or condition exists.

Note that the requirements for reporting stated in the act and outlined above do not prevent a school board from establishing additional policies on internal reporting procedures, but the school board's policies must not conflict with the reporting requirements of the act.

Consequences of failure to report

Subsection 125(5) of the act makes it an offence for *every* person performing professional or official duties with respect to children to fail to report a child who, they suspect, is or may be in need of protection. Subsection 125(6) expressly identifies teachers, designated early childhood educators, ^[4] and school principals as such persons. If such professionals obtain information, *in the course of performing their professional or official duties*, that leads them to suspect that a child is or may be in need of protection, they must report this suspicion. If they do not report the suspicion, they are liable, upon conviction of the offence, to a fine of up to \$5000.

Protection for persons making reports

Under section 125 of the *Child, Youth and Family Services Act*, the duty of a professional or official to make a report overrides the provisions of any other provincial statute, including those legislative provisions that would otherwise prohibit the professional or official from disclosing confidential or privileged information. In other words, school principals, teachers, and designated early childhood educators must report that they suspect that a child is or may be in need of protection even if they believe that the information to be used to support the report is supposed to be confidential or privileged.

Subsection 125(10) provides that no action for making a report will be instituted against a person who acts in accordance with the duty to report in section 125, unless the person acts maliciously or without reasonable grounds for the suspicion.

Investigation

Under clause 35(1)(a), it is the responsibility of the children's aid society to investigate allegations or evidence that a child is or may be in need of protection. In addition, it is the responsibility of the children's aid society that receives a report under section 125 to, as soon as possible, carry out an assessment and verify the reported information, or ensure that the information is assessed and verified by another children's aid society.

Directors of Education

Directors of Education should ensure that:

- all staff members are aware of, and understand, the relevant sections of the *Child, Youth and Family Services Act*, particularly the requirement to report suspected cases of children in need of protection

- school board policies and procedures on reporting suspected cases of children in need of protection conform with the provisions of the *Child, Youth and Family Services Act*

For further details, please see the *Child, Youth and Family Services Act* (<https://www.ontario.ca/laws/statute/17c14>).

Updated: June 25, 2021

Footnotes

- [1] [^]The Child, Youth and Family Services Act, 2017, S.O. 2017, c. 14, Sched. 1. Referred to hereafter as the Child, Youth and Family Services Act, or the act. This legislation replaces the Child and Family Services Act, R.S.O. 1990.
- [2] [^]As per the act, “child” means a person under 18 years of age.
- [3] [^]As per the act, “prescribed” means “prescribed by regulations”.
- [4] [^]In this memorandum, *designated early childhood educator* refers to a “person appointed to a position designated by a board of education as requiring an early childhood educator”, as used in the Child, Youth and Family Services Act.

Policy/Program Memorandum 166

Date of Issue: July 6, 2021

Effective: January 31, 2022

Subject: Keeping Students Safe: Policy Framework for School Board Anti-Sex Trafficking Protocols

Application: Directors of Education
Supervisory Officers and Secretary-Treasurers of School Authorities
Principals of Elementary Schools
Principals of Secondary Schools
Principals of Provincial and Demonstration Schools

Acknowledgement

The Ministry of Education wishes to express its gratitude for the time, dedication and insight of the ministry's Anti-Human Trafficking Working Group members, whose work informed this policy. The working group includes experts in education, child welfare, human trafficking and policing, as well as organizations and individuals who amplified the voices and shared the knowledge of survivors, Indigenous communities and organizations, Black and racialized communities, newcomers and students.

Application

It is the policy direction of the Ministry of Education that school boards establish and follow a protocol for the response to suspected sex trafficking occurrences. This policy framework will guide this work and is made pursuant to the authority of the Minister of Education.

The policy applies to district school boards, school authorities and provincial and demonstration schools, including Centre Jules-Leger Consortium. As school boards build their protocols, they will include in their collaborative partnerships the alternative delivery sites in the public education system, such as Education and Community Partnership Programs section 23 programs and alternative and adult secondary school programs.

Purpose: the Ministry of Education's commitment

The Keeping Students Safe policy – the first of its kind for an education sector in Canada – sets a strong foundation for Ontario school boards to build upon to create local anti-sex trafficking protocols. This new policy will ensure every school board has a plan with core components in place to protect students and empower school communities to play a key role in fighting sex trafficking and keeping children and youth safe from sexual exploitation.

Developed in partnership with the Ministry of the Solicitor General and the Ministry of Children, Community and Social Services, the purpose of this framework is to provide a policy foundation to guide Ontario school boards across the province as they collaborate with their community police services, local child welfare agencies and other community organizations and service providers serving children, youth and their families to create community-centered anti-sex trafficking protocols.

Once established, the final protocols will support coordinated action by all community partners to prevent, identify and recognize sex trafficking and develop responses to facilitate early and appropriate intervention. ^[1]

The Ministry of Education's policy framework builds on the updated Health and Physical Education (HPE) curriculum for Grades 1 to 8 announced by Minister Lecce in 2019. That updated curriculum positioned Ontario as a leader by including mandatory learning beginning in Grades 1 to 3 as students start to learn skills to identify, develop and maintain healthy relationships, to identify and respond to exploitative and coercive behaviour, and how to seek help as needed. These skills help protect students from sex trafficking by teaching them to identify when they are in an unsafe situation. The curriculum is designed to be developmentally-appropriate, and in Grades 4 to 8 students continue to develop the skills they need to stay safe (in person and online), and how to help themselves and others. Students also learn about the impacts of sexually explicit media, including pornography. In every grade, students learn about consent, healthy relationships, and online safety, building foundational skills that support safe, healthy relationships throughout their lives.

Setting the context

Welcoming and engaging school environments lead to positive student experiences, especially when families and communities are intentionally involved in the students' learning. ^[2] Safe schools – both physically and psychologically – are a critical element to successfully nurturing positive student experiences.

Schools are ideally placed to respond to sex trafficking and are a key factor in helping survivors of trafficking heal and rebuild their lives. They promote safety by building a culture of caring and by taking meaningful, culturally responsive and consistent action to prevent and respond to issues of safety and inappropriate behaviours.

The Ministry of Education is making active changes to the education system to help break down barriers for Black, Indigenous and racialized students and to provide all students with an equal opportunity to succeed. These actions have included providing teachers with additional anti-racism and anti-discrimination training. Work continues to strengthen human rights and equity in the education system, which are important steps in the effort to ensure schools are the safe spaces they are intended to be for all students.

The urgency to act

Human trafficking is one of the fastest growing and most lucrative crimes worldwide. It is predatory and devastatingly damaging to victims, survivors, their families and communities. Human trafficking can include recruiting, harbouring or controlling a person's movements using force, physical or psychological coercion or deception.

With the average age of recruitment into sex trafficking in Canada being 13 years old, school-aged children and youth are prime targets for traffickers for the purposes of sexual exploitation. Students face a multitude of diverse and intersecting factors that increase their vulnerability to violence and harm. They may have difficulty identifying warning signs of sex trafficking, recognizing when they may be in danger and knowing how to seek help.

Given the high rates and destructive impacts of sex trafficking in Ontario, there is an urgent need to establish an active, province-wide role for education, in collaboration with other sectors and partners. While strong policies and programming are protective against these threats, teachers and school staff play a vital role in building student awareness, supporting student mental health and being a frontline contact for students in crisis. ^[1]

The education sector can play a powerful role to safeguard the safety, mental health and well-being of school-aged children and youth by helping to recognize, prevent and respond to sex trafficking. Education staff can spot the warning signs and safely connect those who are, have been or are at risk of being trafficked to the appropriate supports and culturally responsive community programs and services.

Ontario has the highest number of police-reported human trafficking cases in Canada

Ontario had the most police-reported incidents of human trafficking in the country occurring within the province in 2019, accounting for the majority of all police-reported incidents of human trafficking nationally. ^[2] In addition, most police-reported cases of human trafficking in Ontario involve human trafficking for the purposes of sexual exploitation, which may also be referred to as sex trafficking. Young women and girls are particularly at risk, though boys and people who identify as 2SLGBTQQIA are also targeted. ^[3]

The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls highlighted that, “while Indigenous women represented only 4% of the Canadian population in 2016, they comprised nearly 50% of victims of human trafficking. Of those, nearly one-quarter were under the age of 18.” ^[4]

Not all sex traffickers are adults. School-aged children and youth may also be involved in trafficking their peers. According to Statistics Canada, between 2009 and 2018, there were approximately 1,400 victims of human trafficking reported to police in Canada, and 6% of the accused persons identified were between the ages of 12 to 17. ^[5]

School-aged children and youth will benefit from early intervention to reduce their vulnerability to sex trafficking and from connections to supports and help to rebuild their lives.

Increased risks and use of digital tools

Frequent use of mobile phones and computers can make it harder for caring adults to recognize the signs that a student is being groomed and lured. This increases the importance of educating students about both the positive and negative potentials of the internet, including the harmful impacts of violent depictions in sexually explicit imagery. Traffickers and other sexual predators are increasingly using online social media platforms to lure, groom and recruit young people into sexual acts or services. Social media can provide an easy point of access into conversation and relationships with unsuspecting students.

Why are some students at higher risk?

While any student can be sex trafficked, some groups are at increased risk of being trafficked.

- Systemic racism and discrimination have led to a disproportionate number of Indigenous and Black children and youth in care, which can lead to a lack of consistent relationships with caring adults and peers in schools.
- Indigenous peoples are especially vulnerable to sex trafficking due to historic and ongoing systemic discrimination, including intergenerational trauma resulting from residential schools and the “Sixties Scoop”. ^[6] First Nation youth transitioning from remote Northern communities to schools in urban centres can also face increased safety risks.
- Language barriers, isolation, economic disadvantage or a lack of community and social supports may leave newcomer youth with increased vulnerability to trafficking.
- Students with disabilities may experience bullying and isolation in addition to having difficulty understanding the intentions of others.
- Students who are 2SLGBTQQIA experience high rates of bullying, assaults and sexual abuse, and they may face isolation or displacement if they experience rejection from their family or the community.

Tactics used by sex traffickers

Traffickers use tactics to identify and groom vulnerable children and youth by fulfilling their unmet needs – such as love, affection, a sense of belonging and other basic needs like housing or food security – and/or by using threats, physical violence and control. An unstable home life and past trauma, as well as other factors such as a history of childhood abuse or involvement with the child welfare system, can leave students more susceptible to being trafficked.

Traffickers can use tactics such as befriending students on online platforms and pretending to be a love interest or encouraging the student to leave their rural/remote community to come to the city for work. Isolating the victim from family and friends is the ultimate goal, followed by normalization of abuse through a gradual grooming process.

Unique role of the education sector

Due to almost daily contact with students, teachers and other education staff are well placed to educate on prevention and promote healthy relationships, notice troubling changes in behaviour, and connect with students as caring adults. By training staff to recognize the signs of sex trafficking, they will be better equipped to identify the cues and safely intervene if they suspect a student is being trafficked or involved in trafficking. Education can also serve as a key factor in helping survivors of trafficking heal and rebuild their lives, helping to prevent re-victimization and resetting students on a healing trajectory towards positive outcomes.

Historical and ongoing trauma with the education system can be a barrier to the meaningful participation of Indigenous parents, caregivers, and communities. School boards should consider specific outreach and supports to Indigenous parents and caregivers, as well as groups that are disproportionately impacted by trafficking, to build their awareness and participation.

Definition of sex trafficking

Sex trafficking is a form of sexual exploitation and is a crime under the *Criminal Code of Canada*. It can include recruiting, harbouring, transporting, obtaining or providing a person for the purpose of sex. It involves the use of force, physical or psychological coercion or deception. Most individuals who are trafficked for the purpose of sexual exploitation are women and girls, but all people may be targeted.

Statement of principles

Define a role for parents/guardians/caregivers

Parents, guardians and caregivers are key partners in the development, implementation and review of school board anti-sex trafficking protocols. Care must be given when reaching out to parents, families and caregivers to ensure they are safe adults prior to engaging with them on matters regarding the student's. Outreach to Indigenous parents and guardians, as well as outreach to Black and racialized parents and guardians, should be trauma-informed and recognize historic and systemic barriers that may impact their participation. Every effort should also be made to reduce cultural and/or linguistic barriers when reaching out to parents, guardians and caregivers about this work.

Foster student voices

Students are at the centre of this work and should be involved in efforts to develop actions against sex trafficking. Invite student groups to participate and inform the design, development, delivery and implementation of anti-sex trafficking protocols. Recognize that students with lived experience are experts and, if willing and appropriately supported through trauma-informed approaches, could share their story and insights as part of efforts to build awareness and empower students.

Build multi-sectoral relationships with community organizations

Ongoing consultation and engagement with community groups/agencies that support members of the school community are essential to supporting anti-sex trafficking approaches that are responsive to diverse students and the needs of local school communities.

Interventions must be safe

Caring adults and students within schools can promote a sense of student belonging, increase protective factors, help to reduce risk factors associated with sex trafficking, and support early intervention through identification and appropriate response, including connecting impacted persons to supportive services.

School board employees require comprehensive anti-sex trafficking training so they are equipped to identify the signs of sex trafficking, safely respond to disclosures, be culturally relevant and responsive to diverse student populations, and support the immediate physical and emotional safety needs of students. Training must emphasize how to respond to immediate dangers and the need to avoid actions that will make an individual's situation worse or more unsafe.

Build up school-based prevention

The development of the protocol will complement existing prevention efforts in schools, including the teaching of consent, healthy relationships and healthy sexuality. It is important for school staff to understand the historical and social context of sex trafficking and implement prevention strategies that are responsive to the needs of students and members of the local school community.

Respect confidentiality, privacy and informed consent

The development of procedures must respect confidentiality and ensure that the student fully understands how their information may be used or with whom it may be shared. It is key to develop referral relationships with community service organizations while adhering to applicable legal requirements, including those under the *Municipal Freedom of Information and Protection of Privacy Act*; the *Ontario Human Rights Code*; the *Accessibility for Ontarians with Disabilities Act, 2005*; the *Education Act*, and the *Child, Youth and Family Services Act, 2017*.

Promote equitable and culturally safe responses

Protocols should demonstrate a human rights-based, non-judgemental, culturally responsive, survivor-centered and trauma-informed approach to raising awareness, preventing, identifying and responding to sex trafficking.

The strength of the multi-sector approach

The development of school board anti-sex trafficking protocols will require collaboration and partnerships with persons with lived experience of trafficking as well as Indigenous organizations, local Children's Aid Societies, victim services, police services and other community-based service providers.

Some boards may opt to develop a regional protocol involving multiple school boards and local police services, in order to facilitate information-sharing and a coordinated response. Involving representatives from Indigenous, Black, racialized and newcomer groups and Francophone organizations, as well as American Sign Language and Québec Sign Language organizations, will help to develop a more culturally safe and equitable approach to the protocol.

A school board's protocol may also build on existing local multi-sectoral processes that may have been established to respond to human trafficking. This might include local anti-human trafficking committees, local situation tables and processes with victim services, sexual assault centres, youth shelters, public health units and other community-based organizations.

Consideration may also be given to aligning with and leveraging local community safety and well-being planning efforts, such as community consultations, planning advisory committees or action teams, as well as human trafficking strategies or programs that have been identified and/or implemented through a local community safety and well-being plan.

The development of a school board protocol: essential components and considerations

It is the policy direction of the Ministry of Education that each school board's anti-sex trafficking protocol should have clearly articulated roles, responsibilities and accountability measures. It should also address threats associated with digital technology and the internet.

The core and essential elements of the protocol are:

- statement of principles
- strategies to raise awareness and prevent sex trafficking
- response procedures
- training for school board employees
- measuring success: accountability and evaluation

Statement of principles

The school board protocol must, at minimum, include the Statement of Principles outlined in this document.

Strategies to raise awareness and prevent sex trafficking

The school board protocol must include culturally safe strategies to raise awareness about sex trafficking with students, school board employees, parents, caregivers and the broader school community. Any protocol should apply to in-person and online learning and include all school and school board activities, including field trips, overnight excursions, board-sponsored sporting events and board-operated before- and after-school programs.

Strategies must include:

- A plan to make the protocol and related procedures and resources publicly available and accessible on the school board website.
- A process to raise awareness among parents and caregivers about:
 - cyber-safety
 - the signs that a student is being targeted, lured, groomed, trafficked or is trafficking another student; how to get help safely (for example, through the school board, community providers and/or support hotline)
 - how they can report concerns to the school board (including anonymous reporting) and the school board's process for responding to concerns
 - the process should include approaches to overcome barriers to participation that Indigenous, Black, newcomer and other parents/guardians may face
- A process to raise awareness among students on the signs a student is being targeted, lured, groomed, trafficked or is trafficking another student, and how to bring concerns about luring, grooming, recruitment or exiting sex trafficking to the school without fear of reprisal. The process should allow for concerns to be brought forward anonymously.
- A process to help prevent recruitment of students for sex trafficking, including through curriculum-based learning about healthy relationships, consent, mental health and well-being, coping skills, personal safety and online safety, as well as through work with local community-based organizations and survivors.
- Consideration of the use of available technology and tools to identify and deter potential situations involving students who could be at risk of sex trafficking and other online threats, while using school board-provided technology.

Awareness strategies could involve sending letters or emails, providing information in a student handbook, displaying posters, hosting information sessions, posting on the school/school board social media accounts, and/or posting information on the school board website. Schools may want to include the phone number for the [Canadian Human Trafficking Hotline \(https://www.canadianhumantraffickinghotline.ca/\)](https://www.canadianhumantraffickinghotline.ca/) to raise awareness about the supports and referrals it offers.

Response procedures

The school board protocol must establish procedures for school board employees to respond in situations where a student:

- may be at risk of or is being sex trafficked
- may be targeting, luring, grooming or recruiting children and youth for the purpose of sex trafficking
- is returning to school after they have been trafficked or involved in trafficking others

Response procedures must address the needs of, among others:

- students with special education needs, mental health needs, social or emotional needs or language/cultural barriers, and international students
- students who are in care, receiving care or in customary care arrangements
- students who are being trafficked and who may be involved in the recruiting of other victims, including students who are returning to school after they have been involved in a trafficking situation
- parents, including those who may live overseas and/or may not speak English or French
- students 18 years or older or who are 16 or 17 years old and have withdrawn from parental control

Response procedures must be trauma-informed and culturally responsive and, at minimum, include the following elements or direction to school board employees:

- A designated contact person at the school board who is familiar with the school board anti-sex trafficking protocol and can support school board employees with response procedures.
- The process for responding to situations where a student may be at risk of or is being sex trafficked, including steps for safely reporting concerns, responding to disclosures and supporting the student's immediate physical and emotional safety.
- The process for responding to situations where a student may be engaged in the trafficking of others, including steps for safely reporting concerns, responding to disclosures and supporting students' immediate physical and emotional safety.
- The process for responding to and supporting students re-entering school after they have been involved in a trafficking situation, including efforts to ensure that adequate safety and security needs are being met to support re-integration into school.
- Guidance on the requirements related to the duty to report a child in need of protection under Section 125(1) of the [Child, Youth and Family Services Act, 2017 \(https://www.ontario.ca/laws/statute/17c14\)](https://www.ontario.ca/laws/statute/17c14) and under [Policy/Program Memorandum 9, Duty to Report Children in Need of Protection \(https://www.ontario.ca/document/education-ontario-policy-and-program-direction/policy-program-memorandum-9\)](https://www.ontario.ca/document/education-ontario-policy-and-program-direction/policy-program-memorandum-9).
- Clear information on legislated privacy and confidentiality requirements when responding to a suspected or confirmed instance of sex trafficking.
- The process of notifying appropriate school/school board contacts and parents/guardians, as applicable.
- The process for school administrators to communicate and collaborate with community-based service providers, local police services, local Children's Aid Societies and Indigenous Child and Family Well-Being Agencies, as applicable and/or required by law, in responding to situations of suspected or confirmed sex trafficking of students.
- Direction on the approach to referring all affected students (including those indirectly affected, as needed) to supports
- Direction on the approach to responding to possible sex trafficking recruitment by a student within the school, including appropriate interventions, supports and/or consequences, as applicable. Expectations should be consistent with the school board policy on progressive discipline and the mitigating circumstances that must be considered when determining the intervention, consequences or supports. For students with special education needs, information in the student's Individual Education Plan must be considered.
- Direction on the approach to appropriately respond to and meet the needs of students who are victims and survivors of sex trafficking, including access to education and facilitating school re-entry for those returning to school.
- Direction on monitoring and following-up on incidents reported (for example, check-ins with affected students).
- Direction on documenting suspected or reported sex trafficking situations and response procedures that were implemented.
- Information on culturally responsive and trauma-informed personal supports available to school board employees responding to sex trafficking situations.

Training for school board employees

The school board protocol must outline a process for providing ongoing training for school board employees, including teachers, administrators, and other school staff. Training must include the following elements:

- key definitions, common misconceptions and myths about sex trafficking, including tactics used for online luring, grooming and recruitment
- learning about human rights-based approaches to combatting sex trafficking, including the application of an equity lens, anti-racism, a gender-based lens, trauma-informed approaches and Indigenous cultural competencies
- information on protective factors and prevention-focused supports and resources
- information on risk factors and signs that a student is at risk, being lured, groomed or trafficked
- signs that a student is or involved in luring, grooming or trafficking others
- response procedures, including the duty to report, how to handle disclosures to support students' safety, how to support students impacted by sex trafficking and how to share information to ensure privacy and confidentiality
- supports available to students and affected staff, including culturally responsive supports
- additional training resources to support staff to understand and safely respond to sex trafficking
- roles and responsibilities of school board employees in raising awareness, identifying and responding to sex trafficking

The training must be tracked and be available throughout the year to all new and existing school board employees. Training must be updated and delivered regularly to stay current with emerging issues relating to trafficking and changes in community services and response.

Measuring success: accountability and evaluation

During the first year of implementation, the Ministry of Education will provide support for the review of the school board's anti-sex trafficking protocol and offer advice and suggestions, as requested by individual boards.

School boards should review their protocol, at minimum, every five years, or as part of their regular policy review cycle – whichever is the shorter period. Following the first year, school boards may be required to report to the Ministry of Education, upon the ministry's request, on their activities to achieve the expectations outlined in this policy framework.

The Ministry of Education will facilitate a community of practice to support implementation and review of school board anti-sex trafficking protocols.

The Ministry of Education will collaborate with school boards, as well as anti-human trafficking partners, to develop a performance measurement framework. This framework will monitor the effectiveness of training (for example, whether staff feel they are more aware and more able to safely identify and intervene in situations where a student is suspected of being trafficked or trafficking) and whether the protocols respond to the needs of students.

Community anti-human trafficking partners and local agencies, such as child protective services like Children's Aid Societies and Indigenous Child and Family Well-Being Agencies, should be invited to participate in the reporting process to the Ministry of Education, in collaboration with school boards, to determine how the protocols have helped children and youth in care stay out of, or exit, human trafficking. This should be measured carefully with performance indicators on how the protocols are preventing trafficking in Ontario communities.

Appendix A: glossary of terms

2SLGBTQIA: Refers to two-spirit, lesbian, gay, bisexual, transgender, queer, questioning, intersex and asexual.

Anti-racism: Anti-racism is a process, a systematic method of analysis, and a proactive course of action rooted in the recognition of the existence of racism, including systemic racism. Anti-racism actively seeks to identify, remove, prevent and mitigate racially inequitable outcomes and power imbalances between groups and change the structures that sustain inequities.

Cultural responsiveness: "Extends beyond language to include a much larger set of professional attitudes, knowledge, behaviours and practices, and organizational policies, standards and performance management mechanisms to ensure responsiveness to the diversity of [students] who walk through [schools'] doors." ^[1]

Cultural safety: Refers to "an environment that is spiritually, socially and emotionally safe, as well as physically safe for people; where there is no assault, challenge or denial of their identity, of who they are and what they need. It is about shared respect, shared meaning, shared knowledge and experience of learning together." ^[10]

Equity lens: Involves "strategically, intentionally and holistically examining the impact of an issue, policy or proposed solution on underserved and historically marginalized communities and population subgroups, with the goal of leveraging research findings to inform policy." ^[11]

Human rights-based approach: A "conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights. It seeks to analyze inequalities which lie at the heart of development problems and redress discriminatory practices and unjust distributions of power that impede development progress." ^[12]

Survivor: Used to refer to an individual who has escaped a trafficking situation, whereas *victim* is used to refer to an individual who is in the process of being recruited or is being trafficked. The term survivor may also be used to refer to an adult with lived experience of being trafficking. This approach is used for clarity and not intended to label or define an individual's experience. Individuals who have experienced sex trafficking may prefer one term over another in order to describe their experiences. School board employees should confirm how an individual impacted by trafficking prefers to be referenced.

Tactics: Traffickers may use a range of tactics to target, recruit, manipulate and coerce victims. This can often involve a process of targeting an individual's vulnerabilities then luring, grooming, isolating, manipulating, controlling and exploiting a victim to then conduct sexual acts (for example, forcing a victim to have sex, to take images of child sexual abuse). Often, a victim may not be aware that exploitation is happening, and victims may be forced to recruit other victims.

Trauma-informed approaches: Are "policies and practices that recognize the connections between violence, trauma, negative health outcomes and behaviours. These approaches increase safety, control and resilience for people who are seeking services in relation to experiences of violence and/or have a history of experiencing violence." ^[13]

Victim: Used to refer to an individual who is in the process of being recruited or is being trafficked, whereas *survivor* is used to refer to an individual who has escaped a trafficking situation. The term victim is often used to refer to a child who has experienced sexual exploitation. This approach is used for clarity and not intended to label or define an individual's experience. Individuals who have experienced sex trafficking may prefer one term over another in order to describe their experiences. School board employees should confirm how an individual impacted by trafficking prefers to be referenced.

Updated: June 15, 2022

Footnotes

- [1] ¹ In response to: [Legislative Assembly of Ontario, Private members' motions \(https://www.ola.org/en/legislative-business/status-business/private-members-motions\)](https://www.ola.org/en/legislative-business/status-business/private-members-motions), 42nd Parliament, 1st Session, Motion 122 voted and carried on December 3, 2020.

- [2] [△] Ministry of Education. (2021). [Parent Engagement: Encouraging Parent Involvement in Schools](http://www.edu.gov.on.ca/eng/parents/involvement/) (<http://www.edu.gov.on.ca/eng/parents/involvement/>).
- [3] [△] U.S. Department of Education, Office of Safe and Supportive Schools. (2021). [Human Trafficking in America's Schools: What schools can do to prevent, respond and to help students recover from human trafficking](https://safesupportivelearning.ed.gov/sites/default/files/NCSSLF-2021HumanTraffickingGuide-508.pdf) (<https://safesupportivelearning.ed.gov/sites/default/files/NCSSLF-2021HumanTraffickingGuide-508.pdf>) (2nd ed.). U.S. Department of Education.
- [4] [△] Statistics Canada. [Table 35-10-0177-01 Incident-based crime statistics, by detailed violations, Canada, provinces, territories and Census Metropolitan Areas](https://www150.statcan.gc.ca/11/tbl/en/cy/action?pid=3510017701&timeframe) (<https://www150.statcan.gc.ca/11/tbl/en/cy/action?pid=3510017701&timeframe>).
- [5] [△] Government of Ontario. (2021, March 23). [Human Trafficking](https://www.ontario.ca/page/human-trafficking#:~:text=Human%20trafficking%20can%20include%20recruiting,manual%20labour)%20or%20sexual%20services,&text=Learn%20the%20signs%20that) ([https://www.ontario.ca/page/human-trafficking#:~:text=Human%20trafficking%20can%20include%20recruiting,manual%20labour\)%20or%20sexual%20services,&text=Learn%20the%20signs%20that](https://www.ontario.ca/page/human-trafficking#:~:text=Human%20trafficking%20can%20include%20recruiting,manual%20labour)%20or%20sexual%20services,&text=Learn%20the%20signs%20that)).
- [6] [△] National Inquiry into Missing and Murdered Indigenous Women and Girls. (2019). [Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, Volume 1a](https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a-1.pdf) (https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a-1.pdf).
- [7] [△] Statistics Canada. (2020, June 23). [Trafficking in Persons in Canada, 2018](https://www150.statcan.gc.ca/n1/pub/85-002-x/2020001/article/00006-eng.htm) (<https://www150.statcan.gc.ca/n1/pub/85-002-x/2020001/article/00006-eng.htm>).
- [8] [△] National Inquiry into Missing and Murdered Indigenous Women and Girls. (2019). [Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, Volume 1a](https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a-1.pdf) (https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a-1.pdf).
- [9] [△] Indigenous Primary Health Care Council. (2018, June). [Cultural Competency Guideline for Ontario Public Health Units to Engage Successfully with Aboriginal Communities](https://www.iphcc.ca/wp-content/uploads/2020/02/Cultural-Competency-Guideline-Report-June-2018.pdf) (<https://www.iphcc.ca/wp-content/uploads/2020/02/Cultural-Competency-Guideline-Report-June-2018.pdf>).
- [10] [△] Williams, R. (1999). Cultural safety—what does it mean for our work practice? *Australian and New Zealand journal of public health*, 23(2), 213-214.
- [11] [△] Douglas, M. D., Willock, R. J., Respress, E., Rollins, L., Tabor, D., Heiman, H. J., & Holden, K. B. (2019). Applying a health equity lens to evaluate and inform policy. *Ethnicity & disease*, 29 (Supplement 2), 329.
- [12] [△] UNICEF. (2016, January 23). [A Human Rights-based Approach to Programming: What is HRBAP?](https://sites.unicef.org/policyanalysis/rights/index_62012.html) (https://sites.unicef.org/policyanalysis/rights/index_62012.html).
- [13] [△] Government of Canada. (2018, February 2). [Trauma and Violence-informed Approaches to Policy and Practice](https://www.canada.ca/en/public-health/services/publications/health-risks-safety/trauma-violence-informed-approaches-policy-practice.html) (<https://www.canada.ca/en/public-health/services/publications/health-risks-safety/trauma-violence-informed-approaches-policy-practice.html>).

Policy/Program Memorandum 120

Date of Issue: May 16, 2011

Effective: Until revoked or modified

Subject: Reporting violent incidents to the Ministry of Education

Application: Directors of Education
Supervisory Officers and Secretary-Treasurers of School Authorities
Principals of Elementary Schools
Principals of Secondary Schools
Principals of Provincial and Demonstration Schools

References: This memorandum replaces Policy/Program Memorandum No. 120, June 1, 1994, and revokes the document *Violence-Free Schools Policy, 1994*.

Introduction

The purpose of this memorandum is to provide direction to school boards ^[1] on the development of procedures for reporting violent incidents to the Ministry of Education. Boards are required to have these procedures in place by September 1, 2011.

Research shows that violence in schools can affect the social, psychological, and physical well-being of students, as well as the learning process. Students who experience violence in school are more likely to report feelings of social isolation, depression, and frustration, and to demonstrate decreased engagement in school. ^[2] Research also shows that it is important to monitor the occurrence of violent incidents in order to obtain accurate data on which to base policies and planning. ^[3]

Requirements for boards

Reporting of violent incidents

Boards are required to report the total number of violent incidents on an annual basis to the Ministry of Education through the Ontario School Information System (OnSIS). *All* violent incidents that occur on school premises during school-run programs must be reported to the ministry, whether the violent incident was committed by a student of the school or whether it was committed by any other person.

For the purposes of this memorandum, the term *violent incident* is defined as the occurrence of any one of the following *or* the occurrence of a combination of any of the following: ^[4]

- possessing a weapon, including possessing a firearm
- physical assault causing bodily harm requiring medical attention
- sexual assault
- robbery

- using a weapon to cause or to threaten bodily harm to another person
- extortion
- hate and/or bias-motivated occurrences

Boards must follow the direction in *Provincial Model for a Local Police/School Board Protocol, 2011* regarding notification of the police if any of the above violent incidents occurs. [5]

In circumstances where board employees have reason to believe that a student may be in need of protection, they are required to call a children's aid society, in accordance with the requirements of the Child and Family Services Act. [6]

Ongoing monitoring by boards

Boards are also required to collect and analyse data on the nature of violent incidents to support the development of board policies and to inform board and school improvement plans.

Updated: June 17, 2021

Footnotes

- [1] ^In this memorandum, *school board(s)* and *board(s)* refer to district school boards and school authorities.
- [2] ^Sarah Lindstrom Johnson, "Improving the School Environment to Reduce School Violence: A Review of the Literature", *Journal of School Health* 79 no. 10 (2009), pp. 451-465.
- [3] ^Rami Benbenishty, Ron Avi Astor, and Anat Zeira, "Monitoring School Violence: Linking National-, District-, and School-Level Data Over Time", *Journal of School Violence* 2 no. 2 (2003), pp. 29-50.
- [4] ^This list is taken from Ministry of Education, Ontario, *Provincial Model for a Local Police/School Board Protocol, 2011*, p. 8. Various terms used in the list are defined in the Glossary of the protocol document.
- [5] ^*Provincial Model for a Local Police/School Board Protocol, 2011*, p. 8.
- [6] ^See Ministry of Education, Ontario, Policy/Program Memorandum No. 9. "Reporting of Children in Need of Protection", August 10, 2001.