



A Guide to Sharing Information About Children & Youth in Care

Developed by the
ministries of
Children & Family Development
and Education

2020



A Guide to Sharing Information about Children & Youth in Care

Table of Contents

- Purpose 1
- Scope 1
- Legislative Authority to Disclose Confidential Personal Information 2
- Information the Child Welfare Worker or Caregiver May Share with School Personnel 3
- Information School Personnel May Share with the Child Welfare Worker 5
- Protecting Confidential Personal Information Disclosed to Schools 5
- When School Personnel Should Contact a CYIC’s Caregiver 6
- Appendix A: Definitions 7
- Appendix B: Approval to Participate in School Activities by Legal Statuses 7

Purpose

Communication and collaboration between parents and schools is vital to supporting students' sense of belonging and achievement at school and to ensuring students' safety and well-being. The goal is to promote communication between the Ministry of Children and Family Development and school districts and independent schools to strengthen joint planning that leads to positive outcomes for Children and Youth in Care (CYIC), while ensuring information is shared legally and in a manner that honors and respects privacy and confidentiality.

This document is intended to guide information sharing between child welfare workers and school personnel regarding children and youth in care (CYIC) under the *Child, Family and Community Service Act (CFCSA)*. This includes information sharing between caregivers (foster parents) and schools.

Decision-making about disclosure of personal and confidential information about CYIC must balance the need to share information to protect their safety and well-being with the need to protect their privacy. This document is intended to clarify for child welfare workers and school personnel what information can and should be shared, according to legislation, as well as the restrictions on what can be disclosed.

Scope

This document only addresses the sharing of personal information about children and youth in care under the *CFCSA* or, less frequently, the *Adoption Act*. Most children who receive child welfare services are not considered to be children or youth in care. These include:

- children and youth receiving protective services while remaining in the care of their parents;
- children and youth placed in the custody of extended family by agreement or court order; and,
- youth (16-18) who have entered into an agreement with a child welfare worker to receive financial and child welfare supports to live independently.

Children and youth in the above circumstances are not in care and, therefore, outside the scope of this guidance document.

Legislative Authority to Disclose Confidential Personal Information

For the purposes of information regarding CYIC, the authority to collect and disclose personal information is found, depending on who is collecting or disclosing the information, in the *Freedom of Information and Protection of Privacy Act (FOIPPA)*, the *Personal Information Protection Act (PIPA)*, the *CFCSA*, the *School Act*, the *Independent School Act*, and the regulations and orders made under those acts.

FOIPPA and *PIPA* require all public bodies or organizations to protect personal and sensitive information in their custody and control. At the same time, *FOIPPA* and *PIPA* also contain provisions that authorize the disclosure of personal information for specific purposes. The Ministry of Education, boards of education (school districts) and francophone education authorities are all considered to be public bodies under *FOIPPA*. Child welfare workers acting under the *CFCSA* are also considered to be public bodies, but the *CFCSA* modifies and adds to *FOIPPA* respecting what child welfare workers can do. Independent school authorities are not public bodies under *FOIPPA* but are instead governed by *PIPA*.

Under the *CFCSA*, a child welfare worker has the authority to collect and disclose personal information in certain circumstances. Children and Youth may be in care by court order or agreement. When a child or youth is in care by agreement, the parents remain the guardians and the child welfare worker is responsible for the child's care. When a child is in care by court order, the care and custody and/or guardianship responsibilities rest with the child welfare worker, who has a duty to act as any prudent parent would by collaborating and communicating with school personnel as necessary to ensure the safety or well-being of the child.

Under the *CFCSA*, caregivers can generally disclose the same confidential information about a CYIC as a child welfare worker. Given their role, caregivers (see definition in Appendix A) may have more frequent contact with schools than child welfare workers, especially for routine matters such as health information, academic progress and absences. However, depending on the nature and complexity of the information it may be more appropriate for child welfare workers to disclose certain information when necessary, such as court orders (e.g. restraining orders, access orders) and placement changes.

Under the *School Act*, boards have the authority to collect student record information for the purpose of providing an educational program. Boards of education are responsible for establishing written procedures regarding the storage, retrieval and appropriate use of student records. Boards must also ensure confidentiality of information contained in student records and ensure privacy for students and their families. Under the *School Act*, parents are entitled to be informed of students' attendance, behaviour and progress in school. The *School Act* definition of "parent" includes a person who usually has care and control of the student, which, for CYIC, will usually capture a child welfare worker.

The Student Records Disclosure Order, an order made under the *School Act*, requires a board to disclose a student's record to a person planning for the delivery of (or delivering) health services, child welfare services, or other support services to that student.

Similarly, the Student Records Order, made under the *Independent School Act*, permits the disclosure of student records to a person who is planning for the delivery of, or delivering, health services, child welfare services or other support services to that student or child. Independent school authorities must also have policies and procedures in place for complying with *PIPA*.

Information the Child Welfare Worker or Caregiver May Share with School Personnel

Collaboration and information sharing between the education and child welfare systems assists school personnel, child welfare workers and caregivers to make decisions and plans for students that encourage educational participation and achievement and promote positive outcomes for CYIC. When working together with school personnel, the child welfare worker can disclose verbally or in writing any information that the child welfare worker believes is necessary to ensure the safety or well-being of a CYIC (section 79(a) *CFCSA*). The child welfare worker or caregiver can share the level of information they determine is necessary to help keep the child or youth safe and/or to support the CYICs child welfare, emotional, physical, or spiritual well-being in general or within the educational context. This is a broad disclosure authority; however, the child welfare worker or caregiver must assess the need to disclose information on a case-by-case basis.

In determining when and how much confidential information to disclose, the child welfare worker or caregiver considers whether the information will assist school personnel to promote the CYIC's safety or well-being. Specifically, the child welfare worker or caregiver considers:

- the CYIC's needs for supports and services offered by the education sector that may benefit the student;
- the CYIC's needs for an immediate support or service (e.g. due to sudden illness or traumatic event) that can be provided by the education sector;
- the effect of the disclosure on the CYIC;
- the CYIC's legal status; and,
- the views of the parent and/or CYIC (when CYIC are in care by agreement the parent's consent may be required).

If a child welfare worker or caregiver is enrolling a student in school, all the necessary personal information of the student that would generally be provided by a parent must be given to the school. If a student is already registered at a school and a child welfare worker is fulfilling the care/custody/guardianship role in relation to CYIC and the child welfare worker determines that disclosing information about the in-care status of a child or youth to school personnel is necessary to ensure their safety or well-being, consideration may also be given to disclosing:

- the name of the child welfare worker with responsibility for the child;
- the name and contact information for caregivers (e.g. foster parent(s) or residential care provider);
- any health or safety concerns for the CYIC or others; and,
- any no contact or restraining orders relevant to the school environment;
- information relevant to assessing the CYIC and/or developing an educational plan; and,
- cultural teachings/considerations as shared by family and/or community including but not limited to Indigenous ways of knowing and being.

The amount and type of information the child welfare worker or caregiver may share with school personnel varies depending on the CYIC's circumstances. Changes in circumstances that may result in the need to disclose information to school personnel include:

- a critical incident involving the CYIC;
- changes in the CYIC's need for educational services or supports;
- changes in the CYIC's need for an immediate support or service (e.g. due to sudden illness or traumatic event) that can be provided by the education sector;
- a child/youth comes into care, leaves care, or has a change in legal status;
- when the CYIC moves; and,
- when the CYIC changes schools.

If school personnel have concerns about coordination or information sharing in general or about a specific child, they should contact the local delegated child welfare worker or team leader directly. If there is no response or the response from the local office is unsatisfactory, school personnel should escalate within their own organization first and if necessary, school personnel should contact the Director of Operations responsible for child welfare services in the school district area in which the school is located.

Information School Personnel May Share with the Child Welfare Worker

School personnel may share with a child welfare worker and the CYIC's caregiver any information that can be shared with a parent. When school personnel are aware that a child or youth is in care, they may also contact the child welfare worker in the following situations:

- there are concerns for the safety of a CYIC;
- when a CYIC is injured or experiences trauma;
- when a Violence Risk Threat Assessment (VTRA) has been completed;
- to share non-attendance or flawless attendance at school;
- to share progress reports on academic related accomplishments or needs;
- to share cultural teachings/considerations as shared by family and/or community including but not limited to Indigenous ways of knowing and being;
- when needs for additional supports outside of the school system are required;
- when joint educational planning meetings for a CYIC are taking place;
- when the school is considering a suspension or expulsion;
- when school is developing Individualized Education Plan (IEP) for a CYIC;
- when a behaviour support plan is required to be in place to support the CYIC's behavioural needs;
- when a CYIC is returning to school following an extended absence (medical, suspension, expulsion, drop out); and,
- to share extra-curricular accomplishments.

Protecting Confidential Personal Information Disclosed to Schools

School personnel who receive personal information about a CYIC must ensure that the information about the CYIC is shared only in accordance with applicable privacy legislation (*FOIPPA* or *PIPA*). For example, personal information may frequently only be shared with other school personnel if the information is necessary for the performance of that person's duties. All confidential information about the CYIC must be securely stored and/or protected against unauthorized access, collection, use, disclosure or disposal in accordance with applicable privacy legislation ¹. Information, including a child or youth's status as a CYIC, can only be disclosed externally in accordance with applicable privacy legislation.

¹ FOIPPA s. 30, PIPA s. 34. Section 34 of PIPA also requires an organization to prevent copying, modification or similar risks.

When School Personnel Should Contact a CYIC's Caregiver

School personnel may have frequent contact with a CYIC's caregivers and are encouraged to discuss and share information as they would with any parent, including:

- day to day activities that require a caregiver's response;
- signing for participation in school activities (see appendix B);
- the immediate requirement of a caregiver (e.g. due to sudden illness);
- an injury or a traumatic event experienced by the child at school;
- the educational status of the child (Parent-Teacher Interviews); and,
- progress reports

Appendix A: Definitions

"Caregiver" (MCFD/delegated Aboriginal agency): a person with whom a child is placed by a director under the Child, Family and Community Service Act (CFCSA) and who, by agreement with the director, has assumed responsibility for the child's day-to-day care (e.g., a foster parent).

"Child, Family and Community Service Act" (CFCSA) is the legislative authority to provide child welfare services in BC. Under the Act, the Minister designates directors, who in turn delegate the provision of child welfare services to child welfare workers who work for either the Ministry of Children and Family Development or Delegated Aboriginal Agencies.

"Child or youth in care" a child or youth who is in the custody, care or guardianship of a director. ([See D7: Care and Custody under the CFCSA](#)) When a child or youth is in permanent care, the director becomes sole guardian and guardianship responsibilities are assumed by a delegated child welfare worker.

"Delegated child welfare worker" a person delegated under the CFCSA to provide child welfare services, including responses to suspected child abuse and neglect.

"School personnel" refers to all authorized staff employed by the school district, francophone education authority, or independent school authority, including: teachers; principals, superintendents and other administrators; counsellors; and, school-based child welfare workers.

Appendix B: Approval to Participate in School Activities by Legal Statuses

Caregivers can sign required permission forms allowing the CYIC to participate in routine school activities, including forms that have waivers and indemnities, unless the activity is considered a high-risk activity, the activity is potentially inappropriate for the particular CYIC and/or the caregiver has concerns about signing the form.

| Legal Status | Routine School, Social/Recreational Activities | High Risk Activities |
|--|---|--|
| In care by agreement (Voluntary Care Agreement, Special needs Agreement) | Caregiver (unless parent retains this responsibility under the agreement) | Child welfare worker (unless parent retains this responsibility under the agreement) |
| Removal | Caregiver | Parent |
| Interim and Temporary Custody of the child welfare worker | Caregiver | Child welfare worker |
| Continuing Custody (CCO) of the child welfare worker | Caregiver | Child welfare worker |