



Options for Indigenous communities in relation to child and family services in B.C.

Partnership and Indigenous Engagement Division
Ministry of Children and Family Development

December 2024



Purpose and Audience

Purpose:

To share information about options for Indigenous communities seeking to increase involvement for the delivery of child and family services under the *Child, Family and Community Service Act* (CFCSA); the *Declaration on the Rights of Indigenous Peoples Act* (Declaration Act); and the federal *An Act respecting First Nations, Inuit and Métis children, youth and families* (federal Act).

Audience:

Indigenous communities or groups seeking increased involvement for the delivery of child and family services in British Columbia.

Declaration Act Action Plan

Under the *Declaration on the Rights of Indigenous Peoples Act*, the province must prepare and implement an action plan to achieve the objectives of the Declaration. Two MCFD actions on the Declaration Act Action Plan directly support Indigenous jurisdiction and Indigenous children, youth, and families. This work is ongoing, and the ministry is working to understand the needs of Indigenous partners as they seek to exercise their jurisdiction over child and family services.

4.16 Co-develop a B.C.-specific fiscal framework, in partnership with First Nations, Métis, and Inuit, and in consultation with key Indigenous organizations, to support and move forward with jurisdiction over child and family services.

Learn more: [gov.bc.ca/codevelopfundingmodel](https://www.gov.bc.ca/codevelopfundingmodel)

4.17 In collaboration with B.C. First Nations, Métis, and Inuit, continue implementing changes to substantially reduce the number of Indigenous children and youth in care through increased prevention and family support services at all stages of contact with the child welfare system.





An Act Respecting First Nations, Inuit and Métis Children, Youth and Families (federal Act)

On January 1, 2020, the federal legislation came into force:

- Establishing national principles
- Setting minimum national standards for the provision of all child and family services to Indigenous children
- Affirming Indigenous Peoples' inherent rights to self-government, which includes jurisdiction in relation to child and family services for their citizens

Options for Indigenous Communities in Relation to Child and Family Services in B.C.

This chart outlines the unique and overlapping aspects of Indigenous, provincial, federal, and shared jurisdiction over child and family services in B.C.

	Provincial Jurisdiction			Shared Jurisdiction	Indigenous Jurisdiction	
	Min. of Children & Family Development (MCFD)	Indigenous Child & Family Service Agency (ICFSA)	<i>Child, Family and Community Service Act (CFCSA)</i>	<i>Declaration on the Rights of Indigenous Peoples Act s.6 & s.7 Agreements</i>	<i>An Act respecting First Nations, Inuit and Metis children, youth and families</i>	Treaty or Comprehensive Self-Government Agreement
Legislation	CFCSA	CFCSA	CFCSA	Declaration Act and CFCSA	Indigenous Law	Indigenous Law
Decision Maker	Director and Provincial Court	Director and Provincial Court	Director and Provincial Court	Joint/Consent Decision Making Director and Indigenous Governing Body (IGB)	An Indigenous governing body (IGB) authorized to act on behalf of an Indigenous group, community, or people that hold rights under section 35 of the <i>Constitution Act, 1982</i>	Determined by Indigenous law
Features	<ul style="list-style-type: none"> • Notice of proceeding • Entitled to party status • Input into planning • Involvement in collaborative decision-making processes 	<ul style="list-style-type: none"> • Notice of proceeding • Entitled to party status • Input into planning • Involvement in collaborative decision-making processes 	<ul style="list-style-type: none"> • Party to community agreement (one or more purposes in s.92.1(2)) • Party to voluntary child-specific agreement 	In relation to specified decisions under the CFCSA: <ul style="list-style-type: none"> • Prior consent of IGB to director making decisions • Joint decision making by the director and the IGB 	<ul style="list-style-type: none"> • IGB creates, administers, and enforces Indigenous laws, including exercising decision-making authority in relation to CFS (s.18(1) and 20(2)) • Collaboration between MCFD and IGB jurisdiction to coordinate laws and service delivery • Tripartite discussion towards coordination agreement 	<ul style="list-style-type: none"> • Jurisdiction is specified in Agreement (e.g., treaty); application limited to areas set out in Agreement (e.g., geographic extent, population) • FN Government chooses to exercise jurisdiction, and to what extent, at their discretion • Tripartite discussion towards coordination agreement likely

Section 92.1 Community Agreements under the CFCSA

Community agreements are co-created with representatives from the Indigenous community, the Indigenous Child and Family Services (ICFS) agency if affiliated, and MCFD. The Indigenous Partnerships and Agreements team is the lead for MCFD, in collaboration with the ICFS agency or Executive Director of Service.

The community agreements include one or more of the purposes identified in s. 92.1 (2) (a), which focus on consultation and cooperation with the Indigenous community. The agreements ensure the safety, as well as planning and placement, of their children involved in the child welfare system when working with a director.

The signatories for a community agreement are typically the representatives of the Indigenous community (for example, Chief and Council) and the Indigenous Child Welfare Director.





Declaration on the Rights of Indigenous Peoples Act (Declaration Act) agreements

The Declaration Act and the CFCSA provide authority for decision-making agreements which reflect shared decision-making between the CFCSA director and the IGB.

There is also authority for power or duty agreements which reflect the joint exercise of the CFCSA Director's power or performance of their duty with the IGB, or consent of the IGB before the CFCSA Director's exercise of their power or performance of their duty.

The province has not yet entered into a Declaration Act agreement with any IGB.

Options for Exercising Jurisdiction Under the Federal Act

Section 20 (1) of the federal Act:

- Indigenous governing body (IGB) provides notice of its intention to exercise its legislative authority without a coordination agreement
- Indigenous law will not have the force of federal law
- No funding

Section 20 (2) of the federal Act:

- IGB submits request to Canada and B.C. to enter a tripartite coordination agreement
- Once agreement reached, or after a year of reasonable efforts, Indigenous law will have the force of federal law
- Funding is a key component





Coordination Agreements: An Overview

- Tripartite agreements that address the delivery of services and funding related to effective exercise of Indigenous jurisdiction
- Coordination agreements are contracts between an IGB, the Province, and Canada
- Each agreement considers the IGB's law, the services they will deliver, and where those services will be delivered
- Coordination agreements ensure harmonization of service delivery between IGB and B.C. to reduce risk of gaps, confusion, and uncertainty
- Coordination agreements also outline fiscal arrangements to support the IGB's provision of services

Coordination Agreement Pathway*

- A section 35 Indigenous group, community, or people authorizes an IGB to act on its behalf
- The IGB sends a request to Indigenous Services Canada (ISC) and B.C. to begin coordination agreement discussions
- ISC works with Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) to confirm IGB's mandate
- ISC contacts the IGB and B.C. to set up an initial tripartite "kick-off" meeting to commence coordination agreement discussions
- Tripartite coordination agreement discussions are established and take place according to the schedule and approach determined at the table
- Legal counsel for all parties work on drafting the coordination agreement based on the outcomes of the various discussions and the interests of the respective parties
- Parties reach table-level consensus on draft coordination agreement and begin respective approval processes
- Signing ceremony
- Agreement goes into effect

*This is a high-level summary of the general stages of developing a coordination agreement.



Coordination Agreements: Current Agreements

B.C. and Canada have signed coordination agreements with Splat-sin (2023), Cowichan Tribes (2024), Sts'ailes (2024), and Gwa'sala-'Nakwaxda'xw Nations (2024), and are working with several other IGBs to develop coordination agreements.

[Notices and requests related to An Act respecting First Nations, Inuit and Métis children, youth and families \(sac-isc.gc.ca\)](https://sac-isc.gc.ca)



Understanding the IGB's Vision

It is important to arrive at a common understanding amongst the parties on what the IGB has envisioned for jurisdiction.

This includes achieving clarity on the Indigenous law, the services to be provided, and the locations in which those services will be delivered.

Having clarity early in the table discussions will result in more effective, focused discussions on coordination measures, supporting an earlier completion of the coordination agreement.



Provincial Interests

Provincial interests are intended to ensure coordination between directors and delegates of the directors and IGBs for the operational aspects related to the uplifting of Indigenous jurisdiction:

- Ensuring the safety and wellbeing of children
- Supporting the transition of services and enabling our respective systems to work in coordinated and cooperative manner to ensure seamless delivery of child and family services
- Maintaining consistency with respect to processes for frontline social workers wherever possible
- As this work continues and B.C. encounters and coordinates with new Indigenous laws, provincial interests will continue to evolve

Treaty or Comprehensive Self-Government Agreement

- A First Nation government may also choose to pursue a tripartite treaty or self-government agreement with Canada and B.C.
- Modern treaties are a constitutionally-protected recognition of Indigenous rights and title, and exhaustively set out application of the treaty (e.g., lands and population) to reconcile pre-existing First Nations' sovereignty, title, and rights with assumed Crown sovereignty, title, and rights.
- Modern Treaties can co-exist with other forms of agreements and pathways.





Contact

MCF.Partnership.and.Indigenous.Engagement@gov.bc.ca