

Family Law Act Modernization Project:

Care of and Time with Children & Protection from Family Violence

Discussion Paper – Chapter 4: Children’s Views & Parenting
Assessments and Reports

January 2024

This paper addresses issues that arise under [Part 4 – Care of and Time with Children](#) as well as protection from family violence under the *Family Law Act* (FLA) and was created by the BC Ministry of Attorney General’s Family Policy, Legislation, and Transformation Division as part of an on-going project to review and modernize the FLA. The FLA modernization project is not an overhaul of the Act but rather is intended to respond to issues that have emerged since the Act was introduced and respond to case law.

The ministry invites you to participate in the project by reviewing this paper and providing feedback. Your feedback will be used in the development of recommendations for changes. The ministry will assume that comments received are not confidential and that respondents consent to the ministry attributing their comments to them and to the release or publication of their submissions. Any requests for confidentiality or anonymity, must be clearly marked and will be respected to the extent permitted by freedom of information legislation. Please note that there will not be a reply to submissions.

This paper is organized in chapters, with each chapter addressing a different family law topic. You may respond to questions throughout the paper or provide feedback only on those topics you choose.

You can submit your comments by regular mail or email to the following addresses below until **March 31st, 2024**.

By regular mail:

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Chapter 4 : Children’s Views & Parenting Assessments and Reports

Introduction

Phase 2 of the [Family Law Act](#) (FLA) Modernization Project includes a review of child-centred decision making. This includes the best interests of the child provisions in [Part 4](#) of the FLA, and the various mechanisms by which the views of a child can be provided for consideration in family law disputes that relate to them.

One way a child’s views on a family law dispute may be obtained and presented is through interview or assessment processes and reports prepared under [sections 202](#)¹ and [211](#)² of the FLA. These include “Full” Section 211 reports, Views of the Child reports, and Hear the Child reports.

Although the authority for some types of reports is under section 202, that provision is intended to give the court flexibility in ensuring that a child’s evidence is heard, which can include other mechanisms for obtaining a child’s views such as:

- letters written by the child,
- affidavits of the child,
- judicial interviews of the child, and
- the appointment of a lawyer to represent the child (i.e., a children’s lawyer).

Please see [Chapter 3 – Child-Centred Decision Making](#) of this discussion paper for a discussion on these topics.

¹ Court may decide how child's evidence is received

202 In a proceeding under this Act, a court, having regard to the best interests of a child, may do one or both of the following:

- (a) admit hearsay evidence it considers reliable of a child who is absent;
- (b) give any other direction that it considers appropriate concerning the receipt of a child's evidence.

² Orders respecting reports

211 (1) A court may appoint a person to assess, for the purposes of a proceeding under Part 4 [*Care of and Time with Children*], one or more of the following:

- (a) the needs of a child in relation to a family law dispute;
- (b) the views of a child in relation to a family law dispute;
- (c) the ability and willingness of a party to a family law dispute to satisfy the needs of a child.

(2) A person appointed under subsection (1)

- (a) must be a family justice counsellor, a social worker or another person approved by the court, and
- (b) unless each party consents, must not have had any previous connection with the parties.

(3) An application under this section may be made without notice to any other person.

(4) A person who carries out an assessment under this section must

- (a) prepare a report respecting the results of the assessment,
- (b) unless the court orders otherwise, give a copy of the report to each party, and
- (c) give a copy of the report to the court.

(5) The court may allocate among the parties, or require one party alone to pay, the fees relating to an assessment under this section.

Early engagement with people with lived experiences and some report writers, lawyers, advocates and representatives from professional oversight bodies identified the following issues that need to be reviewed in the FLA Modernization Project:

- types of reports,
- criteria for ordering a report,
- qualifications of report writers,
- practice standards for interviews, assessments and report writing, and
- complaints processes.

Assessments and Reports

Types of Reports

Early engagement has indicated that there are various types of reports that can be prepared to communicate the views of children involved in a family law proceeding to the parties and the court. Although [sections 202](#) and [211](#) of the FLA do not specify different types of reports, the following are some of the reports being requested by parties or ordered by the court:

- “Full” s. 211 reports,
- Views of the Child reports, and
- Hear the Child reports.

The FLA does not list, define, or describe in detail the types of reports that may be ordered or prepared under the Act. This may contribute to a lack of awareness or confusion about what reports are available under the FLA and what each report should include. Amending the FLA to include definitions or more clearly describe different types of reports may improve the type of report that is ordered in a particular case and increase consistency in reports. The following are descriptions of the different types of reports that are currently being prepared for private family law matters:

- **Evaluative Report** – A report containing opinions or expert opinions obtained through the use of procedures such as interviews and observations to collect adequate and sufficient information from each individual assessed. An evaluative report should not include opinions which are not based on direct and thorough assessment of the individual and relationships involved.
- **Non-Evaluative Report** – A report of hearsay collected from an individual. This report contains an individual’s statements and perspectives pertaining to selected topics. No opinion is offered; involves a nearly verbatim report of the child’s views, but no assessment or evaluation of information by the report writer.
- **Full Section 211 Report** – An evaluative report containing opinions to assist the court in assessing all factors under [section 211\(1\)](#) – the needs and views of a child in a family law dispute, and the ability and willingness of a party to satisfy the child’s needs. The best interests of the child are the only considerations in these reports, and the factors under [sections 37 \(Best Interests\)](#), [38 \(Family Violence\)](#), [41 \(Parenting Responsibilities\)](#), and, where relevant, [69 \(Relocation\)](#) must be assessed or considered within the report. These reports use a multi-method assessment approach, including extensive interviews with each party, home observations of parent-child interactions, interviews with children and other people in the child’s life (i.e., collateral interviews), and other forms of data collection that may include culturally appropriate methods of assessment, or psychological/psychometric testing.

- **Views of the Child Report** – A report assessing section [211\(1\)\(b\)](#), “the views of a child in relation to a family law dispute.” The report is focused on providing the court with the views of the child and an assessment related to those views. Opinions are limited to those pertaining to the individual child or recommendations as to further assessments. No parenting arrangement recommendations are made in these reports.
- **Hear the Child Report** – A non-evaluative report of a child’s voice pertaining to target questions such as preferences for residence, school, and/or relocation. The interviewer does not assess the child or the parents, but rather reports the child’s views, usually verbatim, so that the views can be heard and considered by the adults making decisions about the child’s best interests. No opinion or recommendations are given.

Judges, lawyers, and the parties may not be aware of the different types of reports available and how they may assist in resolving family law disputes.

Discussion Questions:

- 4-1. Would it be helpful if the FLA explicitly identified different types of reports the court can order?**
- 4-2. What terms and definitions do you think would make it easier to understand the different types of reports that can be ordered under the FLA?**

Criteria for Ordering Reports

The FLA does not provide guidance to the court on when it may be appropriate to order the different types of evaluative or non-evaluative reports. This may result in one type of report being ordered or requested when another type may be more suitable based on the issues and circumstances in the individual case. It may also result in unnecessary cost and delay if, for example, a Full Section 211 report is ordered when a less costly and less time-consuming Hear the Child report or a Views of the Child report would be adequate.

In its [Section 211 Toolkit](#), Rise Women’s Legal Centre highlights that Section 211 reports are often exempted from many admissibility requirements that apply to other expert reports in legal proceedings. The [Section 211 Toolkit](#) suggests that the first step should be to critically assess whether a report is required before it is ordered or agreed upon.³

Based on early engagement with report writers and people with lived experience, different types of reports can vary significantly in terms of cost and length of time to complete. For example, a Hear the Child report may be completed within 2 to 3 weeks compared to a Full Section 211 report which may take up to 18 months to complete. The cost of Full Section 211 reports also varies from no cost for a publicly funded report by a family justice counsellor, to over \$30,000 for a report by a private report writer.

Private Full s. 211 reports may be too costly for many parties to afford and may result in significant delay due to the time it takes to prepare such a report. Some private report writers have indicated that even

³ Haley Hrymak & Kim Hawkins, [Section 211 Toolkit](#), (Rise Women’s Legal Centre, 2021) at 14–18, 47–48. [“Section 211 Toolkit”].

if a Full s. 211 report is ordered, they will initially prepare a shorter report (e.g., a Views of the Child report) and will only prepare a Full s. 211 report afterwards if it is still requested by the parties or the court. However, early engagement with report writers also cautioned that a Views of the Child report should not be prepared in cases where there is high conflict, intense family violence, mental health concerns, substance abuse concerns, or if the child is very young.

Some jurisdictions have established factors the court must consider before ordering reports. For example, in Alberta a Child Custody/Parenting Evaluation report can only be ordered if the court decides that an earlier “Intervention” (see description below) is inappropriate or has not resulted in the resolution of parenting issues, and if the parties can afford the cost of a report.⁴

In Alberta, if the Court orders a report, the starting point is generally an “Intervention” where a “Parenting Expert” conducts interviews and makes observations about a family in conflict and reports back to the court.⁵ An Intervention Report assists the court in identifying challenges and facilitating resolution of those challenges. There are two categories of Interventions:

- **Evaluative:** The Parenting Expert provides information to the Court to assist in decision-making; and
- **Therapeutic:** The Parenting Expert helps the family work toward resolution of disputes, manage conflict and make changes to the existing family dynamic.

The Parenting Expert can make recommendations to the Court in the Intervention Report. The Court is only permitted to order an Intervention if the parties are able to pay the costs, taking into consideration any available subsidies or coverage, and there are procedural differences depending on whether the parties have legal representation and whether they agree on an Intervention being needed or not.

The Court can order a Child Custody/Parenting Evaluation (“Evaluation”) only if an Intervention is inappropriate or has not resulted in the resolution of parenting issues.⁶ Evaluations seem similar to Full Section 211 reports in BC, and can generally involve home visits/observations, interviews with parents and children, and can include psychological testing, collateral interviews, and document review. The Parenting Expert’s Evaluation Report includes recommendations to assist the Court in making a final determination about the parenting and decision-making arrangements that are in the best interests of the children. Again, the Court is only permitted to order an Evaluation if the parties are able to pay the costs, taking into consideration any available subsidies or coverage.

A 2017 study estimated the costs of private parenting assessments in Alberta to be higher than in British Columbia.⁷ Based on a review of family law cases between 2014 and 2015, the cost range was between \$15,000 to \$30,000 in Alberta, compared to approximately \$10,000 to \$15,000 in British Columbia at the

⁴ Court of Queen’s Bench of Alberta, [Family Law Practice Note 8: Child Custody/Parenting Evaluation](#) (1 May 2019) at paras 1, 9 [*Child Custody/Parenting Evaluation*].

⁵ Court of Queen’s Bench of Alberta, [Family Law Practice Note 7: Interventions](#), (1 May 2019) [*Interventions*].

⁶ *Child Custody/Parenting Evaluation*, *supra* note 4 at para 1.

⁷ Zoe Suche & John-Paul E Boyd, [Parenting Assessments and Their Use in Family Law Disputes in Alberta, British Columbia and Ontario](#) (Canadian Research Institute For Law and The Family, 2017) 2017 CanLIIDocs 191 at 10–11, 16–17.

time. Unlike British Columbia, Alberta does not offer publicly funded parenting assessments, however, the court may order legal aid to fund parenting assessments for low-income parties.⁸

Manitoba has established factors, including costs and delay, that the court must consider when deciding whether to appoint a family evaluator in a family law proceeding about parental responsibilities, contact or another related matter:⁹

49 (2) In deciding whether to order an evaluation, the court must consider the following:

- (a) whether an evaluation would provide information about the child or children that would not otherwise be discoverable;
- (b) whether an evaluation is necessary for the court to determine the best interests of the child or children;
- (c) the affordability of the evaluation for the parties;
- (d) the potential delay resulting from the evaluation and the impact of delay on the child or children;
- (e) any other factor the court considers relevant.

New Zealand provides an example in legislation specifically restricting the court from ordering a psychological report unless certain criteria are met:¹⁰

133 Reports from other persons

...

(6) The court may act under subsection (5) only if—

- (a) the court is satisfied that the information that the psychological report will provide is essential for the proper disposition of the application; and
- (b) the court is satisfied that the psychological report is the best source of the information, having regard to the quality, timeliness, and cost of other sources; and
- (c) the court is satisfied that the proceedings will not be unduly delayed by the time taken
- (d) to prepare the psychological report; and
- (e) the court is satisfied that any delay in the proceedings will not have an unacceptable effect on the child; and
- (f) the court does not seek the psychological report solely or primarily to ascertain the child's wishes.

(7) If the court is entitled by subsection (6) to act under subsection (5) and if the court knows the parties' wishes about the obtaining of a psychological report or can speedily ascertain them, the court must have regard to the parties' wishes before deciding whether or not to act under subsection (5).

⁸ Rachel Birnbaum, *Voice of the Child Programs and Services in Canada by Province and Territory* (Ottawa: Department of Justice Canada, 2023) at 7 – footnote 13.

⁹ *The Court of King's Bench Act*, CCSM c C280, s 49(1); also see *The Provincial Court Act*, CCSM c C275, s 20.4.

¹⁰ *Care of Children Act*, 2004, s 133.

Discussion Questions:

- 4-3. Should the FLA specify factors the court may or must consider when ordering a non-evaluative report? If so, what factors should the court consider?**
- 4-4. Should a non-evaluative report be the default starting point for court-ordered reports?**
- (a) If yes, should there be exceptions to requiring an initial non-evaluative report in certain circumstances?**
- (b) If so, what are those circumstances (for example, high conflict, a history of family violence, substance abuse, mental health concerns, etc.)?**
- 4-5. Should the FLA specify factors the court may or must consider when ordering an evaluative report? If so, what factors should the court consider?**
- 4-6. Similar to New Zealand, should the FLA specify factors the court may or must consider when ordering that psychological testing be included in a report? If so, what should those factors be?**

When A Report is Ordered

It has been suggested that obtaining the views of children involved in family law disputes earlier in the dispute resolution processes may help resolve disputes in a timelier and more cost-effective way and help reduce escalation of the conflict.

It often occurs that a report is ordered by a judge after parties have been unsuccessful in resolving their family law dispute using out-of-court processes. For example, [Rule 62](#) of the BC [Provincial Court Family Rules](#) (PCFR) allows a judge to make orders about a Section 211 report in a Family Management Conference¹¹ or a Case Management Conference,¹² however, there is no corresponding rule that would apply to reports prepared under section 202. Similar rules apply to a family justice manager at a Case Management Conference however they are not permitted to make an order requiring a report writer to attend a trial as a witness.¹³ The PCFR provides some rules on trial processes pertaining to children's evidence and reports on a child's views under [Part 9, Division 4 – Trial Processes](#).

Early engagement with report writers and family law practitioners suggested that it would be helpful if the FLA provided that the views of children should be obtained earlier in the dispute resolution process, including in mediation.

Discussion Question:

- 4-7. Would it be helpful if the FLA specified that the views of a child may or must be obtained through reports or in other ways earlier in the resolution process of a family law dispute?**
- (a) If so, are there circumstances where the views of a child should not be obtained earlier in the resolution process?**

¹¹ *Provincial Court Family Rules*, BC Reg 120/2020, [rules 48\(1\), 62\(n\)](#) [PCFR].

¹² *Ibid*, [rule 62\(n\)](#).

¹³ *Ibid*, [rule 63\(2\)\(e\)](#).

Report Writers

Who Can Write Reports

[Section 211\(2\)](#) of the FLA specifies that a person appointed by the court to assess the needs and views of a child, and the ability and willingness of a party to satisfy those needs, must be a “family justice counsellor, a social worker or another person approved by the court.” The person must also not have any previous connections with the parties unless they agree.

Family justice counsellors are employees of the Ministry of Attorney General, Family Justice Services Division and prepare publicly funded Section 211 reports. Other Section 211 report writers, such as social workers, psychologists, and clinical counsellors are generally professionals who are not employed by the government and who charge for their services.

[Section 202](#) of the FLA does not refer to the preparation or admission of reports. However, it is being used as authority for accepting reports other than Section 211 reports into evidence. Not surprisingly therefore, section 202 also does not specify any profession or other qualification a person must have to write a report or submit evidence on the views of a child in a family law dispute. The [BC Hear the Child Society](#) has established a Child Interviewer Roster of professionals who conduct non-evaluative child interviews and prepare reports referred to as Hear the Child Reports, but membership on this roster is not required under the FLA.

The FLA is silent on qualification or membership criteria for report writers. Some report writers may be members of professional governing bodies or rosters or employed by the Ministry of Attorney General as family justice counsellors with specialized training to prepare reports. Some professional governing bodies and employers may establish their own qualification requirements for the professional generally, or for report writers specifically. However, the qualification requirements differ based on which body established them, and membership or employment with certain bodies is not always mandatory.

The FLA regulations also do not provide any qualification requirements for report writers. As a comparison, [Part 3](#) of the [Family Law Act Regulation](#) establishes qualification requirements for three types family dispute resolution professionals – family law mediators, family law arbitrators, and parenting coordinators.¹⁴

It is notable that [sections 21 and 23](#) of [Bill 14 – Justice Statutes Amendment Act, 2014](#)¹⁵ (“Bill 14”) proposed to amend the FLA in the following ways:

- remove social workers as specific people the court can appoint under section 211, and replaced it with allowing the Lieutenant Governor in Council to prescribe classes of people who can be appointed under section 211 in addition to the specified family justice counsellors,
- allow the Lieutenant Governor in Council to establish in regulation the training, experience and other qualifications a person must have or meet to be qualified to be appointed to conduct section 211 assessments and prepare reports, and

¹⁴ Family Law Act Regulation, BC Reg 347/2012, [ss 4–6](#).

¹⁵ Bill 14, [Justice Statutes Amendment Act, 2014](#), 2nd Sess, 40th Parl, British Columbia, 2014 (assented to 9 April 2014), SBC 2014, c 9.

- allow the Lieutenant Governor in Council to establish in regulation the practice standards a person must meet to act or to continue to qualify to be appointed under section 211.

[Section 23](#) of Bill 14 specifies that the Lieutenant Governor in Council make different regulations for different types of assessments and for subclasses of assessments.

Although Bill 14 received Royal Assent on April 9, 2014, government continues to engage with stakeholders on these amendments and they have not been brought, nor have any regulations enabled by the legislation been developed.¹⁶

Indigenous Considerations on Report Writer Qualification Requirements – What We Heard

In speaking with Indigenous peoples with lived experience, one of the themes the Ministry heard is that the FLA should recognize that certain members of an Indigenous community may be qualified to assess their community members' parenting abilities and to obtain their children's views.¹⁷ Indigenous (First Nations, Inuit, and Métis) communities may have Elders, Matriarchs, knowledge keepers, or other community members such as Indigenous family support workers who should be qualified to make assessments or write reports to submit to the court related to their own member families.

It was suggested that in determining who is qualified to conduct interviews, assessments and write reports to the court about Indigenous families and children, that the FLA should include individuals who an Indigenous community considers as being qualified. The FLA could specify that these individuals are qualified to be report writers for families and children who are members of their Indigenous community.

Some concern was raised about potential difficulty in finding an Indigenous community member to write a report who has no previous connection with the parties. There could also be challenges if the parties are members of different Indigenous communities with different community members who may write reports. It was suggested that in those cases, it could be open to the parties to consent to a particular report writer, or the report could be jointly written by multiple report writers, for example, by one report writer from each community.

4-8. Should the FLA specifically allow Indigenous communities to decide which of their members are qualified to conduct assessments and write reports about parents and the views of children in their community?

(a) If so, should the FLA provide any guidance or parameters to assist Indigenous communities in determining which of their community members are qualified?

(b) Should the FLA provide any guidance or procedures to assist parties in obtaining a report writer from their Indigenous community if they cannot agree on the report writer or if the parties are members of different Indigenous communities?

Discussion Questions:

¹⁶ *Ibid*, [cl 74, item 2](#).

¹⁷ Mahihkan Management on behalf of the B.C. Ministry of Attorney General, *What We Heard: Family Law Act Modernization Dialogue Sessions*, (Coming Soon).

- 4-9. Under section 211(2)(a) of the *Family Law Act*, a report writer must be a “family justice counsellor, a social worker or another person approved by the court.” Section 202 does not specify who can write reports.**
- (a) Should the list of people who the court can appoint to write s. 211 reports be modified in any way? For example, should the list be expanded, contracted, or replaced with something else, such as mandatory qualifications for all report writers?**
- 4-10. Should there be consistent qualification requirements for all individuals who assess and write reports on the needs and views of a child and willingness of a party to satisfy those needs?**
- 4-11. Should the qualification requirements be the same or different for individuals who write evaluative and non-evaluative reports?**

Types of Qualifications

If it is desirable to establish consistent qualification requirements for report writers, there are various types of qualifications that can be established. As a comparison, [Part 3](#) of the [FLA Regulation](#) establishes mandatory qualification requirements for Family Dispute Resolution Professionals, including the following:

- Membership with a Professional Governing Body,
- Experience Requirements, and
- Training Requirements.

The FLA Regulation provides an example of the types of qualifications that could be made mandatory for report writers through legislation or regulation, including membership in a professional organization, meeting or maintaining certain levels of experience, and completion of mandatory training or courses.

See [Appendix E](#) for a summary of the mandatory qualification requirements for Family Dispute Resolution Professionals.

Membership with a Professional Governing Body

Membership in good standing with a professional governing body could ensure a report writer meets certain criteria and are subject to complaint or accountability policies and mechanisms. For example, registered psychologists who write Section 211 reports could be required to be members of the College of Psychologists of BC and social workers who write Section 211 reports or Views of the Child reports could be required to be members of the BC College of Social Workers. Lawyers who write Hear the Child reports could be required to be members of the Law Society of BC. The BC Hear the Child Society establishes a roster of Hear the Child report writers who meet the society’s qualification requirements. The Society does not have a disciplinary function, however its members must meet the qualification requirements. Although some professions have registration requirements, some have exemptions to registration, meaning that a professional report writer may not currently be registered with a professional governing body.

Although not a professional governing body, the Family Justice Services Division of the Ministry of Attorney General similarly establishes training requirements and has a complaint resolution policy for family justice counsellors who write reports.

As a comparison, the FLA Regulation provides some requirements for family dispute resolution professionals to have membership with a professional governing body, or sometimes additional training or experience requirements apply if the professional is not a member of a professional governing body.

Discussion Question:

4-12. Should membership in good standing with a professional governing body or employment with the Family Justice Services Division be a qualification requirement for report writers?

Experience

The experience of Section 211 report writers may vary considering some may be government-employed family justice counsellors, and others may be private practitioners who are social workers, psychologists, or some other person approved by the court. Individuals who write reports under section 202 may also be lawyers or other professionals.

Similar to the regulations for family dispute resolution professionals, requiring report writers to meet and/or maintain certain levels of experience could involve a minimum number of years of practicing in a certain area (e.g., family-related practice), a minimum number of hours of work or reports written within a specified timeframe, or some other requirement.

Discussion Question:

4-13. Should the FLA or regulation provide for experience requirements for all report writers? If so, what should the experience requirement be?

Training Requirements

As there are no consistent training requirements for all report writers, report writers likely receive different training based on their professions and backgrounds. For example, all family justice counsellors complete mandatory training, including training on family violence, and use a standardized tool to screen for family violence. Private report writers including psychologists and social workers have varying training requirements, including on family violence, depending on their membership or affiliation with professional governing bodies and other voluntary associations.¹⁸ The need for knowledge of and training in screening for family violence has specifically been identified as being important for all report writers.¹⁹

The [FLA Regulation](#) establishes specific training requirements for the three types of dispute resolution professionals: family law mediators, family law arbitrators, and parenting coordinators.²⁰ The training

¹⁸ *Section 211 Toolkit*, *supra* note 3 at 10–13; Shahnaz Rahman & Laura Track, [Troubling Assessments: Custody and Access Reports and their Equality Implications for BC Women](#) (West Coast Leaf, 2012) at 8–9, 12–17.

¹⁹ *Section 211 Toolkit*, *supra* note 3 at 70–72; Rahman & Track, *supra* note 18 at 37–44.

²⁰ Family Law Act Regulation, *supra* note 14, [ss 4–6](#).

requirements include the specific type of training required (for example, “family law training”), the minimum hours required for each type of training, and sometimes where the training must be completed. For example, if they are not a member of a specified organization, all three dispute resolution professionals are required to take at least 14 hours of family violence training provided by the Justice Institute of British Columbia, the Continuing Legal Education Society of British Columbia, or any other training provider that is recognized as providing high quality training in that field.²¹

Establishing training requirements in the FLA or the FLA Regulation could ensure that all report writers have standard training in common. For example, the legislation could specify that all report writers are required to complete training in family violence, related areas of family law including children’s rights, cultural and/or Indigenous aspects of family, or other areas related to reports.

Rosters are one way of establishing a list of qualified individuals who have met minimum training requirements. For example, the BC Hear the Child Society maintains a roster of Hear the Child report writers who meet the society’s qualification requirements.²² The roster includes professionals from multiple professions (for example, lawyers, social workers, and psychologists), but they have all met the society’s qualification requirements. Rosters, however, are administratively intense to establish and maintain and therefore may require a corporate body (such as a society) to operate.

Indigenous Considerations on Report Writer Training – What We Heard

In speaking with Indigenous peoples with lived experience, one of the themes the Ministry heard is that all report writers should be required to receive training in Indigenous culture. The training should be more substantial than two or three hours that is often offered in courses.

It was suggested that if a report writer is going to assess or interview an Indigenous family, the writer should have specific training and experience with that family’s Nation or community.²³ The report writer should have knowledge and experience with that Nation’s or community’s laws, traditions, and processes for dealing with family law issues concerning children.

What we heard from Indigenous peoples with lived experience is consistent with Rise Women’s Legal Centre’s 2022 report which stated that “Section 211 reports should not be ordered in the case of Indigenous parents and children except by an expert who has the necessary training, background, and expertise to adequately and fairly address their circumstances and needs.”²⁴

4-14. Should the FLA specifically require all report writers to have training related to Indigenous families, laws, and culture? If so, what training should be required?

4-15. Should the FLA provide additional requirements for report writers to have specific training or experience working with the Indigenous Nation or community in which the assessment will be conducted or about which the report will be written? If so, what should the additional requirements be?

²¹ *Ibid*, ss 4(2)(d)(iv), 5(2)(b)(v), 6(1)(b)(ii)(E).

²² BC Hear the Child Society, “[Roster](#)” (2012) online.

²³ Mahihkan Management, *supra* note 17.

²⁴ Myrna McCallum & Haley Hrymak, [Decolonizing Family Law Through Trauma-Informed Practices](#) (Rise Women’s Legal Centre, 2022) at 22.

Discussion Questions:

- 4-16. Should the FLA or regulation establish training requirements for all report writers? If so, what should those requirements be?**
- (a) For example, what type of training requirements, if any, should be established for report writers on the following topics:
- (i) Family violence
 - (ii) Cultural competence, including for Indigenous and other multi-cultural families
 - (iii) Interviewing and assessing children
 - (iv) Mental health and substance abuse
 - (v) Psychological testing
- 4-17. Are there any other types of qualification requirements other than membership in a professional governing body, experience, and training requirements that should be established for report writers?**
- 4-18. Would it be helpful to establish a roster of all qualified report writers? If so, how should such a roster be administered?**

Practice Standards

Similar to the qualifications of report writers, there are currently no consistent mandatory practice standards evaluative and non-evaluative report writers must follow. Report writers who are members of professional governing bodies, rosters, associations, or are employees of the Ministry of Attorney General, may be required to follow certain practice standards or guidelines when conducting assessments and writing reports. However, the practice standards that apply to report writers may differ based on which body established them, and there is no requirement for all report writers to be members of the same body. Also, some practice standards may be mandatory for some report writers to follow, while others may be non-mandatory guidelines.

In the [Section 211 Toolkit](#), Rise Women’s Legal Centre strongly recommended establishment of practice standards that would govern all report writers and assessments in family law proceedings in BC.²⁵ Rise recommended that seven core components would be necessary for a report writer to achieve competency, including the need to screen for family violence, justify the use of psychological testing, and address all forms of bias including cultural bias.

Indigenous Considerations on Practice Standards for Report Writers – What We Heard

In speaking with Indigenous peoples with lived experience, one of the themes the Ministry heard is that all report writers should be required to follow laws, customs and processes used by the Indigenous Nation or community to which the family they are assessing belongs.²⁶

²⁵ [Section 211 Toolkit](#), *supra* note 3, at 69 - Appendix A.

²⁶ Mahihkan Management, *supra* note 17.

It was suggested that this may require the report writer to speak with or work with certain members of the community in conducting the interviews or assessments and in writing the report. For example, it could be a requirement for the report writer to work with an Elder, a Matriarch, or another person chosen by the community. It could be that the community member provides the report writer with information about how to conduct the assessments and interviews in a culturally appropriate way, or it could be that the community member participates in the assessments and interviews. Similarly, the community member could be involved in writing the report or could simply confirm that they advised the report writer in the process.

As an example, the [Australian Standards of Practice for Family Assessments and Reporting](#) (“Australian Standards”) require “family assessors” to consider cultural issues specific to Indigenous peoples. Sections 34 and 35 of the Australian standards include the following requirements for family assessors:

- to inquire into whether engagement with an Indigenous consultant or advisor is needed to assist Indigenous family members in the process or to advise the assessor about culturally appropriate interview practices;
- to consider the impact of requiring Indigenous families to attend interviews in a court building and the possible benefits of other locations; and
- to include specific information in the assessment report, such as a description of the party’s Indigenous background, the child’s involvement with their extended Indigenous family, and an assessment of both parents’ ability to support the child to “explore the full extent of their Indigenous heritage, consistent with the child’s age, developmental level and wishes.”²⁷

4-19. Should report writers be required to follow the laws, customs and processes of the Indigenous Nation or community to which the family they are assessing belongs? If so, how could the requirement be reflected in the FLA?

4-20. Should the FLA require a report writer to meet with or work with an Indigenous community member, such as an Elder or a Matriarch when conducting an assessment or interview or writing a report about family within that Indigenous community?

Existing Practice Standards in BC

There are a variety of existing practice standards and guidelines depending on the assessor’s profession and affiliations with a governing body or association. For example:

- Family justice counsellors must follow procedures established by the Ministry of Attorney General.
- Registered social workers have practice standards established by the BC College of Social Workers.
- Registered psychologists have a Family Parenting Assessments Checklist which references the Code of Conduct established by the College of Psychologists of BC.
- Registered clinical counsellors have practice standards established by the BC Association of Clinical Counsellors.

²⁷ Family Court of Australia, Federal Circuit Court of Australia & Family Court of Western Australia, [Australian Standards of Practice for Family Assessments and Reporting](#) (2015) ss 34—35.

- Members of the Association of Family and Conciliation Courts (AFCC) do not have practice standards, but the AFCC has comprehensive guidelines.

Social Workers

Some social workers are members of the BC College of Social Workers. The college has a [Code of Ethics](#) and general standards of practice that apply to all social workers in BC.²⁸ It has also established a specific [Child Custody and Access Assessments Standards of Practice](#), which sets the minimum acceptable level of practice, provides a guideline for social workers to assess their own practice and establishes criteria for the assessment of complaints about the practices of social workers related to assessing the child's needs in a family law dispute.²⁹ However, there are many exemptions to required membership for practicing social workers under the [Social Workers Regulation](#).³⁰

Psychologists

Although many psychologists are members of the College of Psychologists of BC (CPBC), there are exemptions to required membership for psychologists under the [Psychologists Regulation](#).³¹ The College has established the [CPBC Code of Conduct](#) which includes principles related to but not specifically established for Section 211 reports.³² Judges have stated an expectation that psychologists preparing s. 211 reports adhere to the College's *Code of Conduct*, including Chapter 11.³³

In August 2021, the College developed a [Family Law Parenting Assessments Checklist](#)³⁴ as a tool for psychologists to use when completing Section 211 reports. The checklist is to be read in conjunction with the general [Practice Support Psychological Assessments Checklist](#) and includes the key clauses in the *Code of Conduct* that relate to Section 211 reports. The checklist also states that professionals should be guided by “the practice standards of the Association of Family and Conciliation Courts’ (AFCC) *Model Standards of Practice for Child Custody Evaluation* (2006) and the AFCC *Guidelines for Examining Intimate Partner Violence* (2016) supplement, and the American Psychological Association’s *Speciality Guidelines for Forensic Psychologists*.”³⁵ The checklist is not mandatory but is intended to make Section 211 report writing more accessible to psychologists new to this area. The College has a separate checklist for Indigenous clients that was developed by an Indigenous task force and approved by the Indigenous Health Authority.³⁶

Clinical Counsellors

Any clinical counsellor using the title “Registered Clinical Counsellor” or “RCC” must be a member of the BC Association of Clinical Counsellors (BCACC). The BCACC has established a [Code of Ethical Conduct and](#)

²⁸ British Columbia College of Social Workers, [Code of Ethics and Standards of Practice](#) (BCCSW, 2002, revised in 2009) [*BCCSW Code of Ethics*].

²⁹ British Columbia College of Social Workers, [Child Custody and Access Assessments Standards of Practice](#) (BCCSW, 2002, reprinted in 2010).

³⁰ Social Workers Regulation, BC Reg 323/2008, [s 4](#).

³¹ Psychologists Regulation, BC Reg 289/2008, [s 3\(2\)](#).

³² See College of Psychologists of British Columbia, *CPBC Code of Conduct* (CPBC, 2014, revised in 2021) [ch 11 – Assessment Procedures](#).

³³ For example, [Dowell v Hamper, 2019 BCSC 1266 \(CanLII\)](#) at paras 40–44; [Dimitrijevic v Pavlovich, 2016 BCSC 1529 \(CanLII\)](#) at paras 30–31.

³⁴ College of Psychologists of British Columbia, [PS Checklist #17: Family Law Parenting Assessments](#) (CPBC, 2021).

³⁵ *Ibid* at 1.

³⁶ College of Psychologists of British Columbia, [PS Checklist #12: Indigenous Cultural Safety Checklist](#) (CPBC, updated in 2023).

[Standards of Clinical Practice](#) for its members.³⁷ In January 2022, it published [Standard for Family Law: A Practice Standard for Registered Clinical Counsellors on the Preparation of Family Law Reports](#) (“Standard for Family Law”).³⁸ The *Standard for Family Law* includes discussions on provisions in the *FLA* and the [Divorce Act](#), the role of a clinical counsellor as an assessor and expert witness, conducting assessments and preparing s. 211 reports, and the content of s. 211 reports. However, the *Standard for Family Law* does not provide clear competencies or specifically address topics like how to screen for family violence, or how to account for Indigeneity, multicultural families, or gender biases. Instead, it provides “Helpful areas of legal knowledge,” “Helpful areas of psychological knowledge,” and “Helpful skills,” such as those related to family violence.³⁹ Also, clinical counsellors appear to be able to practice without being registered with the BCACC.

Association of Family and Conciliation Courts (AFCC)

The AFCC is an association of justice professionals from across many jurisdictions. Membership is voluntary and open to numerous types of professionals including lawyers, judges, psychologists, social workers. Report writers may choose to become members of the AFCC. The AFCC has guidelines for its members who conduct assessments and write reports (referred to as “evaluators”) across various jurisdictions, similar to the reports permitted under sections 202 and 211 of the *FLA*. Unlike the Colleges and other professional governing bodies, the AFCC does not have any oversight or regulatory role.

In 2022, the AFCC published its [Guidelines for Parenting Plan Evaluations in Family Law Cases](#) (“AFCC Parenting Plan Guidelines”),⁴⁰ which revise and update the AFCC’s 2006 [Model Standards of Practice for Child Custody Evaluation](#).⁴¹ The AFCC Parenting Plan Guidelines offer guidance, but not mandatory practice standards, for members on various aspects of conducting assessments and writing reports, including:

- Potential role conflicts,
- Communication,
- Record keeping and release of records,
- Data gathering,
- Interviewing children,
- Observational-interactional assessment,
- Collateral sources of information,
- Use of formal assessment instruments,
- Presentation and interpretation of data,
- Approaches involving multiple evaluators, and
- Virtual evaluations.

³⁷ BC Association of Clinical Counsellors, [Code of Ethical Conduct and Practice Standards](#) (BCACC, 2008, amended in 2014).

³⁸ John-Paul E Boyd, [Standard for Family Law: A Practice Standard for Registered Clinical Counsellors on the Preparation of Family Law Reports](#) (BC Association of Clinical Counsellors, 2022).

³⁹ *Ibid* at 25—26.

⁴⁰ Association of Family and Conciliation Courts, [Guidelines for Parenting Plan Evaluations in Family Law Cases](#) (AFCC, 2022).

⁴¹ Association of Family and Conciliation Courts, [Model Standards of Practice for Child Custody Evaluation](#) (AFCC, 2006).

As a supplement to the AFCC Parenting Plan Guidelines, the AFCC has also established [Guidelines for Examining Intimate Partner Violence](#).⁴² According to the AFCC, these guidelines are meant to be used when intimate partner violence may be an issue in child custody or access cases. Other AFCC guidelines related to writing reports under sections 202 and 211 of the FLA include:

- [Guidelines for the Use of Social Science Research in Family Law](#),⁴³ and
- [Guidelines for Brief Focused Assessment](#).⁴⁴

Other Jurisdictions

Some jurisdictions have established mandatory practice standards for report writers in their legislation. For example, Ontario has established some practice standards for report writers in their [Family Law Rules](#).⁴⁵ Also, California includes practice standards in their [Rules of Court](#).⁴⁶

Discussion Questions:

- 4-21. Should there be consistent practice standards for individuals who assess and write reports on the needs and views of a child and the willingness of a party to satisfy those needs?**
- 4-22. Should separate practice standards be established for writers of non-evaluative reports and evaluative reports?**
- 4-23. What types of practice standards should be made mandatory for report writers under the legislation? If so, what should those practice standards be?**
- (a) For example, what type of practice, if any, should be established for report writers on the following topics:**
- (i) Screening for family violence and interviewing, assessing and writing reports about individuals and children dealing with family violence**
 - (ii) Cultural competence, including for Indigenous and other multi-cultural families**
 - (iii) Interviewing and assessing children**
 - (iv) Interviewing, assessing and writing reports about individuals dealing with mental health and substance abuse**
 - (v) Psychological testing**
- 4-24. Should it be mandatory for reports to include specific content? If so, what content should be included in reports?**

⁴² Association of Family and Conciliation Courts, [Guidelines for Examining Intimate Partner Violence: A Supplement to the AFCC Model Standards of Practice for Child Custody Evaluation](#) (AFCC, 2016).

⁴³ Association of Family and Conciliation Courts, [Guidelines for the Use of Social Science Research in Family Law](#) (AFCC, 2018).

⁴⁴ Association of Family and Conciliation Courts, [Guidelines for Brief Focused Assessment](#) (AFCC, 2009).

⁴⁵ *Family Law Rules*, O Reg 114/99, [rule 20.2—20.3](#).

⁴⁶ See *California Rules of Court*, [rules 5.220, 5.225](#).

4-25. Would it be helpful to establish a template for reports? If so, should there be a separate template for non-evaluative and evaluative reports?

Accountability Mechanisms

A party with concerns about the preparation of a report under section 202 or 211 of the FLA, has limited options to address those concerns. A party's options are currently to raise their concerns during the court proceeding or through administrative processes outside the court proceeding. Both options have limitations.

Court Processes

Cross-examination

[Rule 13-7\(3\) and \(4\)](#) of the BC [Supreme Court Family Rules](#)⁴⁷ (SCFR) provides that a party may cross-examine an expert witness. A party who wishes to cross-examine a Section 211 report writer must serve the report writer and all parties a notice in prescribed form at least 28 days before a trial date.⁴⁸

Under the BC [Provincial Court Family Rules](#) (PCFR), case management orders may be made related to Section 211 reports, including requiring the writer to attend a trial as a witness.⁴⁹ PCFR [Rule 112](#) allows a judge to make orders or directions related to expert witnesses, including persons appointed under s. 211 at a trial preparation conference.⁵⁰ In an informal trial, the judge may allow a Section 211 report writer to be a witness to give evidence.⁵¹

Cross-examination of an expert witness may be a daunting task for self-represented litigants. Many family law disputes also resolve before trial without giving the parties an opportunity to cross-examine the s. 211 report writer.

Critique Report

Another option is for a party to obtain a second "critique" or "review" report to refute the conclusions in a Section 211 report. However, the cost and time required to obtain a second report is likely prohibitive for most parties in a family law dispute. Creating "warring" reports also adds to the adversarial nature of litigation.

It has been further suggested that the court ought to play a gate-keeper role in limiting the use of critique or review reports.⁵²

The British Columbia Supreme Court has addressed the issue of the admissibility of reports which critique/review s. 211 reports several times and generally has concluded that though they may be admissible, the circumstances under which they should be admitted are limited. Some emphasis is placed on the fact that the report being critiqued is a court ordered report, not a report submitted by another party to the proceedings. We support the application of the

⁴⁷ [Supreme Court Family Rules](#), BC Reg 169/2009.

⁴⁸ *Ibid*, [rule 13-1\(2\)](#).

⁴⁹ PCFR, *supra* note 11, [s 62\(n\)](#).

⁵⁰ *Ibid*, [s 112\(1\)\(e\)](#).

⁵¹ *Ibid*, [s 127\(1\)\(d\)](#).

⁵² Donna Martinson & Margaret Jackson, [Family Violence and Parenting Assessments: Law, Skills and Social Context: Report Highlights Report Brief](#) (Canadian Bar Association, 2019) at 20–21, online (pdf): [FREDA Centre](#).

principles of admissibility described by Justice Kent in *Dimitrijevic v. Pavlovich*. He identified how these reports could be relevant, concluding that questions of admissibility should be determined by the court in its discretionary gate-keeping role. Justice Kent then observed that for a number of reasons the use of such reports will be rarely necessary or appropriate [see our Report at pp. 51-52].

Admissibility Hearing

Other types of expert witness reports are usually subject to an admissibility hearing. In an admissibility hearing, the court must consider, among other things, the relevance and necessity of the report, the qualifications of the report writer, and then balance the potential risks and benefits of admitting the evidence.

Section 211 reports are ordered by the court to be prepared. This does not fit with an admissibility requirement that examines an already written report. Requiring an admissibility hearing for Section 211 reports may add to the complexity, costs, and delay of resolving family law disputes.

Administrative Processes

Professional Governing Body Complaint Mechanisms

Another option for parties who have concerns about a Section 211 report writer is to make a complaint to a professional governing body. Both the College of Psychologists of BC and the BC College of Social Workers have complaint mechanisms that can consider complaints about a Section 211 report writer. However, these processes are designed to deal with complaints about a registrant's professional conduct generally and are not specifically tailored to deal with complaints related to Section 211 reports or report writers.

The College of Psychologists of British Columbia's complaint mechanism is set out in the [Health Professions Act](#).⁵³ The [Psychologists Regulation](#),⁵⁴ [College Bylaws](#),⁵⁵ and [Code of Conduct](#)⁵⁶ are also relevant to the complaint mechanism's process. The British Columbia College of Social Workers' complaint mechanism is set out in the [Social Workers Act](#)⁵⁷. The *Social Workers Act*, [Code of Ethics and Standards of Practice](#),⁵⁸ and the [College Bylaws](#)⁵⁹ are all relevant to the complaints process.

The Colleges' complaint mechanisms may not be a good fit for individuals with concerns about a Section 211 report or report writer as the remedies available for substantiated complaints may not address the complainants' real concern, which is often the decision made in a family law dispute. The colleges can suspend or fine a member but do not have authority to change a judge's decision that was based on the report.

⁵³ [Health Professions Act](#), RSBC 1996, c 183.

⁵⁴ [Psychologists Regulation](#), *supra* note 31.

⁵⁵ College of Psychologists of British Columbia, [CPBC Bylaws](#) (CPBC, 2023).

⁵⁶ [CPBC Code of Conduct](#), *supra* note 32.

⁵⁷ [Social Workers Act](#), SBC 2008, c 31.

⁵⁸ [BCCSW Code of Ethics](#), *supra* note 28.

⁵⁹ British Columbia College of Social Workers, [Bylaws](#) (BCCSW, 2022).

It is noteworthy that two recently approved Orders in Council⁶⁰ will amalgamate 11 health profession regulatory colleges, including the College of Psychologists of British Columbia, into two new multi-profession regulators on June 28, 2024.⁶¹ This amalgamation along with proposed regulatory amendments could result in changes to the oversight of psychologists, including those who write section 211 reports, including the current professional complaint mechanisms.

Furthermore, the Ministry of Children and Family Development of BC conducted a public engagement on the oversight of social work in BC between spring 2022 and January 2023.⁶² It is anticipated that a What We Heard report summarizing the engagement feedback will be released in winter 2024.

Family Justice Services Division

The Ministry of Attorney General's Family Justice Services Division (FJSD) has a feedback process and a [Complaints Management Policy](#) allowing parties to raise concerns about a family justice counsellor who has prepared a Section 211 report. Similar to the limitations of the Colleges' complaint mechanisms, FJSD's *Complaints Management Policy* cannot affect court decisions that have been made in relation to a Section 211 report.

Office of the Ombudsperson

If a party is not satisfied with the processes or outcomes of these complaint mechanisms, it may be possible for them to make a complaint with the BC Office of the Ombudsperson. However, the Ombudsperson may only investigate complaints about an "authority". In this case that means the Colleges or the Ministry of Attorney General (Family Justice Services Division), not necessarily the individual report writer. Given the time it takes for the Ombudsperson to complete an investigation, it is again unlikely that any Ombudsperson recommendations would affect any court decisions that have already been made in relation to the Section 211 report.

Summary of Current Administrative Processes in BC

There are limitations to these complaint mechanisms. There is no requirement for all Section 211 report writers to be a member of either College or an employee of the Family Justice Services Division. Therefore, a complaint process may not always be available depending on the report writer's profession. Also, the complaint processes take time to complete, and a party will likely receive the outcome of the complaint process after the family law dispute has been decided or resolved. Further, there are limitations to the remedies of the complaint mechanisms. For example, a substantiated complaint may result in the discipline of a Section 211 report writer but may not affect an already concluded court proceeding in which the Section 211 report was admitted as evidence.

Some report writers have also indicated that because Section 211 reports are often prepared for families experiencing high levels of conflict, it is common for them to be the subject of complaints to their governing professional bodies. This is seen as a professional risk and may be deterring new professionals from doing assessments and Section 211 report work. In Alberta, parties are prohibited

⁶⁰ [OIC 421/2023](#), (2023) BC Gaz II No 12 (*Health Professions Act*); [OIC 422/2023](#), (2023) BC Gaz II No 12 (*Health Professions Act*).

⁶¹ Government of British Columbia, "[Professional Regulation](#)" (last visited 5 December 2023), online.

⁶² Government of British Columbia, "[Social Work Oversight](#)" (last visited 5 December 2023), online.

from making a complaint about a report writer to a professional body until after the family law dispute is resolved or the court has made its decision.⁶³

Other Jurisdictions

In New Zealand, parties are able to make complaints about a report or a report writer directly to the court.⁶⁴ The *Family Court Practice Note: Specialist Report Writers* states that the court should deal with most complaints as part of its jurisdiction to regulate its own process, including the following:

- Allegations of perceived bias;
- Allegations that the report writer has a sexist, racist or otherwise discriminatory approach;
- The methodology used;
- Allegations that one parent was treated differently from the other parent without sufficient reason given; and
- Any matter relating to the content of the report, such as failure to deal with any fact or issue, the length of the report or the style of the report.

In contrast to the court, the New Zealand Psychologists Board deals with complaints that go beyond court process, and that relate to professional competence, conduct, or ethics.

In New Zealand, if the court proceedings are pending or in progress, the complaint should be dealt with by the presiding judge. The presiding judge can deal with the complaint before the hearing or in the course of the hearing, for example, through cross-examination, submission, or evidence called on behalf of a party. If the court proceedings have concluded, the complaint should be referred to the Administrative Judge. Complaints must be made to the court within 6 months from the date the court proceedings concluded.

Discussion Questions:

- 4-26. If the FLA is amended to provide greater safeguards, including mandatory report writer qualifications, practice standards, and report content, would the existing accountability mechanisms in BC be sufficient to deal with complaints about section 202 or 211 reports and report writers?**
- 4-27. If not, should the FLA or regulations establish additional accountability mechanisms for all section 202 and 211 report writers?**
- 4-28. If so, what type of accountability mechanism should be established for section 211 and 202 report writers?**
- (a) Should the accountability mechanism apply to all non-evaluative and evaluative report writers?**
 - (b) How would such an accountability mechanism interact with ongoing family justice dispute resolution or court proceedings (for example, should it be an in-court process or an out-of-court process)?**

⁶³ *Interventions*, supra note 5 at [para 30](#); *Child Custody/Parenting Evaluation*, supra note 4 at [para 14](#).

⁶⁴ New Zealand Ministry of Justice, *Family Court Practice Note: Specialist Report Writers* (2018) s 16.

- (c) How would such an accountability mechanism interact with existing out-of-court complaint mechanisms?**
- (d) Should there be any limitations to the types of reviewable complaints or the timing of when the complaints are made to the accountability mechanism?**

4-29. The discussion and questions posed in this chapter relate to issues that have been raised concerning children's views as well as parenting assessments and reports. Do you have any other concerns or suggestions for amendments to provisions in the FLA related to this topic?

Appendix E : FLA Regulation Requirements for Family Dispute Resolution Professionals

Membership with a Professional Governing Body

COMPARISON

Family Law Act Regulation

Part 3 – Family Dispute Resolution Professionals

Each of the three family dispute resolution professionals have some membership requirement under the FLA Regulation.

Family law mediators must be a member in good standing of the Law Society of BC, the Mediate BC Family Roster, Family Mediation Canada or are required to have specified experience, training and insurance.

Family law arbitrators must be a member in good standing with the Law Society of BC, or a member in good standing with the College of Psychologists of BC or the BC College of Social Workers, as well as have specified experience, training and insurance.

Parenting coordinators must be a member of the Law Society of BC or a member of one of six other listed organizations (including the College of Psychologists of BC, the BC College of Social Workers, and the BC Association of Clinical Counsellors) and have the required experience, training and insurance.

Experience of Report Writers

COMPARISON

Family Law Act Regulation

Part 3 – Family Dispute Resolution Professionals

Each of the three family dispute resolution professionals have experience requirements under the FLA Regulation.

Family law mediators who are members in good standing with the Law Society of BC must meet the Law Society's training and practice requirements (i.e., sufficient knowledge, skills and experience relevant to family law to carry out the mediatory function in a fair and competent manner).¹

Although the FLA Regulation does not specifically provide for experience or training of Mediate BC Family Roster members, the Roster does set criteria for admission including at least 2 years experience

¹ Law Society of BC Webpage: [Family law alternate dispute resolution accreditation | The Law Society of British Columbia](#).

in family-related practice and at least 40 hours of mediation work in at least 10 family mediations in the past 5 years.²

The FLA Regulation stipulates that a family law mediator who is not a member of any of the above organizations must have at least 2 years experience in family-related practice, including in law, psychology, social work, clinical counselling, teaching or nursing.

Family law arbitrators who are members in good standing with the Law Society of BC must meet the Law Society's training and practice requirements (i.e., at least 10 years of full-time or equivalent in part-time practice or as a judge or master).³

The FLA Regulation stipulates that an arbitrator who is not a member of the Law Society of BC must have at least 10 years experience in family-related practice in addition to training requirements.⁴

Parenting coordinators who are members in good standing with the Law Society of BC must meet the Law Society's training and practice requirements (i.e., at least 10 years of full-time or equivalent in part-time practice or as a judge or master).⁵

The FLA Regulation stipulates that a parenting coordinator who is not a member of the Law Society of BC must meet the requirements for the MediateBC Family Roster or Family Mediation Canada, as outlined above, and have at least 10 years experience in family-related practice.⁶

Training Requirements for Report Writers

COMPARISON

Family Law Act Regulation

Part 3 – Family Dispute Resolution Professionals

Each of the three family dispute resolution professionals have training requirements under the FLA Regulation.

Family law mediators who are members in good standing with the Law Society of BC must meet the Law Society's training and practice requirements (i.e., sufficient knowledge, skills and experience relevant to family law to carry out the mediatory function in a fair and competent manner).⁷

² Family Roster Admission, MediateBC webpage: [Applying to the Mediate BC Rosters | Mediate BC Home | Effective Conflict Resolution](#).

³ Law Society of BC Webpage: [Family law alternate dispute resolution accreditation | The Law Society of British Columbia](#)

⁴ Family Law Act Regulation, [s. 5\(2\)\(b\)\(iii\)](#).

⁵ Law Society of BC Webpage: [Family law alternate dispute resolution accreditation | The Law Society of British Columbia](#)

⁶ Family Law Act Regulation, [s. 6\(1\)\(b\)\(iii\)\(A\) and \(B\)](#).

⁷ Law Society of BC Webpage: [Family law alternate dispute resolution accreditation | The Law Society of British Columbia](#).

Although the FLA Regulation does not specifically provide for experience or training of **Mediate BC Family Roster** members, the Roster does set criteria for admission including specified number of hours in various training:⁸

- at least 40 hours of core education in mediation theory and skills training, including 10 hours of simulated role play mediation
- at least 40 hours of conflict resolution training, including 7 hours on ethical issues relating to the mediation process;
- at least 21 hours focusing on issues related to family dynamics in separation and divorce (may be part of general CR hours if course info can clearly identify);
- at least 14 hours of family violence training;
- at least 40 hours of training in family law and procedures (including a minimum of 7 hours each in: parenting and guardianship, child and spousal supports, division of property, jurisdiction, and drafting memoranda of understanding); and
- at least 14 hours of BC civil procedures training.

Family law mediators who are certified with **Family Mediation Canada** must meet that organization's training and practice requirements including 180 hours of training and education, an approved mediation practicum or two peer evaluations, a video-taped role-play assessment, and a written final examination.⁹

The FLA Regulation stipulates that family law mediators who are **not** members of any of the above organizations, must meet the training requirements set out in section 4(2)(d):

- the individual has completed at least 21 hours of family law training provided by the Justice Institute of British Columbia or by the Continuing Legal Education Society of British Columbia or equivalent training provided by any other training provider that is recognized as providing high quality training in that field;
- the individual has completed at least 80 hours of mediation theory and skills training, provided by the Justice Institute of British Columbia, by the Continuing Legal Education Society of British Columbia or by any other training provider that is recognized as providing high quality training in that field, that includes at least:
 - (a) 21 hours of training focusing on issues relating to family dynamics in separation and divorce,
 - (a) 7 hours of training focusing on financial issues relating to separation, divorce and family reorganization,
 - (c) 7 hours of training focusing on ethical issues relating to the mediation process, and
 - (d) 7 hours of training focusing on drafting memoranda of understanding;
- the individual has completed at least 14 hours of family violence training, including training on identifying, assessing and managing family violence and power dynamics in relation to dispute resolution process design, provided by the Justice Institute of British Columbia, the Continuing Legal Education Society of British Columbia or any other training provider that is recognized as

⁸ Family Roster Admission, MediateBC webpage: [Applying to the Mediate BC Rosters | Mediate BC Home | Effective Conflict Resolution.](#)

⁹ Family Mediation Canada Certification webpage: [National FMC Certification | FMC | Family Mediation Canada](#)

providing high quality training in that field;

-each year the individual completes at least 10 hours of continuing professional development applicable to family dispute resolution practice, at least 7 hours of which must be in the form of a course provided by the Justice Institute of British Columbia, the Continuing Legal Education Society of British Columbia or any other training provider that is recognized as providing high quality training in that field.

Family law arbitrators have specific training requirements set out in section 5(2) of the Regulation.

Parenting coordinators have specific training requirements set out in section 6(1) of the Regulation.