

**Summary of Proposed Regulatory and Policy Changes to  
Maintain Existing Requirements for Customary Care  
Arrangements Funded under the Ontario Permanency  
Funding Policy Guidelines to support further Consultation on  
a New Approach**

*Child, Youth and Family Services Act, 2017*

**Posting Date: June 16, 2023**

**Submissions Required by: June 23, 2023**

## Purpose

The purpose of this document is to seek feedback from Ontarians on a summary of proposed regulatory and policy changes. These proposed changes would maintain existing requirements in effect as of June 30, 2023, for customary care arrangements subsidized pursuant to the Ontario Permanency Funding Policy Guidelines (Funding Guidelines), subject to further consultation. This would result in the new and enhanced regulatory requirements respecting foster care and children in society care associated with the implementation of the Quality Standards Framework (QSF), which comes into effect July 1, 2023, not applying to these customary care arrangements in order to support ongoing policy development and consultation regarding quality enhancements for the regulation of customary care under the *Child Youth and Family Services Act, 2017* (CYFSA).

All interested parties are encouraged to provide feedback on the proposed regulatory and policy changes. MCCSS values the perspective of all Ontarians including persons or entities serving vulnerable children in Ontario.

Please provide MCCSS with your comments on the proposal by email to [OICYS@ontario.ca](mailto:OICYS@ontario.ca) no later than June 23, 2023.

Please note that you will not receive a formal response to your feedback. MCCSS will review all feedback received and consider revisions to the proposed changes as appropriate.

Thank you for taking the time to review this document and provide feedback.

## Context

- Statutory amendments to the CYFSA were passed in March 2022 to improve access to customary care and help children and youth remain connected to their cultures and traditions by:
  - Establishing “circles of supportive persons”;
  - Improving access to updated complementary services; and
  - Strengthening the role of prevention-focused Indigenous service providers.
- These statutory amendments do not yet have the force of law and require sector engagement to aid in the development of related regulations.
- Consultation in this area began in October 2022 and the ministry continues to engage stakeholders to develop an approach that distinguishes customary care from licensed out-of-home care (or as per the legislation, “residential care”<sup>1</sup>) so

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<sup>1</sup> Although the term **residential** is the legal term used under the CYFSA and its regulations to describe the care provided to children and young persons in licensed settings, the ministry uses the term “out-of-home care” wherever possible in recognition of the history of the residential school system in Canada experienced by First Nations, Inuit and Métis peoples.

that the practice of customary care under the CYFSA can better reflect and honour the customs of bands and First Nations, Inuit and Métis communities.

- For more information on the new approach to customary care that is being developed pursuant to statutory amendments made to the CYFSA passed by the Ontario Legislature in March 2022, see the following link:  
<https://news.ontario.ca/en/release/1001736/ontario-enhancing-access-to-customary-care-for-indigenous-children-and-youth>.

### *Customary Care*

- The CYFSA provides that if a band or First Nations, Inuit or Métis community declares that a First Nations, Inuit or Métis child is being cared for under customary care, a society or entity may grant a subsidy to the person caring for the child.
- To provide a subsidy for customary care, societies are required by a Minister's Directive (CW004-23) to follow the Funding Guidelines and ensure that certain requirements are met, including that children in care standards and foster care licensing requirements apply.
- As a result of this provision in the Funding Guidelines, any new requirements for children in care and foster care will apply to subsidized customary care arrangements unless a change is made to those Guidelines to maintain requirements in effect for these arrangements as of June 30, 2023 while other approaches to regulating customary care under the CYFSA are explored and considered.
- Indigenous stakeholders have expressed significant concerns about the application of child in care and foster care standards to subsidized customary care arrangements and advised that they create barriers to accessing customary care for First Nations, Inuit or Métis children and youth.

### *Quality Standards Framework*

- In July 2020, the Ministry of Children, Community and Social Services (ministry) released the *Quality Standards Framework: A Resource Guide to Improve the Quality of Care for Children and Young Persons in Licensed Residential Settings*.
- To implement the QSF, the ministry has:
  - Embedded components of the QSF into regulations and directives under the *Child, Youth and Family Services Act, 2017* (CYFSA),
  - launched [free training](#) to help the sector better understand the use of the QSF, and
  - Launched a child-friendly website and poster for the QSF, *The Care You Deserve*, to help children and young persons understand the quality standards.

- New and enhanced regulatory requirements for children in out of home care and in the care of a society come into effect on July 1, 2023.

### Proposal

- MCCSS is proposing to maintain requirements in effect as of June 30, 2023 for customary care arrangements receiving a subsidy pursuant to the Funding Guidelines, to provide time for consultation regarding quality enhancements for the regulation of customary care under the CYFSA.
- Subsidized customary care arrangements would continue to be subject to children in care and foster care standards in effect on June 30, 2023 and any applicable licence conditions imposed by the Director.
  - This means that customary care arrangements subsidized under the Funding Guidelines would be subject to the licensing and child in care requirements in-effect as of June 30, 2023, prior to the QSF regulations coming into effect on July 1, 2023.
- To implement these changes, the ministry is proposing (1) a minor technical amendment to Minister's Regulation O. Reg. 156/18 to update the effective date of the revised Funding Guidelines, (2) changes to the Minister's Policy Directive which requires societies to follow the Funding Guidelines, and (3) to the Funding Guidelines (which is a separate document).
- The proposed changes would not affect the July 1, 2023 in-effect date of the QSF regulations for all other licensed out-of-home care settings (foster care, children's residences, staff-model homes) and for children in society care.
- The following tables compare the current and proposed requirements and summarize the intended outcome of the proposed approach. Specifically:
  - Table 1 compares the current and proposed regulatory requirements.
  - Table 2 compares the current and proposed requirements in policy instruments.

**Table 1: Comparison of Current and Proposed Regulation**

| Current Regulatory Requirement              | Proposed Regulatory Amendment  | Rationale/Intended Outcome   |
|---|--|--|
| <b>Effective date of Funding Guidelines</b> | Amend section 54 of O.Reg 156/18 to reflect the accurate effective date of the Funding Guidelines (given the new revisions to the Funding Guidelines noted below). | <p>Section 54 of O.Reg 156/18 is updated to reflect the accurate effective date of the Funding Guidelines.</p> <p>The amendment is technical in nature requiring only a change to an effective date. If changes are made to the Funding Guidelines, those changes need to be reflected in the effective date referenced in section 54 of O.Reg 156/18 (e.g.,</p> |

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|  |  | “Permanency Funding Policy Guidelines” means the guidelines entitled “2023 Ontario Permanency Funding Policy Guidelines”, effective July 1, 2023.” |
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**Table 2: Comparison of Current and Proposed Policy Instruments**

| Current Policy   | Proposed Policy Change  | Rationale/Intended Outcome   |
|--|---|--|
| <b>Policy Directive (CW 004-23 Ontario Permanency Funding Policy Guidelines)</b> | Amend Policy Directive CW 004-23 to reflect proposed changes to the Funding Guidelines that would provide that the requirements in effect June 30, 2023 for foster care and children in care must be followed.    | The Policy Directive requirement for societies to follow the Funding Guidelines remains unchanged. However, any content changes to the Funding Guidelines need to be reflected in the Policy Directive. Policy Directive CW 004-23 would reflect changes to the Funding Guidelines.  |
| <b>Funding Guidelines (Ontario Permanency Funding Policy Guidelines)</b>         | Amend the Guidelines to provide that a society will grant a subsidy for customary care if, among other things, foster care licensing standards and child in care standards in effect as of June 30, 2023 are met. | Maintaining requirements in effect June 30, 2023, for customary care arrangements receiving a subsidy pursuant to the Funding Guidelines provides the ministry needed time to engage stakeholders, fulfilling any duty to consult obligations. This reinforces the ministry’s commitment to developing an approach to customary care under the CYFSA that is more culturally responsive. |

#### **Intent**

- The intent of the proposed approach to maintain requirements in effect as of June 30, 2023 for customary care arrangements subsidized pursuant to the Funding Guidelines is to provide time for fulsome engagement and consultation regarding quality enhancements for the regulation of customary care under the CYFSA.

#### **Conclusion**

- The proposed changes reinforce the ministry’s commitment to taking the time to listen to support a more culturally responsive regulatory framework for customary care arrangements under the CYFSA. It is aligned with legislative changes that enable the development of customary care regulations and is responsive to the concerns of Indigenous organizations and communities about the application of the new QSF regulations to subsidized customary care arrangements.