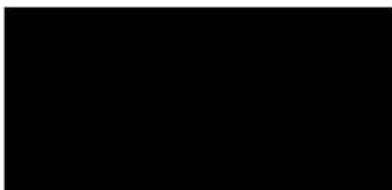


**Response to Applicant – Full Disclosure
Form 4A**

January 7, 2020

Section 40(1)



Dear Applicant:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act File #: CSSD/02/2020

On January 3, 2020, the Department of Children, Seniors and Social Development (CSSD) received your request for access to the following records/information:

“November 2019 Decision Note titled Proposed Amendments to the Children, Youth and Families Regulations (RNL 38/19)”

I am pleased to inform you that a decision has been made by the Deputy Minister for Children, Seniors and Social Development to provide access to the requested information. In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

Additionally, *The Newfoundland and Labrador Gazette* published the finalized amendment in their weekly issue ((Vol.94, No.51), which is readily available to the public and can be located on the Newfoundland and Government website at <https://www.gov.nl.ca/snl/files/NLG20191220.pdf>.

The *Access to Information and Protection of Privacy Act* requires us to provide an advisory response within 10 days of receiving the request. As this request has been completed prior to day 10, this letter also serves as our Advisory Response.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the *Access to Information and Protection of Privacy Act* (“the Act”). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

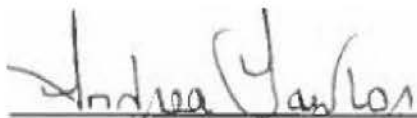
Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the *Act*.

If you have any further questions, please feel free to contact me by telephone at (709) 729-6370 or by email at andrealawlor@gov.nl.ca.

Sincerely,



Andrea Lawlor, B.A., B.S.W. (Hons), R.S.W.

Program and Policy Development Specialist / ATIPP Coordinator

Access to Information and Protection of Privacy Act

Access or Correction Complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52 (1) or 53 (1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21 ;

(b) a decision respecting an extension of time under section 23 ;

(c) a variation of a procedure under section 24 ; or

(d) an estimate of costs or a decision not to waive a cost under section 26 .

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct Appeal to Trial Division by an Applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45 (2).

Decision Note
Department of Children, Seniors and Social Development

Title: Proposed Amendments to the Children, Youth and Families Regulations (RNL 38/19)

Decision/Direction Required:

- Whether to approve recommended amendments to the Children, Youth and Families Regulations (the Regulations).
- It is recommended that Children, Seniors and Social Development (CSSD) be directed to work with Legislative Counsel to make three amendments, as outlined below, to the Regulations.

Background and Current Status:

- The Regulations were proclaimed along with the new Children, Youth and Families Act (the Act) on June 28, 2019. Since this time, CSSD has been working to license placement providers in accordance with Regulations. Through this process, three minor issues have been identified. In consultation with Justice and Public Safety (JPS) and Legislative Counsel, three amendments to the Regulations are recommended to resolve these issues.
- The Regulations are Ministerial Regulations, therefore the Minister may approve.

Analysis:

- The three issues and corresponding recommended amendments are as follows:
 - 1) Impact of section 20(1)(f) on current social workers employed by family-based placement providers:
 - Requires social workers have a minimum of five years' experience as a registered social worker. Any social worker already employed by a licensee who does not have five years' experience will have to have their employment terminated for the licensee to meet this requirement.
 - **It is recommended:** that a clause be added to section 20 that allows for a social worker employed by the licensee at the time of proclamation, be required to be a registered social worker but not required to have five years' experience.
 - This is in line with other transitional exemptions in the Regulations and would only apply to those social workers who began their employment prior to proclamation.
 - Going forward, licensees will have to hire social workers with five years' experience in accordance with the regulations.
 - 2) Insufficient timelines in section 23(5):
 - Requires staff and caregivers to have training certifications, as outlined in section 23(4) within six months of proclamation of the regulations (i.e. by December 28, 2019).
 - One of these certifications, suicide intervention training, is a new requirement under the regulations. **It is recommended:** that section 23(5) be amended to require training to be completed within six months of obtaining a license (rather than within six month of proclamation) to allow sufficient time for current staff and caregivers to be trained.

- 3) Potential to negatively impact or deter family-based placement caregivers by requiring all training in section 23(4) in all circumstances.
- There are some exceptional circumstances when it may be unreasonable to require a caregiver to complete certain training.
 - In order to account for these types of unforeseeable and exceptional circumstances, **it is recommended:** that a subsection be added to section 23 allowing the Provincial Director to exempt certain caregivers from being required to complete one or more of the training requirements under section 23(4) in exceptional circumstances. Exemptions at the discretion of the Provincial Director will ensure a consistent application of the exemption and ensure deviation from the regulation is in exceptional circumstances only.

Alternatives:

- Approve the recommended amendments to the Regulations to resolve identified transitional issues, as described above.

Recommended.

- Not approve recommended amendments to the Regulations. This would result in the above outlined issues persisting with negative outcomes, as described above. **Not Recommended.**

Prepared/Approved by: J. Barnes/L. Clemens Spurrell/S. Walsh

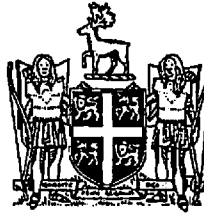
Susan Walsh
DEC 0 2 2019

Ministerial Approval: Received from Hon. Lisa Dempster

November 26, 2019

J. Barnes
DEC 1 0 2019

November 28, 2019



**NEWFOUNDLAND AND LABRADOR
REGULATION /19**

Children, Youth and Families Regulations (Amendment)
under the
Children, Youth and Families Act

(Filed _____, 2019)

Under the authority of section 107 of the *Children, Youth and Families Act*, I make the following regulations.

Dated at St. John's, _____, 2019.

Lisa Dempster
Lisa Dempster

Minister of Children, Seniors and Social Development

REGULATIONS

Analysis

- | | |
|---|---------------------------------|
| 1. S.20 Amdt.
Educational and employ-
ment requirements | 2. S.23 Amdt.
Qualifications |
|---|---------------------------------|

NLR 38/19
as amended

1. Section 20 of the *Children, Youth and Families Regulations* is amended by adding immediately after subsection (2) the following:

(3) Notwithstanding paragraph (1)(f), a registered social worker who was employed by a family-based placement provider licensee at the time of the coming into force of these regulations, is not required to provide proof that he or she has worked a minimum of 5 years as a registered social worker.

Children , Youth and Families Regulations
(Amendment)

/19

2. (1) Subsection 23(5) is repealed and the following substituted:

(5) A licensee shall ensure that all staff and caregivers at a facility operated by the licensee obtain the certifications referred to in subsection (4) within 6 months of the date the licensee was issued a licence.

(2) Section 23 of the regulations is amended by adding immediately after subsection (8) the following:

(8.1) Notwithstanding subsection (4) and paragraph (6)(b), a provincial director may exempt a caregiver or a caregiver applicant from the requirement to obtain or renew one or more of the certifications referred to in subsection (4) where

(a) the licensee submits a written request to a provincial director; and

(b) the provincial director is satisfied that exceptional circumstances exist which justify granting the exemption.

(9) An exemption granted under subsection (8.1) may be subject to the terms and conditions that a provincial director may impose.

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