



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

CHILD PROTECTION ACT REGULATIONS

PLEASE NOTE

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For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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CHILD PROTECTION ACT
Chapter C-5.1
REGULATIONS

Pursuant to section 60 of the *Child Protection Act* Stats. P.E.I. 2000(2nd), c.3, Council made the following regulations:

1. Definitions

In these regulations

- (a) “**Act**” means the *Child Protection Act* R.S.P.E.I. 1988, Cap. C-5.1;
- (b) “**Advisory Committee**” means the Advisory Committee appointed by the Minister under subsection 58(1) of the Act;
- (c) “**complaint**” means a complaint submitted under subsection 3(1);
- (d) “**complainant**” means a person who has submitted a complaint;
- (e) revoked by EC283/10
- (f) “**facilitator**” means a person who is named in a list of facilitators established under subsection 14(1);
- (g) “**general report**” means a general report required to be given by the Director under subsection 12(5) of the Act concerning the results of an investigation;
- (h) “**investigation**” means an investigation, carried out by the Director under section 12 of the Act, of the circumstances and condition of a child to determine whether the child is in need of protection;
- (i) “**record**” means a record made under the Act or the prior Act that contains information gathered in the administration of the Act or the prior Act;
- (j) “**review officer**” means a person designated as a review officer under subsection 2(1). (EC215/03; 283/10)

COMPLAINTS

2. Review officer

- (1) The Minister may designate an employee of the Department as a review officer.

Duties

- (2) A review officer shall, in accordance with these regulations, review complaints respecting the decisions of the Director. (EC215/03)

3. Complaints

- (1) A person who is aggrieved by a decision of the Director may, in accordance with this section, make a complaint to the Director.

Form

- (2) A complaint shall be made in writing and shall
- (a) identify or describe the decision of the Director that is the subject of the complaint;
 - (b) state in detail the nature of the complaint and the efforts that the complainant has undertaken to have the decision reconsidered by the Director before filing the complaint; and
 - (c) provide the address and phone number of the complainant. *(EC215/03)*

4. Complaint forwarded to Minister by Director

On receipt of a complaint submitted in accordance with section 3, the Director shall give to the Minister

- (a) the complaint; and
- (b) a description of
 - (i) the efforts that the Director has undertaken to review with the complainant the decision that is subject of the complaint, and
 - (ii) the reasons why the Director has not reconsidered that decision. *(EC215/03)*

5. Review by review officer

- (1) On receipt of a complaint, the Minister shall direct a review officer to review the complaint and shall provide the review officer with a copy of the complaint and the description referred to in clause 4(b).

Review of complaint

- (2) Subject to subsection (3), a review officer who is directed to review a complaint shall commence the review of the complaint as soon as possible and shall complete the review within 30 days of the date the direction is received by the review officer.

Dismissal of a complaint or discontinuance of review

- (3) A review officer may, at any time,
- (a) dismiss a complaint where the review officer determines that the complaint is frivolous or without merit; or
 - (b) discontinue the review of a complaint where, before the review is completed,
 - (i) the complaint is withdrawn by the complainant, or
 - (ii) the complaint is resolved to the satisfaction of the complainant.

Notice

- (4) A review officer shall, as soon as possible, give notice of any decision by the review officer to dismiss or discontinue the review of a complaint to
- (a) the Minister;
 - (b) the Director; and
 - (c) the complainant. *(EC215/03)*



6. Duties of review officer

- (1) When conducting the review of a complaint, a review officer
 - (a) shall make reasonable efforts to determine the views of
 - (i) the complainant,
 - (ii) the person affected by the decision that is the subject of the complaint, if that person is not the complainant, and
 - (iii) the Director;
 - (b) may make inquiries orally or in writing of any person whom the review officer believes has, or may have, information relevant to the review of the complaint; and
 - (c) shall consider
 - (i) the information and views obtained pursuant to clause (a),
 - (ii) the purposes of the Act,
 - (iii) the resources available to the Director to satisfy the complaint, and
 - (iv) the reasonableness of the use of any of those resources for the satisfaction of the complaint.

Determinations

- (2) On completing his or her review of a complaint, the review officer shall determine
 - (a) if the review officer agrees or disagrees with the decision of the Director that is the subject of the complaint; and
 - (b) if the review officer disagrees with the decision of the Director that is the subject of the complaint, determine the course of action that the review officer considers appropriate to recommend for settlement of the complaint.

Notice of determination

- (3) The review officer shall give to the Director and to the Minister a written notice setting out any determination made under subsection (2). *(EC215/03)*

7. Review of notice

On receipt of the written notice from a review officer given in accordance with subsection 6(3), the Director shall

- (a) review the notice, including any recommendation provided by the review officer for the settlement of the complaint;
- (b) make a final decision of the matter; and
- (c) by registered mail, give a written copy of the Director's final decision to the complainant and to the Minister. *(EC215/03)*

DISCLOSURE OF INFORMATION**8. Separate records to be kept under the Act**

- (1) The Director shall keep separate records, containing information gathered in the administration of the Act, in respect of a person who
 - (a) is a child, youth or parent; and
 - (b) receives child protection services under the Act.

Name of person to be marked on record

- (2) The Director shall identify and mark each record made under the Act with the name of the child, youth or parent to whom the record pertains. *(EC215/03; 283/10)*

9. Refusal to disclose information in records made under prior Act

On receipt of a request made by a person who is the subject of a record made under the prior Act for disclosure of information contained in the record, the Director may refuse to disclose any information contained in the record that pertains to any other person. *(EC215/03)*

10. Request for disclosure

- (1) A request for disclosure of information in a record shall be made to the Director, in writing, and shall specify
- (a) the nature of the information that is wanted;
 - (b) the purpose and intended use of the information; and
 - (c) whether the person requesting the disclosure wishes
 - (i) to obtain a copy of the record, or
 - (ii) to examine the record.

Response to a request for disclosure

- (2) Subject to the Act and these regulations, the Director shall make every reasonable effort to respond to a request for the disclosure of information in a record not later than 60 days after receiving the request.

Form and contents of response

- (3) The response of the Director shall be made, in writing, to the person requesting the disclosure and shall advise that person
- (a) whether disclosure of all or some of information in the record is granted or refused;
 - (b) if disclosure of information is granted of all or some of the information in the record, when, where and how the disclosure will be provided; and
 - (c) if disclosure of all or some of the information in the record is refused,
 - (i) of the reasons for the refusal, and
 - (ii) of the name of a person who can answer questions concerning the refusal.
- (EC215/03)*

11. Correction of information in a record

- (1) A person who is the subject of a record and who believes that there is an error or omission in the information in the record may, in writing, request the Director to correct the information.

Director to review request

- (2) On receipt of a request made pursuant to subsection (1), the Director shall review the request and determine whether there is an error or omission in the information in the record.

Correction

- (3) Where the Director determines that there is an error or omission in the information in the record, the Director shall
- (a) correct any error by removing the error; and



- (b) correct any omission by adding the information missing.

Refusal to correct

- (4) Where the Director determines that there is no error or omission in the record, the Director shall refuse to correct the record and shall
 - (a) provide written notice of the refusal to the person who made the request for the correction; and
 - (b) advise the person who made the request of the name of a person who can answer questions concerning the refusal. (EC215/03)

12. Annotation of disclosure

- (1) The Director shall note on a record
 - (a) every disclosure of information from the record made to a person requesting disclosure; and
 - (b) every request for a correction of the record that is refused.

Corrections and annotations part of record

- (2) A notation made under subsection (1) and a correction made under section 12 form part of the record. (EC215/03)

GENERAL REPORTS

13. Form

- (1) The general report given by the Director in accordance with subsection 12(5) of the Act shall be given in writing.

Substance of report

- (2) Where, after carrying out an investigation in respect of a child, the Director determines that the child is not in need of protection, the general report given by the Director pursuant to subsection 12(5) of the Act shall state that
 - (a) the Director has determined that the child is not in need of protection; and
 - (b) the investigation is concluded.

Idem

- (3) Where, after carrying out an investigation in respect of a child, the Director determines that the child is in need of protection, the general report given by the Director pursuant to subsection 12(5) of the Act shall state that
 - (a) the Director has determined that the child is in need of protection; and
 - (b) the reasons for that determination.

Report not required after court application

- (4) Where, after carrying out an investigation in respect of a child, the Director makes an application to the court under section 29 of the Act, the Director is not required to give a general report of the results of the investigation pursuant to subsection 12(5) of the Act. (EC215/03)

ALTERNATIVE APPROACHES

14. List of facilitators

- (1) For the purposes of using an alternative approach for the development of a plan of care for a child, the Director shall establish a list of facilitators composed of persons whom the Director considers to be qualified to conduct an alternative approach.

Selection of facilitator

- (2) Where, under subsection 16(1) of the Act, the Director initiates an alternative approach for the development of a plan of care for a child, the Director shall choose, from the list established under subsection (1), a facilitator to conduct the alternative approach.

Costs

- (3) The cost of the services provided by a facilitator shall be paid by the Director in accordance with the rates established by the Director.

Other costs

- (4) The Director may pay all or part of any day-to-day expenses that are necessary for the parent of the child to attend any appointments associated with the use of an alternative approach for the development of a plan of care for a child, including expenses for
- (a) transportation;
 - (b) day care; and
 - (c) food. (EC215/03)

ADVISORY COMMITTEE

15. Membership

- (1) Subject to subsection (2), the Minister shall appoint as members of an Advisory Committee
- (a) the Director of Child Protection or an employee of the Department nominated by the Director;
 - (b) five employees of the Department who are knowledgeable about child protection services;
 - (c) a legal aid lawyer;
 - (d) a lawyer who provides legal services to the Director;
 - (e) three persons, 16 years of age or more, of whom at least one shall be a youth, who have received child protection services;
 - (f) two persons who have demonstrated an informed concern for the best interests of children; and
 - (g) such other persons, not exceeding two, as the Minister may determine.

Bilingual, aboriginal persons

- (2) Among the persons appointed as members of an Advisory Committee shall be
- (a) a person who is fluent in French and English; and
 - (b) a person who is an aboriginal person.



Chairperson

- (3) The Minister may appoint one of the members of an Advisory Committee as its chairperson.

Term of appointment

- (4) Members of an Advisory Committee shall serve from the time of their appointment until the time the report of the Advisory Committee is delivered to the Minister pursuant to section 58 of the Act, which may not exceed six months from the time the Advisory Committee is appointed. *(EC215/03; 720/05; 283/10)*