

SECTION 9
FOSTER PARENT RIGHTS
RESPONSIBILITIES AND CHILD WELFARE OBLIGATIONS

Policy Date: September 2010

- 9.0
- Foster parents are members of a professional child caring team and have rights, responsibilities and obligations to the children within their care, as well as to the local child welfare agency responsible for the foster family approval and the annual foster family re-evaluation.
 - Child Welfare agencies are responsible for children in the care of the Minister of Community Services. Each child in care has a social worker who is responsible for the management of the Children in Care case file and the subsequent Comprehensive Plan of Care.
 - Foster parents are responsible for the day to day care of children who are placed in their family home. Foster parents have an obligation to provide safe, caring, nurturing homes for children in their care, enabling them to cope with their hardships and overcome their previous, current and future losses and challenges.
 - It is the responsibility of the foster parent to meet the day to day physical needs of the child, as well as to support and encourage positive and healthy growth mentally, emotionally, intellectually, spiritually and culturally.
 - Child Welfare agencies have an obligation to foster parents to ensure that they are treated with respect, courtesy and in a professional manner, in all aspects of the fostering relationship. Including foster parents in planning for children, providing regular social work support and ensuring that foster parents' rights are acknowledged are all ways of demonstrating respect.

Standard 9

The Foster Care social worker is responsible to ensure that foster parents are regularly advised of their rights

- to receive notice of court hearing under section 36 (a) of the *Children and Family Services Act*
- to access their personal information from the foster care file, according to the provisions of the NS Freedom of Information and Protection or Privacy Act and departmental FOIPOP process.

9.1 Legislative Framework for Foster Parent Rights

- Child Welfare programs and policies are developed in line with provincial legislative authorities to establish the parameters for healthy working relationships that promote positive outcomes for children in care.
- Both the *Children and Family Services Act* (CFSA) and the *Freedom Of Information and Protection of Privacy Act* (FOIPOP) provide the legislative authority for foster parent rights to be notified of court hearings and to request access to their personal information.

9.1.2 *Children and Family Services Act* and the Foster Parents Right to Notice of Court Hearing

- The *Children and Family Services Act* is the legislative authority that provides protective services for children in need of them.
- The *Children and Family Services Act* describes the circumstances of a child in need of protective services and provides for services to promote the integrity of the family.
- The *Children and Family Services Act* provides for the taking of children into care when they require protection services, including placement.
- Section 36(a) of the *Children and Family Services Act* is entitled “Rights of Foster Parent” and specifies the type of participation foster parents have in certain court hearings.
- Rules and procedures for court hearing proceedings are found in the Court Proceedings Rules and Family Court Policy.
- Section 36(4) of the *Children and Family Services Act* states “On a hearing to review a disposition order pursuant to section 46 or an application to terminate, or vary access under, an order for permanent care and custody pursuant to Section 48, a foster parent, who has cared for the child continuously during the six (6) months immediately before the hearing or application:
 - (a) is entitled to the same notice of the proceeding as a party;
 - (b) may be present at the hearing;
 - (c) may be represented by counsel; and
 - (d) may make submissions to the courtbut shall take no further part in the hearing without further leave of the court.”

9.1.3 *Freedom of Information and Protection of Privacy Act and the Right to Access Information (FOIPOP)*

- In Nova Scotia, the *Freedom of Information and Protection of Privacy Act* gives foster parents the right to review or request access to their records and to request the correction of the personal information contained in their foster family file.
- The foster home file includes all information documented on both the paper file and the electronic computer file.

9.1.3(a) Procedures to Access Information in the Foster Home File

- Prior to the FOIPOP legislation, case information was documented on the Child Welfare agency files and was accessed in accordance with the practices of the day and in a different fashion than is currently required *by law*.
- Currently, foster parents requesting access to their information must put their request in writing and submit it to the FOIPOP Administrator in Head Office, the local District Manager or, for foster parents with Mi'kmaq Family & Children's Services (MMFCS), to the Executive Director. The District Manager must forward the written request to the FOIPOP Administrator in DCS Head Office, and the request will be managed according to the established FOIPOP departmental process.
- The Executive Director of MMFCS will use her discretion to determine whether the information requested can be disclosed without the foster parent having to go through the formal FOIPOP process. For example, if the foster parents want a copy of a specific document, they should request the document in writing and the Executive Director may disclose it directly, ensuring that the documents do not contain third party personal information. This transaction should be documented in the foster family file.
- Each member of the foster family is entitled to access only his or her own personal information. Therefore, when a foster parent requests access to the file containing information about other members of the family, unless those members provide written consent, the person requesting access to the information will only receive information about him or herself.
- The written request will identify the specific records, forms, or documents and the specific time span of the information being requested.
- If a foster family is requesting a complete copy of the file or the documents requested contain information about third parties, the Executive Director must process the request as established in the FOIPOP Act. When in doubt, the Executive Director is encouraged to consult with Head Office to ensure that the rights of the foster family are met at all times.

9.1.3(b) Procedures and Guidelines to Maintaining Information in the Foster Home File

- Foster care social workers have an obligation to foster parents to respect the foster parents' right to access and review their information on the foster home files.
- Case activities, annual reviews, reports, assessments and correspondence pertaining to the foster parent placed on the electronic and/or paper file will be openly discussed with the foster parent whenever the foster parent requests it.
- Best practice in documentation and in the protecting of private information for foster parents has been established in accordance with the FOIPOP legislation.
- Social workers are encouraged to regularly review the foster home file information at the time of the Annual Foster Home Review to ensure that the foster parents' rights to their private information is being respected.
- Openly communicating and discussing information on the foster home file will promote a more effective and trusting working relationship.

9.2 Resolving Differences in the Planning Process

- The foster parent is a valued and respected member of the child care team. Providing the daily care to children provides them with the opportunity to have a unique and knowledgeable point of view that is necessary for a successful planning process.
- Varying opinions are to be expected during the comprehensive plan of care team meetings. All members of the child care team will consider the differing opinions, thoughts and comments when developing or revising a comprehensive plan of care.
- It is the responsibility of the children in care social workers to manage the Comprehensive Plans of Care for children in the care of the Minister. The "When You Disagree" process is not available to foster parents when they disagree with case planning decisions regarding the children in their home. All parties involved in the planning process are encouraged to work through differences (foster parents and social workers are encouraged to use the knowledge and methods learned in P.R.I D.E training to come to agreement.)
- Foster parents have a responsibility to contact the children in care social worker to request a review and/or an update to the child's plan of care when the child's needs are changing or when new concerns or developmental needs may require attention.
- In some instances, the foster parent may be unable to successfully contact the

children in care or protection social worker; subsequently, the foster parent has a responsibility to contact their foster care social worker to advise of their need to communicate information or seek direction.

- The foster care social worker has the responsibility to seek direction from their supervisor to encourage response to the needs of the foster parent and the child in care.

9.3 Child Welfare Obligations to Foster Parents

- Child Welfare agencies have an obligation to foster parents to adhere to standards and procedures established in the program policy manuals in the daily performance of their social work duties.
- Information will be shared with foster families through an effective working relationship that recognizes “the need to know” principle of sharing information as recommended in the Placement Guidelines in Section 10 of the *Foster Care Manual of Policy and Procedure*.
- Child Welfare agencies have an obligation to adhere to the procedures established in the *Protocol for Investigating Allegations of Child Abuse and Neglect in Foster Homes* and to respect the time lines indicated within the protocol for the child protection investigation.
- Child Welfare agencies are also obligated to ensure that foster parents are notified in writing when time lines for the child protection investigation cannot be met including the reasons why the investigation is ongoing.
- District Managers and the Executive Director of Mi’kmaw Family & Children’s Services are obligated to contact Risk Assessment, on behalf of the foster parent, when legal counsel is requested by the foster parent as a result of the child protection investigation.

