

Child, Youth and Family Services Act, 2017

**Fact Sheet #1: New Regulatory Provisions for
Licensed Residential Settings: Licensing
Applications and Operational Requirements**

New Licensing Applications and Operational Requirements for Licensed Residential Settings

The Ministry of Children and Youth Services has developed a plan to reform licensed residential services in Ontario to strengthen accountability and oversight of licensed residential settings, and improve the quality of care children and youth receive. The voices, experiences and expectations of youth have been the cornerstone of this work and the Ministry has worked closely with youth to define quality of care. For more information about the residential services reform and youth input into the Ministry's plan, please see Appendix A: Residential Services Reform.

The Ministry has started this reform by modernizing the legislation that governs licensed residential care. This is the first of four fact sheets on new residential licensing requirements under the *Child, Youth and Family Services Act, 2017* (CYFSA) and its regulations. To access the additional fact sheets, please visit: <http://www.children.gov.on.ca/htdocs/English/professionals/childwelfare/residential/index.aspx>. For other relevant information, please see Appendix B: Key Resources.

Many regulatory provisions under the *Child and Family Services Act* (CFSA) related to licensed residential care were included in regulations under the CYFSA with minor changes (such as modernizing language and restructuring provisions).

This fact sheet is intended to provide residential licensees with general information about key new and enhanced provisions related to licensing applications and operational requirements set out in Ontario Regulation 156/18 under the CYFSA.

Review the CYFSA: <https://www.ontario.ca/laws/statute/17c14> and Ontario Regulation 156/18: <https://www.ontario.ca/laws/regulation/180156>, Ontario Regulation 155/18: <https://www.ontario.ca/laws/regulation/180155> and Ontario Regulation 157/18: <https://www.ontario.ca/laws/regulation/180157> for more information.

The majority of these provisions come into force **April 30, 2018**, with some exceptions as noted below.

Please note: the information presented here is intended to support the reader's general understanding of the key new and enhanced provisions in the CYFSA and its regulations related to residential licensing applications and operational requirements. It is not intended to replace the statute or the regulations. The information contained here is not legal advice and should not be construed as legal advice or relied upon as such. For information particular to your situation, you may wish to seek legal advice.

Rationale for Change

New and enhanced licensing applications and operational requirements have been developed to:

- Provide greater clarity about the requirements to obtain a licence to provide residential care under the CYFSA;
- Better support the safety of children and young persons in licensed residential settings; and
- Harmonize requirements between children’s residences and parent-model foster care, where appropriate, to enhance consistency in operation of licensed residential services across Ontario.

1. Licensing Applications

All Residential Licensees

- I. **Prohibition on Past Offences (Ontario Regulation 156/18 s. 79):** Section 245 of the CYFSA prohibits a person from operating a children’s residence or providing residential care under the authority of a licence if they have been convicted of a prescribed offence. The offences are listed in the Minister’s regulation, and include:
 - Section 151 (sexual interference)
 - Section 153 (sexual exploitation)
 - Section 163.1 (making child pornography)
 - Section 215 (duty of persons to provide necessaries)
 - Sections 229, 230, 231 or 235 (murder)
 - Section 233 (infanticide)
 - Section 239 (attempt to commit murder)
 - Section 273 (aggravated sexual assault)
 - Section 279.011 (trafficking of a person under the age of eighteen years)
 - Subsection 279.02 (2) (material benefit - trafficking)

2. Records and Reporting

All Residential Licensees

- I. **Records (Ontario Regulation 156/18 s. 137):** Requires that records be kept in locked containers that are inaccessible to children.

- II. **Financial Reporting (Ontario Regulation 156/18 s. 138):** Requires licensees to prepare and submit financial reports to a Director when requested.

3. Policies and Procedures

Children's Residences

- I. **Orientation Regarding Policies and Procedures (Ontario Regulation 156/18 s. 83):** enhancing existing requirement for staff to receive orientation on the policies and procedures to include an annual review and record of review.
- II. **Daily Log (Ontario Regulation 156/18 s. 95):** enhancing and clarifying provisions respecting the daily log to promote consistency in application, including the types of information to be included in the daily log (e.g., general daily activities and staff on duty). New requirements have been included to keep the daily log secure but accessible to all staff who the licensee has authorized to access it.
- III. **Policies and Procedures (Ontario Regulation 156/18 s. 82 (1) (h.1), (q.1), & (q.2)):** enhancing the policies and procedures that licensees operating a children's residence must maintain to include written policies and procedures on safety and cleanliness of the residence, informing staff and children of their rights under the CYFSA, and the manner in which a resident is supported in relation to work done and money earned inside and outside of the residence. The requirements respecting these policies and procedures come into force on **January 1, 2019**.

Parent-Model Foster Care

- I. **Orientation Regarding Policies and Procedures (Ontario Regulation 156/18 s. 120):** Requirement for foster parent or parents and persons assigned by the licensee to supervise and support the foster parent or parents to receive orientation on the policies and procedures to include an annual review and record of the orientation.
- II. **Records (Ontario Regulation 156/18 s. 124):** Requirement to maintain a written file for each foster parent/parents, including specific information.
- III. **Register (Ontario Regulation 156/18 s. 126):** Licensee shall maintain a register of children placed in a foster home used by the licensee to provide residential care, including specific information about the child.

- IV. **Policies and procedures (Ontario Regulation 156/18 s. 119 (2)(h.1), (j.1) & (n)):** Enhancing the existing policies and procedures foster care licensees must maintain to include written policies and procedures on how children are encouraged to participate in community activities, informing staff and children of their rights under the CYFSA, and situations in which policies and procedures in this section are not complied with. The requirements respecting these policies and procedures come into force on **January 1, 2019**.

All Residential Licensees

- I. **Policies and Procedures (Ontario Regulation 156/18 s.8):** Requirement for all service providers, including residential licensees, to develop written procedures reflecting the regulatory requirements related to taking into account a child's identity characteristics and regional differences when making decisions that affect them. Similarly, written procedures must be developed reflecting the requirements related to taking into account a First Nations, Inuk or Métis child's cultures, heritages, traditions, connection to community and the concept of extended family when providing services to the child and their family. These written procedures need to be in place no later than **January 1, 2019**.
- II. **Orientation Regarding Policies and Procedures (Ontario Regulation 156/18 s.7):** Requirement for all service providers, including residential licensees, to ensure training on identity characteristics, regional differences and First Nations, Inuit and Métis cultures, heritages, traditions, connection to community and the concept of the extended family be provided to any person who in the course of their employment with the service provider or otherwise on behalf of the service provider makes decisions that may materially affect a child's interests or is involved in providing services to a First Nations, Inuk or Métis child. This training needs to be place no later than **January 1, 2019**.

4. Provision of Residential Care

Places that are not Children's Residences or Parent-Model Foster Homes

The CYFSA requires a licence where a person provides, directly or indirectly, residential care to three or more children not of common parentage in places that are not children's residences. Parent-model foster care licenses are issued under this statutory authority. Licenses may also be issued under this authority for persons who are providing residential

care, directly or indirectly, to three or more children not of common parentage using a staff model.

- I. **Provision of residential care in places that are not children's residences or parent-model foster homes (Ontario Regulation 156/18 s. 117):** sets out requirements for licensees, other than foster care licensees, that provide residential care, directly or indirectly, to three or more children not of common parentage in places that use a staff model and that are not children's residences.

This section comes into force on **July 1, 2019.**

Appendix A: Residential Services Reform

Vision and Guiding Principles

Vision:

High-quality residential services in Ontario will effectively meet the needs of children, youth and families, contribute to lasting, positive outcomes and enable the fulfilment of each person's individual and unique potential.

As a result of this reform, by 2025, the system will be one where:

1. **Safety:** All children and youth in care are safe and feel safe.
2. **Youth Voice:** All children and youth receiving residential services have the right to express their own views freely and safely about matters that affect them.
3. **Greater Accountability:** Better data is available to help make better decisions and increase transparency of licensed residential services.
4. **Quality of Care:** Standards are informed by young people and reflected in the care they receive.
5. **Consistency:** The same standard of care is maintained in every part of the province.
6. **Inclusivity:** All language used to describe services is inclusive.
7. **Strengthened Workforce:** All children and youth are cared for by qualified, well-trained and responsive staff.
8. **Respecting Cultures and Identities:** The needs of all children and youth are met and supported, including those of Black, racialized, First Nations, Métis, and Inuit children and youth.

Guiding Principles:

- Respect for the knowledge, customs and rights of Indigenous communities
- Child and youth voice at the centre, with a family-focused approach
- The right place at the right time for as little time as necessary
- Data-driven transparency and accountability
- A home for now
- Anti-oppression and inclusion
- Cultural relevance, diversity and accessibility
- Consistent, responsive and high quality care
- Strong oversight and a commitment to improvement

Youth Panel Input

- Youth have developed six quality of care domains that must be present in the lives of young people in residential care at all times:
 - Voice, Rights, and Communications;
 - Homes and Ongoing Support;
 - Individual Paths and Fulfillment;
 - Belonging, Relationships, and Accepting Environments;
 - Identity and Culturally-Relevant Care; and
 - Service Providers and Caregivers.

Quality of Care Pillars

1. Safe and Healthy Places

Children and youth are physically safe. The physical space in which residential services are provided meets the basic needs of children and youth, including food, shelter and clothing, in the context of what is culturally appropriate for them. Their physical space supports their ability to thrive and to be healthy. It provides space for play and leisure in a comfortable and caring environment.

2. A Sense of Belonging

All children and youth in residential care feel at home, are supported to form and maintain attachments, and to be the best they can be. They are supported by caring, qualified adults to have a sense of stability, continuity and hope for the future. Children and youth are supported to have a voice in decision-making about their care and matters that affect them. Residential settings are inclusive and accepting places that provide culturally appropriate services that meet the needs of a diverse population.

3. Child and Youth Centered Placement and Services

All children and youth have the right placement at the right time. Access to services is as close to home as possible, and appropriate for their needs. A range of services are in place in the community to meet their needs. Decisions about their care are made with them using sound clinical and evidence-informed practice and high quality data. Multi-sector professionals work together to support them moving into, through and out of residential services.

For Indigenous Children and Youth

Throughout this process we will co-develop an approach with Indigenous partners to meet the needs of Indigenous children and youth through the mechanisms established as part of the co-implementation of the *Ontario Indigenous Children and Youth Strategy*.

Appendix B: Key Resources

The CYFSA and Regulations

The ***Child, Youth and Family Services Act, 2017*** is available on Ontario's e-laws website at: <https://www.ontario.ca/laws/statute/17c14>.

Ontario Regulation 155/18, *General Matters under the Authority of the Lieutenant Governor in Council*, which includes requirements for licensed residential settings, is available on e-laws at: <https://www.ontario.ca/laws/regulation/180155>.

Ontario Regulation 156/18, *General Matters under the Authority of the Minister*, which includes requirements for licensed residential settings, is available on e-laws at: <https://www.ontario.ca/laws/regulation/180156>.

Ontario Regulation 157/18, *Transitional Matters*, which includes requirements for licensed residential settings (s. 42), is available on e-laws at: <https://www.ontario.ca/laws/regulation/180157>.

The **Fact Sheets** on new regulations related to residential licensing requirements are available on the Ministry's website at: <http://www.children.gov.on.ca/htdocs/English/professionals/childwelfare/residential/index.aspx>.

Additional information on the CYFSA is also available on the Ministry's website at: <http://www.children.gov.on.ca/htdocs/English/professionals/childwelfare/modern-legislation.aspx>.

Residential Services Reform

Safe and Caring Places for Children and Youth: Ontario's Blueprint for Building a New System of Licensed Residential Services is available on the Ministry's website at:

<http://www.children.gov.on.ca/htdocs/English/professionals/childwelfare/residential/blueprint/index.aspx>.

The Residential Services Youth Panel Report **Envisioning Better Care for Youth: Our Input into the Blueprint Report** can be found on the Ministry's website at: <http://www.children.gov.on.ca/htdocs/English/professionals/childwelfare/residential/index.aspx>.

The Residential Services Review Panel Report **Because Young People Matter** is available on the Ministry's website at:

<http://www.children.gov.on.ca/htdocs/English/documents/childrensaid/residential-services-review-panel-report-feb2016.pdf>.

The Provincial Advocate for Children and Youth Report **Searching for Home** is available on the Ministry's website at:

<http://www.children.gov.on.ca/htdocs/English/professionals/childwelfare/residential/blueprint/appendix.aspx>.

Questions

Questions about the *Child, Youth and Family Services Act, 2017* or its regulations can be directed to cyfsa@ontario.ca. The Ministry of Children and Youth Services cannot provide legal advice. For information particular to your situation, you may wish to seek legal advice.