

SECTION 4 RELIGION, LANGUAGE, RACE, AND CULTURE

4.1 Introduction

A healthy religious, linguistic, racial, and cultural identity and a positive attitude toward people of diverse backgrounds are essential to a child's self-esteem and to their ability to function productively in our multiracial, multicultural society. Caregivers must take responsibility to make sure the opportunity exists for the child to develop these identities and attitudes.

The development of racial awareness forms an integral part of the process through which the child establishes their own social identity. (Ijaz, Ahmed, and Ijaz 1989)

The close connection to cultural heritage contributes to a child's positive sense of identity and feeling of belonging. The *Act* specifically recognizes the importance of preserving the cultural identity of a child to help them make a healthy transition from childhood to adulthood. As such, staff in agencies and district offices must fulfill these responsibilities in planning for a child in care.

Legislation

Clauses 3(2)(g) and (h) of the *Act* makes it clear that a child's cultural, racial, religious, and linguistic heritage must be taken into consideration when determining what is in a child's best interest.

Clauses 20(d) and (e) of the *Act* directs social workers that the preservation of a child's cultural, racial, religious, and linguistic heritage must be taken into account when placing a child.

Subsection 47(4) of the *Act* states:

Where practicable, a child who is the subject of an order for permanent care and custody shall be placed with a family of the child's own religious faith but, where such placement is not available within a reasonable time, the child may, with the approval of the Minister, be placed in the most suitable home available.

Subsection 47(5) of the *Act* states:

Where practicable, a child who is the subject of an order for permanent care and custody, shall be placed with a family of the child's own culture, race, or language but, where such placement is not available within a reasonable time, the child may, be placed in the most suitable home available with the approval of the Minister.

Definitions

Religion refers to a system of beliefs and worship, including religious practices and spiritual approaches to life.

The right to religious freedom is guaranteed under the *Canadian Charter of Rights and Freedoms*.

Cultural heritage refers to those shared traits, customs, and beliefs as they apply to a particular ethnic group and may cover:

- food and diet
- dress
- education
- patterns of social and family relationships and attachments
- expectations of independence
- expectations for behaviour and conduct
- child-rearing practices
- language
- religious and spiritual observance
- values
- ceremonial belief
- appreciation of historical events and traditions

Ethnic group refers to a group of people who share a common heritage or ancestry.

Linguistic heritage refers to a language, i.e. the form and style of verbal expression of a considerable community.

4.2 Placement

Standard 4.2(a)

Under the *Act*, a child must be placed with a family of the child's own religion, language, race, or culture where possible. Where this placement is not available within a reasonable period of time, prior approval of the executive director or district manager is required to place the child in the most suitable home available.

Procedures

When placing a child with caregivers, the social worker must make every effort to preserve the child's cultural, racial, linguistic, and religious heritage by choosing caregivers who:

- have an appreciation of and sensitivity to the child's cultural, racial, linguistic, and religious heritage
- are willing to support ongoing contact with members of the child's cultural community
- are willing to work with the child's birth family and extended family members
- are able to help the child develop a strong self-image that incorporates the child's cultural, racial, linguistic, and religious heritage

Where a placement with caregivers of the child's own culture, race, religion, or language is not available as required under the *Act*, the social worker should make a request to the executive director or district manager for approval to place the child in the most suitable home available stating:

- the name of the child
- the date of birth
- the comprehensive plan of care
- summary of the efforts made to place the child with a family of the same culture, race, religion, or language
- proposed placement recommendation

4.3 Services to the Child

Standard 4.3(a)

The social worker must provide support to caregivers to make sure the child's religious, linguistic, racial, and cultural needs are met, particularly where the child is placed with caregivers of a different religion, language, race, or culture.

Procedures

The social worker:

- should make sure that the child is provided with information about their cultural heritage at a level understood by the child
- should give caregivers information about the child's cultural heritage
- should assist the child and caregivers to establish relationships with adults and peers of similar background to the child, making sure that children placed in child care facilities also have appropriate cultural role models and support persons from their cultural community
- should develop a list of appropriate cultural mentors for the child
- should give caregivers and the child a list of resources specific to the child's cultural heritage

4.4 Aboriginal Youth in Care

Legislation

In July 1985, the Mi'kmaq Family and Children's Services of Nova Scotia was incorporated as a Children's Services Agency to provide child welfare services to aboriginal communities in Nova Scotia.

On October 1, 1988, all aboriginal children in care and custody were transferred to the Mi'kmaq Family and Children's Services pursuant to Section 9 of the *Act*.

Each aboriginal child placed in permanent care and custody is to be transferred to Mi'kmaq Family and Children's Services (*see sections 2, 4.41, and 7 of this manual*).

The early involvement of staff from Mi'kmaq Family and Children's Services is recommended to make communication easier, provide consistency of placement and social worker, and to protect the best interests of the child.

Procedures

The procedure for placement of an aboriginal child includes consideration of the following:

- placement within the child's extended family or within the child's aboriginal cultural community
- placement in a location where the child can maintain contact with relatives and friends
- placement in same family unit as brothers and sisters, if possible
- placement in a location that will allow the child to continue in the same school
- placement with a foster family that speaks the traditional aboriginal language in which the child has been raised, or making sure the development of a support service takes place in co-operation with the Mi'kmaq agency to assist the child in care
- placement in the child's aboriginal community, or when placement must be made away from that community, the child's social worker along with the placement worker (in consultation with the Mi'kmaq Family and Children's Services), must assess the child's circumstances and jointly select the placement that is likely to serve the child's best interest
- placement should take into account the important role that extended family and the aboriginal community play in preserving the child's sense of connection with the child's aboriginal ancestry

4.4.1 Transfer to Mi'kmaq Family and Children's Services

Standard 4.4.1(a)

When an aboriginal child is placed in care and custody of an agency by the court, the agency must transfer the child's guardianship to the Mi'kmaq Family and Children's Services. The written approval of the receiving agency and the transferring agency is required (*see Section 7.2 for Transfer Procedures and the appendix for Section 7 for Form IX*).

Procedures

The following documentation must be forwarded to Mi'kmaq Family and Children's Services prior to transfer of the complete record:

- social and medical history
- medical (current)
- birth certificate
- order for care and custody
- plan of care
- current placement information
- signed mutual agreement to transfer

It will be necessary to wait until the 30-day appeal period has expired before approval to transfer can be given.

4.4.2 Registering a Child for Indian Status

Standard 4.4.2(a)

Where there is reason to believe the child may be entitled to Indian status, the agency must apply to determine status.

Procedures

A) Child in Permanent Care and Custody

- If information regarding the child's Indian status is not obtained from the parents or guardians, the caseworker must contact the Registrar for Indian and Northern Affairs Canada for the Atlantic Region, located in Amherst, Nova Scotia, to confirm registration (See Appendix 4 for address and phone number).
- If the child is not a registered member of an Indian band, contact (by letter) Indian and Northern Affairs Canada in Ottawa to determine whether the child is entitled to be registered.
- In order to register a child, the worker must obtain the birth history for adoptee referred to in the Appendix for Section 4 and forward to Indian and Northern Affairs Canada.

B) Child in Temporary Care

The social worker must obtain an application form from Indian and Northern Affairs Canada for parent consent for registration. If both parents have status, they must agree to and designate which band the child is to be registered with.

The birth dates and correct spelling of the legal name(s) of the parent(s) and the band application must be clearly stated.

4.5 Cultural Heritage

According to the *Act*, agencies should make sure that children in care in Nova Scotia are placed in homes that reflect their own cultural heritage.

Nova Scotia has many diverse cultural and ethnic groups. African, Acadian, and aboriginal Nova Scotian children especially require the supports and skills that can only be taught in kinship placements and, if not possible, through placement with caregivers of a similar cultural and ethnic heritage. The skills and techniques to combat racism must be taught at an early age and reinforced through the child's years of development. It is important to be aware of the need for children of other cultures or races to express the anger, isolation, and resulting emotional conflict that is the result of living with racism.

Since the development of a healthy identity is a life-long process, it is necessary that agencies develop a culturally sensitive comprehensive plan of care for children in care who belong to a specific religious, linguistic, racial, or cultural group.

Procedures

Responsibilities of a child's social worker when caring for children of other religious, linguistic, racial, and cultural groups include:

- awareness of the legislation of the *Children and Family Services Act*, the mandate of the Minister/Agency, and the role of the social worker as it applies to children in care
- sensitivity to the cultural needs of the children in care, willingness to educate them regarding the cultural diversity of the community, and demonstrating respect, sensitivity, and appreciation of diversity within the province to meet the needs of the child in the comprehensive plan of care
- assurance that caregivers are prepared to make contact with the child's family, extended family, or cultural community as appropriate
- engagement of a support person to provide the cultural connection by involving the youth in their cultural community; this service may be provided under a contract or by an approved community volunteer

- approval of the executive director or district manager to place a child in the home of caregivers with a different religion, language, race, or culture who will be able to assist in the child’s development of their religious, linguistic, racial, or cultural heritage and who have a positive attitude towards the child’s culture and community to help the child integrate into their community and foster healthy emotional development
- awareness, when placing in child care facilities, that there are role models from the child’s cultural background, or if not, making sure a support service is in place through a youth support worker, mentor, or volunteer from the child’s cultural background

4.6 Language: Interpreter Services

Legislation

Children and Family Services Act, Clauses 3(2)(g), 20(d), and Subsection 47(5) states:

3(2)Where a person is directed pursuant to this Act, except in respect of a proposed adoption, to make an order or determination in the best interests of a child, the person shall consider those of the following circumstances that are relevant:

.....

(g)the child’s cultural, racial and linguistic heritage;

20 Where the Minister of an agency enters into an agreement pursuant to Section 17,18 or 19, the Minister or the agency shall, where practicable, in order to ensure the child’s best interests are served, take into account

.....

(d)the preservation of the child’s cultural, racial and linguistic heritage;

47(5)Where practicable, a child ,who is the subject of an order for permanent care and custody shall be placed with a family of the child’s own culture, race or language but , if such placement is not available within a reasonable time, the child may be paced in the most suitable home available with the approval of the Minister.

Standard 4.6(a)

Any child whose first language is not English, or who is deaf or hard of hearing, must be provided with the services of an interpreter so that they may be informed of their rights and freedoms, to be heard in the course of and to participate in the processes that lead to decisions that affect them.

In accordance with the guiding principles set out in the *Act*, a child’s views should be taken into account when decisions relating to the child are made. This may mean that the child whose first language is not English, or who is deaf or hard of hearing, will require an interpreter prior to coming into care to allow the child to understand and to be effectively

informed and consulted. This also includes the child's right to be informed about their comprehensive plan of care so that they have an opportunity to express their views about significant decisions affecting them.

The right to an interpreter makes sure that children who have difficulty communicating because of language barriers or special needs affecting their ability to communicate will be able to participate in decisions affecting them.

Procedures

The social worker, in consultation with the casework supervisor, determines the child's needs for an interpreter and the type of interpreter that will best meet the child's communication needs by considering:

- the child's ability to communicate in English
- how the child currently communicates with them

Where the social worker, caregivers, lawyer, etc., is unable to communicate directly with the child, the social worker arranges for an interpreter whenever the child is consulted about their custody or care, and specifically in the following situations:

- case planning meeting
- discussions with the child about changes in placement
- discussions with the child about their care and custody, including changes to care and custody status, informing and/or consulting, and allegations of neglect or abuse
- when the child requires health care
- when the child is informed about a guardian *ad litem*, court matters, rights under the Act, and procedures available for obtaining those rights

The social worker provides an interpreter when the person conducting the case planning meeting is unable to communicate with the child in a way the child understands.

In selecting an interpreter for the child, the social worker, in consultation with the casework supervisor, considers:

- which interpreter was previously involved with the child and/or the child's family
- the resources and options available in the community
- the child's views
- the likelihood that an interpreter will be available when required
- the ability and willingness of the interpreter to adhere to the confidentiality requirements of the agency
- the likelihood that the interpreter will be neutral in providing interpreting services
- the cost of different options

If practical, the social worker makes arrangements for the child to meet with the interpreter prior to the time of consultation to allow the child to become comfortable with the

interpreter. Also, the social worker should explore local services and be aware of persons within the home community.

Resources and Options Available in the Community

Resources available for children with communication disabilities include:

- speech language therapists in medical centres, hospitals, child development centres, Department of Education, etc.
- teachers of the hearing impaired in the local school district
- programs under the Department of Education that may provide computers and technical aids to children with communication disabilities
- associations, specialized service providers, and support groups
- service clubs that may provide financial assistance in purchasing or leasing equipment

4.7 Religion

Legislation

Under Section 2 of the *Canadian Charter of Rights and Freedoms*, every individual has the following fundamental freedoms:

- freedom of conscience and religion
- freedom of thought, belief, opinion, and expression, including freedom of the press and other media of communication
- freedom of peaceful assembly
- freedom of association

The freedom of religious choice is not absolute and is subject to the limitations necessary to protect:

- the safety, health, or life of a child
- public safety and health
- the fundamental rights and freedoms of others

The *Act* makes reference to religions and consequences of a finding of religious faith throughout with specific legal consequences.

Best Interests of Child Subsection 3(2)

(h) “The religious faith, if any, in which the child is being raised.”

Section 42 Disposition Order

(1)(f) “The child shall be placed in the permanent care and custody of the agency, in

accordance with Section 47.”

Section 47 Consequences of Permanent Care and Custody Order

(4) “Where practicable, a child who is the subject of an order for permanent care and custody shall be placed with a family of the child’s own religious faith; but, where such placement is not available within a reasonable time, the child may, with the approval of the Minister, be placed in the most suitable home available.”

Placement considerations as spelled out in Clause 20(c), Clause 39(8)(d), and Clause 44(3)(d) provide for “the continuity of the child’s education and religion.”

Standard 4.7(a)

The religion, if any, must be determined for each child in care. The worker must make sure that the child has the freedom to receive religious instruction and to participate in the religious activity of their choice.

Procedures

Section 50 of the *Act* requires a “Determination of Religion” of a child, if any. Subsection 47(4) of the *Children and Family Services Act* establishes a legal obligation on the agency to place a child with a family of the child’s own religion unless otherwise approved by the executive director or district manager.

The court should be made aware of the plan for the child as set forth in Subsection 41(3) of the *Act* where (e) “a description of the arrangements made, or being made, for the child’s long-term stable placement” with consideration for a finding of religion.

The child’s ability to make the choice in regards to religion should be a casework decision based on the developmental, emotional, and chronological age of the child in conjunction with the child’s social worker and casework supervisor.

The right to receive religious instruction and participate in religious activities is interpreted in conjunction with the principle of the best interest of the child as the paramount consideration.

**SECTION 4
APPENDIX**

1. Indian and Northern Affairs Birth History for Adoptee

Indian and Northern Affairs
Birth History for Adoptee

FILE #: _____

Birth Name: _____

Date of Birth: _____

Racial Origin: _____

Adopted Name: _____

Adoptive Parents: _____

Birth Mother's Name _____

(include maiden name, if applicable)

Date of Birth: _____

Racial Origin: _____

Maternal Grandmother: _____

(including maiden name, if applicable)

Date of Birth of Maternal Grandmother: _____

Racial Origin: _____

Maternal Grandfather: _____

Racial Origin: _____

Date of Birth of Maternal Grandfather: _____

Siblings to Birth Mother: Name Date of Birth

Birth Father's Name: _____

Date of Birth of Birth Father: _____

Racial Origin: _____

Paternal Grandfather: _____

Date of Birth of Paternal Grandfather: _____

Racial Origin: _____

Paternal Grandmother: _____

(include maiden name)

Date of Birth of Paternal Grandmother: _____

Racial Origin: _____

Siblings to Birth Father:	<u>Name</u>	<u>Date of Birth</u>
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Marital Status of Birth Parents: _____

Band Affiliation: _____

Adoptee's Siblings:	<u>Name</u>	<u>Date of Birth</u>
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Has Birth Father admitted paternity: Yes _____ No _____

Source of Confirmation of Paternity: _____

Certified Adoption Order Enclosed: Yes _____ No _____

**SECTION 4
REFERENCE MATERIAL**

The Regional Office:

Atlantic Registrar
Indian and Northern Affairs Canada
P.O. Box 160
40 Havelock Street
Amherst, NS B4H 3Z3

Telephone: (902) 661-6254
Fax: (902) 661-6237

National Office:

Indian and Northern Affairs Canada
Ottawa, Canada
K1A 0H4

Telephone: (613) 954-9769

**SECTION 4
RELIGION, LANGUAGE,
RACE, AND CULTURE**

Summary of Standards for Religion, Language, Race, and Culture

- 4.2(a)** Under the *Act*, a child must be placed with a family of the child's own religion, language, race, or culture where possible. Where this placement is not available within a reasonable period of time, prior approval of the executive director or district manager is required to place the child in the most suitable home available.
- 4.3(a)** The social worker must provide support to caregivers to make sure the child's religious, linguistic, racial, and cultural needs are met, particularly where the child is placed with caregivers of a different religion, language, race, or culture
- 4.4.1(a)** When an aboriginal child is placed in care and custody of an agency by the court, the agency must transfer the child's guardianship to the Mi'kmaq Family and Children's Services. The written approval of the receiving agency and the transferring agency is required (*see Section 7.2 for Transfer Procedures and the appendix for Section 7 for Form IX*).
- 4.4.2(a)** Where there is reason to believe the child may be entitled to Indian status, the agency must apply to determine status
- 4.6(a)** Any child whose first language is not English, or who is deaf or hard of hearing, must be provided with the services of an interpreter so that they may be informed of their rights and freedoms, to be heard in the course of and to participate in the processes that lead to decisions that affect them.
- 4.7(a)** The religion, if any, must be determined for each child in care. The worker must make sure that the child has the freedom to receive religious instruction and to participate in the religious activity of their choice.