

Quality Standards Framework Regulations Implementation Bulletin #9: Complaints

MARCH 1, 2023

In follow up to the February 22, 2023 email, this is the ninth of the weekly communications that will be sent by the Ministry of Children, Community and Social Services (ministry) to out of home care¹ service providers and placing agencies on the new and updated [Quality Standards Framework](#) related regulations, which come into effect on July 1, 2023.

The weekly bulletins will cover the 10 regulatory topics with the intent to help familiarize licensees and placing agencies with the new and updated requirements, and answer questions about how they can start preparing for implementation.

Note that the information that follows does not constitute legal advice. It provides general information about the regulatory amendments made to licensing requirements under the *Child, Youth and Family Services Act, 2017 (CYFSA)*. If you require assistance with respect to the interpretation of the regulatory requirements and their potential application in specific circumstances, you should seek legal advice.

1. Who do the updated complaints requirements apply to?

The updated complaints regulations apply to all service providers under the CYFSA. For out of home care licensees, this includes children's residence licensees, foster care licensees and staff model home licensees. This captures children's aid societies who hold a foster care licence, as well as licensees operating a place of temporary detention, of secure custody or of open custody, service providers that are directly operated and secure treatment facilities.

As part of the current requirements in the CYFSA, all children in society and/or out of home care have a right to speak in private with and receive visits from the Office of the [Ontario Ombudsman](#). These children and young persons also have a right to be informed about the existence of the Ombudsman and their functions in the event they wish to reach out to them for help. The Office of the Ombudsman can also provide child-friendly resources and information about children's and young persons' rights and can

¹ Although the term *residential* is a legal term under the CYFSA and its regulations, the ministry is using the term "out-of-home care" instead of "residential" care to acknowledge the traumatic history of the Residential School system in Canada. We recognize the importance of choosing different languages, especially, since the term may be triggering to some.

help connect children and young persons to other child- and youth-serving organizations, as needed.

The Ontario Ombudsman can also take [complaints about child protection services](#). These complaints can be regarding children in care or about child protection agencies.

2. Overview of Updated Requirements:

Policies and Procedures:

By July 1, 2023, the licensee must have a policy and procedure, which uses child-friendly language to describe the process for making a complaint which is also available to the public, which details:

- The requirement for a status update on complaints review to be provided to the person who made the complaint:
 - If the person requests an update, and
 - At such other times as necessary to ensure that the person receives an update on the review no later than 15 days after the service provider receives the complaint and subsequently at intervals of no more than 15 days (formerly 30 days).

**Note: This requirement does not apply if the complaint was submitted anonymously.*

- A process for complaints to be considered and responded to by a person other than a person in respect of whom the complaint is made.
- A requirement for the service provider to document the details of the complaint and the steps taken in response to the complaint in the file of the child or young person in respect of whose rights the complaint is made.
- A requirement for the service provider to make reasonable efforts to ensure any person who is informed of the results of a complaints review, understands those results.
- If it is determined during the review that there has been a violation of the rights of a child in care under Part II of the CYFSA, a requirement for the service provider to determine whether there are any measures that could be implemented to prevent the same violation from recurring and implement any such measures.
- Their process for providing a written summary of the complaint, including steps taken in response to the complaint to:
 - the child's placing agency or person who placed the child, unless the service provider that prepared the document is the placing agency, where the complaint relates to an alleged violation of the child's rights by a service provider providing out of home care to the child; or
 - the service provider providing out of home care to the child, unless the service provider that prepared the document is the service provider providing out of home care to the child, where the complaint relates to an alleged violation of the child's rights by a placing agency.

Reviews respecting complaints and complaints procedures:

- A service provider shall ensure that, at least once every 12 months, a written evaluation is conducted of the service provider's written complaints procedure to assess:
 - (a) the effectiveness of the written complaints procedure; and
 - (b) the need for any changes to the procedures to improve their effectiveness.
- The service provider shall, on or before the fifth day of every month,
 - (a) Prepare, for the previous month, a written analysis of every complaint received pursuant to the complaints procedure and the results of the review to determine whether any changes are required to the manner in which a service provider respects the rights of children and young persons when providing a service; and
 - (b) Provide the written analysis to,
 - (i) in the case of a child who is not a young person, a Director, or
 - (ii) in the case of a young person, a provincial director.

Debriefing:

- After a complaint has been reviewed according to the complaints procedure, the service provider shall ensure that a debriefing is conducted under the following rules:
 1. A debriefing process must be conducted with the persons to whom the complaint relates, in the absence of any children or young persons.
 2. A second debriefing process must be conducted with the child or young person who made, or is the subject of, the complaint, in the absence of the persons to whom the complaint relates. If requested by the child or young person, the debriefing shall also include an adult identified by the child or young person as a support person.
 3. A third debriefing process must be offered to be conducted with any children or young persons who witnessed any conduct that gave rise to the complaint and must be conducted if any such children or young persons wish to participate in the debriefing process.
 4. The debriefing processes must be structured to accommodate any child or young person's psychological, communication and emotional needs and cognitive capacity, and be focused on understanding the experiences of the child or young person that led to the complaint being made as well as what the service provider can do to better meet the needs of the child or young person.
 5. The debriefing must be conducted within seven days after the complaint has been reviewed.
 6. If the circumstances do not permit a debriefing process to take place within seven days after the complaint has been reviewed, the debriefing process must be conducted as soon as possible after the seven-day period, and a record must be kept of the circumstances which prevented the debriefing process from being conducted within the seven-day period.
 7. The service provider must record:
 - The date and time of each debriefing, the names and, if applicable, titles of the persons involved in each debriefing and the duration of each debriefing.

- The name of each child or young person for whom a debriefing was offered in accordance with paragraph 3 and who indicated that they did not wish to participate in the debriefing process.
- A description of the efforts made to conduct the debriefing processes required by this section that includes the names of the persons who made those efforts.

Availability and Distribution of Complaints Information

Child's File:

A written summary of each complaint made by a child or young person or a complaint made by someone else on behalf of the child or young person, including the steps taken in response to the complaint.

3. How do the updated complaints requirements enhance quality of care?

Introducing updated requirements for complaints processes is part of the work to embed *Ontario's Quality Standards Framework: A Resource Guide to Improve the Quality of Care for Children and Young Persons in Licensed Residential Settings* (QSF), into regulation. Quality Standard 3 of the QSF, states that children and young persons should be supported and empowered to understand, exercise and benefit from their rights, including raising concerns about their care and having these concerns responded to in a timely manner.

Children are individuals with rights to be respected and voices to be heard. The enhanced requirements related to complaints aim to be consistent with and build upon the principles expressed in the United Nations Convention on the Rights of the Child (1989) and commits to the principle that services provided to children and families should respect their diversity and the principle of inclusion, consistent with the Ontario Human Rights Code (1962) and the Canadian Charter of Rights and Freedoms (1982).

4. Where can I find the regulations?

The new regulations related to Complaints can be found on E-Laws accessible by the following link: O. Reg. 155/18, [Section 22, Section 23.1 and 23.2](#).

5. What resources will be available to me in future to support implementation of the new requirements?

In the coming months, the following will be available to licensees to support understanding and compliance with the new complaints requirements:

- A guidance document covering the new requirements, purpose for the new requirements, indicators used by the ministry to assess compliance, guidance for placing agencies and best practices for implementation (March 2023).
 - A template for the analysis of complaints received pursuant to the complaints procedure (March 2023).
 - Information webinars for service providers on the updated requirements (spring 2023).
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6. Who should I be sharing this information with?

Information regarding the new complaints requirements should be shared with all service providers that are funded, licensed and/or delivering services under the CYFSA, including but not limited to children's residences licensees, staff-model home licensees and foster care licensees. This information should also be shared with placing agencies, front-line staff members and foster parents.

7. Who can I contact if I have questions about the new regulations?

If you require assistance with respect to the interpretation of the legislation and its potential application in specific circumstances, you should seek legal advice.

You may also contact your regional licensing team for more information as you implement the new requirements. Any additional questions pertaining to future activities to support operationalization of the new regulations can be directed to qualitystandardsframework@ontario.ca.

8. What's next?

Stay tuned! The next Quality Standards Framework Regulations Implementation Bulletin topic on **case management** will be released March 8.