



Ref: 166163

Melanie Filiatrault
President
British Columbia Federation of Foster Parent Associations
200 – 7342 Winston St
Burnaby BC V5A 2H1

Dear Ms. Filiatrault:

Thank you for your letter of June 28, 2007, advising on the progress of the Ideas Forums that the British Columbia Federation of Foster Parent Associations (BCFFPA) has been conducting in the Interior Region. I am sure many of the discussions and ideas from these community forums will be of value to the various committees and working groups associated with the Caregiver Support Services Framework Project, in which both provincial foster parent federations are key partners.

I would like to respond to your request for clarification regarding the practice of returning children's records to the director when a child no longer resides in the family care home. The following information is derived from the ministry's current Caregiver Support Service (CSS) Standards, the Standards for Foster Homes, the Family Care Home Agreement, relevant legislation and legal opinion.

First, with respect to the CSS Standards 8, 13, 14, 17 and 20, the wording "records" is intended to mean all records, and does not distinguish between "original" and "copy" because it implies that once the child no longer resides in the home, the child's individual records (such as daily or monthly logs, care plans, assessments and planning documents) should be returned to the director for storage. When a foster home is closed for whatever reason, it is also expected that all records the foster parent has previously securely stored in the caregiver's home are returned to the director for storage. We have sought a further legal opinion on the storage of the child's records and have been advised that both the child's rights and the ministry's liability are best served by the return of all records pertaining to the child to a ministry office for long term storage.

Notwithstanding the policy and legal requirements to ensure the security and integrity of the child's records over a 90 year period of time, it is both impractical and unreasonable to ask foster parents to store the records of all the children who have resided in their home during their time as caregivers. I appreciate that the secure storage requirements, as outlined in Standard F.2 Child's Individual Service Records in the Standards for Foster Homes, is quite onerous for caregivers for all children currently in their home, without having to store records for those who have left their home and/or are no longer in care.

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Under the Family Care Home Agreement (FCHA) sections on Records and Reports (5.01 – 5.02) and Ownership and Copyright (6.01 – 6.05), both the definition and requirements associated with the “Director’s Documents” are provided. The BCFFPA was a party to the development of the FCHA, and agreed with the position that all records pertaining to the child are the director’s documents as the child is under the guardianship of the director for the duration of their time in care under the *Child, Family and Community Service Act*.

Another factor that I know is sensitive for foster parents is protecting the rights of children and youth in care. Children in care have rights to privacy and all information about them is to be kept in a confidential and secure manner for 90 years. During consultations with the Federation of BC Youth in Care Networks to develop the new CSS Standards, their organization expressed concern about securing the privacy and integrity of the child’s records while in care and once the child has left care.

Former youth in care expressed concern about their very personal records and life history being dispersed across a number of locations with increased potential for a breach in confidentiality, albeit unintentional; such as when a foster parent moves or is deceased and other family members are dealing with their property and effects. Although the majority of foster parents are extremely careful and protective of the child’s personal information, there are risks of privacy breaches occurring given the number of homes a child may reside in while they are in care, and the nature of normal life events that foster families experience over their fostering career.

I understand from discussions with Annette Harding (BCFFPA liaison) that the BCFFPA understands and supports in principle the ministry’s position on the return of all records pertaining to the child. However, your organization does have a number of concerns related to any legal proceedings involving the foster parent and their future ability to access the returned records in an expeditious manner; and that those original records are returned intact, non-severed and with no blackout of information. Maintaining access to and the integrity of the records is also related to the underlying concerns about trust relationship between foster parents and the ministry that has been expressed at the two provincial forums and at the various retention committee and working group tables.

The secure storage and retrieval of all files and records is a regional operational requirement following policy guidance from the Records Management and the Freedom of Information and Protection of Privacy provincial teams. When the CSS Standards were released, regions also expressed their concern about the storage and retrieval of the returning records from foster parents. So, clearly, this is an area that requires more discussion and a plan of action.

One solution that may be considered workable for all concerned would be that the foster parent returns the child’s records in a sealed envelope stating the child’s name and the foster parent’s name on the outside. The envelope would be kept sealed, with the records inside not being dispersed any further, and placed into the child’s file or resource file. Should the record be required for any legal proceedings, the sealed envelope(s) could be returned to the foster parent for their use in the court matter.

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However, there may be other options that would meet all our needs that could be reviewed by a group tasked with addressing the important issues you have raised. I would like to invite you to join us in that discussion that will also include representation from the regions and the records management staff.

For now, I understand that your organization has advised foster parents to keep an original of the child's record and to return a copy to the ministry. For the reasons previously outlined, I have concerns about this and, therefore, this can only be considered an interim solution while we are working together on a storage management plan and on the policy concerning the return of original non-severed records.

I appreciate that you brought this matter to my attention, and we look forward to working in partnership with the BCFFPA and the Federation of Aboriginal Foster Parents on finding the best solution for all concerned.

Sincerely,

Mark Sieben
Assistant Deputy Minister
Integrated Policy and Legislation

pc: BCFFPA Board of Directors
Marilyn Hedlund, Provincial Director of Child Welfare, Adoptions
Michael Davies, Barrister and Solicitor, Legal Services, Ministry of Attorney General
Annette Harding, A/Manager, Children and Youth in Care, Child Welfare Policy Team
Jo-Anne DiGeorgio, Manager and Records Officer, Records and Information Operations
Vivian Klassen, Manager, Freedom of Information Operations

fc: Mark Sieben, ADM, Integrated Policy and Legislation
Karen Wallace, Director, Child Welfare Policy Team

HARDING/ANDERSON/mw