

# Mnaasged Child and Family Services



## Legal Services Policy and Procedure Manual

June 2020

*Acknowledging the Past  
Serving the Present  
Creating the Future*

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## SECTION 1: INTRODUCTION

### PREAMBLE

Mnaasged Child and Family Services will provide legal services for the protection of Children and Youth in a manner that respects the Mission and Vision Statements and the Policies and Procedures of Mnaasged, the *Child, Youth and Family Services Act*, and the policies and guidelines of the Ministry of Children, Community and Social Services. Mnaasged will provide these services in a respectful and professional manner that promote the best interests of Children and Youth and will ensure that all legal services within its control are managed in a timely fashion.

The Manager of Legal Services and the Mnaasged Lawyer will ensure that the Child Welfare Staff follow court-related procedures. As well, it is a joint responsibility of the Assigned Helper and the Supervisor to ensure that these are followed when preparing court documentation. Supervisors and Assigned Helpers will ensure that any matters brought before the Court will have appropriate and ongoing consultation with the Assigned Legal Counsel prior to and at the conclusion of any Court Proceeding as well as during. All Assigned Helpers and Administrative Staff can attend legal training to ensure they have an in-depth understanding of the legal process and the knowledge of Mnaasged's Policies and Procedures related to their roles and responsibilities.

Mnaasged Child and Family Services will work respectfully and collaboratively with the First Nation Band Representatives or their designate.

## SECTION 2: LEGAL SERVICES

Department: Legal Services	POLICY #:
Section: Legal Services	
Subject: Structure of Legal Services Department	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Best Practice Standards, <i>Child, Youth and Family Services Act</i>	

### STRUCTURE OF LEGAL SERVICES DEPARTMENT

#### POLICY

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*Mnaasged Child and Family Services will utilize an In-House Lawyer and the Manager of Legal Services to coordinate court activity on its behalf. The In-House Lawyer will also represent Mnaasged Child and Family Services in court. In some cases, a panel of Community Lawyers will be required to assist with the complexity and volume of legal work given the geographic size and number of court jurisdictions being served. There will be occasions that will require additional legal representation to be available in multiple courts.*

*Legal Counsel will be expected to work cooperatively with the Assigned Helpers and the Supervisors in fulfilling the Mandate and Mission of Mnaasged Child and Family Services.*

#### PROCEDURE

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1. It will be the responsibility of the Manager of Legal Services to assign the In-House Lawyer or the Panel Lawyer to each court case that is initiated by Mnaasged once the Executive Director or designate has approved the court application.
2. Attempts will be made to ensure the continuity of service with specific legal cases where lawyers had previous involvement. The assignment of files will take into consideration the specific areas of expertise of each Lawyer. This will also be dependent on the availability of the Lawyer and the complexity of the case involved.
3. It will be the responsibility of the Assigned Lawyer to review all relevant documentation and court applications and to consult with the Assigned Supervisor. This review will ensure that

Mnaasged's position is appropriate to the Mandate, the Philosophy, the legislation, and the rules of evidence.

4. The final approval of all documents prepared for a Legal Proceeding will be the responsibility of the Assigned Legal Counsel.
5. The Assigned Lawyers will represent Mnaasged in all negotiations and discussions with other Lawyers in a *Child, Youth and Family Services Act* Proceeding.
6. The Assigned Lawyers will ensure that they obtain thorough instruction on Mnaasged's position and limitation in negotiating a resolution on an issue(s) prior to making a legal commitment. The Assigned Lawyer will provide legal advice on the viability of any position put forth by Mnaasged to fully inform a decision before it is made.
7. It is the responsibility of the Supervisor and the Assigned Helper to ensure that there is clear, ongoing communication with the Assigned Lawyer. If there is a disagreement on the direction of a case between the Assigned Lawyer and the Assigned Helper or Supervisor, the Supervisor will then advise the Manager of Legal Services as soon as possible. This will prompt an Internal Review for the Assigned Helper, the Supervisor, the Senior Manager, and the Manager of Legal Services to resolve the disagreement. Subsequently, additional consultation with the Assigned Lawyer may be required to determine further direction for the case.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Legal Services	
Subject: Legal Consultations	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Best Practice Standards, Mnaasged Child and Family Services Internal	

## LEGAL CONSULTATIONS

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### POLICY

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*Mnaasged Child and Family Services will ensure that the Supervisors and the Assigned Helpers have regular consultations with Assigned Lawyers for the appropriate management of Legal Files. It will be the responsibility of the Assigned Supervisor and the Helper to make sound case management decisions with the assistance of Legal Counsel's expertise and advice.*

### PROCEDURE

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1. The Assigned Helper and the Supervisor will consult with the Assigned Lawyer as soon as possible once the decision to initiate a court application has been approved by the Executive Director or designate. The Assigned Helper will prepare all relevant case information in a brief and professional manner to present to the Legal Counsel.
2. The Assigned Helper and the Supervisor will decide if a case warrants a Court Intervention, which will be in consultation with the Executive Director or designate, whose approval is required before a court application can be launched. The Supervisor will review questions on the case direction and the issues concerning the best interest of the Child/Youth with the Senior Manager and the Manager of Legal Services to ensure safety and protection of the Child/Youth. After these discussions, it may be decided to consult with a Panel Lawyer to discuss the legal options that are available to Mnaasged. This may involve consultation prior to bringing a Child/Youth to a Place of Safety if time and circumstance permit. An Assigned Helper does not have the authorization to contact a Panel Lawyer to decide on initiating a court application.
3. When a Legal File has been assigned to a Panel Lawyer, Mnaasged will expect ongoing case discussions between the Assigned Helper and the Lawyer. It is the responsibility of the

Assigned Helper to provide all information requested by the Legal Counsel in a timely manner and to advise on all significant case developments as they occur.

4. Consultation regarding day-to-day case management decisions will continue to occur between the Assigned Helper and the Supervisor. Legal input will not always be required in daily case management decisions unless circumstances deem it appropriate.
5. The Manager of Legal Services will make recommendations to the Senior Management if contentious or serious issues that are non-case specific are identified and may require legal expertise and consultation. For case-specific situations, the assigned Senior Manager will be advised of the concerns and will be included in the consultation process with the Senior Management.
6. The Manager of Legal Services will consult with the Panel Lawyers as required to address systemic or policy issues.
7. Consultation among the Manager of Legal Services, the In-House Legal Counsel, and the Panel Lawyers will occur when reviewing the following:
  - a) Issues related to file transfers from other jurisdictions
  - b) File disclosure questions
  - c) Interpretation of the *Child, Youth and Family Services Act* or its application
  - d) Other situations that indicate a need for a legal opinion
8. The Supervisors and the Assigned Helpers will be encouraged to use the expertise available from the Legal Services Department to assist them with Mnaasged procedures.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Legal Services	
Subject: Training	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Best Practice Standards	

## TRAINING

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### POLICY

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*Mnaasged Child and Family Services will ensure that training is provided to its Staff to assist with the understanding of the Court Process.*

### PROCEDURE

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1. All newly hired Child Welfare Staff will be given a brief overview of the Legal Services Department at orientation.
2. All newly hired Child Welfare Staff will complete the Ontario Association of Children's Aid Societies (OACAS) Authorization Training or its equivalent, including Legal Services modules, when or if required.
3. At the time of hire, all new Employees will be given the document "Drafting Court Documents" by their respective Supervisor. This document is a requirement for Employees working in a front-line position with a Child Protection Service.
4. Legal Services Staff will be available to provide one-on-one training on the Drafting Court Documents as required for an enhancement tool.
5. Mnaasged Law Clerks and Administrative Assistants will receive specialized training on preparing legal documents for service and filing.

### POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Legal Services	
Subject: Initiating the Court Application – Court Documentation and Service	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Best Practice Standards, Ontario <i>Family Law Rules</i> , Mnaasged Child and Family Services Internal	

## INITIATING THE COURT APPLICATION – COURT DOCUMENTATION AND SERVICE

### POLICY

*All documentation for court applications will be prepared and served in accordance with the Child, Youth and Family Services Act, the Ontario Family Law Rules, and Mnaasged Child and Family Services Internal Policies and Procedures. These guidelines will ensure that cases move efficiently through the Court Process, enabling Mnaasged Child and Family Services and the court system to better address the identified needs of the Children/Youth and families.*

### PROCEDURE

1. The assigned Supervisor will immediately notify the Manager of Legal Services when the decision to file a court application has been approved. The Manager of Legal Services will be immediately advised by the assigned Supervisor when a removal of a Child/Youth has occurred and when the Executive Director has authorized a court application.
2. Once informed of the removal, the Legal Assistant will immediately secure a court date.
3. For all other court applications, the scheduling will be determined by the urgency of the case, when all court documentation is received, and court availability. Generally, court matters are scheduled for the regular weekly court docket.
4. The Assigned Helper will complete the Helper’s Questionnaire and the Affidavit of Identification. The completed questionnaire will be forwarded to the Legal Assistant who is responsible for the final preparation of all required court documentation.
5. The Legal Assistant will prepare initial drafts of all required documents including, but not limited to, the following:

- a) Applications, Forms 8B and 8B.1
  - b) Notices of Motion, Forms 14 and 14B
  - c) Confirmations, Form 14C
  - d) Plans of Care, Form 33B
  - e) Blank Answers and Plans of Care, Form 33B.1
  - f) Affidavits, Form 14A
  - g) Conference Briefs, Forms 17B, 17D, and 17E
  - h) Statements of Agreed Facts, Forms 33C and 33D
  - i) Orders, Forms 25 and 14D
6. The Assigned Helper will prepare a Statement of Fact to support the application, utilizing the “Drafting Court Documents” document as a reference, to ensure all relevant information on the history and facts of the case is available to the court and will advise the Assigned Supervisor when ready for review.
  7. The assigned Supervisor will review the completed documents to ensure that all relevant information has been included and that the application is appropriate for the facts of the case. The Supervisor will advise the Helper of any suggested changes and, if so, will advise the Legal Counsel that the documents are ready for review once these have been made.
  8. The Manager of Legal Services will review all Interim Society Care, Extended Society Care, and detention/secure treatment applications. Other applications with more complexity may also be reviewed by the Manager of Legal Services.
  9. The court documentation will be forwarded to the Assigned In-House or Panel Lawyer for review. The In-House or Panel Lawyer has the final approval of all legal documents.
  10. The Legal Assistant will issue the Application to Open the Court File or arrange for this to be done by an Approved Agent.
  11. Copies of the completed court documents will be given to the Assigned Helper as soon as the Application is issued. It will be the responsibility of the Assigned Helper to personally serve all Parties, including the First Nation Band Representative, as soon as possible after receiving the documents. Any court documents being served on Children/Youth over 12 years of age in the Care of Mnaasged or Alternative Care Providers must be served by the Assigned Helper.
  12. Parties involved will be served with the originating documents as follows:

- a) In the case of a removal, as soon as possible
  - b) In the case of a Status Review Application, no later than 30 days before the first scheduled hearing date
  - c) In all other cases, no later than five (5) business days before a hearing, unless specifically authorized by the Assigned Lawyer
13. The Assigned Helper and the Supervisor must be aware, and remember, that the late service of documents often results in unnecessary delays and may be perceived by the Court and others as unprofessional.
  14. Once the documents have been served, it will be the responsibility of the Assigned Helper to complete the Affidavit of Service as soon as possible. This document must be sworn before a Commissioner who swears in oaths. The Affidavit of Service becomes part of the court record, and it will be the responsibility of the Legal Assistant to ensure that this document is filed with the Court.
  15. Once the Affidavit of Service has been sworn, the Legal Assistant will be responsible for ensuring that all documents are filed in the Continuing Record in accordance with the *Family Law Rules*.
  16. In some cases, there may be circumstances that prevent the Assigned Helper from serving the required documentation. This may be due to concerns about Helper Safety (violent, hostile Client), time constraints, geographical barriers, or difficulty in locating Clients. The Assigned Helper will consult with the Supervisor to obtain approval for the use of a Process Server. Once approval has been obtained, the Legal Assistant will make the necessary arrangements for the service (serving) of court documents.
  17. Under no circumstance a Process Server will be used to serve court documents to Children/Youth aged 12 years and older in the Care of Mnaasged who receive Child Protection Services. A Child Welfare Helper known to the Child/Youth will be the one to serve the documents.
  18. In cases where a Party to a Proceeding cannot be located for service after concentrated efforts have been made, the Assigned Helper will notify the Supervisor and the assigned Legal Counsel as soon as possible. Recommendations will be made for further efforts or for the Assigned Helper to complete an affidavit in support of a motion for substituted service or to dispense with service altogether.
  19. The Legal Assistant will maintain a record to ensure that all Parties have received the appropriate service for each legal case. This record will be forwarded to the Manager of Legal Services, and a copy will be placed in the Client File.
  20. The documents required to initiate a Court Proceeding include the following:

- a) Application
- b) Initial affidavit(s)
- c) Notice of Motion for Temporary Order
- d) Plan of Care
- e) Upcoming Affidavits, as necessary

21. As indicated in paragraph 5 above, the Legal Assistant will be responsible for creating the initial draft or template of each document. The Assigned Helper will be responsible for completing the Affidavits, Plans of Care, and any summary of the case required for the Application. The Assigned Helper and the Supervisor will be responsible for the instructions for what Mnaasged is requesting from the Court in any application.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Legal Services	
Subject: Identification and Service to First Nations	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Best Practice Standards	

## IDENTIFICATION AND SERVICE TO FIRST NATIONS

### POLICY

*Mnaasged Child and Family Services recognizes that First Nations have a right to, and must, be involved in a Court Proceeding involving Children/Youth who are members of their community or are eligible for registration. First Nations are a Statutory Party to the Proceedings and play a vital role in planning for their Children/Youth.*

*It is imperative that Mnaasged Child and Family Services identifies Children/Youth and their First Nation affiliation at the onset of service delivery, particularly when they are involved in Court Proceedings.*

### PROCEDURE

1. The Assigned Helper will make all attempts to obtain information from the family to confirm a Child's/Youth's First Nation affiliation. This information will be recorded in the Mnaasged Information Management System, and it will determine which First Nation will be Party to the Court Proceedings involving the Child/Youth. This will be amended as new information is received.
2. The Assigned Helper, in collaboration with the First Nation, will initiate contact with a family for the delivery of Protection Services.
3. Information about membership or identification with a First Nation community must be included in the initial Affidavit filed for any Court Proceedings. Any change in such information must be communicated to the Court in an updated Affidavit.
4. When a family identifies themselves as First Nation and as registered members of a First Nation community, the Assigned Helper will request the Child's/Youth's First Nation Status number to be readily available for future reference.

5. The Assigned Helper will verify and request a written confirmation of the membership information with the First Nation Membership Clerk of the identified First Nation community, including the Child's/Youth's First Nation Status number. A copy of this information will be kept in the Protection File, in the Continuing Record, and in the Child Care File (if applicable) in the Mnaasged Information Management System.
6. The First Nation must be served with all legal documents if Mnaasged will be involved in Court Proceedings with one of its members.
7. When a Child/Youth is not registered with a First Nation, but the Parent(s) has indicated that the Child/Youth is a member or the Helper has reason to believe the Child/Youth is entitled to First Nation Status, the Assigned Helper will immediately write a letter requesting the Indigenous Services Canada office in Ottawa, Ontario, to determine the Child's/Youth's eligibility.
8. If there is any concern about First Nation status, determining eligibility must be completed as soon as possible at the onset of Mnaasged's involvement. The Assigned Helper should not wait for Court Proceedings to verify this information.
9. The Assigned Helper must be able to provide Indigenous Services Canada with the names and dates of birth of the Parent(s) or Guardian(s) as well as the maternal and the paternal grandparents. Known affiliations with a First Nation should be documented in a letter. If information on First Nation affiliation is not available to Mnaasged and all necessary attempts to obtain it has been made, it is still important to provide as much related information known to Mnaasged within the letter to Indigenous Services Canada.
10. Indigenous Services Canada will verify if the Child/Youth is eligible for Status and which First Nation the Child/Youth is entitled to be a registered member.
11. At times, Children/Youth who may be entitled to status will have the option of being registered with one of two First Nations depending on the biological mother's or father's entitlement.
12. It is the right of the Parents or Guardians to determine which First Nation to register their Child/Youth, and written consent is required from both Parents at the time of registration.
13. In the situation described above, Mnaasged will serve both identified First Nations with all legal documents until the Child's/Youth's registration is completed and verification is received by Mnaasged. Following this, only the confirmed First Nation will continue to be served.
14. Parents or Guardians must be encouraged to finalize registration of their Child/Youth to access their inherent rights and to ensure their community's involvement in planning for the Child/Youth. The Assigned Helper for the family will assist the Parent(s) or Guardian(s) wherever possible in completing the registration and First Nation membership process.

15. The assigned In-House or Panel Lawyer must be fully advised of all verified or unverified First Nation Status of Children/Youth and be kept informed of Mnaasged's attempts to serve the First Nation that is party to the Proceedings.
16. The service of court documents and Party status at the Child Welfare Proceedings will be determined by the eligibility or registration of the Child/Youth, not the Status or eligibility of the adult. There are circumstances where the Parent or Guardian may have Status that cannot be transferred to the Child/Youth due to eligibility codes determined at the federal level. First Nations may still play an important role in planning and supporting families who are involved with Mnaasged but are not legally entitled to Party standing in the Court Proceedings. It is the position of Mnaasged not to object to any application by a First Nation requesting to be added as a Party under such circumstances, and Mnaasged will continue to provide opportunity to the First Nation to have its position heard and interest noted in all planning by Mnaasged regarding the Child/Youth affected.

## POLICY REFERENCE

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## SECTION 3: MANAGEMENT OF COURT FILES

Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Review of Court Files	
Date Approved:	Date Revised:
Source Reference: Best Practice Standards, <i>Child Youth and Family Services Act</i> , Ministry of Children, Community and Social Services Directives	

### REVIEW OF COURT FILES

#### POLICY

*Mnaasged Child and Family Services will conduct a review of a Child's/Youth's needs and well-being on a regular basis to determine if there is a need to amend the legal status. These reviews will always include consideration as to whether an alternative approach to maintaining a Child's/Youth's needs and well-being may be available, feasible, and appropriate.*

#### PROCEDURE

1. Prior to the commencement of a Status Review Application or motion, each case will be thoroughly reviewed by the Assigned Helper for the Child/Youth and the Supervisor(s). The rationale for the court application will be documented in a supervision note and will be maintained in the Child Care Service File (Mnaasged Information Management System). Specific reference will be documented as to whether any alternative approach to the continued Court Process is available, feasible, and appropriate and would maintain the Child's/Youth's needs and well-being.

#### CONCERNING CHILDREN IN EXTENDED SOCIETY CARE

1. The Assigned Helper will be required to initiate a court application for a Child/Youth in Extended Society Care when the following has occurred:
  - a) Decision has been made to terminate the Extended Society Care Order
  - b) Decision has been made to vary an existing access order

- c) Child/Youth requires secure treatment under the provisions of section VII of the *Child, Youth and Family Services Act* and a detention placement for safety and protection
2. Applications or motions for any Child/Youth in Interim Society Care, including the Status Review Application, will be initiated by the Assigned Helper.
3. When a decision is being made to bring forth an application to modify an existing Access Order for a Child/Youth in Extended Society Care, the Assigned Helper will consult with the Supervisor for prior approval to initiate the process.
4. The Assigned Helper will ensure that the Child's/Youth's First Nation Band Representative is included in consultations and collaborated with throughout the decision-making process.
5. At any time, the Assigned Helper, the Supervisor, and the Senior Manager may consult with the Manager of Legal Services for assistance in determining the most appropriate application and processes to be accessed.
6. The Manager of Legal Services will assign the In-House Legal Counsel or a Panel Lawyer to represent the matter. If possible, the one with previous involvement in the case will be the one reassigned for consistency purposes.
7. The Legal Assistant will draft, finalize, file, and process all legal documents.
8. The Assigned Helper will be responsible for completing the necessary Affidavit(s) and the Plans of Care once the Legal Assistant has created those documents.
9. The Assigned Helper and the Supervisor will be responsible for providing the instructions to Legal of what Mnaasged wishes to request in the Application.
10. The Assigned Helper will be responsible to ensure that proper service of court documents is completed within a minimum of 30 days prior to the scheduled court hearing.
11. Notice of the application must be given to the following:
  - a) Child/Youth
  - b) Child's/Youth's Parent(s) by way of service of all documents, in accordance with the *Family Law Rules*
  - c) Person with whom the Child/Youth was placed for supervision under an order by Mnaasged
  - d) Foster Parent(s) who has cared for the Child/Youth continuously during the six (6) months immediately before the application
  - e) First Nation by way of service of all documents, in accordance with the *Family Law Rules*

- f) Any other person entitled by way of service or by ensuring that they are aware of the Proceedings and the first court date. In consultation with the Assigned Lawyer, the Assigned Helper and the Supervisor will determine the appropriate form of notice to any of these individuals
12. The Assigned Helper will ensure that service is offered to the Child/Youth for a face-to-face meeting regarding all the documents or notice of the Proceedings so that emotional and clinical support can be provided. Any exceptions to this practice, including the use of a Process Server, must have prior written approval from the Supervisor.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Appointment of the Office of the Children’s Lawyer	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Best Practice Standards	

## APPOINTMENT OF THE OFFICE OF THE CHILDREN’S LAWYER

### POLICY

*Mnaasged Child and Family Services will ensure that all Parents and Children/Youth are aware of their legal rights at the time of the Court Intervention and that those rights are respected. Mnaasged Child and Family Services will make requests for the appointment of a Children’s Lawyer if appropriate.*

### PROCEDURE

1. Decisions regarding the application for the appointment of a Children’s Lawyer will be made in consultation with the Assigned Helper, the Supervisor, Mnaasged’s Lawyer, the Child/Youth (respectful of age and capacity), the Parent(s) or Guardian(s), and the First Nation (where applicable).
2. A request for a Lawyer to be appointed for a Child/Youth will be made by way of a motion to the court. This motion will be prepared by the assigned Lawyer at the request of the Assigned Helper. An Affidavit in support of the motion from the Assigned Helper will be required, unless otherwise directed by the Assigned Lawyer.
3. Legal representation for a Child/Youth may be ordered by a judge in a case where the judge believes legal representation is necessary to protect the Child’s/Youth’s best interests (*Child, Youth and Family Services Act*, section 78).
4. An order directing legal representation for a Child/Youth will be served on the Office of the Children’s Lawyer by the Court Office.
5. When a Child/Youth is in Mnaasged Care, it will be the responsibility of the Assigned Helper to arrange appointments and to accompany the Child/Youth to meetings with the Lawyer.

6. When the Child/Youth remains in the care of the Parent(s) or Guardian(s), or an Alternative Caregiver(s) under a supervision order, it will be the responsibility of the Parent(s), the Guardian(s), or the Alternative Caregiver(s) to arrange and accompany the Child/Youth to appointments. The Assigned Helper will assist in any way possible to ensure this happens.

#### FOR PARENTS YOUNGER THAN 18 YEARS OF AGE

1. Parents younger than 18 years of age are generally represented by the Office of the Children's Lawyer, so the Assigned Helper must notify Legal Services that the Proceedings involve a minor-aged Parent at the time the court documentation is being prepared.
2. The Legal Assistant will prepare the motion to request the appointment of the Office of the Children's Lawyer pursuant to section 78 of the *Child, Youth and Family Services Act*.
3. An order directing legal representation for a minor-aged Parent will be served on the Office of the Children's Lawyer by the Court Office.
4. The Assigned Helper will assist the minor-aged Parent in arranging to meet with the appointed Lawyer where necessary.
5. Minor-aged Parents need to be advised of their right to speak with Duty Counsel at the courthouse at the first hearing.

#### FOR CHILDREN OR YOUTH INVOLVED IN AN ALTERNATIVE DISPUTE RESOLUTION PROCESS

1. Once advised by the Assigned Helper of a plan to use an Alternative Dispute Resolution Process, Legal Services will notify the Office of the Children's Lawyer using the "Notice Form" of the Ministry of Children, Community and Social Services.

#### POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Removal of a Child/Youth from a Hospital	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## REMOVAL OF A CHILD/YOUTH FROM A HOSPITAL

### POLICY

*Mnaasged Child and Family Services will remove a Child/Youth from the Parent's(s') or Guardian's(s') care while hospitalized only if the Child/Youth is assessed and determined to be at imminent risk of harm from the Parent(s) or Guardian(s) with no less intrusive option available to protect them.*

### PROCEDURE

1. The Assigned Helper will consult with the Supervisor before deciding a removal is required. Since the hospital is a Designated Place of Safety as defined in section 74(1) of the *Child, Youth and Family Services Act*, the Child/Youth will not be technically removed but the parental rights will be interrupted.
2. The Assigned Helper will notify the First Nation Band Representative as soon as possible at each step within this Policy.
3. When it has been decided to remove a hospitalized Child/Youth, the Assigned Helper must immediately inform the Parent(s) or Guardian(s), the First Nation, the Hospital Staff, and, if appropriate, the Child/Youth.
4. The Assigned Helper will complete a "Notice of Intention to Detain Child in Hospital as a Designated Place of Safety" Form, which will be signed by the Assigned Helper and the assigned Supervisor. This form will be delivered to the hospital where it will be placed with the Child's/Youth's medical chart. A copy of the form will be provided to Legal Services.
5. The removal will be effective when the Notice is delivered to the hospital and the Policy and Procedure relating to removal immediately come into effect, including the strict time limits associated with a removal imposed by the *Child, Youth and Family Services Act*.

**POLICY REFERENCE**

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Warrant and Telewarrant to Access Confidential Information	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## WARRANT AND TELEWARRANT TO ACCESS CONFIDENTIAL INFORMATION

### POLICY

*When Parents or Caregivers refuse to provide consent, Mnaasged Child and Family Services will seek a warrant or telewarrant for access to records needed to investigate an allegation that a Child/Youth may need protection, as outlined in sections 131 and 132 of the Child, Youth and Family Services Act.*

### PROCEDURE

1. The Assigned Helper will consult with the Supervisor and Legal Services to determine if access to such records is crucial to the investigation and in determining the level of risk that is present for the Child/Youth.
2. The Assigned Helper will, wherever possible, attempt to obtain consents for the information from the Client prior to seeking a warrant.
3. An Assigned Helper, while conducting a Child Protection Investigation, may request information from Collateral Agencies, some of which may have a legal obligation to provide information without the use of a warrant.
4. If it is determined that the only method of accessing the necessary information is by warrant, the Assigned Helper will complete a Warrant for Access to Record(s) (Form 42) and an Information in Support of a Warrant for Access to a Record (Form 43), copies of which will be kept in the Legal Services Department. The Assigned Helper will consult with Legal Services when completing the documents.
5. As with any warrant, the forms must be completed in full and contain as much information as possible for the Justice of the Peace to make an informed decision.



6. Depending on local practices, as determined by Legal Services, the information is sworn in the presence of the Justice of the Peace. If it is not practical to see a Justice of the Peace personally, the forms may be sent by facsimile to a Justice of the Peace at the Telewarrant Centre.
7. The Legal Services Department will assign the Legal Assistant to provide the necessary clerical assistance to complete the warrant.
8. A warrant is valid for only seven (7) days; therefore, once the signed warrant is received the Assigned Helper will execute by serving it on the holder of the record and arranging the process by which the record will be reviewed.
9. If necessary, the Police may be called on for assistance in executing the warrant.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Access Terms in the Order	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## ACCESS TERMS IN THE ORDER

### POLICY

*Mnaasged Child and Family Services Staff will be thoughtful in their planning for access. Access to Children/Youth and their Parents or Guardians is a right that will be provided but will not be used as a leverage. Only in severe cases if it is determined that access places a Child/Youth at a level of risk that cannot be otherwise addressed, it will be restricted.*

*Mnaasged Child and Family Services endorses a continuum of access, starting with the least intrusive options and becoming more restrictive only as necessary to protect a Child/Youth.*

### PROCEDURE

1. The Assigned Helper must address access arrangements for the Parent(s)/Caregiver(s) and whether any restrictions on access will be requested.
2. The Assigned Helper will include information about access and Mnaasged's suggestions for it in the Affidavit.
3. Restrictions on access are the exception, and the Assigned Helper must include in the Affidavit all necessary information justifying any restrictions.
4. The Assigned Helper or the Supervisor, or both, should consult with Legal Services about any proposed restrictions on access.
5. Examples of Access Orders that may be considered include the following:
  - a) Access between the Child/Youth and the Parent(s) at the discretion of Mnaasged as to timing, location, duration, and level of supervision

- b) Specify (i.e., weekly, twice weekly, and so on) one-hour visits supervised by Mnaasged or its designate at the Mnaasged Offices or elsewhere
  - c) Terms for reasonable access agreed by the Child/Youth, Parent(s), and Mnaasged
  - d) Access in accordance with the Child's/Youth's wishes
6. The Assigned Helper and the Supervisor will have an ongoing obligation to regularly review any Access Order and to reassess the risk to determine what type of access is in the Child's/Youth's best interests.
7. The Assigned Helper must include proposed access provisions in the Plan of Care.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Payment Order	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## PAYMENT ORDER

### POLICY

*If Mnaasged Child and Family Services believes that a Child's/Youth's Parent(s) can contribute toward the cost of the Child's/Youth's Care, then a request for a Payment Order will form part of the court application. If possible, a Payment Order will be sought on consent.*

### PROCEDURE

1. The Assigned Helper and the Supervisor will consult with Legal Services about the possibility or advisability of requesting a Payment Order as outlined in section 108 of the *Child, Youth and Family Services Act*.
2. For any such consultation, the Assigned Helper will provide as much information as possible about the Parent's(s') income, assets, and liabilities.
3. If a Payment Order is sought, the Assigned Helper will include in the Affidavit all acquired information about the Parent's(s') income, assets, and liabilities.
4. The Assigned Lawyer will ensure that the request for a Payment Order is specified in the Application, including a suggested amount for such payment.
5. The Assigned Lawyer will ensure that a request for the Parent's(s') financial statement is made and followed-up with the Court, including a request that the Parent(s) be ordered to provide a financial statement, if necessary.
6. On receipt of the Parent's(s') financial statement, the assigned Lawyer will consult with the Assigned Helper and the Supervisor to advise whether a Payment Order should be pursued.

7. If a Payment Order is made, Legal Services will take the necessary steps to have it enforced as if it were a Support Order under Part III of the *Family Law Act*, as outlined in section 108(6) of the *Child, Youth and Family Services Act*.
8. Considerations to obtain a Maintenance Order, under section 108(2) of the *Child, Youth and Family Services Act*, include the following:
  - a) Assets and means of the Child/Youth and of the Parent(s) or the Parent's(s') estate (considerations of income and property)
  - b) Child's/Youth's capacity to provide for own support (employment, inheritance, and so on)
  - c) Capacity of the Parent(s) or the Parent's(s') estate to provide support
  - d) Child's/Youth's and Parent's(s') age and physical and mental health
  - e) Child's/Youth's mental, emotional, and physical needs
  - f) Legal obligation of the Parent(s) or the Parent's(s') estate to provide support for another person (e.g., support obligations to spouse, ex-spouse, or other children)
  - g) Child's/Youth's aptitude and reasonable prospects of obtaining an education
  - h) Legal right of the Child/Youth to access support from another source other than public money (e.g., other Parent)

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Removal of Children (Take to a Place of Safety)	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## REMOVAL OF CHILDREN (TAKE TO A PLACE OF SAFETY)

### POLICY

*Mnaasged Child and Family Services will remove a Child/Youth from the Parent's(s) or Caregiver's(s) care only when it considers the Child/Youth needs protection, pursuant to section 74 of the Child, Youth and Family Services Act, and no less intrusive measure is available to keep the Child/Youth safe.*

### PROCEDURE

1. The Assigned Helper must consult with a Supervisor before removing a Child from the care of the Parent(s) or Caregiver(s). In an emergency only, the consultation may be done by telephone.
2. Except in cases of dire and immediate risk to a Child/Youth, the Assigned Helper and the Supervisor will consult with the appropriate First Nation(s) before removing the Child/Youth.
3. When the decision is made to remove a Child/Youth, the Assigned Helper or the Supervisor must advise the First Nation(s) and Legal Services immediately.
4. In most situations, the Assigned Helper will seek a warrant from a Justice of the Peace for the removal of a Child/Youth. If possible, the Assigned Helper will consult with Legal Services.
5. If a Child/Youth is to be removed, the Legal Assistant will carry out the following:
  - a) Create a draft template of an Information for Warrant to Remove a Child (Form 33)
  - b) Create a draft template of the Warrant to Remove a Child (Form 33A)

- c) Contact the appropriate Court Office to determine whether a Justice of the Peace is available
  - d) Advise the Assigned Helper
  - e) Print the documents after being finalized and approved
  - f) Provide the finalized documents to the Assigned Helper
6. If a Child/Youth is to be removed, the Assigned Helper will carry out the following:
- a) Complete the Information for Warrant to Remove a Child (Form 33)
  - b) Complete the Warrant to Remove a Child (Form 33A)
  - c) Advise the Supervisor and the Legal Services Department when the documents will be ready for review
  - d) Make any changes suggested or requested by the Supervisor or Legal Services
  - e) Advise the Supervisor and the Legal Services Department when the documents are complete
  - f) Obtain the documents from Legal Services
  - g) Attend at the Court House to meet with the Justice of the Peace
  - h) After the Warrant is issued, arrange for the removal of the Child/Youth
  - i) Provide a copy of the Warrant to Legal Services as soon as possible
7. Once a Warrant has been executed (the Child/Youth has been removed) or the Child/Youth is removed without a warrant, the Initiating the Protection Application – Court Documentation and Service Policy and Procedure will apply.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Protection Application	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Best Practice Standards, <i>Child, Youth and Family Services Act</i>	

## PROTECTION APPLICATION

### POLICY

*Mnaasged Child and Family Services will complete a Protection Application (Form 8B) if it believes a Child/Youth needs protection and will seek an Order from the Court [Child, Youth and Family Services Act, section 81(1)].*

*The Protection Application will require the following information:*

- a) Full name, sex, and birth date of each Child/Youth*
- b) If the Child/Youth is First Nation, Inuit, or Métis*
- c) Location from which the Child/Youth was removed if it occurred*
- d) Reason(s) the Child/Youth needs protection*
- e) Order requested*
- f) Access requests*
- g) Other outstanding Orders*
- h) Brief statement of the facts of the case*

### PROCEDURE

*See Initiating the Protection Application – Court Documentation and Service Policy and Procedure*

### POLICY REFERENCE



Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Statement of Agreed Facts	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## STATEMENT OF AGREED FACTS

### POLICY

*Whenever possible, Mnaasged Child and Family Services will strive to resolve Court Proceedings on consent using a Statement of Agreed Facts. The Statement of Agreed Facts (Form 33) is a document that sets out the facts on which the Parties have agreed that the Court may make findings or a Dispositional Order relating to the care of a Child/Youth. The Statement of Agreed Facts will be signed by all Parties and will be filed with the Court together with a Plan of Care.*

### PROCEDURE

1. The Assigned Helper and the Assigned Lawyer will both attempt to negotiate a consensual resolution of any Proceedings before the Court.
2. The Legal Assistant will draft a template of a Statement of Agreed Facts (SAF) when requested by the Assigned Lawyer. The template will include the following information:
  - a) Names, birth dates, sex, and religion
  - b) Name of the First Nation the Child/Youth is a member or identifies with
  - c) Identities of the Parents
  - d) Marital status of Parents
  - e) Address and identity of the place where the Child/Youth was removed, if applicable
  - f) Details of previous involvement with Mnaasged or any other Child Welfare Agency
  - g) Circumstances under which the Child/Youth came into Care, if applicable

- h) Facts supporting the finding that the Child/Youth needs protection
  - i) Consideration of why the Child/Youth cannot be adequately cared for by the Parent(s), relatives, or community members
  - j) Statement of why the requested Order would be in the best interests of the Child/Youth
  - k) If a Status Review, determine if the terms of the original Order were carried out
  - l) If a Status Review, determine if all Parties were satisfied with the services provided by Mnaasged and with the co-operation of the Clients in carrying out the previous Order
  - m) Signatures, with witnesses, for the Parent(s)/Caregiver(s), the Children's Lawyer, the First Nation, and Mnaasged by the Assigned Lawyer and the Assigned Helper.
3. Legal Services will provide the draft Statement of Agreed Facts to the Assigned Helper and the Supervisor for review and, if necessary, amendment.
  4. Once the Statement of Agreed Facts is finalized, Legal Services will circulate it to Counsel for the Parent(s), the Child(ren)/Youth, and the First Nation. If the Parent(s) or the Child(ren)/Youth are not represented, the Assigned Helper will provide copies to the Parent(s) and any Child(ren)/Youth 12 years of age or older.
  5. The Assigned Helper and the Assigned Lawyer may be required to negotiate amendments to the Statement of Agreed Facts with Counsel, if Parties are represented, or the Parties themselves and the First Nation. Instructions from the Supervisor will be required before any amendments are accepted.
  6. Once the Statement of Agreed Facts is signed by all Parties, the Assigned Lawyer will submit it to the Court with a request for an Order in accordance with its terms.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Status Review Applications	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## STATUS REVIEW APPLICATIONS

### POLICY

*In accordance with the provisions of the Child, Youth and Family Services Act, Mnaasged Child and Family Services will apply to the Court for a review of the status of a Child/Youth younger than 18 years of age before the expiry of an Order for Supervision or for Interim Society Care. In addition, Mnaasged Child and Family Services may apply for a review of the Child's/Youth's status at any time during the term of an Order.*

### PROCEDURE

#### STATUS REVIEW COURT PROCEDURE

1. When Mnaasged has returned for a Status Review for a Child/Youth, essentially the case re-enters the flow chart for court procedures once again, with a variation only in the types of documentation and information required.

#### STATUS REVIEW DOCUMENTATION REQUIRED

1. For a Status Review Hearing the following documentation must be prepared:
  - a) Status Review Application (Ministry Form 08B)
  - b) Affidavit of Service (Form 06B)

## MNAASGED APPLICATION [*CHILD, YOUTH AND FAMILY SERVICES ACT, SECTION 64(2)*]

1. Mnaasged may apply for a review of a Supervision Order, a Wardship Order, or an Extended Wardship Order in the following instances:
  - a) At any time, except when a Crown Ward or an Extended Ward is placed for adoption
  - b) Applies before the expiry of an Order of Supervision or Wardship, except when the Youth turns 18 or marries (whichever comes first)
  - c) If Mnaasged has removed a Child/Youth from a person's care under the terms of a Supervision Order, within five (5) days of the removal of the Child/Youth (i.e., apprehension from a Supervision Order)

## CHILD/PARENT APPLICATION

1. A Child/Youth 12 years of age or older, a Parent of the Child/Youth, and any person with whom the Child/Youth was placed may apply for a Status Review Hearing after the expiry of six (6) months from the date of the application for review of the Order [*Child, Youth and Family Services Act, section 64(7)*].
2. An Application for Review may be brought forward sooner than six (6) months if a major element of the Plan of Care adopted by the Court is not being carried out [*Child, Youth and Family Services Act, section 64 (8)*].

## REVIEW APPLICATIONS BY OTHER PERSONS

1. It is important to note that if a major element of a Child's/Youth's Plan of Care that was adopted by the Court is not being carried out then the Child/Youth or Parent may apply to the Court for a Status Review [*Child, Youth and Family Services Act, section 64(8)*].

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Motions	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## MOTIONS

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### POLICY

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*When necessary, Mnaasged Child and Family Services, in consultation with Legal Counsel, will respond to a Notice of Motion and Affidavit. A Motion is a request made to the Court by one of the Parties to the Application for a particular Order that is secondary to the main Application issue.*

### PROCEDURE

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1. The following Forms are those to be served and filed:
  - a) Affidavit(s) in Support of Motion
  - b) Notice of Motion
2. The following Motions are some of those that could be presented to the Court:
  - a) Exclude a Child/Youth 12 years of age or older
  - b) Order for substituted service of documents or to dispense with service
  - c) Assessment
  - d) Discover that a person is not a “Parent”
  - e) Withdraw the Application
  - f) Amend the Child’s/Youth’s name
  - g) Add a Party

h) Produce records

### MNAASGED MOTIONS

1. The Assigned Helper or the Supervisor will consult with the Assigned Lawyer about any matter or issue that may require a motion in a case before the Court.
2. The Assigned Lawyer will assess the situation to advise on whether a Motion is appropriate.
3. If a Motion is required, the Legal Assistant will draft templates for the Notice of Motion and any Affidavits in support and will advise the Assigned Helper when the Affidavit is ready for completion.
4. The Assigned Helper will complete the Affidavit and then advise the Supervisor and the Assigned Lawyer that it is ready for review.
5. Once the Affidavit has been finalized with any suggested or required amendments by the Supervisor and the Assigned Lawyer, the Legal Assistant will arrange to have the Affidavit printed and sworn by the Assigned Helper.
6. The Assigned Lawyer will draft the portion of the Notice of Motion that will set out what Mnaasged is requesting and will provide it to the Assigned Helper and the Supervisor for review and confirmation. Once confirmed, the Assigned Lawyer or designate will sign the Notice of Motion.
7. Once the Affidavit(s) and the Notice of Motion are signed, the Legal Assistant will serve them to the Counsel of any represented Party and the First Nation before completing the necessary Affidavits of Service.
8. For Parties who are not represented by Counsel, the Assigned Lawyer will decide whether the Affidavit(s) and the Notice of Motion need to be served personally; if so, the Assigned Helper will serve the documents, and the Law Clerk will prepare the necessary Affidavit(s) of Service and arrange to have them sworn (signed).
9. The Legal Assistant will then arrange to have the Notice of Motion and Affidavit(s) filed in the appropriate Court Office.
10. In consultation with the Assigned Helper and the Supervisor, the Assigned Lawyer and the Legal Assistant will complete, serve, and file any required Confirmation (Form 14C) if necessary.
11. The Assigned Lawyer will present the Motion to the Court.

## OTHER PARTY MOTIONS

1. On being served with a Notice of Motion and an Affidavit from another Party, Legal Services will provide copies of the documents to the Assigned Helper and the Supervisor with a request for instructions.
2. The Assigned Lawyer will consult with the Assigned Helper and the Supervisor to determine Mnaasged's response to the Motion.
3. The Legal Assistant will draft a template of a responding Affidavit for the Assigned Helper.
4. The Assigned Helper will complete the Affidavit and then advise the Supervisor and the Assigned Lawyer that it is ready for review.
5. After all requested amendments have been made, the Legal Assistant will print the Affidavit and have it signed and sworn by the Assigned Helper.
6. Once signed and sworn, the Legal Assistant will serve the Affidavit to all other Parties, including the First Nation, will complete the necessary Affidavits of Service, and will arrange to have the Affidavit(s) filed in the appropriate Court Office.
7. In consultation with the Assigned Helper and the Supervisor, the Assigned Lawyer and the Legal Assistant will complete, serve, and file any required Confirmation (Form 14C) if necessary.
8. The Assigned Lawyer will respond to the Motion to the Court.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Affidavit	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Best Practice Standards, <i>Child, Youth and Family Services Act</i>	

## AFFIDAVIT

### POLICY

*Mnaasged Child and Family Services will rely on the Affidavit(s) sworn by its Staff to proceed with a Court Process if this will ensure the safety and well-being of a Child/Youth. An Affidavit is a formal sworn statement that must be filed with the Court. It is the Assigned Helper's affirmation of the facts of the case being relied on by Mnaasged Child and Family Services to establish its case.*

### PROCEDURE

1. Affidavits are required at various stages of the Court Process, and the Assigned Lawyer will confirm when one is necessary.
2. When an Affidavit is required, the Legal Assistant will draft a template and then advise the Assigned Helper and the Supervisor when it is ready to be completed.
3. The Assigned Helper will complete the Affidavit, adding all relevant information required by the Court.
4. The Assigned Helper will consult with the Supervisor and the Assigned Lawyer about what information will be required.
5. Once the Affidavit is completed, the Assigned Helper will advise the Supervisor and the Assigned Lawyer that it is ready for review.
6. The Supervisor and the Assigned Lawyer will review the Affidavit for suggestions or required changes to be added.



7. When all necessary changes have been made, the Legal Assistant will arrange to have the Affidavit printed, signed, and sworn. Affidavits must be sworn by a Commissioner for Taking Affidavits, which will be completed by Legal Services.
8. Once signed and sworn, the Legal Assistant will arrange for service on the necessary Parties. In many cases, service will be the responsibility of the Assigned Helper with the Legal Assistant to advise accordingly.

### INFORMATION TO BE INCLUDED

1. The Initial Affidavit will include the following information:
  - a) Full name of the Child/Youth
  - b) Full name of the Parent(s)/Caregiver(s)
  - c) Full name of the First Nation
  - d) If available, include the following information:
    - i. Date of birth
    - ii. First Nation Status/Indigenous heritage
    - iii. Religion
    - iv. Date taken into Care, if applicable
    - v. Grounds for the Application [*Child, Youth and Family Services Act*, section 74(2)]
  - e) How long the case has been open
  - f) Brief summary of the circumstances of the case
  - g) Details of the concerns that Mnaasged considers the Court's intervention is justified or required
  - h) Details of the family's Child Welfare History if any
  - i) Details of Mnaasged's suggestions for what is required to resolve the concerns, including any proposed conditions of treatment
  - j) Details of the Plan for Access
  - k) Details of the Order sought by Mnaasged
3. Updating an Affidavit will include the following information:

- a) Identifying information, if necessary
- b) Details of the services provided or facilitated for the Parent(s)/Caregiver(s)
- c) Details of steps taken, and successes achieved by the Parent(s)/Caregiver(s)
- d) Details of any ongoing concerns
- e) Details of the Parent's(s')/Caregiver's(s') participation in access, if applicable
- f) Details of any changes in Mnaasged's plan for the Child/Youth and family
- g) Other information suggested or requested by the Assigned Lawyer, depending on the purpose of the Affidavit

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Parties to the Application	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## PARTIES TO THE APPLICATION

### POLICY

*Mnaasged Child and Family Services will ensure that all necessary Parties to any Child Protection Proceedings are identified and given the opportunity to participate in the Proceedings.*

### PROCEDURE

1. "Parties" to a Court Proceeding are identified in the *Child, Youth and Family Services Act*. They are the individuals, First Nations, and organizations entitled to participate in the Proceedings.
2. The Assigned Helper will carry out the following:
  - a) Identify the biological or adoptive Parents of the Child/Youth
  - b) Identify who has actual care and custody of the Child/Youth
  - c) Enquire about what First Nation the Child/Youth is a member of, eligible for membership in, or identifies with, including whether the Parents or Guardians are members of different First Nations
  - d) Enquire about whether another person may have a right to custody of, or access to, the Child/Youth
  - e) Enquire whether any person is obligated to pay support for the Child/Youth
  - f) Enquire whether any person has treated the Child/Youth as a member of the family within the last 12 months

2. In all cases, the Assigned Helper will consult with Legal Services to ensure that all potential Parties to the Proceedings have been identified.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Answer and Plan of Care	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## ANSWER AND PLAN OF CARE

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### POLICY

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*Every Party to an Application of Mnaasged Child and Family Services can respond within a specified time, as provided for in the Family Law Rules. This response is called an "Answer and Plan of Care" (Form 33B.1) and the Party filing the Answer is called the "Respondent."*

*Except in unusual circumstances, Mnaasged Child and Family Services will allow Respondents ample time above and beyond the time limits outlined in the Family Law Rules to serve and file Answers and Plans of Care. The Manager of Legal Services must authorize any deviation from this Policy.*

### PROCEDURE

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1. Once served with an Answer and Plan of Care, Legal Services will provide a copy of the Answer and Plan of Care and any accompanying Affidavits to the Assigned Helper and the Supervisor.
2. The Assigned Helper and the Supervisor will review the documents before consulting with the Assigned Lawyer. The Assigned Helper, the Supervisor, and the Assigned Lawyer will determine whether a Reply to the Answer and Plan of Care is required.
3. If a Reply to the Answer and Plan of Care is required, an Affidavit will be written to respond to the Respondent's materials. The Affidavit Policy and Procedure will apply.

### POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Plan of Care	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## PLAN OF CARE

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### POLICY

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*Mnaasged Child and Family Services will always file the required Plan of Care for Child Protection Proceedings.*

### PROCEDURE

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1. The Legal Assistant will draft a template of the mandated form for a Plan of Care (Form 33B) and will advise the Assigned Helper and the Supervisor when it is available to be completed.
2. The Assigned Helper will complete the Plan of Care, which will include the following information:
  - a) Services to be offered to remedy the initial need for protection
  - b) Clear and detailed expectations for the Parent(s), including the name, address, and contact phone number for the specific service to be accessed by the Parent(s) to enable complete understanding of what the Parent(s) must do to resolve the Child Protection Concerns
  - c) Criteria to measure the need for Mnaasged involvement or withdrawal
  - d) Expected amount of time required for the Parent(s)/Caregiver(s) to address the Child Protection Concerns
  - e) Description of arrangements made to recognize the importance and preservation of the Child's/Youth's culture, heritage, Traditions, and identity
3. If a Child/Youth is to be removed from a person's care, the Plan of Care must outline the following:

- a) Explanation of why the Child/Youth cannot be adequately protected while in the person's care, and a description of any past efforts to do so
  - b) Statement of efforts of the person to maintain contact with the Child/Youth
  - c) When Extended Society Care is proposed, the Plan of Care must outline the arrangements for a long-term stable placement for the Child/Youth
4. The Assigned Helper will alert the Supervisor and the Assigned Lawyer as soon as the Plan of Care is ready for review.
  5. The Supervisor and the Assigned Lawyer will review the Plan of Care and advise the Assigned Helper of any recommended or required amendments.
  6. Once all amendments have been made, the Legal Assistant will arrange for the Plan of Care to be printed and then advise the Assigned Helper and the Supervisor that it is ready to be signed.
  7. The Plan of Care will be signed by the Assigned Helper and the Supervisor.
  8. The Assigned Helper will meet with the family to review the terms of the Plan of Care and serve it on any Parties that are not represented.
  9. The Legal Assistant will arrange for service of the Plan of Care on the First Nation and on the Counsel for any represented Parties. Once served, the Law Clerk will complete the necessary Affidavits of Service and will arrange for the Plan of Care to be filed in the appropriate Court Office.
10. Appendix "A" provides a draft Plan of Care.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Serving Documents	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## SERVING DOCUMENTS

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### POLICY

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*Mnaasged Child and Family Services will comply with the legislation and rules regarding the service of documents in Court Proceedings.*

### PROCEDURE

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1. Except in some circumstances, all documents to be filed with the Court must be served on all other Parties to the Proceedings. "Service" is providing a copy of the documents directly to the Party.
2. The Assigned Helper will be expected to serve documents on the Parents that receive services from the Assigned Helper. If documents will be served on a Child/Youth, it must be done at a face-to-face meeting.
3. Legal Services will be responsible for providing the Assigned Helper with the appropriate Affidavits of Service that are required to be completed so the documents that have been served can be filed in the appropriate Court Office.
4. When serving documents, the Assigned Helper will be expected to explain the following information:
  - a) Nature of the Application
  - b) Reasons for the Proceedings to the person being served
  - c) Rights of the individual being served to Legal or Duty Counsel
5. The Assigned Helper will refrain from discussing the following points with the Parties to the Application:



- a) Pattern of proceedings at the Hearing
  - b) Orders the judge can make
  - c) Legal implications of the Orders
6. If unable to serve a Party, the Assigned Helper will consult with the Assigned Lawyer about whether a motion for substituted service is warranted.
  7. The Assigned Helper will make reasonable efforts to locate the Party to the application to satisfy a Court that something other than personal service will be allowed. These efforts will include the following:
    - a) Check telephone listings or municipal directories
    - b) Check with Ministry of Transportation and Communications to determine whether a change of address has been filed
    - c) Check with Ontario Works
    - d) Ask friends or relatives with whom the individual may be in contact
    - e) Search the name electronically, such as Google, Yahoo, or any similar internet service
    - f) Search Facebook and other similar social media platforms
  8. The Assigned Helper will document in an Affidavit all attempts to serve Parties if the attempts are unsuccessful and the Court is asked to waive the requirement.
  9. If one of the Parties lives outside of Mnaasged's jurisdiction, the person will generally be served by the Agency for that area at Mnaasged's request. A copy of the Protection or Status Review Application, any supporting Motion or Affidavit, and the Affidavit of Service will be sent to that Agency by Legal Services. A covering letter will be attached that sets out the facts in order for the Assigned Helper serving the documents to explain the action being taken, in accordance with the provincial Interagency Protocol.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Adjournment	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## ADJOURNMENT

### POLICY

*While always keeping in mind that permanency for Children/Youth should be determined as quickly as possible, Mnaasged Child and Family Services will generally consent to any reasonable request for an Adjournment by another Party. Mnaasged Child and Family Services will only request an Adjournment if unquestionably necessary.*

### PROCEDURE

1. If an Assigned Helper wishes for an Adjournment for any reason, the Assigned Helper must consult with the Supervisor and the Assigned Lawyer about whether the Adjournment is required and what are its consequences.
2. The Assigned Lawyer will be expected to discuss possible Adjournments with other Counsels and First Nations; therefore, as soon as it has become known, the Assigned Helper will consult with the Assigned Lawyer of any adjournment that has been requested.
3. If an Adjournment has been agreed on in advance, the Assigned Helper will not be required to attend Court.
4. If another Party is requesting an Adjournment, whoever receives the request (Assigned Lawyer, Assigned Helper, or Supervisor) will advise all others of the request and will consult as soon as possible to determine a response.
5. Some examples of reasons for an Adjournment request include the following:
  - a) Service on a necessary Party
  - b) Need to have time to collect more evidence

- c) Need for the family to obtain Counsel
  - d) Time to conduct an assessment
  - e) Request for a Lawyer for the Child/Youth
6. An adjournment cannot last more than 30 days without the consent of all Parties.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Temporary Order	
Date Approved:	Date Revised:
Source Reference: <i>Child, Youth and Family Services Act</i>	

## TEMPORARY ORDER

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### POLICY

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*When an Adjournment is requested in Court Proceedings, Mnaasged Child and Family Services will request a Temporary Order containing terms it believes will be required to keep a Child/Youth safe.*

### PROCEDURE

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1. The Assigned Helper and the Supervisor must always address the possibility that an Application may be adjourned; if this occurs, a plan for the Temporary Care of the Child/Youth must be available.
2. The Assigned Helper and the Supervisor will consult with the Assigned Lawyer as to what Temporary Order should be requested.
3. The Notice of Motion accompanying a Protection Application will set out the Temporary Order requested by Mnaasged.
4. The Court will be required to consider the Least Intrusive Order, so the Assigned Helper and the Supervisor must consider the following questions:
  - a) Can the Child/Youth be returned to the Caregiver(s) without supervision?
  - b) Can the Child/Youth be returned to the Caregiver(s) under Mnaasged supervision? If so, what terms and conditions will be required?
  - c) Can the Child/Youth be placed in the care of a person(s) other than the Caregiver(s) under Mnaasged supervision? If so, what terms and conditions will be required?
  - d) Can the Child/Youth remain in Mnaasged's Care on a temporary basis? If so, what terms for access need to be requested?

**POLICY REFERENCE**

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Dismissal or Withdrawal of Application Procedures	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## DISMISSAL OR WITHDRAWAL OF APPLICATION PROCEDURES

### POLICY

*Mnaasged Child and Family Services will only have matters before the Court when necessary and only for as long as necessary to ensure the well-being and safety of Children/Youth.*

### PROCEDURE

1. In consultation with the Assigned Lawyer, the Assigned Helper and the Supervisor will regularly consider whether matters need to remain before the Court.
2. When the decision is made that involvement of the Court is no longer required, the Legal Assistant will prepare draft templates for a Notice of Motion and Affidavit to be filed with the Court requesting either that Mnaasged be permitted to withdraw the Application or that the Proceedings be terminated.
3. Once drafted, the Legal Assistant will notify the Assigned Helper, the Supervisor, and the Assigned Lawyer that the documents are ready to be completed.
4. The Assigned Helper will complete the Affidavit, including all information required by the Court to determine that its intervention is no longer required.
5. The Assigned Lawyer will complete the Notice of Motion requesting the appropriate relief.
6. Legal Services will serve the documentation on the participating Counsel and the First Nation. The Assigned Helper will serve the Parents/Caregivers and the Child/Youth, if necessary.
7. Legal Services will draft the necessary Affidavits of Service and will arrange to have them sworn.

8. Legal Services will arrange to have the sworn Notice of Motion and Affidavit filed in the appropriate Court Office.
9. The Assigned Lawyer will attend in Court to request the Order.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Legal Conferences	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## LEGAL CONFERENCES

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### POLICY

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*Mnaasged Child and Family Services will actively and constructively participate in all conferences provided for in the Family Law Rules.*

### PROCEDURE

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1. There are three types of conferences used in Child Protection Proceedings:
  - a) Case Conference (rarely used or required)
  - b) Settlement Conference
  - c) Trial Management Conference
2. A Brief is required for each type of Conference. Legal Services will draft the Brief and will then circulate it to the Assigned Helper and the Supervisor.
3. The Assigned Helper and the Supervisor will meet with the Legal Assistant and the Assigned Lawyer, as scheduled by the Legal Services Department, to complete the Conference Brief.
4. For this meeting, the Assigned Helper will be prepared to discuss what the Parent(s) have and have not completed in accordance with Mnaasged's expectations, as outlined in the Plan of Care.
5. The Assigned Lawyer will review the case with the Assigned Helper and the Manager, including any reassessment of the Protection Concerns.
6. The Legal Assistant will serve the finalized Brief on all other Parties and arrange for it to be filed in the appropriate Court Office.



7. In preparation for a Trial Management Conference, a meeting will be scheduled with all Helpers involved in the case, the Supervisors or Managers (or both), and the Assigned Lawyer to discuss what evidence is needed to prove Mnaasged's case and what witnesses will be called at the trial.
8. Unless otherwise approved by the Assigned Lawyer, the Assigned Helper will attend any Conference conducted on a matter that is before the Court.

### SETTLEMENT CONFERENCE

1. A Settlement Conference is an informal meeting of the Parties, the Lawyers, and the Pre-Trial Judge and is supposed to be held within 80 days after the Application has commenced.
2. Although informal, all Parties to the Application should be as prepared for the Settlement Conference as they would be for the formal Court Hearing.
3. A Judge who conducts a Settlement Conference cannot hear a trial of the matter.
4. The Settlement Conference allows for the following:
  - a) Parties to know the opposing Party's case
  - b) Possible resolution of some or all the outstanding issues
  - c) Opportunity for the Pre-Trial Judge to give a professional view on a possible outcome for a trial
5. The format of a Settlement Conference will vary according to the following:
  - a) Judge may first meet with the Lawyers representing the Parties to discuss and identify key issues, then the Clients are brought in to continue the discussion and to attempt resolution
  - b) Judge may meet with all Parties and their representatives at the same time

### TRIAL MANAGEMENT CONFERENCE

1. A Trial Management Conference is a formal conference that is held before the trial of the matter with the Parties, the Lawyers, and the Trial Judge.
2. The Trial Management Conference will provide the following:
  - a) Explore chances of settling the case
  - b) Discuss the evidence that will be presented at the trial, including any evidence that may be presented by a written report or by a Statement of Agreed Facts

- c) Discuss any Affidavits that will be prepared for certain witnesses
- d) Discuss how the trial will proceed, including who will be called as witnesses and the length of the trial

#### POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Trials	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## TRIALS

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### POLICY

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*Mnaasged Child and Family Services will proceed to a trial only if all other reasonable attempts to resolve a matter without trial have been unsuccessful. Attempts to resolve a matter without a trial will continue even after a trial has commenced. All decisions, however, will be made in the best interests of the Child(ren)/Youth involved.*

### PROCEDURE

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1. The Assigned Lawyer will be responsible to prepare for and conduct all trials.
2. The Legal Assistant will provide assistance to the Assigned Lawyer as may be required.
3. Legal Services will be responsible to prepare and serve all Summons to Witnesses required to ensure a witness's attendance at trial.
4. The Assigned Lawyer and the Legal Assistant will be responsible for preparing witnesses to provide evidence at a trial.
5. In planning for a trial, the Assigned Helper and the Supervisor will alert the Assigned Lawyer if a return to the Parent(s), in the opinion of Mnaasged, would constitute an intolerable risk pending appeal.

### POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Supervision Order	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## SUPERVISION ORDER

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### POLICY

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*Mnaasged Child and Family Services will seek a Supervision Order only if a determination that an intervention of the Court will be required to ensure the well-being and safety of a Child/Youth.*

### PROCEDURE

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1. Except in an emergency, the Assigned Helper and the Supervisor will exhaust all attempts to resolve a Child Protection Concern on a voluntary basis before seeking a Supervision Order.
2. The Assigned Helper and the Supervisor will consult with the First Nation before initiating Court Proceedings.
3. The Assigned Helper and the Supervisor will consult with Legal Services when considering whether a Supervision Order is required.
4. When Court intervention by way of a Supervision Order will be required, the Initiating the Protection Application – Court Documentation and Service Policy and Procedure will apply.

### POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Interim Society Care Order	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## INTERIM SOCIETY CARE ORDER

### POLICY

*Mnaasged Child and Family Services will seek an Interim Society Care Order only when an intervention of the Court will be required to ensure the well-being and safety of a Child/Youth and a Supervision Order will not be sufficient to ensure this.*

### PROCEDURE

1. Except in an emergency, the Assigned Helper and the Supervisor will exhaust all attempts to resolve a Child Protection Concern on a voluntary basis before seeking an Interim Society Care Order and before determining that a Supervision Order will not suffice.
2. The Assigned Helper and the Supervisor will consult with the First Nation before initiating any Court Proceedings.
3. The Assigned Helper and the Supervisor will consult with Legal Services when considering whether an Interim Society Care Order will be required.
4. When Court intervention by way of an Interim Society Care Order will be required, the Initiating the Protection Application – Court Documentation and Service Policy and Procedure will apply.

### POLICY REFERENCE

Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Interim Society Care Order Followed by Supervision Order	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## INTERIM SOCIETY CARE ORDER FOLLOWED BY SUPERVISION ORDER

### POLICY

*In exceptional circumstances, it may be possible to predict the exact time when a Child/Youth may be returned to a Parent. In such cases, Mnaasged Child and Family Services will seek an Interim Society Care Order, followed by a Supervision Order, but only when it has determined that the intervention of the Court will be required to ensure the well-being and safety of the Child/Youth.*

### PROCEDURE

1. Except in an emergency, the Assigned Helper and the Supervisor will exhaust all attempts to resolve a Child Protection Concern on a voluntary basis before seeking an Interim Society Care Order, followed by a Supervision Order.
2. The Assigned Helper and the Supervisor will consult with the First Nation before initiating any Court Proceedings.
3. The Assigned Helper and the Supervisor will consult with Legal Services when considering whether such an Order is required or is possible.
4. When it is determined that Court intervention by way of a Supervision Order will be required, the Initiating the Protection Application – Court Documentation and Service Policy and Procedure will apply.

### POLICY REFERENCE

Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Extended Society Care Order	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Best Practice Standards, <i>Child, Youth and Family Services Act</i>	

## EXTENDED SOCIETY CARE ORDER

### POLICY

*Mnaasged Child and Family Services will seek an Extended Society Care Order only when the best interests of the Child/Youth require permanency and it has been determined that the intervention of the Court will be required to ensure the well-being and safety of a Child/Youth and that it is unlikely the Parent(s)/Caregiver(s) can adequately address the Child Protection Concerns.*

### PROCEDURE

1. The Assigned Helper and the Supervisor will exhaust all attempts to resolve a Child Protection Concern on a voluntary basis before seeking an Extended Society Care Order.
2. The Assigned Helper and the Supervisor will consult with the First Nation before initiating any Court Proceedings.
3. The Assigned Helper and the Supervisor will consult with Legal Services when considering whether an Extended Society Care Order is warranted.
4. When it is determined that Court intervention by seeking an Extended Society Care Order is required, the Initiating the Protection Application – Court Documentation and Service Policy and Procedure will apply.
5. If an Extended Society Care Order is granted, Mnaasged will have a specific duty under the *Child, Youth and Family Services Act* to make all attempts to locate a permanent home for a Child/Youth in Mnaasged’s Extended Care through one of the following:
  - a) Alternative Care
  - b) Adoption

- c) Custody Order under section 65.2(1)

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Custody Order	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## CUSTODY ORDER

### POLICY

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*When a Child/Youth is in the Extended Care of Mnaasged Child and Family Services and an Alternative Care placement has not been found, Mnaasged Child and Family Services will consider providing permanency for the Child/Youth through an order granting custody to an Alternative Caregiver if this is in the Child's/Youth's best interests.*

### PROCEDURE

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1. The Assigned Helper and the Supervisor will consult with the Manager of Legal Services and the Assigned Lawyer to discuss the advisability and possibility when considering an order to grant custody to an Alternative Caregiver.
2. If the decision is made to seek a Custody Order, the Status Review Application Policy and Procedure will apply.

### POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Assessment Order	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## ASSESSMENT ORDER

### POLICY

*If appropriate, Mnaasged Child and Family Services will seek an Assessment Order as provided for in section 98 of the Child, Youth and Family Services Act. Such an assessment will be conducted by a First Nation Assessor or, at the very least and to the extent possible, from a First Nation's perspective.*

### PROCEDURE

1. The Assigned Helper and the Supervisor will consult with the Assigned Lawyer to discuss the possibility and advisability of obtaining an Assessment Order if they believe that an assessment of any of the Parties will be required.
2. The Assigned Helper and the Assigned Lawyer will, if possible, negotiate the basis and terms of an assessment with the Party to be assessed, their Counsel, if any, and the First Nation.
3. The Assigned Helper and the Supervisor will determine which Assessor or Assessment Service is available and capable of conducting the assessment and is prepared to undertake it.
4. If a consent cannot be obtained, the Assigned Helper, the Supervisor, and the Assigned Lawyer will determine the required terms.
5. If an assessment is required, and whether on consent, the Motions Policy and Procedure will apply.
6. Any request for an assessment under section 98 of the *Child, Youth and Family Services Act* must be approved by the Executive Director or the Director of Services.

POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Appeal	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## APPEAL

### POLICY

*Mnaasged Child and Family Services will appeal an Order or Judgment in a case if it believes the decision is contrary to the best interests of the Child(ren)/Youth involved. Mnaasged Child and Family Services will respond to an appeal by another Party in a manner that it considers to be in the best interests of the Child(ren)/Youth involved.*

### PROCEDURE

#### APPEAL BY MNAASGED

1. On receipt of a decision contrary to Mnaasged’s request in an Application, the Assigned Helper, the Supervisor, and the Senior Manager or the Director of Services will meet with the Assigned Lawyer and the Manager of Legal Services to discuss the possibility and advisability of an appeal.
2. A recommendation to appeal will be put before the Executive Director or designate through the Director of Services, or the Manager of Legal Services as soon as possible.
3. If the Executive Director or designate decides that an appeal will be sought, Counsel will be instructed to carry the appeal forward.
4. Legal Services will immediately draft, serve, and file a Notice of Appeal.
5. Unless outside Counsel is retained, the Manager of Legal Services or an assigned Mnaasged Lawyer will be responsible for following the appeal procedures as provided for in the *Child, Youth and Family Services Act* and *Family Law Rules*, under the general instructions of the Executive Director or designate (the Director of Services).

## OTHER PARTY APPEAL

1. If any Assigned Helper is served with a Notice of Appeal, the Assigned Helper must immediately alert the Supervisor or the Manager of Legal Services, or both, who will then inform the Executive Director or designate to determine, in consultation with the Manager of Legal Services, an appropriate response or course of action.
2. Unless outside Counsel will be retained, the Manager of Legal Services or an assigned Mnaasged lawyer will respond to the appeal by following the procedures in the *Child, Youth and Family Services Act* and *Family Law Rules* and the general instructions of the Executive Director or designate (the Director of Services).

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Transfer of Proceedings	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## TRANSFER OF PROCEEDINGS

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### POLICY

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*Mnaasged Child and Family Services will follow the provincial Interagency Protocol for the transfer of files to and from another Agency.*

### PROCEDURE

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1. When an Assigned Helper and a Supervisor have agreed to transfer a file to, or to accept the transfer of a file from, another Agency, they will immediately advise the Manager of Legal Services if the matter is the subject of a Court Proceeding.
2. Mnaasged Legal Services will contact the Legal Services of the other Agency to discuss and to arrange for the transfer of a file, in accordance with the provincial Interagency Protocol.
3. If a transfer of a file is to another Agency, the Motions Policy and Procedure will apply.

### POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Legal Actions and Claims Involving Children in Care	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act</i>	

## LEGAL ACTIONS AND CLAIMS INVOLVING CHILDREN IN CARE

### POLICY

*As the Legal Guardian of Children/Youth in its Care, Mnaasged Child and Family Services will act as any responsible Parent would in protecting their legal interests.*

### PROCEDURE

#### YOUTH COURT PROCEEDINGS

1. If a Youth in Mnaasged's Care is charged with an offence under the *Youth Criminal Justice Act*, the Assigned Helper will assist the Youth in obtaining a Legal Aid Ontario certificate.
2. Once a certificate has been granted, the Assigned Helper will assist the Youth in obtaining Counsel to represent the Youth on the charge(s).
3. The Assigned Helper will accompany the Youth to all Court appearances.

#### CIVIL PROCEEDINGS

1. The Assigned Helper will contact the Manager of Legal Services or Mnaasged's Counsel in the following situations:
  - a) Child/Youth in Care is involved in an accident or injured in any way
  - b) Threat or a possibility of a legal action against a Child/Youth in Care
  - c) Child/Youth may be entitled to inheritance claims
2. The Manager of Legal Services, in consultation with the Director of Services, if necessary, will determine what steps Mnaasged should take to protect the Child's/Youth's interests,

which may include retaining outside Counsel if appropriate and authorized by the Executive Director.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Management of Court Files: Documentation, Service, Court Orders, and Warrants	
Subject: Withdrawal of a Court Application	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Best Practice Standards; <i>Child, Youth and Family Services Act</i> ; Ontario <i>Family Law Rules</i>	

## WITHDRAWAL OF A COURT APPLICATION

### POLICY:

*Mnaasged Child and Family Services will withdraw an application when it has been determined that a Court Order is no longer necessary to protect the Child/Youth.*

### PROCEDURE

1. All applications before the Court will be reviewed on a regular basis according to the Mnaasged Information Management System.
2. At an In-House Case Conference, the facts and progress of the family will be reviewed. As part of the discussion, consideration will be given as to whether the circumstances would allow for a Less Intrusive Approach and would be in the Child's/Youth's best interests, such as an Alternative Care placement, a placement with extended family or community, or a return home.
3. If there is no longer a need for a matter to be the subject of a Court Order and there is still an outstanding application before the Court, then a Motion to Withdraw without costs along with an Affidavit in Support of the Motion will need to be prepared.
4. The Assigned Helper will be responsible for the completion of the Affidavit in Support of the Motion. The Legal Assistant will be responsible for the completion of all other documentation.
5. The Motion will be filed and served on all Parties, in accordance with the Ontario *Family Law Rules*, by the Legal Assistant.
6. The Motion to Withdraw will be assigned to the Lawyer representing Mnaasged before the Court, unless there is an unusual reason not to proceed with this.

POLICY REFERENCE

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## SECTION 4: MAINTENANCE OF COURT FILES AND OPERATIONAL PRACTICE

Department: Legal Services	POLICY #:
Section: Maintenance of Court Files and Operational Practice	
Subject: Cultural Plan and Supervision Plan	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Best Practice Standards, <i>Child, Youth and Family Services Act</i>	

### CULTURAL PLAN AND SUPERVISION PLAN

#### POLICY

*Mnaasged Child and Family Services will ensure that every Child/Youth is entitled to have a Cultural Plan and a Supervision Plan developed to meet specific needs and to provide for services that will mitigate the risk factors impacting the Child/Youth.*

*The Cultural Plan and the Supervision Plan must consider the Child's/Youth's developmental stage, language, culture, and need for continuity of care. The Cultural Plan will be developed collaboratively within the parameters of protocols developed in each First Nation or Indigenous community.*

#### PROCEDURE

1. The information relating to the Cultural and Supervision Plans will be provided in the Helper's Questionnaire.
2. The Assigned Helper will provide a description of the services that will remedy the situation of the Child's/Youth's need for protection.
3. The Assigned Helper will provide a statement of the criteria that Mnaasged will determine when wardship or supervision will no longer be required. The Supervision Order's terms and conditions should reflect the issues identified in the evidence and the terms and conditions that may have been placed on any of the Parties, such as the person caring or planning for the Child/Youth or Mnaasged.

4. The Assigned Helper will provide an estimate of the time required to achieve the purpose of Mnaasged's intervention.
5. If the Child/Youth is removed from the care of the Parent(s) or Guardian(s), the Assigned Helper will provide an explanation of why the Child/Youth cannot be adequately protected while in the person's(s') care, including a description of any past efforts.
6. A Cultural Plan must speak directly to a Child's/Youth's culture. In cases where a Child/Youth is in Mnaasged Care and the Assigned Helper is completing a Cultural Plan document for the Court, the Assigned Helper must identify all arrangements made to recognize the importance of the Child's/Youth's culture and of preserving the Child's/Youth's heritage, Traditions, cultural identity, and relationship to the community.
7. The Assigned Helper will provide a statement of efforts, if any, that are planned to maintain the Child's/Youth's contact with the Parent(s) or Guardian(s), the kin relationships, and the community.
8. If Mnaasged proposes to permanently remove or has removed a Child/Youth from a person's care, the Assigned Helper will provide a description of Mnaasged's Stability Plan for the Child/Youth.
9. The Assigned Helper will serve a copy of the Cultural Plan or the Supervision Plan on all respondents and will swear an Affidavit of Service that will be filed with the Court.
10. The Cultural Plan or the Supervision Plan will embody the same goals as the Plan of Service in the Protection File in the Child Care File, where applicable.
11. It is expected that Mnaasged will abide by the Cultural Plan and the Supervision Plan. Any deviations from these Plans will be clearly documented in the Service File, with a full explanation of all attempts made to carry out the Plans will be filed with the Court.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Maintenance of Court Files and Operational Practice Requirements	
Subject: Court Dictation Reports	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference:	

## COURT DICTATION REPORTS

### POLICY

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*The outcome of every court appearance will be clearly documented by Mnaasged Child and Family Services' Assigned In-House or Panel Lawyer to ensure compliance with all Court Orders, identified procedural issues, and service planning recommendations.*

### PROCEDURE

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1. The In-House or Panel Lawyer will complete a Court Dictation Report immediately after each court appearance.
2. The Court Dictation Report will include the following:
  - a) Date of the appearance
  - b) Presiding Judge
  - c) Parties present
  - d) What transpired
  - e) Next scheduled court date
  - f) Further action required
3. The Court Dictation Report will be forwarded to the Assigned Helper, the Supervisor, the assigned Administrative Assistant, and the Manager of Legal Services. The assigned Supervisor will be responsible to review the Court Dictation Reports once received to monitor the progress of the court case.

4. The Court Dictation Report will be placed in the appropriate section of the Legal Services File to be available for review whenever necessary.
5. The appropriate Personnel will be responsible to complete any further action indicated in the Court Dictation Report within the time frame specified. It is important that these tasks be completed prior to the next court date to avoid any unnecessary delays in the case.
6. Any delays to complete the tasks must be identified by the Supervisor responsible as soon as possible and reported to the Assigned Lawyer.
7. The Assigned Helper will seek clarification from the Supervisor or the Manager of Legal Services if there are questions about the instructions provided. A consultation with the Assigned Lawyer will occur if necessary.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Maintenance of Court Files and Operational Practice Requirements	
Subject: Court Appearance Dates Tracking System	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Mnaasged Child and Family Services Internal	

## COURT APPEARANCE DATES TRACKING SYSTEM

### POLICY

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*Mnaasged Child and Family Services has a duty to be fully prepared for each scheduled court appearance. The Legal Services Department will be responsible for proper notification to all appropriate Mnaasged Staff to allow for appropriate decisions to be made, and necessary court documents prepared, in a timely fashion.*

### PROCEDURE

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1. Once a legal application has been initiated in accordance with Mnaasged's Policies and Procedures, it becomes the responsibility of the Manager of Legal Services to maintain a tracking system for notification of court dates and for court documentation due dates. The Assigned Helper will be responsible for recording this information and for complying with the time frames identified.
2. The Legal Assistant will enter the date of the initial hearing into the electronic calendar and will then email it to all involved Assigned Helpers and Supervisors and the Manager of Legal Services.
3. After each court appearance, the Legal Assistant will receive a copy of the Court's Endorsement and the Court Dictation Report. As these documents are received, the Legal Assistant will enter the next appearance date into the electronic calendar.
4. The Legal Assistant will enter any court dates received by letter from either the Assigned Lawyer or the Court House into the electronic calendar.
5. The Legal Assistant will enter the following into the electronic calendar:
  - a) First appearance dates

- b) To be spoken to dates
  - c) Section 90 dates
  - d) Motion dates
  - e) Summary judgment dates
  - f) Default judgment dates
  - g) Affidavit due dates
  - h) Case, Settlement, and Trial Management Conference dates
  - i) Expiry date of all Final Orders
  - j) Trial dates
  - k) Status Review dates
6. The Legal Assistant will send an email notification of the various dates to all involved Assigned Helpers and Supervisors.
  7. The Legal Assistant has the responsibility to ensure that the electronic calendar will be continually updated.
  8. The Assigned Helper must record all significant court dates and court documentation due dates to ensure these are fully prepared and available for each court appearance. It is not the responsibility of the Legal Assistant to provide reminders to the Assigned Helpers or to continually seek out required information.
  9. It is the responsibility of the Assigned Helper to ensure the First Nation Representative will be advised of all court dates, both verbally and in writing. If the notice is provided in writing, the Assigned Helper must include the Manager of Legal Services and the Assigned Lawyer in the email or the letter.
  10. The Manager of Legal Services will advise the appropriate Supervisor when the recording of dates and assignments are not being met by the Assigned Helper.

## POLICY REFERENCE

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Department: Legal Services	POLICY #
Section: Maintenance of Court Files and Operational Practice Requirements	
Subject: Maintenance of the Continuing Record	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Best Practices Standards, Mnaasged Child and Family Services Internal Requirements, Ontario <i>Family Law Rules</i>	

## MAINTENANCE OF THE CONTINUING RECORD

### POLICY

*All legal documentation related to a Child Protection Application must be maintained in a Continuing Record that conforms to the Family Law Rules. Mnaasged Child and Family Services will maintain the Continuing Record in the Legal Services Department within the Mnaasged Information Management System. A copy will also be kept by the Assigned Helper in the Child Welfare Team Office.*

### PROCEDURE

1. Documents will be approved by the Manager of Legal Services or the Assigned Lawyer and will be provided to the Legal Assistant, who will arrange to have these placed in the binder given to the Assigned Helper.
2. The binder will be placed in a file cabinet in the Team Office where it will be readily accessible to the Assigned Helper, the Supervisor, and the Administrative Assistant.
3. Any additional documentation prepared by Legal Services will be given to the Assigned Helper for review.
4. The Assigned Helper will then give this documentation to the Legal Assistant who will file it in the Continuing Record.
5. When a revised table of contents is received from any Party, the Legal Assistant will replace the existing table of contents with the new one.
6. Court Reports, In-House Case Conference Forms, and legal correspondence will be placed in a Privileged Communication Folder in the Client's File in the Mnaasged Information Management System.

7. The Legal Assistant will be responsible for providing the Assigned Helper or the Administrative Assistant with any update to the Continuing Record and will inform the Administrative Assistant to replace the missing documents.
8. The Legal Assistant will be responsible for completing, or arranging for the completion of, all filings as soon as possible after the receipt of the documents.
9. When the Protection File is being closed, the Continuing Record will be incorporated in the file but will remain intact.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Maintenance of Court Files and Operational Practice Requirements	
Subject: Conferencing Legal Cases	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Best Practice Standards, Mnaasged Child and Family Services Internal Requirements	

## CONFERENCING LEGAL CASES

### POLICY

*Mnaasged Child and Family Services will maintain an Internal Case Conferencing System to manage court cases. Mnaasged Child and Family Services will ensure that appropriate Case Planning takes place with efficient controls over legal costs.*

### PROCEDURE

1. The Manager of Legal Services will coordinate a Case Conferencing System that will identify those cases not moving through the legal system in a timely fashion so that additional strategizing and planning can occur.
2. Issues relating to both service delivery and legal services can be identified at the Case Conference level. Conferencing court cases will assist the Assigned Helpers in determining appropriate court applications, identifying what needs to be done to obtain the most appropriate order, ensuring proper service from all Parties, and identifying barriers to service. The Internal Case Conferencing System will highlight when consultation with the Assigned In-House or Panel Lawyer will be required.
3. Legal In-House Case Conferences will be held each Thursday.
4. The Manager of Legal Services will prepare a schedule of Case Conferences for all Child Protection and Service Staff, including Supervisors and Senior Managers.
5. It is expected the Assigned Helper, the Supervisor, the Manager of Legal Services or the Assigned Lawyer (or both), and the Assigned Administrative or Legal Assistant will be present for the Case Conference. When there is a scheduling conflict, the Assigned Helper will be expected to reschedule with the Legal Assistant.

6. A Legal In-House Conference will be held for every Status Review Application, Case or Settlement Conference, Section 90 Hearing, Summary Judgment or Default Hearing, and any other circumstances as deemed appropriate by the Manager of Legal Services or the Assigned Lawyer.
7. For Status Review Applications, the Legal In-House Conference will be held at least eight (8) weeks prior to the date the required court documentation is due and will be prepared by the Legal Services Department.
8. For all other court appearances identified above, the Legal In-House Case Conference will occur four (4) weeks prior to the date the documentation is due. This will allow for sufficient time for decision making, further information gathering if necessary, and the drafting and finalizing of all necessary court documents.
9. The Legal In-House Case Conference for trials will occur four (4) months in advance of the trial dates to assist the Assigned Helper in preparing Trial Affidavits.
10. At the Legal In-House Case Conference, the Assigned Helper for the family will be prepared to fully discuss the following:
  - a) Service delivery to the family
  - b) Progress being made by the family
  - c) Level of cooperation
  - d) Involvement of other community services
  - e) Involvement of the First Nations
  - f) New information that increases or decreases risk to Children/Youth
  - g) Access issues
  - h) Other significant case developments
11. The Assigned Helper for the Child/Youth will be fully prepared to discuss the following:
  - a) Child's/Youth's current situation
  - b) Level of stability
  - c) Any placement changes
  - d) Adjustments to placements
  - e) Overall level of functioning in the community

- f) School performance and attendance
  - g) Alternative Care Home if any
12. The Assigned Helper for the Child/Youth will identify any issues related to the Child's contact with siblings and other family and community relationships.
  13. From these discussions, appropriate decisions will be made on case direction and planning. The need for consultation with the Panel Lawyer may be identified and another meeting may be arranged.
  14. The Manager of Legal Services or the Assigned Lawyer will advise the Assigned Helpers what documentation will be required for the next step of the Court Process and the date it will be due to Legal Services for preparation. It is imperative that the Assigned Helpers schedule these dates to ensure that the case continues to move through the Court System in an efficient manner.
  15. The Administrative Assistant or the Legal Assistant will take minutes of the meeting using the Legal In-House Conference Form. This form will be circulated to the respective Supervisors for distribution to their Staff and to the Assigned Lawyer. The form will clearly identify tasks, information, serving of document issues, and so on that must be addressed prior to the scheduled court date.
  16. The Legal In-House Conference Form will be kept in the Privileged Communication Folder. This document is a privileged, internal document only and will not be provided to anyone outside Mnaasged.
  17. Apprehensions cannot be discussed at a Legal In-House Conference mostly because of circumstances and time constraints. The Assigned Helper and the Supervisor may choose to conference the case with the Manager of Legal Services when appropriate. Consultation with the Assigned In-House or Panel Lawyer may also take place after receiving the application. If the apprehension occurs on an open Protection File where there is an existing application or order, the Assigned Lawyer will be in a better position to consult because of the familiarity with the file.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Maintenance of Court Files and Operational Practice Requirements	
Subject: Court Orders – Service Requirements	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act, Ontario Family Law Rules</i>	

## COURT ORDERS – SERVICE REQUIREMENTS

### POLICY

*Mnaasged Child and Family Services will follow all requirements of the Family Law Rules, the Child, Youth and Family Services Act, and other relevant legislation with respect to the service of Court Orders and the delivery of all legal services.*

### PROCEDURE

1. Service of Orders is an area that requires particular attention to ensure compliance. Clients have a right to receive a copy of any Court Order made involving their family.
2. When a decision is rendered at a Court Proceeding, the Judge hearing the matter will issue a Court Order. This decision is generally documented in the Court Endorsement format until such time as the Official Order can be obtained.
3. The Manager of Legal Services or designate will ensure that all Court Orders are processed.
4. The Court Order will then be provided by Legal Services to the responsible Supervisor for circulation to the Assigned Helper.
5. The Assigned Helper will always be responsible for service of an Extended Society Care Order on a Child/Youth who is entitled to Notice. The Assigned Helper and the Child/Youth have a pre-existing relationship that will ensure the Child/Youth is provided with the emotional support required during a process that can be very difficult.
6. The Assigned Helper will be responsible for service on Alternative Care Provider(s) in circumstances when the Providers are entitled to receive a copy of the Order.

7. The Assigned Helper will be responsible for providing service to the Parent(s) or Guardian(s) when the order is issued, entered, and returned to Mnaasged within two (2) months of the receipt of the Extended Society Care decision.
8. Legal Services will be responsible for providing service when the Order is issued and entered but not received by Mnaasged within two (2) months.
9. Once Parties are served, the person providing service must complete an Affidavit of Service, which will be prepared by Legal Services.
10. When there are Assigned Helper Safety Concerns or barriers to service identified, a Process Server may be used with the prior consent from the responsible Supervisor and the Manager of Legal Services.
11. Under no circumstances will a Process Server be used to serve a Child/Youth or an Alternative Care Provide.
12. The Legal Assistant will be responsible for filing all completed Affidavits of Service.
13. The Assigned Helper will serve the First Nation Band Representative with a copy of the Order for any Court Proceeding involving First Nation Children/Youth of the respective First Nation.
14. The Legal Assistant will ensure that the Order is maintained as part of the Continuing Record.
15. The Legal Assistant will ensure that the Court Order is then served on the Lawyers who represented the Parties during the Proceeding, including the Office of the Children's Lawyer where applicable.
16. If any Party is unrepresented during the Proceedings, it is the responsibility of the Assigned Helper to serve the Order once received and to swear an Affidavit of Service, which is maintained in the Continuing Record.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Maintenance of Court Files and Operational Practice Requirements	
Subject: Transfer of Proceedings	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Inter-Agency Provincial Protocol	

## TRANSFER OF PROCEEDINGS

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### POLICY

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*Mnaasged Child and Family Services will comply with the Provincial Inter-Agency Protocol regarding the transfer of court cases.*

### PROCEDURE

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1. If a Child/Youth is brought to a Place of Safety while in Mnaasged's Care and legal jurisdiction, then the court application will be filed on behalf of Mnaasged.
2. If the Child/Youth normally resides in another jurisdiction, the Assigned Helper will make the External Agency aware of the action and the planned court date.
3. The Assigned Helper will gather all available information about the Child/Youth and the family and will enter this information in the court application.
4. The Assigned Helper will advise the External Agency that a Motion will be filed to transfer the matter to Mnaasged's legal jurisdiction.
5. The External Agency will be served a copy of the Application, the Motion, the Plan of Care, and the Affidavit.
6. The Assigned Helper will request a letter to the External Agency acknowledging the agreement to the Transfer of Jurisdiction.
7. If the transfer of jurisdiction becomes a contentious issue, then there will be further discussion between the Management Personnel of both Agencies.
8. If the issue cannot be resolved between the Agencies, then the matter will be argued before the Court.



9. If Mnaasged has filed an application and the family relocates to another jurisdiction before a Final Order is granted, then consideration will be given to filing a Motion to Transfer Jurisdiction if this meets the best interests of the Child/Youth.
10. Factors to consider will be the potential permanency of the family's relocation and where the majority of the evidence lies.
11. The decision to transfer jurisdiction will include the Assigned Helper, the Supervisor, the In-House or Panel Lawyer, and the Manager of Legal Services, if required.
12. The Inter-Agency Provincial Protocol will address the issue of a Transfer of Jurisdiction.
13. For all matters involving a Transfer of Proceedings to another province, the Inter-Agency Provincial Protocol will be followed.

## POLICY REFERENCE

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## SECTION 5: DISCLOSURE PRACTICES AND COURT TERMINATIONS

Department: Legal Services	POLICY #:
Section: Disclosure Practices and Court Terminations	
Subject: Management of Civil Litigation	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Mnaasged Child and Family Services Internal	

### MANAGEMENT OF CIVIL LITIGATION

#### POLICY

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*Mnaasged Child and Family Services will ensure that all civil litigation matters are dealt with efficiently and effectively in its best interest.*

#### PROCEDURE

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1. Mnaasged Staff being served with the legal documents will make copies for the following:
  - a) Executive Director
  - b) Director of Services
  - c) Director of Finance and Administration
  - d) Senior Manager
  - e) Manager of Legal Services
2. The original legal documents and the copies will be date stamped and put into the Legal File.
3. When legal documents (e.g., Notice of Civil Litigation) pertaining to a Service File is currently open, it will be the responsibility of the Assigned Helper to enter a Referral in the Mnaasged Information Management System with a coding of 10-1-F, as per the Eligibility Spectrum. The file will remain open to the Assigned Helper.

4. When the file is not currently open for service, the legal documents will be provided to an Intake Phone Screener for the purposes of entering a Referral in the Mnaasged Information Management System with a coding of 10-1-F, as per the Eligibility Spectrum. The file will be assigned to the Manager of Legal Services for the purpose of tracking and managing the file.
5. The Director of Finance and Administration will determine who the Insurance Company was at the time of an alleged incident and will forward a copy of the documentation to them.
6. The Executive Director will provide a copy of the documentation to the Board Executive Committee for review and planning. The Executive Director will address all recommendations identified by the Executive Committee.
7. The Executive Director will notify the Ministry of Children, Community and Social Services of the Civil Suit if it is seen as a contentious issue.
8. Mnaasged may choose to hire Counsel to create a "Watching Brief." Outside Counsel will be hired if the claim exceeds the insurance coverage, if the insurer deems Mnaasged does not have coverage for all or part of the action, if there is either real or potential criminal charges, and if there is a potential conflict between the insurer and Mnaasged. A "Watching Brief" will monitor the progress of the Civil Suit and any related actions, allowing Mnaasged to take a proactive response if required.
9. The Manager of Legal Services will obtain and review all relevant files and will draft a summary of the events surrounding the allegations, which will form the basis of the response to the Civil Suit. Any other information deemed relevant or contentious will be part of the summary.
10. The Manager of Legal Services will keep all related Service Files, even if they are not currently open, and working files on the Civil Suit (i.e., correspondence, minutes of meetings, and so on).
11. The Director of Finance and Administration will keep a separate file relating to the claim.
12. Requests for information as it relates to service issues from the Insurance Company or its Adjuster will be forwarded to the Manager of Legal Services.
13. If there are issues with the disclosure of files, Mnaasged's Corporate Lawyer will be consulted.
14. The Manager of Legal Services will forward copies of all relevant files to the Adjuster or the Insurance Company with a letter outlining that the files are for their purposes only and that the files cannot be disclosed in any other fashion without a Court Order.
15. Any activity relating to the insurance coverage will be handled by the Director of Finance and Administration, and copies of letters and any other documentation that result from these activities will be forwarded to the Manager of Legal Services.

16. As part of the management of the Civil Suit, requests for decisions from the Adjuster, the Insurance Company, the Lawyer for the Insurance Company, or Mnaasged's Corporate Lawyer will result in a meeting of all appropriate Personnel.
17. The Manager of Legal Services will act as the liaison between Counsel and Mnaasged.
18. The Director of Finance and Administration will act as liaison between the Insurance Company and Mnaasged.
19. The Manager of Legal Services will coordinate the need to interview Helpers with Counsel, either for discovery or for the trial.
20. When the matter has been resolved or the Civil Suit is discontinued, all relevant documentation will be filed in the Service File. Any privileged communication between Mnaasged and Legal Counsel will be clearly marked and filed in compliance of Management, Storage, and Disclosure of Privileged Information Policy and Procedure.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Disclosure Practices and Court Terminations	
Subject: Management, Storage, and Disclosure of Privileged Information	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: <i>Child, Youth and Family Services Act; Rules of Professional Conduct (Law Society of Upper Canada); Ministry of Children, Community and Social Services Standards; Mnaasged Child and Family Services Internal</i>	

## MANAGEMENT, STORAGE, AND DISCLOSURE OF PRIVILEGED INFORMATION

### POLICY

*Mnaasged Child and Family Services will ensure that all management, storage, and disclosure of privileged information will be dealt with efficiently and effectively in its best interest. The Legal Services Department will be responsible to the Ministry of Children, Community and Social Services, Mnaasged Child and Family Services, and the Law Society of Ontario in dealing with privileged information, which includes the following:*

- a) Solicitor–Client (legal advice)*
- b) Litigation*
- c) Settlement*
- d) Wigmore’s “confidential communications”*

*Mnaasged Child and Family Services will be committed to ensure that these types of privileges are recognized and protected.*

### PROCEDURE

1. All documents in the Legal Services Department may be privileged and should be treated as such. All documentation that is in the Legal Services Department must only be disclosed by the Legal Counsel of Mnaasged. This will be accomplished by ensuring the following:
  - a) All information in Legal Services will always be kept confidential and protected from any accidental disclosure by ensuring that only the Legal Counsel or the Manager of Legal

Services can release the information. This includes all information provided to other Agencies, the Service Providers, the current or past Clients, and the public via telephone calls, emails, or documentation.

- b) All Legal Files will need to be locked up when not in use, including nights, weekends, and holidays.
  - c) If Legal Files are in use, steps will be taken to ensure that no one has access to the files, such as covering them up on work desks, not leaving printed material on the photocopier, and ensuring the files always remain with staff during travel or time away from the office.
2. The storage of privileged information includes the following:
- a) Legal Services Database
  - b) Legal Counsel's computers or laptops
  - c) Physical files under lock and key
  - d) Other forms of approved secure storage as required

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Disclosure Practices and Court Terminations	
Subject: Access to Disclosure of Information – Records Philosophy and Principles	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Mnaasged Child and Family Services Internal, <i>Child, Youth and Family Services Act</i>	

## ACCESS TO DISCLOSURE OF INFORMATION – RECORDS PHILOSOPHY AND PRINCIPLES

### POLICY

*When Mnaasged Child and Family Services receives a request for disclosure and is required to release the information, it will do so in accordance with the provisions of the Child, Youth and Family Services Act, the Family Law Rules, the Law Society of Ontario's Rules of Professional Conduct, other relevant legislation, Ministry of Children, Community and Social Services Guidelines, and Mnaasged Child and Family Services' Internal Policies and Procedures. This includes any requests for information received from Clients, Third Parties about Clients, outside Providers of Clients (including Foster and Adoptive Parents), other Child Protection Agencies, and Legal Counsel and for Court Proceedings.*

*Mnaasged Child and Family Services will not respond to requests based solely on the Freedom of Information and Protection of Privacy Act (FIPPA) because its Client Records are not subject this act.*

*Legal Services aims to create and operate a system of a single point of contact that provides accurate, timely, reliable, and relevant disclosures. Access to Client Records will be in accordance with Mnaasged Child and Family Services' procedures and legal restrictions with a focus on providing better service to its Clients. Specifically, Legal Services provides disclosure and access to Client Records in accordance with the relevant legislation, including but not limited to the following:*

- a) Child, Youth and Family Services Act
- b) Youth Criminal Justice Act
- c) Personal Health Information Protection Act

- d) Mental Health Act
- e) Children's Law Reform Act
- f) Family Law Act
- g) *OCAP (Ownership, Control, Access, and Possession) Principles*

## PROCEDURE

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1. When a Disclosure Request is received by the Administration or the Helper, the request must be sent immediately to Legal Services.
2. Legal Services will determine the eligibility of the person/organization requesting the information. A response to the request will include the following:
  - a) What requested information is eligible for disclosure as these may contain Client records and information of Third Parties
  - b) What type of information eligible for disclosure to the person/organization is being requested, such as a summary letter, a redacted part or whole file, or an un-redacted file
  - c) What amount of time required to prepare the disclosure and any wait times
  - d) What consents, identification, or signing of Undertaking that may be required to receive the disclosure
3. Legal Services will enter all requests into the Mnaasged Information Management System before completing the request.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Disclosure Practices and Court Terminations	
Subject: Disclosure and Vetting of a File Related to Child Protection Proceedings	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Mnaasged Child and Family Services Internal, <i>Child, Youth and Family Services Act</i>	

## DISCLOSURE AND VETTING OF A FILE RELATED TO CHILD PROTECTION PROCEEDINGS

### POLICY

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*Mnaasged Child and Family Services will ensure that all written requests and Court Orders for Disclosure will be vetted through its Legal Services Department.*

### PROCEDURE

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1. The types of disclosure requests and Court Proceedings referred to include the following:
  - a) Criminal Proceedings (other than Sexual Assault Proceedings for which provisions of the *Criminal Code of Canada* apply)
  - b) Youth Justice Proceedings
  - c) Custody Proceedings (*Children's Law Reform Act*)
  - d) Civil Proceedings for damages
  - e) Non-Child Welfare Court Proceedings
2. A Request for Disclosure from Legal Counsel will generally be received by the Manager of Legal Services. For Child Protection Matters, the Lawyers are entitled to disclosure without the written consent of the Client.
3. Requests for Disclosure pertain to both the Child in Care Record and the Protection Records of Mnaasged.

4. The Manager of Legal Services will fax the Request for Disclosure to the Defense Lawyer who will require the disclosure. A copy of Mnaasged's Request for Disclosure Form must be completed and resubmitted to Mnaasged's Legal Department.
5. The Assigned Legal Assistant or the Disclosure Clerk will prepare the file in its entirety for disclosure. In preparing the file, the Assigned Administrative Assistant or the Disclosure Clerk will verify that all information is on file by cross-referencing with the Front-Line Recording and the Mnaasged Information Management System to ensure that all case documentation has been printed and filed accordingly. The Assigned Administrative Assistant or the Disclosure Clerk will obtain copies of the most recent case notes, correspondence, reports, and so on from the Assigned Helper and will file accordingly.
6. The prepared file will be photocopied and sent to the Manager of Legal Services.
7. All Staff-sensitive files will be prepared for disclosure by the Executive Administrative Assistant for the Director of Services.
8. All Requests for Disclosure will be tracked and managed by the Manager of Legal Services.
9. The Manager of Legal Services will vet the copied file for any information that should not be disclosed to other Counsels. Information may be vetted either by the removal of pages or by blacking out the information. The following information may be vetted:
  - a) Correspondence between Mnaasged and the Panel Lawyer
  - b) Court Reports
  - c) In-House Conference Reports
  - d) Case notes of telephone calls or meetings with the Panel Lawyer
  - e) Reports from a Mental Health Facility, although information will be provided to the Defense Counsel that reports are available
  - f) Names and addresses of people who wish to remain anonymous. This information must be clearly marked on a case note. Mnaasged will attempt to maintain confidentiality about Referral Sources; however, it may be necessary to identify an individual's name in the Affidavit in Support of the Application if Mnaasged wishes to use that information
  - g) Mnaasged will not disclose the names of Third Parties that are not already known to the Client by way of other documentation filed with the Court
  - h) Names and addresses of Alternative Care Providers will not be disclosed, unless this information is already known to the Client

- i) Manager of Legal Services will request the names from the Assigned Helper if the Client already has information on them
10. The Manager of Legal Services will determine what is released. If necessary, the Manager of Legal Services will consult with the In-House Legal Counsel or the Panel Lawyer.
11. The Manager of Legal Services will document any information that has not been released during the Disclosure Process.
12. The Manager of Legal Services will provide other Counsel, in writing, the name of the person or facility that provided a Mental Health Report so they can obtain a copy of it through the proper channels.
13. A copy of the vetted file will be available to all the Lawyers involved in the Proceeding.
14. The Counsel will have a copy of the vetted file sent to their office via courier or will be advised it is available to be picked up at Mnaasged's Head Office.
15. The Manager of Legal Services will prepare a bill for the Defense Counsel in accordance with the Court rules.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Disclosure Practices and Court Terminations	
Subject: Warrant or Order of Search and Seizure for Disclosure of Record	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Mnaasged Child and Family Services Internal; <i>Child, Youth and Family Services Act</i> ; <i>Coroner's Act</i>	

## WARRANT OR ORDER OF SEARCH AND SEIZURE FOR DISCLOSURE OF RECORD

### POLICY

*Mnaasged Child and Family Services will comply with any served Warrant or Order of Search and Seizure for Access to Records. These documents are typically served by the Police when conducting a Criminal Investigation pursuant to the Criminal Code of Canada that is not a Child Protection Investigation. The Coroner's Office may also serve a Warrant pursuant to the Coroner's Act when investigating the death of a Child/Youth while receiving services from Mnaasged Child and Family Services within the 12 months preceding the Child's/Youth's death.*

### PROCEDURE

1. When Mnaasged is served with a Warrant/Order for Search and Seizure, the Assigned Supervisor will be notified immediately. For closed files, the Senior Manager responsible for the Region will be notified. The Senior Manager will notify the Manager of Legal Services and the Director of Services immediately.
2. The Warrant/Order for Search and Seizure will be reviewed by a Supervisor and a Senior Manager, in collaboration with Legal Services, to determine whether Mnaasged must release the full record or if the release of specific documents will satisfy the Warrant. The Supervisor will ensure that the release of records complies with the Warrant/Order for Search and Seizure.
3. As there is generally a sense of urgency when a Warrant/Order for Search and Seizure is served, the Assigned Helper may not be available. The Assigned Supervisor will assign an available Helper to assist with the completion of the required steps for the execution of the Warrant/Order of Search and Seizure.

4. The Assigned Helper will enter the information into the Mnaasged Information Management System, using a code as per the Eligibility Spectrum (Request for Assistance – Request for Information). This procedure should be completed at a time when it would not impact or delay the person serving the Warrant/Order of Search and Seizure.
5. The Assigned Helper and the Assigned Legal Assistant will ensure that the file is in good order and that all documents are filed.
6. The Supervisor will communicate with the person serving the documents to request that Mnaasged be given sufficient time to photocopy the record in its entirety. Although Mnaasged is unable to enforce this request, generally there is cooperation from the person serving the Warrant/Order.
7. If permitted, the Assigned Legal Assistant will photocopy the file in its entirety. File contents such as video and audio tapes will also be copied if possible.
8. All items that have been released will be itemized and kept with the photocopy of the file. If there is no photocopy, the itemized list will be kept under the file number of the released record.
9. The Assigned Helper will file the following documents in all Service Files accessed via the Warrant/Order for Search and Seizure:
  - a) Copy and Receipt of the Warrant/Order for Search and Seizure, along with related correspondence
  - b) Action taken, including consultation with the Team Supervisor and the Legal Services Department
10. All further file documentation will be maintained with the photocopy of the file or under the file number of the released record until such time the original is returned. At that time, all documentation will be filed appropriately, and the photocopy of the file will be shredded.
11. If an original file is not returned to Mnaasged within a reasonable time frame (e.g., three months), the Director of Services will be notified, who will then contact the Police or the Coroner's Office to inquire about the file.
12. Frontline Helpers and Supervisors are not permitted to remove any documentation from a file that is released under Warrant/Order for Search and Seizure. Legal advice will be sought on the removal of the Privileged Information.
13. It is good practice for the Legal Services Department to photocopy the file of any Child/Youth who had died within 12 months of receiving services from Mnaasged. If the Child's/Youth's family have an open file, all subsequent documentation will need to be photocopied by Legal Services on a regular basis. This process will ensure that Mnaasged

has a complete photocopy of the file when the Coroner's Office is ready to retrieve the original through a Warrant/Order for Search and Seizure.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Disclosure Practices and Court Terminations	
Subject: Disclosure of Information to Foster Parents, Adoptive Applicants, and Adoptive Parents	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Mnaasged Child and Family Services Internal, <i>Child, Youth and Family Services Act</i>	

## DISCLOSURE OF INFORMATION TO FOSTER PARENTS, ADOPTIVE APPLICANTS, AND ADOPTIVE PARENTS

### POLICY

*From time to time, Mnaasged Child and Family Services will receive requests from Foster Parents, Adoptive Applicants, and Adoptive Parents for information about Clients who have received Child Welfare Services. Before releasing information, Mnaasged Child and Family Services will require a signed Consent for Release of Information from a Client for information that pertains to Mnaasged Child and Family Services' involvement with individuals, Children/Youth, and families. If the Client is a Child/Youth, Mnaasged Child and Family Services will ensure that the Child/Youth has legal advice prior to the release of information.*

### PROCEDURE

1. A request for Disclosure from Foster Parents, Adoptive Applicants, and Adoptive Parents will be received by the Manager of Legal Services.
2. Requests for Disclosure from Foster Parents, Adoptive Applicants, and Adoptive Parents pertain to both the Child in Care Record and the Protection Records of Mnaasged.
3. The Manager of Legal Services will fax the Request for Disclosure to the Assigned Helper, the Supervisor, the Director of Services, and the Executive Director.
4. The Assigned Administrative, Legal, or Disclosure Assistant will then prepare the file in its entirety for disclosure. In preparing the file, the Assigned Administrative, Legal, or Disclosure Assistant will verify all information is on file by cross-referencing with the Recording and the Mnaasged Information Management System to ensure that all case documentation has been printed and filed accordingly. The Assigned Administrative, Legal,

or Disclosure Assistant will obtain copies of the most recent case notes, correspondence, reports, and so on from the Assigned Helper and will file accordingly.

5. The prepared file will be photocopied and sent to the Manager of Legal Services.
6. The Manager of Legal Services will vet the copied file for any information not to be disclosed. Information may be vetted either by the removal of pages or by blacking out the information. The following information may be vetted:
  - a) Correspondence between Mnaasged and the Panel Lawyer
  - b) Court Reports
  - c) In-House Conference Reports
  - d) Case notes of telephone calls or meetings with the Panel Lawyer
  - e) Reports from a Mental Health Facility, although information will be provided to the Foster Parents, the Adoptive Applicants, or the Adoptive Parents that reports are available
  - f) Names and addresses of people who wish to remain anonymous. This information must be clearly marked on a case note. Mnaasged will attempt to maintain confidentiality about Referral Sources; however, it may be necessary to identify an individual's name in the Affidavit in Support of the Application if Mnaasged wishes to use that information
  - g) Mnaasged will not disclose the names of Third Parties that are not already known to the Client by way of other documentation filed with the Court
  - h) Names and addresses of Alternative Care Providers will not be disclosed, unless this information is already known to the Foster Parents, the Adoptive Applicants, or the Adoptive Parents
  - i) Manager of Legal Services will ascertain the names from the Assigned Helper if the Client already has this information
7. The Manager of Legal Services will determine what can be released, in consultation with the In-House Legal Counsel or Panel Lawyer as required.
8. The Manager of Legal Services will document any information that has not been released during the disclosure process.
9. The Manager of Legal Services will provide the Foster Parents, the Adoptive Applicants, or the Adoptive Parents the name of the person or facility that provided a Mental Health Report so that they can obtain a copy of the report through the proper channels.



10. The Foster Parents, the Adoptive Applicants, or the Adoptive Parents will have their copy of the vetted file sent to their address via courier or be advised it is available to be picked up at Mnaasged's Head Office.
11. The Manager of Legal Services will then prepare a report of all steps to date for the disclosure and will place this document in the file.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Disclosure Practices and Court Terminations	
Subject: Disclosure of Information – <i>Youth Criminal Justice Act</i>	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Mnaasged Child and Family Services Internal; <i>Child, Youth and Family Services Act</i> ; <i>Youth Criminal Justice Act</i> ; <i>Criminal Code of Canada</i>	

**DISCLOSURE OF INFORMATION – YOUTH CRIMINAL JUSTICE ACT**

**POLICY**

*Mnaasged Child and Family Services is the custodian of records relating to Youth ages 12 to 17 years in its Care who have committed a federal offence as defined by the Youth Criminal Justice Act (Canada). Mnaasged Child and Family Services will be responsible for protecting this information from unauthorized release or access. Mnaasged Child and Family Services will comply with the requirements of the Youth Criminal Justice Act (Canada) regarding the collection, use, disclosure, security, retention, and destruction of records relating to Youth in its Care.*

**PROCEDURE**

1. Any Request for Disclosure regarding Youth ages 12 to 17 years who have committed a federal offence in Mnaasged’s Care or former care will be vetted through Legal Services.
2. Once received, the Manager of Legal Services will review the request and, in consultation with the Assigned Helper, the Supervisor, and the Director of Services or the Executive Director, will respond to it if required.
3. The *Youth Criminal Justice Act* (Canada) allows the following:

“any other person engaged in the provision of services to young persons to disclose to any professional or other person engaged in the supervision or care of a young person, any information contained in a youth justice court record, police record, Government Record or other records as set out in sections 114 and 116 of the Youth Criminal Justice Act (Canada), if the disclosure is necessary

- a) to ensure compliance by the young person with an authorization for reintegration leave or an order of the youth justice court;
- b) to ensure the safety of staff, students or other persons; or
- c) to facilitate the rehabilitation of the young person.”

4. Additionally, the *Youth Criminal Justice Act* also allows the following people access to records that are in the custody of Mnaasged:
  - a) Youth to whom the record relates
  - b) Youth's Counsel or any representative of that Counsel
  - c) Attorney General
  - d) Member of a Department or Agency of a government in Canada or of an organization that is an agent of, or under contract with, the Department or Agency that carries out the following:
    - i. Duties under this Act
    - ii. Supervision or Care of the Youth, whether as a Youth or as an Adult, or in an investigation related to the Youth under an Act of a province regarding child welfare
5. If information in a record is disclosed, it must be done in an expedient manner that preserves the confidentiality of the information. All materials should be delivered in a sealed envelope.
6. Legal Services must ensure the following:
  - a) Keep the record separate from any other files pertaining to the Youth
  - b) Update the Mnaasged Information Management System to indicate that there exists a *Youth Criminal Justice Act (Canada)* file
  - c) Deny access to the records except if authorized under the *Youth Criminal Justice Act (Canada)* or, if necessary, for the purposes as set out above
  - d) Destroy the copy of the record in accordance with Mnaasged's policies when the information is no longer required for the purpose for which it was disclosed

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Disclosure Practices and Court Terminations	
Subject: Disclosure of Client Information to Professionals and Service Providers	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Mnaasged Child and Family Services Internal; <i>Child, Youth and Family Services Act</i> ; <i>Youth Criminal Justice Act</i> ; <i>Criminal Code of Canada</i>	

## DISCLOSURE OF CLIENT INFORMATION TO PROFESSIONALS AND SERVICE PROVIDERS

### POLICY

*From time to time, Mnaasged Child and Family Services will receive requests from Outside Professionals and Service Providers for information about Clients who have received Child Welfare Services. Before releasing information, Mnaasged Child and Family Services will require a signed Consent for Release of Information for information that pertains to Mnaasged Child and Family Services' involvement with individuals, Children/Youth, and families.*

### PROCEDURE

1. Client information must only be comprised of details regarding the Client identified who has provided a valid written Consent for Release of Information about themselves or about the Child in their custody who is younger than 12 years of age.
2. The consent must specify the following:
  - a) What information will be disclosed
  - b) Purpose of the disclosure
  - c) Who is requesting the information
  - d) Effective period of the consent
3. Requests from other professionals for the disclosure of information must be in writing, except when it is required urgently or if only a very specific piece of information is required

verbally. Prior to the release of any information disclosed verbally, the Helper will ensure that a copy of the Consent Form is reviewed for validity and content.

4. If a Request for Disclosure for information on an open file is received, the Assigned Helper will be responsible for the disclosure. No new referral will be entered into the Mnaasged Information Management System, as this is part of the ongoing casework of the file. All other procedures related to the disclosure listed below will apply.
5. If a Request for Disclosure for information on a closed file is received, the request will be entered into the Mnaasged Information Management System as a new Referral and coded as per the Eligibility Spectrum. The Referral will then be sent to the Supervisor for approval.
6. If the file has been closed for less than four (4) months, the previous Helper will be reassigned; otherwise, the file will be assigned to an Investigation and Assessment Helper.
7. The Assigned Helper will review the file for a signed consent and to obtain the information authorized for release. The Assigned Helper will assess whether the information is relevant to the work or service being carried out by the Outside Professional or the Service Provider requesting the information.
8. The Assigned Helper will complete a written summary of the information requested. The summary must not include any information of the following:
  - a) Individuals who have not provided a written consent
  - b) Identifying Third Party information, such as Referral Sources, Alternative Care Providers
  - c) Direct information obtained from reports from Other Professionals or Mental Health Services
  - d) Children/Youth who are not in the custody of the person who signed the consent
9. The written summary will be stamped "CONFIDENTIAL – NOT TO BE SHARED OR COPIED EXCEPT AS SET OUT IN THE CONSENT DATED XXXX."
10. If specific information that was requested is excluded, the Assigned Helper will set out in writing the reasons for the exclusion.
11. The summary will be reviewed by the Supervisor who will ensure that the information contained in the report is in line with the consent received.
12. The summary report will be signed by the Assigned Helper and the Supervisor.
13. The report is then forwarded to the person requesting the disclosure. The Assigned Helper will ensure that the following documents are contained in the file:

- a) Copy of the initial request made by the Outside Professional or the Service Provider
  - b) Consent form
  - c) Case note of the consultation with the Supervisor
  - d) Copy of the summary provided and of other correspondence
  - e) If a decision was made not to provide information as requested, the rationale will need to be clearly documented, including the correspondence to the Outside Professional or the Service Provider advising them of the situation
14. If only verbal disclosure has been provided, the Assigned Helper will case note in detail the content of the conversation and the specific information provided. The consent must be on file, and the case note should reflect the Helper having received and reviewed the consent prior to the disclosure of information.
15. If there are questions about a disclosure of information, these should be directed to the Manager of Legal Services, who may consult with a Panel Lawyer. The Assigned Helpers and the Supervisor must be aware that disclosure or access to records is a complex legal matter requiring a significant level of legal expertise.
16. If an Assigned Helper receives a request from a Lawyer who is representing a Client in a Court Proceeding (e.g., under the *Children's Law Reform Act*), the Helper will advise the Lawyer of the process on how to access Mnaasged's records (Policy 17-02.02) for Court Proceedings as the summary report may not provide sufficient information and may not serve the purpose for which it was intended.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Disclosure Practices and Court Terminations	
Subject: Disclosure of Client Information to Board Members and Professional Advisors	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Mnaasged Child and Family Services Internal	

## DISCLOSURE OF CLIENT INFORMATION TO BOARD MEMBERS AND PROFESSIONAL ADVISORS

### POLICY

*The Board of Directors of Mnaasged Child and Family Services will have the ultimate responsibility for the administration of the services provided by Mnaasged Child and Family Services. At times, it will be necessary for Board Members to have access to Client information, without the consent of the Client, for the Board to carry out its function. As well, there will be occasions when Mnaasged must consult with Professional Advisors who are members of a Mnaasged Review Committee (e.g., Child Protection Review Committee) to ensure the quality of delivering service to families and Children/Youth.*

### PROCEDURE

#### BOARD MEMBERS

1. The Board Members will be provided with information at the time of a debriefing regarding a Serious Occurrence (e.g., death of a Child/Youth) or if there is a contentious issue. The Director of Services will be responsible for the preparation of the summary report to be presented to the Board.
2. As per the Complaint Policy and Procedure, a Board Member may be asked by the Executive Director to sit on the Internal Complaints Review Panel. The Internal Complaints Review Panel will meet with the Client to hear the complaint and to determine next steps.
3. The Board Member may be provided with Client information to assist in the process. The Board Member will return the Client information to the Executive Assistant for shredding once the matter is resolved.

4. All Board Members are required to sign an Oath of Confidentiality as part of their orientation to the role and responsibilities.

### PROFESSIONAL ADVISOR

1. The Assigned Helper and the Supervisor will make the decision to present a case for review by the Child Protection Review Committee according to the existing Terms of Reference.
2. Any decision to consult with another External Professional Advisor will only be made following consultation and approval from the responsible Senior Manager. The Senior Manager will consult with the Director of Services to decide on what information and documentation will be disclosed and on the process for the disclosure. The Assigned Helper will prepare a written case summary for presentation to the Child Protection Review Committee, including copies of any documents such as risk assessments that may be required.
3. The case summary will be reviewed and signed by the Supervisor.
4. The Administrative Assistant to the Director of Services will be responsible for the distribution of the documents to the Child Protection Review Committee members for review.
5. All copies of the documents will be returned to the Senior Administrative Assistant for shredding following the case presentation.
6. The Assigned Helper will document on the file the decision to present to the Child Protection Review Committee or if consulted with another Professional Advisor. The Assigned Helper will include a list of the information or documentation that was disclosed during the process.

### POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Disclosure Practices and Court Terminations	
Subject: Disclosure of Client Information Within the Context of Child Welfare Investigations	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Mnaasged Child and Family Services Internal, Best Practice Standards, Protocols	

## DISCLOSURE OF CLIENT INFORMATION WITHIN THE CONTEXT OF CHILD WELFARE INVESTIGATIONS

### POLICY

*When conducting a Joint Child Abuse Investigation, Mnaasged Child and Family Services will disclose information without prior consent of the Child/Youth or the family when requested by Police and Health Professionals involved in the investigation.*

### PROCEDURE

1. When conducting a joint investigation with the Police and Health Professionals, and following the relevant protocol that is in place, the Assigned Helper will provide relevant information about the Client to the Police. This may include, but is not limited to, the following information:
  - a) Potential risk factors within the family, including violence, substance abuse, or mental illness that may impact health and safety
  - b) Investigative process on the allegations received
  - c) Source of the allegations
  - d) Known history of the Client relevant to the investigation
  - e) Potential third-party sources of information that may further the child abuse or criminal investigations
2. The Assigned Helper will be expected to use discretion in the sharing of information, as some Client information is extremely sensitive in nature and would not necessarily advance the investigation in any manner.

3. The Assigned Helper may not disclose that an individual is registered on the Child Abuse Registry; however, the Helper may advise the Police of any previously substantiated abuse allegations.
4. The Assigned Helper will advise the Client at the start that a joint investigation is taking place with the Police and that information will be freely shared between Mnaasged and the Police for each to meet its responsibilities within the investigation.
5. The Joint Investigative Process will be well-documented throughout in the Assigned Helper's recording package.
6. Following the completion of a joint investigation, an Assigned Helper may be requested to complete a "Will Say" document, which will be used by the Crown Attorney in preparing for a trial on criminal charges.
7. The Assigned Helper will complete the "Will Say" outlining specific steps taken in the Investigative Process, including the information the Helper accumulated from the investigation. The "Will Say" will not go beyond the parameters of the specific investigation for which it is being written. The Assigned Helper and the Supervisor will have the "Will Say" document vetted by the Manager of Legal Services or designate prior to submission to ensure it is legally appropriate.
8. When an Assigned Helper receives a request for information from the Police, outside of the parameters of a joint investigation, the request must be entered into the Mnaasged Information Management System and coded as per the Eligibility Spectrum.
9. When verbal information is urgently requested by the Police, the Assigned Helper will provide the information. Failure to disclose the information may result in physical or emotional harm to the person involved or to another person.
10. The Assigned Helper will clearly document in the file the information provided to the Police and the reasons why it was provided.
11. When the Police is requesting written information or documentation from Mnaasged files for a Joint Child Abuse Investigation or for another case, the Assigned Helper will consult with the Supervisor prior to the disclosure of the documentation. The Supervisor may consult with the Senior Manager, the Director of Services, and the Manager of Legal Services as required.
12. If there is no urgency for the request for disclosure and the Police is not investigating a case related to a Child/Youth at risk of harm, the Police will be advised of Mnaasged's duty of confidentiality and that a Warrant/Order for Search and Seizure will be required to access the record.

13. The Assigned Helper will clearly document in the file all written documentation that was provided to the Police, including consultation with the Supervisor and the rationale for disclosure.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Disclosure Practices and Court Terminations	
Subject: Disclosure of Information and Records to Ministry Program Supervisors and Directors Conducting Reviews	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Mnaasged Child and Family Services Internal, Best Practice Standards, <i>Child, Youth and Family Services Act</i>	

## DISCLOSURE OF INFORMATION AND RECORDS TO MINISTRY PROGRAM SUPERVISORS AND DIRECTORS CONDUCTING REVIEWS

### POLICY

*The Child, Youth and Family Services Act (CYFSA) authorizes the Residential Placement Advisory Committee (RPAC) to conduct reviews of a Child's/Youth's institutional and residential placement on a mandatory and discretionary basis. Mnaasged Child and Family Services will provide requested documentation on a Child/Youth in its Care in order for the Residential Placement Advisory Committee to perform its duty.*

### PROCEDURE

1. The Assigned Helper will sign the necessary consent authorizing the release of case information on behalf of the Child/Youth in Care younger than 16 years of age.
2. Youth 16 years of age or older must sign the consent.
3. It is the responsibility of the Residential Placement Advisory Committee to obtain the necessary consents, which must specify the information to be disclosed.
4. The material to be released will include the following:
  - a) Initial Child Care recording
  - b) List of placements
  - c) List of charges, if applicable
  - d) Most recent Placement Request Form

5. If a Youth resides in a facility other than a Mnaasged one, the consent of the Youth's Helper will be required to authorize that facility to release the information to the Residential Placement Advisory Committee.
6. Information that the outside facility can release to the Residential Placement Advisory Committee will include the following:
  - a) Child's/Youth's needs at the time of placement
  - b) Child's/Youth's adjustment in the placement
7. The Assigned Helper will document in the Child's/Youth's File the request for information, copies of the signed consents, and a list of documents released.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Disclosure Practices and Court Terminations	
Subject: Disclosure to Clients, Children/Youth in Care, and Former Children/Youth in Care	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Mnaasged Child and Family Services Internal, Best Practice Standards, <i>Child, Youth and Family Services Act</i>	

**DISCLOSURE TO CLIENTS, CHILDREN/YOUTH IN CARE, AND FORMER CHILDREN/YOUTH IN CARE**

**POLICY**

*Mnaasged Child and Family Services will ensure the protection of rights for Clients, Children/Youth in Care, and former Children/Youth in Care. Mnaasged Child and Family Services will protect all information contained in its records.*

*Part X of the Child, Youth and Family Services Act provides rights of Clients to information about themselves, which include those contained in Mnaasged Child and Family Services’ files. Mnaasged Child and Family Services will comply with all legislative requirements in this regard. Personal information will be disclosed in a manner that ensures the Client is able to comprehend the information and the disclosure is a meaningful exercise.*

**PROCEDURE**

1. The Client, the Child/Youth in Care, or the former Child/Youth in Care of Mnaasged (or Predecessor Agency) will make a formal request for Access to Information. This will be done in writing to be submitted to Mnaasged. Where necessary, an Assigned Helper may assist a Client in completing the request, particularly if the request is being made by a Child/Youth younger than 18 years of age.

**CURRENT AND FORMER CHILDREN IN CARE**

1. For current Children/Youth in Care, the Assigned Helper may provide verbal disclosure of their personal information. Consultation with a Supervisor will be encouraged.

2. The current or former Child/Youth in Care will submit the following to Mnaasged to obtain disclosure and access to file information:
  - a) Written request to obtain disclosure and access to file information
  - b) Photocopy of personal identification
  - c) Signed Undertaking (for a redacted file)
  - d) Consents for any other file information
3. The Assigned Helper will provide the current or former Child/Youth in Care information that consists only of personal relevant information directly related to that individual. Such disclosure of personal information must not lead to the disclosure of confidential information pertaining to other persons, including Parents, Siblings, and other family connections except Sibling names within Supervised Access Notes and Plans of Care.
4. The Assigned Helper will provide the entirety of the Child in Care File with the appropriate redactions. If Third Party information or documents are fully redacted, the Client will be provided with the name and contact information of the owner of the Third-Party information.

#### ALL OTHER CLIENT REQUESTS

1. The current assigned case Helper may provide verbal disclosure of current case involvement. Consultation with the Supervisor will be encouraged.
2. The Client will submit the following to Mnaasged to obtain disclosure and access to file information:
  - a) Written request to obtain disclosure and access to file information
  - b) Photocopy of personal identification
  - c) Signed Undertaking (for a redacted file)
  - d) Consents for any other names in the file that they wish to have disclosed
3. The Assigned Disclosure Helper will provide the case documentation that is only personally relevant to that individual. Such disclosure of personal information must not lead to the disclosure of confidential information pertaining to other persons, including Parents, Siblings, Youth older than the age of 12, and other family connections.
4. The Assigned Disclosure Helper will provide a redacted copy of the file or a summary letter, depending on the circumstances.

## GENERAL

1. If the file is open or has been closed for less than four (4) months, the Assigned Helper will be responsible for preparing the information requested. If the file is closed, the request will be assigned to an Investigation and Assessment Helper.
2. The Request for Access to Information may be made by the following individuals:
  - a) Person 12 years of age or older
  - b) Custodial Parent or Guardian seeking information about their Child/Youth younger than 16 years of age
  - c) Non-custodial Parent or Guardian with the valid Access Order seeking information about their Child/Youth younger than 16 years of age.
3. The Request for Access to Information will be specific and will identify the type of information being sought and the purpose for which it is sought.
4. The Request for Access to Information will be entered into the Mnaasged Information Management System and coded as per the Eligibility Spectrum.
5. The Assigned Helper will meet with the Client to determine the parameters and method of how the information will be provided.
6. The information provided to the person must be about them only, or about their Child/Youth who is younger than 16 years of age, as set out above. In any situation the information provided will exclude the following:
  - a) Identity of or information obtained from a Third Party
  - b) Information that may cause physical or emotional harm to the Child/Youth or another person
  - c) Contents of assessments completed by another Service Provider or Professional, although Mnaasged will advise the Client of the existence of any reports and of the names, addresses, and contact information of the authors of the reports so that they can obtain their own copies
  - d) Information gathered in the provision of Counselling Services to a Child/Youth under Part II of the *Child, Youth and Family Services Act* – Voluntary Access to Services may only be disclosed with the written consent of the Child/Youth who is older than 12 years of age
  - e) Information that the Child's/Youth's Parent or Guardian has provided and indicated not to be disclosed to their Child/Youth who is younger than 16 years of age



- f) If an access Parent or Guardian is requesting information about their Child, only information related to the progress of the Child can be disclosed
  - g) No information about the other Parent or Guardian can be disclosed without their written consent
  - h) Information that can only be accessed through an adoption disclosure
7. The request for Access to Information will have a response within 30 days of receiving the request.
  8. The Assigned Helper will prepare a written summary of the file information specific to the request made, excluding information outlined above. If the Client is only requesting information that can be provided verbally, this may be reviewed with the Supervisor, which will be clearly documented in the file.
  9. This summary will be reviewed by the Supervisor, and the report will be signed by both the Supervisor and the Assigned Helper.
  10. The Assigned Helper will arrange to meet with the client face-to-face to review the information contained in the file summary. The Assigned Helper will offer support and assistance to the Client in processing and understanding the provided information in a meaningful way. The process of accessing information may be a traumatic experience, and support should be provided.
  11. A copy of the summary will be left with the Client. The Assigned Helper will remind the Client that the summary contains very personal information and should be kept confidential.
  12. When a Client refuses to meet with the Assigned Helper, the summary of the file should be provided; however, the Assigned Helper will document the attempts made to meet with the Client and will advise the Client where support services can be accessed if required (e.g., Crisis Centre).
  13. When a person indicates that they do not agree with the information provided, the Assigned Helper must advise them of their right to request a correction through the following:
    - a) Person will provide a written statement indicating the changes they wish to make to the record and the reason(s) for the request
    - b) Within 30 days of receiving the request, the Assigned Helper will review the request with the Supervisor
    - c) Supervisor may consult with the Senior Manager or the Manager of Legal Services, as required, to finalize a decision

- d) If approved, the correction will be made as requested
- e) Assigned Helper will then ensure that every person the record was previously disclosed to is notified of the changes made
- f) Client is notified in writing of the changes made
- g) If the request is not approved, the Assigned Helper will notify the Client, in writing, outlining the decision

14. The following documents will be placed on the Protection File:

- a) Request for Access to Information
- b) Specific notes about the consultation with the Supervisor and the decision made in responding to the request
- c) Outcome of the process, including detailed case notes on the process of the disclosure
- d) Any decision to withhold information and the rationale behind it
- e) Indication of whether the person appears to have understood the provided information and their responses
- f) Copy of the summary provided
- g) If applicable, a copy of the request for correction and the actions taken following the request

**POLICY REFERENCE**

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Department: Legal Services	POLICY #:
Section: Disclosure Practices and Court Terminations	
Subject: Child and Family Services Review Board	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Mnaasged Child and Family Services Internal, <i>Child, Youth and Family Services Act</i>	

## CHILD AND FAMILY SERVICES REVIEW BOARD

### POLICY

*Mnaasged Child and Family Services recognizes that sections 109, 119, and 192 of the Child, Youth and Family Services Act provide for applications to the Child and Family Services Review Board in specific situations. Mnaasged Child and Family Services will respond to any such applications in a manner that is appropriate to each.*

*Mnaasged Child and Family Services will participate in any process that may lead to an expeditious resolution of a complaint.*

### PROCEDURE

1. The Manager of Legal Services will be advised immediately on the receipt of a Notice of a complaint from the Child and Family Services Review Board (CFSRB).
2. The Manager of Legal Services or designate will circulate the materials received from the Child and Family Services Review Board to the Assigned Helper, the Supervisor, the Senior Manager, and the Director of Services if the Complainant's File remains open to Mnaasged. If the Complainant's File is closed, the materials will be circulated to the Supervisor of the last Assigned Helper, the previous Supervisor, the Senior Manager, and the Director of Services.
3. The Manager of Legal Services or designate will be provided with the Complainant's File for review.
4. In consultation with the appropriate Employees, the Manager of Legal Services or designate will draft the initial response to the Child and Family Services Review Board and will ensure that it is served on the Child and Family Services Review Board and on the Complainant.

5. If a complaint is deemed eligible by the Child and Family Services Review Board, the Manager of Legal Services or designate will prepare for, and participate in, any Settlement Facilitation Process offered by the Child and Family Services Review Board and agreed to by the Complainant.
6. The Manager of Legal Services or designate will determine which Employee, if any, is required to attend at, or otherwise participate in, a Settlement Facilitation Process and will advise that person as soon as possible of their required attendance, including where it will be held.
7. If the complaint is not resolved, the Manager of Legal Services or designate will determine what witnesses Mnaasged will require for a hearing before the Child and Family Services Review Board and will meet with all such witnesses on a timely basis to prepare them for the hearing.
8. The Manager of Legal Services will ensure that the Child and Family Services Review Board complaints are tracked and will provide the tracked information to the Manager of Quality Assurance for roll-up reporting on a quarterly basis.

## POLICY REFERENCE

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Department: Legal Services	POLICY #:
Section: Disclosure Practices and Court Terminations	
Subject: Other Administrative Tribunals	
Date Approved:	Date Revised:
Board Resolution #:	
Source Reference: Mnaasged Child and Family Services Internal	

## OTHER ADMINISTRATIVE TRIBUNALS

### POLICY

*Mnaasged Child and Family Services recognizes that it may, from time to time, be required to deal with matters before various Administrative Tribunals. Mnaasged Child and Family Services will respond to any such applications in a manner that is appropriate to each, including challenging the jurisdiction of the tribunal, if appropriate.*

*Mnaasged Child and Family Services will participate in any process that may lead to an expeditious resolution of any matter before an Administrative Tribunal.*

### PROCEDURE

1. The Manager of Legal Services will be advised immediately on the receipt of notice of an application to an Administrative Tribunal.
2. The Manager of Legal Services or designate will consult with the Executive Director or the Director of Services to formulate a response to the application.
3. The Manager of Legal Services or designate will be responsible for all aspects of Mnaasged's response based on the instructions provided by the Executive Director or the Director of Services.
4. The Manager of Legal Services or designate will determine which Employee, if any, is required to attend at, or otherwise participate in, a Settlement Facilitation Process offered by the Administrative Tribunal in question and will advise that person as soon as possible of their required attendance, including where it will be held.
5. If the matter is not resolved, the Manager of Legal Services or designate will determine what witnesses Mnaasged will require for a hearing conducted by the Administrative

Tribunal in question and will meet with all such witnesses on a timely basis to prepare them for the hearing.

## POLICY REFERENCE

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