

## 11.2 Who are Children and Youth in Care?

According to *Joint Educational Planning and Support for Children and Youth in Care*

Children and youth in care can be any age (up to 19 years) and from any ethnic or socio- economic background. They may come into care with the Ministry of Children and Family Development (MCFD) or with a Delegated Aboriginal Agency (DAA) for many different reasons and under different legal statuses.

As of February 2021, 67.2% of children and youth in care are Indigenous.

The legal status of a child or youth and the legal rights of the parent(s) differ according to the type of Care Agreement or Custody Order. For example:

- **Special Needs Agreements and Voluntary Care Agreements** provide for day-to-day care of the child or youth with caregiver(s) and allow the parent(s) to retain control over the child/youth's personal information and decision-making regarding the child/youth's health care.
- **Custody Orders (Interim, Temporary or Continuing Custody Order)** allow the director under the Child, Family and Community Service Act (CFCSA) to exercise guardianship responsibilities such as consenting to health care and making necessary decisions about the child/youth's education.
  - When a child or youth is in care under a CFCSA custody order, the director delegates the authority to make decisions pertaining to the health care and education of the child/youth to the child welfare worker, while the caregiver(s) are authorized to provide day-to-day care for the child/youth.
  - The authority to make decisions on a child/youth's daily activities and needs depends on the type of care or custody agreement that is in place. In some cases, the child/youth's caregiver(s) are able to make some decisions; however, depending on the child/ youth's legal status, either the parent(s) or the child welfare worker can be the legal guardian and therefore the decision-maker for the child/youth.

### CARE AND CUSTODY UNDER THE CHILD, FAMILY AND COMMUNITY SERVICE ACT (CFCS)

	Legal Status	Powers and Duties of the Director
Care	Voluntary Care Agreement	The parent may delegate to the director as much of the parent's authority as guardian of the child/youth's person as is required to give effect to the agreement. The parent remains the guardian.



<i>Physical care and control of the child</i>	Special Needs Agreement	The parent/guardian may delegate to the director as much of the parent's authority as guardian of the child/youth's person as is required to give effect to the agreement. The parent remains the guardian.
	Agreement with a Child's Kin and Others:	When a parent/guardian authorizes another person to care for the child on a temporary basis, the director may make an agreement with the care provider for the director to provide financial support to the care provider. The care provider is responsible for guardianship responsibilities as authorized by the parent.
	Care of a child after a removal until an order is made at the presentation hearing	<p>To authorize a health care provider to examine the child/youth and to consent to necessary health care, if critical.</p> <p>To consent to the child/youth's participation in routine school, social or recreational activities.</p> <p>While the director has many of the substantive rights of the guardian of the child/youth's person, guardianship is neither formally nor fully removed from the parent.</p>
	Youth on a Youth Agreement	The youth lives independently with support from the director.
<b>Custody</b> <i>Includes care and guardianship of a child</i>	Interim Order	<p>To consent to health care, to make necessary decisions about the child/youth's education and religious upbringing, and to exercise any other rights and carry out any other responsibilities of a guardian of the child/youth's person, except the right to consent to the child/youth's adoption:</p> <p><b>Note:</b> The court may order that the parent retain certain rights, in the child/ youth's best interests:</p>
	Interim custody to a person other than a parent under the director's supervision	The director supervises the child/youth in the living arrangement according to the terms of the accompanying supervision order. The person with the custody of the child/youth is responsible for the child/youth's care and guardianship, except for any rights retained by the parent according to the court order.



Temporary custody to a person other than a parent under the director's supervision	The director supervises the child/youth in the living arrangement according to the terms of the accompanying supervision order. The person with the custody of the child/youth is responsible for the child/youth's care and guardianship, except for any rights retained by the parent according to the court order.
Temporary Custody Order	To consent to health care, to make necessary decisions about the child/youth's education and religious upbringing, and to exercise any other rights and carry out any other responsibilities of a guardian of the child/youth's person, except the right to consent to the child/youth's adoption  <b>Note:</b> The court may order that the parent retain certain rights, in the child/ youth's best interests:
Continuing Custody	The director has all the rights, duties and responsibilities of a guardian of the child/youth's person, including the right to consent to the child/youth's adoption
Transfer custody of a child/ youth in the continuing care of the director to a person who is not the child/youth's parent.	The director is involved in the planning and assessment process. Once the order is granted, the custody of the child/youth is transferred from the director to the care provider. The director may provide financial assistance after transfer of custody.

For more information, please see:

- [Joint Educational Planning and Support for Children and Youth in Care](#)
- [An Act respecting First Nations, Inuit and Métis children, youth and families](#)
- 11.1 Principles of Support for CYIC
- 11.3 Checklist for CYIC
  - 11.3.1 Required Care Plan (for Students with Continuing Custody Orders)
- 11.04 MyEd Procedure for Child and Youth in Care
- 11.5 Reporting Child Abuse and Neglect