



Province of Alberta

# **FAMILY SUPPORT FOR CHILDREN WITH DISABILITIES ACT**

Statutes of Alberta, 2003  
Chapter F-5.3

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### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Regulations

The following is a list of the regulations made under the *Family Support for Children with Disabilities Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Family Support for Children with Disabilities Act</b>		
Family Support for Children with Disabilities .....	140/2004 .....	221/2004, 105/2005, 315/2006, 68/2008, 31/2012, 170/2012, 106/2014, 121/2016, 58/2019

# **FAMILY SUPPORT FOR CHILDREN WITH DISABILITIES ACT**

## Chapter F-5.3

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#### **Preamble**

WHEREAS the people of Alberta honour and respect the dignity and equal worth of children with disabilities;

WHEREAS the Legislature of Alberta recognizes and values the ability of families to care for and to promote the development of children with disabilities;

WHEREAS the Legislature of Alberta acknowledges the value of family-centred support and services in empowering and preserving families of children with disabilities;

WHEREAS the Legislature of Alberta recognizes that the individual needs of children with disabilities are most effectively met through an integrated and multi-disciplinary approach; and

WHEREAS the Legislature of Alberta recognizes the importance of facilitating the inclusion of children with disabilities in community life:

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

### Definitions

**1** In this Act,

- (a) “agreement” means, except in clause (e)(ii), an agreement entered into under section 3 or 4;
- (b) “director” means the director designated by the Minister pursuant to section 2;
- (c) “disability” means a chronic developmental, physical, sensory, mental or neurological condition or impairment but does not include a condition for which the primary need is for medical care or health services to treat or manage the condition unless it is a chronic condition that significantly limits a child’s ability to function in normal daily living;
- (d) “child” means an individual under the age of 18 years;
- (e) “guardian” means
  - (i) a person who is or is appointed a guardian of the child under Part 2 of the *Family Law Act*, or
  - (ii) a person who is a guardian of the child under an agreement or order made pursuant to the *Child, Youth and Family Enhancement Act*;
- (f) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act.

2003 cF-5.3 s1;2004 c6 s2;2007 c36 s1

### Director

**2(1)** The Minister may designate an employee of the Government under the administration of the Minister as the director for the purposes of this Act.

(2) The director may delegate any powers and duties of the director, including the power to subdelegate, to any person employed or assisting in the administration of this Act.

#### **Decision-making criteria**

**2.1** When making a decision under this Act the director must consider the criteria for making a decision provided for in the regulations.

2004 c6 s3

#### **Family support services**

**3(1)** If a medical diagnosis, in a format satisfactory to the director, of a child's condition or impairment indicates that the child has a disability, the director may

- (a) assist the child's guardian in
  - (i) identifying, obtaining and co-ordinating services and supports available in the community and from the municipality and the governments of Alberta and Canada,
  - (ii) obtaining information concerning the child's disability, and
  - (iii) advocating on behalf of the child and the guardian,
- and
- (b) enter into an agreement with the child's guardian, in a form satisfactory to the director, with respect to the provision of family support services to the guardian.

(2) An agreement under subsection (1) must include, in accordance with the regulations, terms prescribing the nature and amount of services to be provided by the director.

#### **Child-focused services**

**4(1)** If

- (a) a medical diagnosis, in a format satisfactory to the director, of a child's condition or impairment indicates that the child has a disability, and
- (b) an assessment of the child, completed in a manner satisfactory to the director, indicates that the disability significantly limits the child's ability to function in normal daily living,

the director and the child's guardian may enter into an agreement, in a form provided for in the regulations, with respect to the provision of child-focused services.

(2) In determining the terms of an agreement under subsection (1), the director and the guardian

- (a) must have regard to the assessment referred to in subsection (1)(b), and
- (b) may consult with experts in disabilities and persons who have knowledge of the child's functional abilities.

(3) An agreement under subsection (1) must include, in accordance with the regulations,

- (a) a child-focused services plan setting out the services required to meet the needs of the child, and
- (b) terms prescribing
  - (i) the nature and amount of services to be provided by the director, and
  - (ii) the responsibilities of the guardian with respect to the services set out in the child-focused services plan.

2003 cF-5.3 s4;2004 c6 s4

#### **Eligible children**

**4.1** Only a child who is a Canadian citizen or a permanent resident within the meaning of the *Immigration and Refugee Protection Act* (Canada) and who is ordinarily resident in Alberta is eligible to be the subject of an agreement.

2004 c6 s5

#### **Minor guardians**

**4.2** Notwithstanding a guardian's minority, a guardian who is a minor may enter into an agreement with the director with respect to the guardian's child.

2004 c6 s5

#### **Termination and recovery**

**5(1)** If in the opinion of the director a guardian contravenes an agreement under section 3 or 4, the director may cancel the agreement on 30 days' written notice to the guardian.

**(2)** If, pursuant to an agreement under section 3 or 4, the director has paid for services to a guardian or to a person on behalf of the guardian in excess of the amount set out in the agreement, the excess may be recovered by the director as a debt due the Crown.

**Mediation**

**6(1)** The director and a guardian may enter into mediation with respect to any decision made by the director under this Act.

**(2)** No action may be brought against a person who conducts a mediation under this section for any act done or omitted to be done with respect to the mediation unless it is proved that the person acted maliciously and without reasonable and probable cause.

**Appeal**

**7(1)** A guardian may appeal a decision of a director made under section 3(1)(b), 4 or 5(1) to an appeal committee established under section 8.

**(2)** An appeal under subsection (1) must be commenced by serving a notice of appeal, in the form provided for in the regulations, on the director within 45 days of the date on which the guardian has been notified of the decision that is the subject of the appeal.

**(3)** A director must, within 10 days of receiving a notice under subsection (2), deliver it to a chair of an appeal committee.

**(4)** Despite subsection (2), if the director and the guardian have entered into mediation pursuant to section 6, the time for commencing an appeal is suspended until the conclusion or abandonment of the mediation.

**Appeal committee**

**8(1)** The Minister may establish one or more appeal committees.

**(2)** A person may be appointed as a member of an appeal committee for a term prescribed by the Minister and may be reappointed.

**(3)** The Minister may

- (a) designate the chair and one or more vice-chairs of an appeal committee, and
- (b) authorize and provide for the payment of the remuneration and expenses of the members of an appeal committee in accordance with any applicable regulations under the *Alberta Public Agencies Governance Act*.

**(4)** The quorum to hear an appeal is 3 members, but an appeal may be heard by one member for procedural matters related to the appeal or in emergency circumstances provided for in the regulations.

(5) Notwithstanding subsection (2), where the appointment of a member of an appeal committee expires, the member continues to hold office until

- (a) the member is reappointed,
- (b) a successor is appointed, or
- (c) a period of 3 months has elapsed,

whichever occurs first.

2003 cF-5.3 s8;2011 c13 s4;2009 cA-31.5 s41;  
2016 c19 s7

#### **Decision-making criteria**

**8.1** When making a decision under this Act an appeal committee must consider the criteria for making a decision provided for in the regulations.

2004 c6 s6

#### **Appeal committee powers**

**9(1)** The *Administrative Procedures and Jurisdiction Act* applies to the proceedings of an appeal committee.

(2) An appellant may be represented at a hearing of an appeal by a lawyer or by any other person.

(3) An appeal committee

- (a) may confirm, vary or rescind the decision of the director under appeal, and
- (b) must notify the appellant and the director, in writing, of its decision.

2003 cF-5.3 s9;2017 c22 s19

#### **Regulations**

**10** The Minister may make regulations

- (a) respecting forms;
- (b) respecting contents of agreements under sections 3 and 4;
- (c) respecting the nature and amount of family support services and child-focused services that may be provided by a director under the terms of an agreement;
- (d) respecting the standards for services to be provided pursuant to agreements under sections 3 and 4;



- (d.1) respecting the emergency circumstances in which an appeal may be heard by one member of an appeal committee;
- (e) respecting the criteria to be considered when making a decision under this Act.

2003 cF-5.3 s10;2004 c6 s7;2016 c19 s7

#### **Transitional**

**11(1)** On the coming into force of this Act, an existing agreement under section 106 of the *Child Welfare Act* continues until the agreement expires or an agreement is entered into under this Act.

**(2)** On the coming into force of this Act, an appeal from a decision of a director respecting a matter under section 106 of the *Child Welfare Act* that has been commenced under section 120 of that Act but has not been disposed of by an Appeal Panel continues under that Act as if this Act had not come into force.

**12 and 13** *(These sections amend other Acts; the amendments have been incorporated into those Acts.)*

#### **Coming into force**

**14** This Act comes into force on Proclamation.

*(NOTE: Proclaimed in force August 1, 2004.)*







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