

Advocacy Protocol

Between

Yukon Education

And

Yukon Child and Youth Advocate Office

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Introduction

The Yukon Child and Youth Advocate (the “Advocate”) and Yukon Education are committed to promoting and supporting meaningful and effective advocacy on behalf of Yukon children and youth receiving designated programs or services. Both parties wish to strive for professional and collaborative working relationships, recognizing that each holds the mutual objective of addressing the interests of children and youth.

Within their respective legislative mandates, the Advocate and Yukon Education will work to ensure that their organizations achieve the best possible results for Yukon children and youth. The intent of this protocol is to clarify the roles of each party, and to articulate how they will work together.

Advocacy

Advocacy ensures that the rights, interests, voice and well-being of children and youth are heard, respected, and considered in relation to the provision of certain government services. Because of this, the role of the advocate is important in advancing the interests of children and youth receiving Designated Services. The Advocate and Yukon Education are also committed to encouraging children and youth to become effective advocates for themselves.

Hearing a child or youth’s voice and respectfully considering their views are important when decisions are being made to determine what is in a child or youth’s best interests. It also enhances effective cooperative planning and strengthens the child or youth’s sense of personal accountability and competence.

The approach of the Advocate and Yukon Education to advocacy is significantly influenced by the *United Nations Convention on the Rights of the Child*, which sets out measures to safeguard the rights of children and to promote their physical, emotional, social, and behavioral development.

Legislative Authority

The Child and Youth Advocate is an independent officer of the Legislative Assembly whose function is mandated in Part 3 of the *Yukon Child and Youth Advocate Act* (“the Act”). Section 1 of the Act defines the ‘Designated Services’ within the Advocate’s mandate. These include programs or services for children or youth provided by a department, including schools under the jurisdiction of Yukon Education. Section 3 of the Act sets out the guiding principles for administering and interpreting the Act.

For the purposes of this Protocol, Yukon Education’s legislative mandate arises primarily from the *Education Act*.

Role of Child and Youth Advocate

The Advocate will support, assist, inform, and advise children and youth about Designated Services. The Advocate fulfills this role when requested to do so by a child or youth who is receiving, or is eligible to receive, Designated Services, or by another person who has an interest in the child or youth. The Advocate acts on behalf of children and youth to ensure that their voices are heard, that their rights to access Designated Services are upheld and that their interests are central to decision-making about them and to services provided to them. The Advocate does not make decisions about what is in a child or youth's best interest, nor is the Advocate a case manager for the child or youth.

Yukon Education will consider ways of inserting information about the role of the Advocate into its curriculum and its operational practices.

The Advocate's Activities

One of the Advocate's primary roles is to forge working partnerships with children and youth, their families, and service providers to ensure that the voices of children and youth are heard. The Advocate achieves this by:

- Providing information and advice about how to effectively access Designated Services and any process available for having a decision about a child's or youth's access to programs and services reviewed.
- Working with children and youth to ensure that their views and preferences are heard and considered, giving consideration to the child or youth's age, maturity and capacity.
- Promoting the rights and interests of children and youth to receive Designated Services, particularly if the child or youth's views and preferences cannot be determined due to developmental issues or the inability to communicate.
- Working with children and youth receiving Designated Services to resolve issues or disagreements through the use of informal dispute resolution, such as facilitated discussions or information exchange.
- Working with Yukon Education staff and members of school communities to resolve issues or disagreements about issues that will affect children or youth, through the use of informal dispute resolution.

The Advocate may provide other functions, including:

- Reviewing, providing advice or bringing attention to policy or systemic issues relating to Designated Services that have arisen in the course of performing individual advocacy functions and that raise a substantial question of public interest.

- Informing children, youth and other members of the public about the Act, the role of the Advocate, and children's rights under the *United Nations Convention on the Rights of the Child*.

When the Advocate contacts Yukon Education to gather information or to gain Yukon Education's perspective on a concern, the Advocate will ask questions and may make requests for information guided by appropriate Yukon legislation, policies, standards and principles.

The Advocate will:

- Ask questions and seek to understand the reasons behind Yukon Education policies, practices, procedures, and decisions, particularly with respect to access to programs and services.
- Ensure that the views of the children and youth are heard by Yukon Education when decisions are being made that will affect them.
- Strive to support collaborative solutions with Yukon Education.
- Request that Yukon Education review decisions or options that are brought forward by the Advocate on behalf of children and youth.
- Request an overview of the steps taken by Yukon Education to give effect to the Advocate's recommendations, and seek a response to this request within a specified timeline. If no steps have been taken, the Advocate will ask Yukon Education to provide reasons for not following the Advocate's recommendations.

The Advocate may not:

- Act as legal counsel for a child or youth. The Advocate may not interfere with or impede the work of another body, tribunal or court established under legislation that has jurisdiction over the Designated Services or the programs and services for children or youth provided by a First Nation or municipality.

Yukon Education's Roles and Responsibilities

Within the requirements of the Act and other relevant legislation, Yukon Education will work cooperatively with the Advocate:

- Yukon Education will provide the Advocate with the information the Advocate requests and is entitled to receive under the Act.
- Appropriate Yukon Education staff will respond to the Advocate's requests for information and will provide the information requested in accordance with all legal requirements.

- Upon being notified of the Advocate's intention to participate in case planning meetings or other decision making processes about a particular child or youth who is receiving or eligible for Designated Services, Yukon Education will ensure that the Advocate is informed of the time and place that the case planning meeting is being held.

However, the Advocate and Yukon Education will consider whether the Advocate will attend case planning or other decision making processes affecting a child or youth receiving Designated Services or programs, or if alternatively there are other mechanisms for the Advocate's involvement that might be more effective and appropriate.

- Yukon Education will provide children and youth receiving Designated Services, and their families with information about the Advocate's services.
- In individual cases Yukon Education staff may also provide a child or youth with the Advocate's contact information, and where permitted by law may provide the Advocate with information about the case so that the Advocate may support, assist, inform, and advise the child or youth.

Information sharing

a) General

Information collection, use and disclosure are governed by Yukon legislation such as the Act, the *Access to Information and Protection of Privacy Act*, and the *Education Act*.

Section 23(1) of the Act gives the Advocate the right to any information that is in the custody or control of Yukon Education if the information is necessary to enable the Advocate to exercise its power or perform its functions and duties under the Act. When requesting information, the Advocate will define the client concern and confirm in writing that the information requested is, in the opinion of the Advocate, necessary for the Advocate to exercise its powers or perform its functions and duties under the Act, so that Yukon Education can provide information in a timely manner that is relevant to the client concern. Information the Advocate's office receives from Yukon Education will be managed by the Advocate's office through protocols established under the Advocate's policy for Access, Protection and Disclosure of Information.

Upon request by the Advocate, and where the Advocate has confirmed in writing that the information requested is, in the opinion of the Advocate, necessary to enable the Advocate to exercise their powers or perform their functions and duties under the Act, Yukon Education will provide information to the Advocate so that the Advocate can perform its function and duties under the Act. This may include information about persons other than the child or youth who is the focus of the inquiry. However, this may not include information listed in s. 23(3) of the Act, such as legal advice or information

referred to in s. 15(1) [subject to s. 15(2)], 16(1) [subject to s. 16(2)], 18 and 24 [subject to s. 24(3)] of the *Access to Information and Protection of Privacy Act*, or information which is prohibited from disclosure under s. 20 of the *Education Act* (student records).

If there is any concern as to whether the information requested by the Advocate is information to which the Advocate is entitled under the Act, Yukon Education will first internally review the circumstances surrounding the information and request.

Pursuant to section 23(2) of the Act, Yukon Education will provide the information that it legally authorized to disclose as soon as reasonably possible after receiving the Advocate's request, and will respond to any reasonable questions the Advocate may have to clarify or explain the information provided.

b) Initial Contact

The preferred initial contact between the Advocate's office and Yukon Education, for client issues, is a phone call followed up by an e-mail from the Advocate to ***the school administrator or program supervisor (as applicable)***.

Yukon Education will make all reasonable efforts to return the phone call or respond to the e-mail within 24 hours (one business day). If the Advocate has not heard back within two business days, the Advocate will make a follow-up phone call or email Yukon Education.

Yukon Education will provide the information (that it is legally entitled to disclose) to help the Advocate understand a concern or situation raised, so that the Advocate can assess the child or youth's advocacy needs.

The parties agree that it is preferable that questions, concerns, or issues be addressed at the agreed upon level. ***The school administrator or program supervisor*** will ordinarily be the primary point of contact for initial requests from the Advocate related to individual advocacy or resolution of issues (i.e. case planning). ***The Superintendent of Schools, or program directors*** will be the primary point of contact for requests from the Advocate related to program or policy information. The Assistant Deputy Minister will be the point of contact for requests from the Advocate related to systemic issues.

Yukon Education will provide the Advocate with a contact list setting out the first point of contact for its various schools and programs, and will update the list at the beginning of each school year.

c) Request for Yukon Education Documents

When the Advocate asks Yukon Education for client documents or files, Yukon Education will direct such requests to the appropriate program supervisor.

Advocate requests for access to record(s) must be in the form of a letter, and must include:

- A statement that the request is being made under Section 23(1) of the *Act* and confirmation in writing that the information requested is, in the opinion of the Advocate, necessary to enable the Advocate to exercise its powers or perform its functions and duties under the *Act*.
- A description of the nature and type of records requested.
- A timeframe detailing when the Advocate requires the information.

The parties acknowledge that Yukon Education is not under any obligation to create records or reports for the Advocate, and the Advocate agrees not to request the creation of records or reports. The parties acknowledge that Yukon Education may, if legally authorized, provide or withhold any additional information beyond the information requested by the Advocate.

d) Yukon Education's Response

When Yukon Education receives a request for information from the Advocate, the appropriate staff will:

- Ensure that the Advocate's request is made by a properly delegated person.
- Get back to the Advocate as soon as possible (depending on the urgency of the situation and the complexity of the information request).
- Advise the Advocate of any anticipated or unforeseen delays in providing information.
- Make every effort to respond and disclose the requested information in a timely manner.

e) Cooperative Information Sharing Forums: Building and Maintaining Relationships

Yukon Education and the Advocate recognize the value of holding regular meetings between representatives from each of their offices to discuss other matters of mutual interest and how they will work together (e.g. information sharing, perceived trends, issues related to children and youth, new developments).

f) Notification to First Nations

Subject to section 14 of the *Act*, the Advocate must take reasonable efforts to notify a First Nation if the Advocate is taking action or intends to take action on behalf of a child or youth who is a member of the First Nation. Where a child or youth, or parent or other

person authorized to make decisions on behalf of a child or youth, objects, no notification to the First Nation will be provided.

Confidentiality

Information received by the Advocate is confidential. The *Access to Information and Protection of Privacy Act* applies to the Advocate, and information received by the Advocate may not be disclosed unless authorized by section 23(4) of the Act or other legislation.

Information provided to the Advocate is subject to the security requirements set out in the *Access to Information and Protection and Privacy Act* and the Advocate's established operational policy on "Access, Protection and Disclosure of Information".

Consent to Represent

The informed consent of children and youth is not required before the Advocate can act on their behalf. However, it is good practice and demonstrates the principle of child and youth participation in matters that affect them for the Advocate to seek the informed consent of children or youth to act on their behalf, where possible and appropriate, before advocating for them.

Review of Protocol

The Advocate and Yukon Education agree that any issue or concerns arising from this Protocol will be discussed and addressed by the Deputy Minister for Yukon Education and the Advocate. The Protocol will be reviewed and updated, as agreed upon, once notice to the other party has been given, and the Advocate or the Deputy Minister for Yukon Education have discussed and agreed to changes to the Protocol.

Signatures

Signed this 4th day of December, 2014



Valerie Royle
Deputy Minister
Yukon Education



Andrew Nieman
Yukon Child and Youth Advocate