# NEQOTKUK CHILD AND FAMILY WELL-BEING ACT

Neqotkuk Wasis Naka Siwiyik Wolankeyotikon 'Tpaskuwakon

## PREAMBLE

Wolastoqiyik are signatories to the Peace and Friendship Treaties of September 24, 1728, September 4, 1749, and February 23, 1760.

Our treaties confirm that we have inherent, unsurrendered, and unceded jurisdiction over our lands and our people.

Wolastoqiyik have inherent and unceded jurisdiction over all Wolastoqiyik children and families, no matter where those children and families reside.

Our culture, language, and teachings are at the center of our approach to the well-being of our children and families. It is what guides our conception of the best interests of the child. Our culture recognizes the importance of extended families in the care of all children.

The health, safety and well-being of children are integral to our nation. Children shall be protected from harms to their health, well-being, and safety. Parents, care providers, and family members shall be assisted and encouraged to provide safe, healthy, and loving homes.

Our protection of children and families is guided by our Wolastoqiyik culture, language, and teachings which include the Seven Grandfather Teachings.

Colonialism, racism, residential schools, and Indian day schools have disrupted our systems of caring for children and families. This Act is a response to the Truth and Reconciliation Commission's call to reform child welfare practices and will work to advance the well-being of our children, families, and nation.

## APPLICATION

1. APPLICATION OF ACT

1.1 This Act applies to all Neqotkuk persons no matter where located.

1.2 This Act applies to any service provider who provides services to a Neqotkuk child or family in Canada, and outside Canada to the greatest limits of this Act.

1.3 The Act applies to any person that resides on the lands reserved for Neqotkuk.

1.4 A court or tribunal of Canada, a province, territory, or Indigenous governing body within Canada shall apply this Act when such a body decides matters relating to the well-being of a Neqotkuk child and/or family as described in this Act.

2. FAMILIES WHERE TWO OR MORE INDIGENOUS NATIONS' ACTS APPLY

2.1 Where a child and family belong to one or more other Indigenous nations who has a child and family services legislation, then the agency may attempt to engage in conflict resolution with the other Indigenous nation(s) in order to reach agreement which statute, or parts thereof, will apply.

2.2 The agency may enter into protocol agreements with other Indigenous nations to resolve how multiple Indigenous child and family services acts will apply.

2.3 Where a determination is to be made regarding a child's "stronger ties" to an Indigenous nation or community, the agency, another Indigenous governing body, a service provider, or court shall prioritize consideration of the child and family's residency, membership/citizenship to an Indigenous nation, and relationships with extended family.

## OUR VALUES AND RIGHTS

3. GUIDING PRINCIPLES

**Neqotkuk Child and Family Well-Being**

3.1 Our approach to child and family well-being is guided by the following principles:

(a) The best interests of the child are overarching principles that shall guide decisions about children and/or families.

(b) The protection of children is a responsibility shared by parents, care providers, grandparents, extended family, the community, and the nation.

(c) Parents, care providers, grandparents, extended family, and others important to the child shall be given the opportunity to provide input into decisions affecting a child and their family, in accordance with the provisions of this Act, the Nohsohkatikənəl (guidelines), and any regulations.

(d) The goal of this Act is family unity and reunification of children with their families, extended families, community, culture, and language.

(e) We shall take guidance from the knowledge of our elders about how to serve children and families in the best interests of the child.

(f) Where children are able to express views and preferences about decisions affecting them, those views and preferences shall be taken into account when making decisions about them.

(g) Children have the right to know their parents, care providers, their families, and their community.

(h) As a first resort, parents and care providers shall be supported and guided so they can positively care for their children.

(i) Service providers shall pay attention to the whole family, the family's history, and their current circumstances when making decisions about children and families. Service providers shall aim to address the underlying causes that have caused a family to be in need of assistance.

(j) Where a Neqotkuk child and family is unable to receive direct services from the agency, the agency shall take steps to attempt to guide the decision-making of service providers.

(k) Substantive equality of a Neqotkuk child is the underlying goal of all child and family services provided by the agency or by a service provider and all services shall support this goal.

3.2 The well-being of children, families, and communities is best determined internally by Neqotkuk people. Reference to the court system or outside bodies to determine how best to protect and work with a child and family shall be a last resort in determining measures to protect children.

**Best Interests of the Neqotkuk Child**

3.3 Decisions made and actions taken under this Act by service providers or decision-making bodies such as courts or tribunals, wherever located, are to be made and taken on the basis of the best interests of the child.

3.4 The best interests of the child must be determined with consideration of the following:

(a) The child and/or family's individual circumstances, including their individual, family, and community history, and their socio-economic circumstances.

(b) Where a child's family has lost connections to culture, language, land, and community, it is in the best interests of the child and the family to rebuild those connections.

(c) Services provided to a child and/or family shall be respectful of Neqotkuk culture.

(d) Services provided to a child and/or family shall be in consultation with the agency.

(e) The location of the child and/or family shall be considered in all cases of providing services.

(f) Prevention services shall be the first resort and a service provider shall take all steps to provide such services and promote family unity.

(g) The child's present and future, including their transition to adulthood.

**Substantive Equality**

3.5 Child and family services provided to Neqotkuk children and families shall be done in accordance with the principle of substantive equality, meaning:

(a) Substantive equality analysis takes into account systems and structures and the history of colonialism and their effects on Indigenous peoples;

(b) Substantive equality analysis seeks to remedy distinctions in law, policy or programs that have the effect of perpetuating arbitrary disadvantage based on an individual's membership in an enumerated or analogous group;

(c) Substantive equality analysis provides that treatment that is the same for everyone may lead to inequality among certain groups;

(d) Substantive equality analysis seeks to identify and remedy the impact of law, systems and structures on particular groups, taking into account the full context of a group's situation, including the systemic disadvantages a group has faced in the past;

(e) Substantive equality analysis looks not only at the choices that are available to individuals, but at the social and economic environments in which those choices play out; and

(f) Substantive equality analysis requires looking wholistically at child, family, and community, and taking steps to attempt to redress the effects of historic and present-day discrimination and disadvantage.

## 4. INHERENT RIGHTS, TREATY RIGHTS AND JURISDICTION

4.1 Nothing in this Act abrogates or derogates from, restricts, limits, alters, or extinguishes Neqotkuk jurisdiction, inherent rights, or treaty and Aboriginal rights, nor any rights recognized at international law.

4.2 This Act is an expression of Neqotkuk inherent jurisdiction over children and families and Neqotkuk inherent jurisdiction to govern our communities and determine our futures.

## 5. OTHER RIGHTS AND ENTITLEMENTS

5.1 Nothing in this Act restricts or diminishes any right, benefit, or entitlement available to the Neqotkuk Government or its representatives under any other government's law, policy, program, or service.

5.2 Nothing in this Act restricts or diminishes any right of or benefit available to a Neqotkuk person available under any other government's law, policy, program, or service.

5.3 Sections 5.1and 5.2 are not intended to enable a Neqotkuk person to opt out of the application of this Act.

6. INTERPRETATION OF THE ACT

6.1 Any person, service provider, committee, court, or other body who interprets or implements this Act shall take into account this Act, any regulations, the Nohsohkatikənəl (guidelines), any policies, any standards, any other laws of the Neqotkuk Government, and any other such instruments promulgated by the Neqotkuk Government and the agency which provide guidance about how this Act should be interpreted and implemented.

6.2 Any person or service provider interpreting this Act shall wherever possible contact the agency, who may provide direction about how to implement the provisions of the Act.

6.3 A regulation, guideline, policy, or standard made under this Act shall be interpreted in a manner consistent with this Act.

## SERVICE PROVIDERS OUTSIDE OUR COMMUNITY

7. OFF-RESERVE SERVICE PROVIDERS

**Notification to the Agency**

7.1 Neqotkuk Government delegates the agency as the recipient of the information regarding the child and/or family for the purposes of *An Act Respecting First Nations, Inuit and Métis children, youth and families,* SC 2019, c 24.

**Obligations of a Service Provider**

7.2 A service provider shall, in respect of a child and family to whom they are providing services:

(a) Implement this Act;

(b) Enter into protocol agreements with the agency where requested by the agency;

(c) Notify the agency of any interaction or involvement it has with a child and/or family as soon as the service provider becomes aware that a child or family identifies as a Neqotkuk child or family;

(d) Consult and collaborate with, and take advice from, the agency with respect to any services provided to a Neqotkuk child or family, including implementation of the Nohsohkatikənəl (guidelines);

(e) Provide services to a child and family with a social worker or social workers who are culturally competent and have experience with Indigenous children and families, where possible;

(f) Facilitate contact between the agency and the Neqotkuk child and family at the earliest possible opportunity; and

(g) Where requested by the agency, transfer responsibility for some or all services regarding the Neqotkuk child to the agency.

**Death of Child**

7.3 A death of a Neqotkuk child receiving services from a service provider is to be reported to the agency within 12 hours of the service provider's awareness of the event.

7.4 After providing notice under section 7.3, the service provider must attempt to discuss the matter with the agency within 48 hours to continue consultation further to section 7.2(c).

7.5 If provincial, territorial, or other applicable legislation contains additional requirements on notice or consultation on significant occurrences that are not reflected in this section, such requirements continue to apply.

**Adopted Children**

7.6 A service provider shall, in respect of a child who has been adopted:

(a) Provide the agency with details as to the child's adoption; and,

(b) Facilitate contact between the agency and the child or the child's adoptive parents.

**Transitional Matters**

7.7 Within 30 days of being notified that this Act is in force, all service providers shall notify the agency of any current legal proceedings that are ongoing with respect to children and provide any court documents or other such information as requested by the agency.

7.8 In the event that a court record contemplated by s. 7.7 is subject to a publication ban, the agency may seek its disclosure.

7.9 Within 60 days of being notified that this Act is in force, all service providers shall notify the agency of any child to whom they are currently providing services or who are in their care.

## AGENCY SERVICES

8. NOHSOHKATIKƏNƏL (GUIDELINES)

8.1 The agency may create and maintain Nohsohkatikənəl (guidelines) which, when created, will guide the implementation of this Act and services provided by the agency.

9. AWNKIYOTIKƏN (PREVENTION SERVICES) – ALL CHILDREN AND FAMILIES

9.1 Awnkiyotikən (prevention services) are services that are designed to strengthen children, their families, and their community.

9.2 Awnkiyotikən may be provided to children and families in accordance with the principle of substantive equality.

9.3 Awnkiyotikən may also be directed at alleviating the effects of historic and present discrimination and disadvantages that may lead children and families to be in need of assistance such as poverty, housing, mental health, addictions, or another disadvantage. Examples of such Awnkiyotikən may include income support, housing support, life skills support, mental health services, or addictions treatment.

9.4 All children and families are eligible to participate in Awnkiyotikən regularly provided by the agency, regardless of whether or not the child and family has been deemed to be in need of assistance under Section 11.2.

9.5 The agency may provide Awnkiyotikən to any off-reserve child and/or family who is unable to access Awnkiyotikən regularly provided by the agency;

(a) On request of the child or the family; or,

(b) On request of a service provider as part of a service provider's case plan

and in such case, the Director shall determine whether services shall be provided, and the duration and nature of the services.

9.6 Any Neqotkuk person may receive Awnkiyotikən regardless of whether or not they are in need of assistance within the meaning of Section 11.2 or are receiving services from the agency.

9.7 The agency may maintain Nohsohkatikənəl (guidelines) and may maintain other policies which define Awnkiyotikən and set standards for the quality of Awnkiyotikən.

9.8 The agency shall provide such Awnkiyotikən as it sees fit, and in accordance with any Nohsohkatikənəl.

## 10. AWNKIYOTIKƏN (PREVENTION SERVICES) – OFF-RESERVE CHILDREN AND FAMILIES

10.1 With respect to a child and family who are not resident on reserve but are receiving services from a service provider, the agency may:

(a) Provide information, assistance or support to a service provider in order to assist that service provider in acting in the best interests of the child in implementing this Act;

(b) Assist with plans of care, kinship care, customary care, or other agreements or plans for the well-being and safety of the child under the service provider's governing legislation;

(c) Participate in court or other proceedings involving the child and family, as a party to the proceedings;

(d) Contract with service providers or other entities who can provide services to the child and/or the family;

(e) Request a transfer of responsibility from a service provider so the agency can provide services to the child and/or the family or any part thereof;

(f) Come to a kinship agreement providing for an alternate care arrangement where, although the family has not been deemed in need of assistance the parents or care providers(s) indicate, and the agency agrees, that the parents or care providers are unable to provide care for the child on a temporary basis;

(g) Where the agency has not initiated nor accepted a transfer of responsibility and where a service provider requests or agrees to receive services of the agency, provide a child and/or a family access to any of the services the agency provides, including case planning or Wehsiwestick Makwahatowək Potawsoltowək (family conference); and,

(h) Take such other steps and provide such services as are advisable to promote the goals of this Act, in the opinion of the Director.

10.2 Where the agency has requested a transfer of responsibility from a service provider with the intention of providing child and family services to a child, the service provider shall transfer responsibility to the agency and the agency will provide the services it has assumed responsibility for.

10.3 The agency may enter into such agreements with service providers as are necessary in order to affect a transfer of responsibility.

## 11. NEQOTKUK FAMILIES IN NEED OF ASSISTANCE

11.1 Sections 11 - 17 apply to on-reserve children and families, and off-reserve families where the off-reserve service provider has deemed the family in need of protection services and transferred responsibility for such services to the agency.

**General**

11.2 A child and family may be in need of assistance where there are reasonable grounds to believe that a child's safety, health, well-being, security, or development is endangered because of any of the following reasons:

(a) The parents or care providers are unwilling to provide adequate care or supervision for the child.

(b) The parent is deceased and there is no other living parent.

(c) The parents or care providers have abandoned the child.

(d) The parents or care providers has sexually abused the child or is at substantial risk of sexually abusing the child.

(e) The parents or care providers has physically abused the child or is at substantial risk of physically abusing the child.

(f) The parents or care providers has emotionally abused the child causing serious harm to the child.

(g) The parents or care providers have neglected the child.

(h) The parents or care providers are unable or unwilling to protect a child from physical, sexual, or emotional abuse from another person.

(i) Other circumstances where the Director deems the child's safety is at risk.

11.3 Where a service provider or court has determined a child is in need of protective services at the time the agency initiates a transfer of responsibility, or the child has already been put into the care or custody of a service provider, then the child shall be deemed in need of assistance without further determination or investigation by the agency.

11.4 In order to make a determination a child is in need of assistance because of neglect, there must be factors other than poverty leading to such conclusion.

11.5 Where a child or family is deemed in need of assistance solely because the child's family is financially unable to provide the necessaries of life to a child, the agency may first give the family may financial or in-kind support, at the discretion of the Director, before the agency, service provider or a court may consider any separation of the child from the parents or care providers.

**Duty to Investigate**

11.6 Where the Director receives information that causes them to suspect that a child's family is in need of assistance per the Nohsohkatikənəl (guidelines), the Director shall investigate the child and/or family's need for assistance.

**Duty to Advise Child's Family of Investigation**

11.7 The Director shall advise the parents or care providers of a child in respect of whom an investigation is being conducted. The Director may give reasons wherever possible and whenever practicable, so long as the Director believes that doing so would not impede the investigation or place safety, security, or development of the child in danger.

**Investigation Powers of The Director**

11.8 The Director may do all or any of the following in an investigation:

(a) Enter any premises or area to conduct a physical examination of, or an interview with the child, or both;

(b) Enter any premises or area and convey the child to a place to be determined by the Director, for the purposes of having the child undergo a medical examination or so that an interview with the child may be conducted, or both;

(c) Enter and search any premises or area relating to the child and seize anything that the Director has reasonable and probable grounds to believe is evidence that child's safety, security, or development is in danger; and,

(d) Take any other steps on such terms and conditions as the Director deems necessary to determine whether the safety, security, or development of the child is in danger.

12. DETERMINATIONS FOLLOWING AN INVESTIGATION

12.1 After an investigation, if the Director is of the opinion that the child and/or the family is not in need of assistance, the Director may continue to monitor the child and family and offer Awnkiyotikən (prevention services) if the Director deems it advisable.

12.2 After an investigation, if the Director is of the opinion that the child or family is in need of assistance, the Director shall convene a Case Planning Meeting.

13. REMOVAL POWERS OF THE DIRECTOR

13.1 After an investigation, if the Director:

(a) has reasonable and probable grounds to believe that a Neqotkuk child is in need of assistance pursuant to the Nohsohkatikənəl (guidelines), and,

(b) is satisfied that the child's need for assistance cannot be met by providing Awnkiyotikən (prevention services),

the Director may enter and search any premises or area where a child is for the purposes of removing the child and placing the child in an alternate care arrangement and may undertake such placement and removal.

13.2 During such time, the Director has decision making authority for matters concerning the child until matters relating to decision-making are resolved at a Case Planning Meeting or by Family Agreement.

**Emergency Removal**

13.3 Where the Director has reasonable and probable grounds to believe that a child is in need of assistance and that investigating the concern prior to removing the child would endanger the child, the Director may enter and search any premises or area where a child is reasonably believed to be located for the purposes of removing the child on an emergency basis, and may remove the child on an emergency basis and place the child in an alternate care arrangement.

13.4 If a removal is conducted on an emergency basis, an investigation shall be conducted and completed in accordance with the Nohsohkatikənəl.

13.5 If the investigation reveals that a child and family is not in need of assistance, the Director shall return the child to their parents or care providers(s) forthwith.

13.6 Where the Director has removed a child under this section, the Director has decision making authority over the child for the duration of the removal until matters relating to decision-making are resolved at a Case Planning Meeting or by Family Agreement.

14. NOTICE OF CASE PLANNING MEETING

14.1 A Notice of Case Planning Meeting shall be delivered to a child's parents or care providers in accordance with the Nohsohkatikənəl (guidelines) following:

(a) The Director's finding, after an investigation, that a child and/or a family are in need of assistance;

(b) The removal of a child, including a removal conducted on an emergency basis, pursuant to section 13;

(c) The Director's finding that a family is not meeting its obligations under a case plan or a family agreement; and/or,

(d) The termination or expiry of a family agreement.

14.2 A Case Planning Meeting may result in a case plan. If the agency and the child's parents or care providers are unable to reach a case plan after a Case Planning Meeting, then the parties will engage in a Wehsiwestick Makwahatowək Potawsoltowək (family conference).

15. WEHSIWESTICK MAKWAHATOWƏK POTAWSOLTOWƏK (FAMILY CONFERENCE)

15.1 Wehsiwestick Makwahatowək Potawsoltowək (family conference) shall proceed according to the Nohsohkatikənəl (the agency's operational guidelines).

15.2 At the conclusion of Wehsiwestick Makwahatowək Potawsoltowək, the parents or care providers and the agency may agree to a family agreement, which shall be reduced to writing and signed by a representative of the agency and the parents or care providers(s).

15.3 No family agreement shall be entered into without the written consent of the child if:

(a) The child is 12 years of age or older; or,

(b) The child is under the age of 12 but the parents or care providers and agency believe the child is sufficiently mature.

**Family Agreement Reached**

15.4 Where a family agreement is reached at the end of a Wehsiwestick Makwahatowək Potawsoltowək (family conference) then it remains valid until it is varied, terminated, or expired.

**No Family Agreement Reached**

15.5 If no family agreement is reached by the parents or care providers and the agency about what actions to take in respect of the child and/or the family at the conclusion of a Wehsiwestick Makwahatowək Potawsoltowək, then the agency may seek an order from the New Brunswick family court system by initiating an application pursuant to New Brunswick's *Family Services Act*, SNB 1980, c F-2.2 until such time as the Neqotkuk Government establishes its own family court system.

15.6 Statements made in a Wehsiwestick Makwahatowək Potawsoltowək are not admissible in a proceeding regarding the care of the child in a proceeding in a court.

**Family Agreements – Variation, Termination, And Expiry**

15.7 A family agreement may be varied from time to time by mutual consent of the agency and the parents and care providers(s).

15.8 No family agreement shall continue beyond the 21st birthday of the child who is its subject.

15.9 A party to a family agreement may terminate the agreement at any time by giving every other party written notice that the party wishes to terminate the agreement. Where notice is given, the agreement terminates pursuant to the timelines in the Nohsohkatikənəl.

15.10 Where notice of a wish to terminate the family agreement is given by or to the agency, or where the family agreement expires or is about to expire and is not extended, the agency shall:

(a) Return the child to the parents and care providers(s) (or other person who made the family agreement), or to a person who has obtained an order for the child's custody since the family agreement was made; or,

(b) Where the agency is of the opinion that the parents or care providers are not ready, willing, or able to resume caregiving, call a Case Planning Meeting to develop a case plan, and take such subsequent steps as provided for in this Act pursuant to the timelines in the Nohsohkatikənəl.

16. ALTERNATE CARE ARRANGEMENTS

16.1 An alternate care arrangement is any arrangement where the agency places a child with someone other than their parent or care provider, for any period of time, by virtue of:

(a) A case plan developed at a Case Planning Meeting;

(b) A family agreement concluded at a Wehsiwestick Makwahatowək Potawsoltowək (family conference);

(c) An emergency placement following an investigation and a removal by the Director; or,

(d) An agreement between a parents and care providers and the agency, where the parents and care providers agree that they are unable to care for a child.

**Placement Priority**

16.2 For any alternate care arrangement, the priority of placement shall be:

(a) In the case of a parent who does not live with the child's other parent, the first priority is with the other parent.

(b) With the child's Neqotkuk family or extended family.

(c) With the child's non-Neqotkuk family or extended family, where suitable provision can be made for access to the child's culture, community, language, and Neqotkuk family and extended family.

(d) With a Neqotkuk person living on reserve.

(e) With a Neqotkuk person living off-reserve.

(f) With a Wolastoqiyik person or family.

(g) With an Indigenous person or family.

16.3 To the greatest extent possible, the agency or other service provider shall pursue an alternate care arrangement that is physically close to the child's community and family.

**Access To Family and Community**

16.4 Where a child is in an alternate care arrangement, the agency or service provider shall facilitate access between:

(a) The child and the child's parents or care providers;

(b) The child and any other member of the child's extended family; and

(c) The child and anyone who has a significant relationship with the child,

where it is safe and in the child's best interests.

16.5 Access shall be a presumption, and the agency or service provider may only refuse access where it is impracticable or impossible to provide access, or where access would endanger the child's health and safety.

**Financial Supports for Alternate Caregivers**

16.6 The agency shall provide alternate caregivers with financial support to care for a child, in accordance with the Nohsohkatikənəl (guidelines).

**RESP For Children in Alternate Care Arrangements**

16.7 In years where the agency budget allows, the agency may establish an RESP for every child in an alternate care arrangement and may make contributions to allow for the maximum matching contribution from the Government of Canada per month until the child exits the alternate care arrangement.

16.8 A person may access their RESP to fund their post-secondary education, or otherwise, in accordance with Government of Canada rules.

**Alternate Care Approval**

16.9 The agency may institute standards and policies governing the requirements for approval of, and inspection of the facilities and conditions in, alternate care arrangements.

16.10 The agency may institute standards and policies governing the requirements for approval for alternate caregivers.

**Alternate Caregiver – Decision-Making**

16.11 Any family agreement shall stipulate who has decision-making responsibility over the child for significant decisions, including:

(a) Health, including decisions about medical treatments, up until the child reaches the age of 16;

(b) Education; and,

(c) Upbringing and religious instruction, in accordance with the child's creed, community identity, and cultural identity.

17. SUPPORT FOR NEQOTKUK YOUTH

17.1 A youth who is in an alternate care arrangement may opt to end an alternate care arrangement and to live independently as of the age of 16.

17.2 Before a youth is permitted to leave an alternate care arrangement to live independently, the agency shall meet with the youth to provide information about independent living and the supports a youth may receive if they opt to leave an alternate care arrangement.

17.3 A youth who has capacity to make decisions and who opts to end an alternate care arrangement must confirm in writing that they have received the information referred to in section 17.2 and are making an informed decision to leave their alternate care arrangement.

17.4 A youth who opts to leave an alternate care arrangement may return to an alternate care arrangement at any time up until they reach the age of 21.

**Youth Leaving Alternate Care Arrangements**

17.5 A youth leaving an alternate care arrangement may apply to the agency to receive financial support to provide themselves the necessaries of life. A youth's eligibility for support will be determined in accordance with the Nohsohkatikənəl (guidelines).

17.6 The agency may provide services and financial or in-kind support for youth until they turn 26 on or off reserve who have been in receipt of child and family services immediately prior to living independently until the youth turns 26, including but not limited to transition supports to assist the youth in transitioning to adulthood.

**Support For Youth with Dependents**

17.7 A child or youth who is living in a parent or care provider's home or in an alternative care arrangement may apply for support from the agency where such child or youth has their own dependent, or where the entire household income is below the low-income threshold as established by the Neqotkuk Government.

## PROTECTING OUR CHILDREN

18. DUTY TO REPORT

18.1 In addition to those reporting obligations set out in the *New Brunswick Child and Family Services Act*, and any successor legislation, any person who has reasonable and probable grounds to believe that a child is in need of assistance, including a person who performs professional or official duties with respect to children and including a member of the clergy of any religious order and a member of the Neqotkuk Chief and Council, shall immediately report the belief and the information on which it is based to the agency and the police.

18.2 The duty to report is ongoing. A person who has additional reasonable grounds to believe a child is in need of assistance shall make a further report even if the person has made previous reports with respect to the same child.

18.3 The duty to report applies notwithstanding that the information on which the suspicion is founded is confidential and its disclosure is prohibited under any other legislation of any government.

18.4 This section does not apply to information that is privileged as a result of a solicitor-client relationship, except as required by a lawyer's rules of professional conduct.

18.5 No legal action may be taken against an individual or an entity that employs them for making a report under this Act unless the reporting is done maliciously or without reasonable and probable grounds for the suspicion.

18.6 Failure to report by any employee of the agency, of the Neqotkuk Government or Neqotkuk Government Chief and Council where grounds exist to make a report, is grounds for termination of employment with no need for notice or pay in lieu of notice.

19. JORDAN'S PRINCIPLE

19.1 All children have the right to access health care, education, social services, and ceremonial and cultural services without discrimination.

19.2 The agency is an advocate for the rights of every child to health care, education and social services, and ceremonial and cultural services, may assist children and families with accessing to Jordan's Principle services.

19.3 Nothing in this Act prevents a child from accessing Jordan's Principle services outside of those services provided by or applied for by the agency.

20. INFORMATION SHARING

20.1 At least annually, the agency shall provide the following information to the Neqotkuk Government:

(a) The agency's audited consolidated financial statements;

(b) Statistics kept by the agency which do not identify any individual person;

(c) Copies of policies, Nohsohkatikənəl (guidelines), and program plans and descriptions; and,

(d) Copies of any agreements with funders.

21. NOCI MIKAHKEWAT WASIS (CHILD ADVOCATE)

21.1 The agency may create an office of the Noci Mikahkewat Wasis (Child Advocate) and assign to the Noci Mikahkewat Wasis such roles and responsibilities that it determines.

21.2 Funding for the Office of the Noci Mikahkewat Wasis shall be provided for in any coordination agreement or fiscal agreements.

## ROLES AND RESPONSIBILITIES

22. NEQOTKUK GOVERNMENT AND AGENCY ROLES

22.1 The agency is at arm's length from the Neqotkuk Government.

22.2 The Neqotkuk Government does not have authority and shall not take any steps to determine or direct the operations of the agency or any of its employees in its operations or implementation of this Act.

22.3 Neqotkuk Government and the agency may enter into a Memorandum of Understanding which sets out the relationship between them.

**Regulations**

22.4 Neqotkuk Chief and Council may make regulations under this Act in order to implement this Act. A specific provision giving the Neqotkuk Government the ability to make a regulation under this Act does not limit the Neqotkuk Government's general power to make regulations to implement this Act.

22.5 A regulation may be made by a regular resolution of the Neqotkuk Chief and Council at a regular meeting.

22.6 Where the Neqotkuk Chief and Council makes or amends a regulation, the Neqotkuk Chief and Council is not required to undergo the process at section 30.5 of this Act.

23. NEQOTKUK CHILD AND FAMILY SERVICES AGENCY INC.

23.1 Neqotkuk Child and Family Services Agency Inc., a not-for-profit corporation under the *Companies Act*, is the agency and is responsible for carrying out the obligations of the agency under this Act pursuant to its by-law policies, standards, and Nohsohkatikənəl (guidelines).

23.2 The agency may make policies, standards, and Nohsohkatikənəl, and take other steps as required in order to implement this Act where it is designated to do so.

24. DELEGATION BY DIRECTOR

24.1 The Director may delegate any power, duty, or function of the Director in this Act in accordance with the Nohsohkatikənəl (guidelines).

25. REGISTERED SOCIAL WORKERS

25.1 The agency may set qualifications and performance standards for persons employed by it or contracted to provide child and family services, including standards and qualifications for registered social workers.

25.2 A social worker employed and recognized by the agency shall be recognized by any other government or agency's officials as having the authority to carry out their duties and functions under this Act.

25.3 The agency may create forms or other certificates to indicate that a social worker or employee of the agency is affiliated with and recognized by the agency as designated to carry out duties under this Act.

## RELATIONSHIPS WITH OUTSIDE GOVERNMENTS AND INSTITUTIONS

26. ENFORCEMENT OF ACT

26.1 The agency may initiate applications in court to enforce this Act and to require service providers or others who have obligations under this Act to comply with this Act.

27. POLICE ASSISTANCE

27.1 The Director may request the assistance of any peace officer in order to perform any authority conferred under Sections 11.8, 13.1, and 13.3 or otherwise in discharge of the Director's duties or powers to investigate a child's need for assistance.

27.2 The peace officer may act if requested to do so by the Director. The peace officer may take whatever measures they deem are required, including entry by force.

28. JUDICIAL REVIEW AND APPEALS

28.1 Family agreements concluded at Wehsiwestick Makwahatowək Potawsoltowək (family conference) are not subject to review or appeal by any court unless otherwise provided for in this Act.

28.2 Decisions and actions of the agency are not subject to judicial review by any Canadian court unless otherwise provided for in this law.

28.3 The agency is not a board, commission, or other tribunal within the meaning of either the *Federal Courts Act* or a provincial or territorial law relating to judicial review of administrative decisions.

29. CONFLICT OF ACTS

29.1 This Act prevails over federal, provincial, and territorial legislation and the legislation of a jurisdiction outside Canada to the extent of any conflict or inconsistency, or infringement except that this Act does not prevail over Sections 10-15 of Canada's *An Act Respecting First Nations, Inuit and Métis children, youth and families*, Canada's *Canadian Human Rights Act*, or the *Charter of Rights and Freedoms.*

29.2 Except as modified, superseded, or supplemented by this Act, other provincial or territorial child and family services legislation which is not inconsistent with this Act continues to apply to Neqotkuk persons.

## GENERAL PROVISIONS

30. REVIEW AND AMENDMENT OF ACT

**Process For Review of Act**

30.1 Every five (5) years after the day on which this Act comes into force, the agency shall undertake a review of the provisions and operation of this Act or regulations.

30.2 The agency may appoint experts or persons having special technical or legal knowledge to advise the agency in its review. Such consultant(s) may be paid the remuneration and expenses that the agency prescribes.

30.3 The agency shall prepare a report on the review for the Neqotkuk Government that sets out the agency's conclusions and recommendations for any changes to the Act or regulations.

30.4 The agency must present the report at the next regular meeting of the Neqotkuk Government after the day on which the report is completed, or such later meeting as determined by the Neqotkuk Government.

**Process For Amendment of Act**

30.5 The Neqotkuk Government may amend the Act subject to the following condition:

(a) the Neqotkuk Government must give notice and a summary of the proposed amendment(s) to the members and hold at least one (1) community consultation meeting 90-days before the amendment is to be voted on by the Neqotkuk Government.

30.6 This Act may only be amended by the Neqotkuk Government, and not by practice or consensus of the community.

31. COMING INTO FORCE

31.1 This Act, or parts of it, shall come into force on a day or days as named by resolution of the Neqotkuk Government.

32. PUBLICATION

32.1 Neqotkuk Government shall ensure the publication of this Act and any regulations under this Act on its website.

32.2 The authoritative version of this Act is published on the First Nation's website and in the Canada Gazette.

33. TRANSLATION

33.1 This Act may be translated into Wolastoqey or French, but the English version shall prevail.

34. CITATION

34.1 This Act may be cited as Neqotkuk Wasis Naka Siwiyik Wolankeyotikon 'Tpaskuwakon.

## DEFINITIONS

"**agency**" means Neqotkuk Child and Family Services Agency Inc., a corporation incorporated under the Acts of New Brunswick.

"**alternate caregiver**" is a person who is designated by the agency to provide care to a child, who is not the child's parents or care providers, either on an emergency basis or under the family agreement.

"**Awnkiyotikən**" means prevention services offered to children and families in need of assistance in order to keep children and families together.

"**care provider**" means a person other than a Neqotkuk child's parent who has primary responsibility for providing the day-to-day care of a Neqotkuk child, including because they are providing the care in accordance with the customs or traditions of the Indigenous group, community or people to which the child belongs, and excludes a foster parent.

"**Case Planning Meeting**" is a meeting held to determine what actions to take in respect of the child and family and to develop a case plan.

**"child"** means a person who is between the ages of 0 and 16 years of age and is either: a person who lives in Neqotkuk or whose family is from Neqotkuk, unless this Act specifies otherwise.

"**child and family services**" means services provided by a service provider under provincial child welfare legislation, or otherwise as the context may require.

"**coordination agreement**" means an agreement as defined in *An Act Respecting First Nations, Inuit and Metis children, youth and families,* SC 2019, c 24.

"**court**" includes any federal, provincial, or Indigenous administrative tribunal or court.

"**Director**" means the Director of Neqotkuk Child and Family Services Agency Inc.

"**extended family**" means a child, their family, and their relations who form part of the child's circle of support.

**"family"** means a child and their parents and care providers and siblings, and any other adults who reside with the child and provide them with care.

**"family agreement"** means an agreement concluded at a Wehsiwestick Makwahatowək Potawsoltowək. For the purposes of this Act, a child's family includes a child's community.

"**Act**" means the Neqotkuk Child and Family Well-Being Act.

"**Neqotkuk**" describes the community known to Indigenous Services Canada as Tobique First Nation.

"**Neqotkuk person**" means a person who lives in Neqotkuk or whose family is from Neqotkuk, unless this Act specifies otherwise.

"**Neqotkuk Chief and Council**" means the Chief and Council of Tobique First Nation, as elected under the *Indian Act*, otherwise known as Tobique First Nation.

"**Neqotkuk Government**" means the government of Tobique First Nation.

"**Noci Mikahkewat Wasis**" means the Child Advocate.

"**Nohsohkatikənəl**" means the guidelines of Neqotkuk Child and Family Services Agency Inc.

"**peace officer**" means a member of the police service.

"**service**" includes Awnkiyotikən and protection services, as they are described in the Nohsohkatikənəl.

"**service provider**" means an entity other than the agency that provides child and family services to children and families.

"**transfer of responsibility**" means, in respect of a Neqotkuk child, the agency assuming legal responsibility and control from a service provider for providing child and family services under this Act.

"**Wehsiwestick Makwahatowək Potawsoltowək**" is a process that brings together a child's family, extended family, and people who have significant relationships with the family or child to develop a plan of care to safeguard and promote child and family well-being.

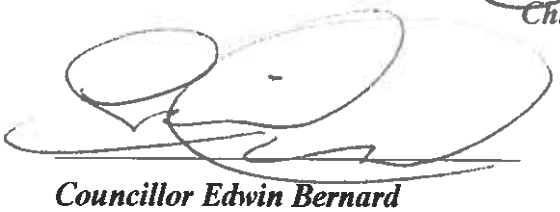
"**Wolastoqey**" means the language and culture associative with the Wolastoqiyik.

**"Wolastoqiyik"** means the original peoples whose family descends from the areas adjacent to the Wolastoq in what is now known as the Provinces of New Brunswick and Quebec and the State of Maine.

"**youth**" means a Neqotkuk child who is 16 to 25 years of age.

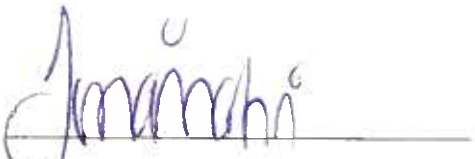
**Adopted this 8th day of June 2022**

*Chief Ross Perley*

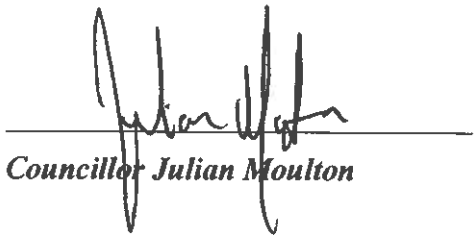


*Councillor Edwin Bernard*

*Councillor Donald Hafke*

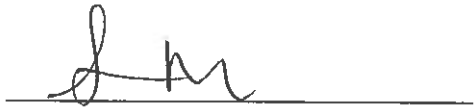


*Councillor Tina Martin*



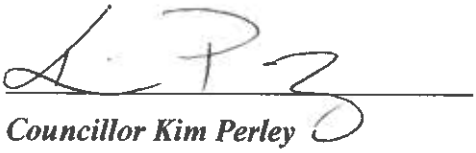
*Councillor Julian Moulton*

*Councillor Richard Moulton*

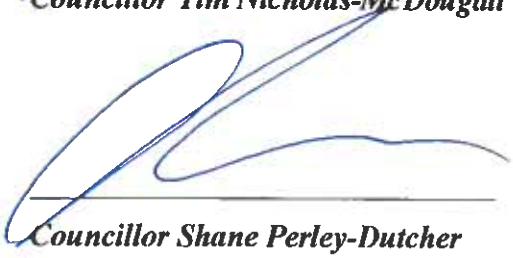


*Councillor Aaron Nicholas*

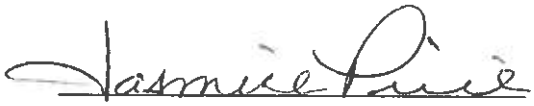
*Councillor Tim Nicholas-McDougall*



*Councillor Kim Perley*



*Councillor Shane Perley-Dutcher*



*Councillor Jasmine Pirie*

*Councillor Brad Sappier*

*Councillor Adam Saulis*