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**To:** [CYAA Review](#)  
**Cc:** [Barb Brochu](#)  
**Subject:** Extension to Deadline Request  
**Date:** Tuesday, October 11, 2016 12:28:45 PM  
**Attachments:** [Response to Understanding the Child and Youth Advocacy Act FINAL Oct 11 noon.docx](#)

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Good afternoon,

Thank you for talking with us about the potential of allowing our Board to review our recommendations and to provide input on October 17th and re-submitting. That said, we realize that your committee may simply not be able to wait and so we have attached our review and recommendations here.

Thank you for your committee's consideration of our request.

Rhonda



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October 6, 2016

**Re: Review and Recommendations on Proposed Changes to the Child and Youth Advocate Act Statutes of Alberta, 2011, Chapter C-11.5 Current as of December 11, 2015**

<http://www.qp.alberta.ca/documents/Acts/c11p5.pdf>

The following are our answers to the request for a review and recommendations on proposed changes to this act. As part of this review, Barb Brochu, Associate Superintendent of Student Services, reviewed the following three related documents and consulted with the Child and Youth Advocate office as well as with an Advocate:

- Standing Committee on Legislative Offices – Understanding the Child and Youth Act Discussion Guide  
@[http://www.assembly.ab.ca/committees/legislativeoffices/CYAA/LO\\_CYAA\\_DiscussionGuide.pdf](http://www.assembly.ab.ca/committees/legislativeoffices/CYAA/LO_CYAA_DiscussionGuide.pdf),
- Child and Youth Advocate Act @  
[http://www.qp.alberta.ca/1266.cfm?page=c11p5.cfm&leg\\_type=Acts&isbncIn=9780779762323&display=html](http://www.qp.alberta.ca/1266.cfm?page=c11p5.cfm&leg_type=Acts&isbncIn=9780779762323&display=html) and
- Child, Youth and Family Enhancement Act @  
<http://www.qp.alberta.ca/documents/Acts/c12.pdf>
- On line submission form @ <http://www.assembly.ab.ca/net/LO.aspx>

Rhonda Nixon, Assistant Superintendent of Learning Services and Barb Brochu, reviewed and revised answers to the questions provided by The Standing Committee on Legislative Offices.

**1. There are services provided to different age groups under the Act. Are these age limits appropriate?**

No, we suggest increasing the age of youth from 18 to 19 years old in this act. Presently, in Alberta, a child is anyone under the age of 18 years, including a youth, who is receiving or seeking to receive a designated service. Out of 13 provinces and territories, Alberta is one of 4 provinces that defines a child as *under* 18 years old. Although 18 years seems reasonable, there is an argument to raise it because in the School Act, 8(1) “Every individual who at September 1 in a year is 6 years of age or older and younger than 19 years of age...” (p.17). That means that a youth who is 19 years old could be in school and not be protected by an Advocate.

**2. A) Does the Act permit the Advocate to provide appropriate services to children and youth?**

Yes, to the best of our knowledge the Act provides appropriate services to children and youth in care. However, it is necessary to say that even after using our array of research tools (digital and calling those who are advocates), the list of “designated services” was not easy to discern. In other words, we gave up on trying to understand the list of what seems like many designated services, and we would advocate for some addendum or a section in the act to provide a clear

list so that they can be easily understood by a child or youth and accessible to the public who serve them.

**2 B) Should the Advocate provide services to children and youth who are receiving government services other than what is currently indicated within the Act? Please explain your answer and provide suggestions, if possible.**

Yes, as the Act does not currently permit the Advocate to serve ALL children and youth. The Act only permits the Advocate to provide services to a limited population of children and youth. The mandate of the Act is limited to children and youth receiving “designated services”. Specifically, these are children and youth with some type of child welfare status who are served under the

- Child, Youth and Family Enhancement Act
- Protection of Sexually Exploited Act (PSECA) and
- Children in the youth criminal justice system

The Act only provides service to children and youth who are “*in care*” i.e. are

- accessing *child intervention or child protection* (sexual exploitation) services
- in the “*assessment phase*” to determine if there is need for *intervention or protective services* or
- youth (previously in care) currently receiving *support and financial care*
- in custody or have on-going involvement in the *youth criminal justice system*

At this time, children and youth accessing other government services (such as Education, Health and/or Mental Health) are not able to access an Advocate.

**3. What the Advocate can do is made possible by the *Child and Youth Advocate Act*. In your opinion should the role of the Advocate stay the same? Is the Advocate able to do enough or should the Advocate be able to do more? Please explain your answer and provide suggestions if possible.**

There is an argument to be made that unless the child is in custody of the courts (has been deemed to need designated services) that little is being done for a child or youth at risk. We contend that there should be an explicit “Duty to Act” stated within the act, which would require the child or youth to be taken out of a high risk situation until the child is seen within the court system.

This “Duty to Act” prior to the courts being involved would then allow the advocate to provide “designated services” that are clear and listed within the act. It is not intended to circumvent the right of the court to make the final decision as to the full range of services to be provided; it would simply require “something to be done” and not leave the child or youth in a high risk situation for too long.

**4. Does the Act provide the Advocate with sufficient powers to conduct the roles and functions set out in the Act? Are other powers necessary?**

Please see our response to this question, which is included in question 3 above. In our response, we address the need for the act to ensure that an Advocate has a “duty to act” before a child is in the custody of the courts.

**5. Is the information provided by a child to an advocate sufficiently protected? Is the information provided for an investigation sufficiently protected?**

Yes, the information is sufficiently protected because an Advocate cannot testify on what he/she learns from or about a child or youth and notes taken cannot be accessed except by a court order.

**6. What the Advocate can investigate is made possible by the Act. Should the Advocate be able to investigate the same, more, less or different issues? Please explain your answer and provide suggestions.**

We recommend that an Advocate be able to investigate more than systemic issues connected to the serious injury or death of a child or youth in custody of the courts as stated in Section 9 (d) of the Act. In addition to the Advocate being compelled to investigate such serious systemic issues, we contend that an Advocate needs to investigate problems with “designated services” that are not addressing immediate and pressing issues that a child is contending with such as a need for mental health intervention, as one example. In Section 9 (g), an Advocate is to “undertake or collaborate in research related to improving designated services or addressing the needs of children receiving those services” (p.7). We suggest that the wording needs to be changed to say the following: An Advocate is “to undertake or collaborate in research, *and investigate and report on results* related to improving designated services or addressing the needs of children receiving those services.” Such a wording revision would provide the advocate with power to investigate more issues (systemic and pressing) and be compelled to investigate and report on their findings.

**7. What the Advocate can report after an investigation is set by the Act. Do these reports contain enough information? Should the reports contain the same, more or different information? Please explain your answer and provide suggestions.**

Based on our review of sample investigative reports and Sec 15 (a) of the CYAA, we recommend that the reports contain specific information about educational aspects of issues investigated. Presently, from reports reviewed, educational implications are missing in reports. Specifically, we would request that Advocates be required to address educational staff and their training to handle children and youth in high risk situations (e.g., ongoing mental health problems) in their reports. Also, the report needs to identify staff designated to the school to assist with the recommendations in the report. For example, if a child has ongoing mental health issues, who can help the child at school needs to be clarified. Also, in

keeping with this example, an outline of training required by staff at the school to address the mental health issues also needs to be clearly articulated in the report.

**8. Do you have any other suggestions or comments about the *Child and Youth Advocate Act*? Please comment on any topic related to the Act not addressed by this discussion guide.**

Yes. Would there be consideration of additional person(s) authorized under the Act such as an Advocate for Education? We see this as someone who knows the Education system well, as well as the systems and services of our partners (Health, Mental Health, Human Services etc.) and, most importantly, how they are interconnected and interdependent. The Advocate for Education's role could be to ensure that the student is available for learning by coordinating/having appropriate supports and services in place. This would involve navigating and asking questions to the decision makers of all partners, to ensure that the rights/interests of the child/youth in the systems have been considered.