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To Whom it May Concern:

**Submissions regarding Regulations to the Child Youth and Family Services Act:
*Regulations relating to requirements for qualifications of Children's Aid
Society Staff - Proposal Number 17 - CYS034***

Please accept the following submissions of Justice for Children and Youth regarding the Proposed Regulations under the *Child Youth and Family Services Act*, specifically Proposal Number 17-CYS034 – *Regulations relating to requirements for qualifications of Children's Aid Society Staff*.

Justice for Children and Youth is a child rights organization and legal aid clinic providing representation directly to children and youth in Ontario, including in the context of child protection services. (The organization is more fully described in "Appendix A" to this letter.)

Overview:

In this submission we address two fundamental concerns about the Regulation identified above, which requires that Local Directors have completed a degree or a diploma in social work, and minimum level of experience. While the proposed regulation requires a credential – the completion of the degree or diploma - this credential requirement is limited in its application to Local Directors, and there is no requirement that children’s aid society staff who are credentialed are in fact members of the Ontario College of Social Workers and Social Services Workers (OCSWSSW), which would ensure professional regulation as is required of social workers and social service workers. It is our view that this limitation fails to place children at the centre of the Regulation as is required under the governing statute, the *Child Youth and Family Services Act (CYFSA)*, and treats children who are in need of protection as deserving of potentially less qualified professional care, with fewer regulatory protections than other people receiving services from accredited social workers and social service workers.

Recommendations:

We have two recommendations that we propose are crucial to ensure that children – the most vulnerable members of our communities, at possibly the most vulnerable time of their lives - receive the care and protections that they deserve.

- 1) Children’s aid society staff who are required to complete a social work degree or diploma, must also be required to be members of the OCSWSSW, the governing professional regulator. This additional requirement is essential to ensure the protection of children, and to ensure that we act in their best interests. Acting in the best interests of children who are receiving child protection services is not only the right things to do, but is required by law under the *CYFSA*, and the United Nations *Convention on the Rights of Children* (UNCRC).

2) Professional credentials and professional qualification are important not only for Local Directors, but for other managers, and front-line staff as well. These requirements must not be limited in their application to Local Directors, but must extend to other children's aid society staff – as the title of the regulation would suggest. This ought to include local directors, supervisors, child protection workers, and adoption workers. These people have incredible powers related to children and families, and ought to be held to the most robust forms of accountability, standards of practice, and ethical obligation.

Discussion:

Children, and their families receiving services of children's aid societies are among the most vulnerable members of our community, and are receiving services at a time of crisis, having experienced traumatic circumstances. In fact, the experience of receiving children's aid services itself can be traumatizing. There is a substantial body of evidence that we have often failed to protect children, and in fact have done them harm in the name of providing child protection services. The *CYFSA* has been enacted in part to contribute to a sea change in the provision of these services. Among other things to ensure that the child is at the centre of all decision making – including decision making about how we ensure the most skilled professional services, and the most robust forms of accountability in the provision of those services.

The proposed Regulation, which requires a credential (completing a degree or diploma), but falls short of requiring professional accreditation, and only establishes this credential for one of the most senior levels of management, fails to ensure appropriate qualifications by failing to ensure the professional regulation of children's aid society staff. Which is what the Regulation is intended to do. Social Workers and Social Service Workers are regulated professionals in Ontario, regulated by the OCSWSSW. Anyone who has a social work credential is eligible to

be a registrant of that regulatory body – a member of the College. A registrant, or member, of the regulatory body is accountable to the regulator to practice in accordance with a code of ethics and standards of practice. The OCSWSSW has a complaints and discipline process that is designed to protect the public interest. The information about the members against whom findings of professional misconduct have been made is publicly available. In this case children who have been harmed, or are at risk of harm, are the public who are sought to be protected. We can think of no context where robust and comprehensive professional regulation, adherence to standards of practice, and ethical duties would be more important. Or a context where the ability to have complaints meaningfully addressed by the professional regulator is more crucial.

It is our submission that children, and families who are subject to children’s aid services, and are receiving services from someone who is required to have a social work degree or diploma, have a right to presume that person is professionally registered with the OCSWSSW. Someone who is able to use the professional designation, or title of social worker or social service worker. Just as someone receiving medical services from someone who has a medical degree, nursing services from someone who has a nursing degree or diploma, or legal services from someone who has credentials to practice law – and holds themselves out to be working in the profession – has the right to presume that those professional services are being provided by someone who is registered with the professional regulator. Children in care are deserving of protection, of public protection provided for by professional regulation of service providers. Children’s aid society staff who have a social work degree or diploma, and who are providing social work or social services worker services, should actually be “social workers” or “social service workers”. People providing service of this gravity and significance should be regulated professionals under the laws of Ontario. And this professional designation should not be reserved only for Local Directors, but should be required

of all credentialed staff, including Supervisors, Child Protection Workers, and Adoption Workers.

The CYFSA promises to provide services that are child-centred, that are preventative and strengths based, that respect diversity and the principle of inclusion consistent with the *Human Rights Code* and the *Charter*. Services that seek to address social, cultural and historic disadvantage and harm, systemic racism, and other systemic biases. Services that respect the security, dignity and rights of children. These are complex services being provided in grave circumstances, that have potentially profound consequences. The circumstances engage the *Charter's* life, liberty, and security of the person interests.

Professional credentials and professional regulation go hand in hand, and are both part of ensuring quality service, with meaningful safeguards for possible complaints and discipline. Children and families receiving services are often wholly reliant on the professionalism, skill and integrity of children's aid society staff to prevent negative, even terrible outcomes. It is our submission that the recommendations we described above are required in order to ensure that the best interests of the children receiving children's aid services are safeguarded, and that the dignity, security and rights of children are made concrete and secure. Children in need of protection are no less deserving of meaningful standards of professional service, regulatory oversight protections, and meaningful complaint mechanisms than people receiving social work services outside the context of children's aid. Additionally, workers who might fail to meet professional standards should not be permitted to escape regulatory oversight, including the public awareness of sub-standard professional performance, because they work in child protection services. Children who are provided protection services ought to be provided with more care and protection of the professionals who provide service not less.

Thank you for the opportunity to make these submissions. Please contact us if you have any questions or if we can be of further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mary Birdsell", with a long horizontal flourish extending to the right.

Mary Birdsell

JUSTICE FOR CHILDREN AND YOUTH

Appendix A

Who We Are: Justice for Children and Youth (JFCY)

JFCY is a specialty legal clinic funded by Legal Aid Ontario. We are a child rights organization. For almost 40 years our practice has focused exclusively on the legal issues facing children and youth. We are the only such organization in Canada. We provide legal services, including legal information, advice and representation to low-income children and youth across Ontario in a variety of legal areas including child welfare, youth criminal justice, education, child support, social assistance, privacy, health, mental health, immigration, and others. We also provide public legal education for young people, and adults, including professionals, who work with young people; and engage in law reform initiatives regarding child and youth rights.

In addition to providing direct service to individual youth, JFCY acts in ‘test case’ litigation to assist courts in addressing child and youth rights issues – including acting as *amicus curiae*, and intervening at Courts of Appeal and the Supreme Court of Canada.

Most of our clients have multiple legal concerns, and come to us with complex personal, social and legal issues. JFCY clients are frequently involved in the child welfare system - they are often Society or Crown Wards, are otherwise in care, or their families are accessing voluntary services. Our clients are also frequently involved in the youth criminal justice system, many are affected by both systems simultaneously. Further, our clients are often facing legal issues in schools, in the mental health system, and in many other contexts including social welfare, employment, and housing. They face social, legal, and historical discrimination and barriers in many contexts.

JFCY also operates a unique legal service that is specifically directed at homeless, street involved and unstably housed young people – Street Youth Legal Services

(SYLS). For almost 20 years, SYLS has provided legal services to street involved young people, 16 – 24 years old, on a wide range of legal matters. SYLS provides legal education to street youth and street youth-serving agency staff, and has taken part in research, advocacy and litigation on issues affecting street-involved young people. A key component of the SYLS program is providing legal options to unstably housed young people to help them find the support necessary to stabilize their lives. Many of these young people, although involved in the child protection / welfare system, still find themselves homeless.

Our submissions and recommendations are based on our unique perspective and extensive experience providing services, education and advocacy for children and youth across many legal contexts.