

Newfoundland & Labrador Association of
Social Workers

**STANDARDS FOR
CHILD CUSTODY & ACCESS ASSESSMENTS**
(Explanatory Document)

Adopted January 8, 2007

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Note: Social workers have a responsibility to be aware of and adhere to the NLASW (2018) Standards of Practice for Social Workers in NL, the CASW (2005) Code of Ethics and the CASW (2005) Guidelines for Ethical Practice.

Prior to the adoption of the NLASW (2018) Standards of Practice, NLASW produced standards that highlighted best practices pertaining to child custody and access assessments. These child custody and access assessment standards are incorporated into 2018 Standards of Practice. This explanatory document is a companion document to the 2018 Standards of Practice.

INTRODUCTION

Social workers bring a unique skill set to work with individuals, families and communities. These skills are transferable across many different disciplines and modes of practice. Increasingly, social workers are contracted to work with families and couples in situations of domestic dispute to evaluate child custody and access arrangements. Typically, this evaluation is ordered by the court, and in some situations, initiated by the parents or legal guardians. Social work brings a unique “person in environment” approach to clinical assessment and evaluation in this complex area of practice. In addition, social workers bring an understanding of the intricate issues impacting on the lives of children and their families going through separation or divorce.

STANDARDS FOR CHILD CUSTODY AND ACCESS ASSESSMENTS

Standard 1

Assessments are grounded in the values, ethics and philosophy of the social work profession and reflects adherence to the Canadian Association of Social Workers (CASW) 2005 Code of Ethics and (1995) Standards of Practice.

Standard 2

The best interest of children is the primary goal of child custody and access assessments and evaluations.

Standard 3

Interviews with parents and other collateral sources shall be completed to gather relevant information for the assessment. The social worker shall maintain a neutral relationship with both parents, and each shall be interviewed before recommendations for custody are documented.

Standard 4

Social workers shall have knowledge in family systems theory, child development, attachment theory, family violence and abuse, addictions, child welfare, mental health, grief and loss, and relevant legislation, including case law governing child custody.

Standard 5

Social workers shall have access to on-going supervision and/or consultation. .

Standard 6

Documentation of court assessments must adhere to the Newfoundland and Labrador Association of Social Workers (NLASW) Recording Standards and contain essential information that demonstrates best practice in child custody and access.

Standard 7

Conflicts of interest between the social worker and parties involved in the court assessment shall be disclosed before the onset of the professional relationship.

RATIONALE: THE PURPOSE OF THESE STANDARDS

Social work is a complex and evolving profession. In private and public practice areas there is a high degree of legal and ethical accountability. Social workers are required to adhere to Codes of Ethics, Standards of Practice, federal and provincial legislation and organizational policies.

These standards have been developed as a model of best practice for social workers working in the field of child custody. This document has been developed in consultation with social workers working in this practice area and is written in accordance with the (2005) CASW Code of Ethics and (1995) Standards of Practice.

The purpose of these standards are to a) provide guidelines for social workers completing child custody and access assessments, b) support social workers in assessing their own practice, c) demonstrate necessary competencies and skills, and d) educate employers and clients about the role of social work in child custody and access. As a specialized area of practice and with increasing complexity of child custody cases, it is imperative that social workers have standards of practice to guide their assessment work with children and families.

Employers are responsible for creating workplace conditions that allow for social workers to implement these standards in their work.

WHAT IS A CHILD CUSTODY & ACCESS ASSESSMENT?

Child custody and access assessments are used to assist families and the court in determining the best interests of children when there is a dispute about custody, and evaluating how best these needs can be met. The court will normally order an assessment when parents are not able to agree to a custody arrangement, when one or both parents ask the court to order an assessment, or in situations where mediation was unsuccessful. Occasionally, situations do arise in which both parents agree for a home study to be completed for use by the courts without a court order.

According to the American Psychological Association (1994) only a small percentage of families and couples will require court intervention in determining parenting arrangements and custody agreements. This is also the case for Newfoundland and Labrador. However, this small percentage consists of the families and individuals that are experiencing high conflict, tension, and anger. This conflict is often heightened by allegations of neglect, abuse, and violence.

The NASW (2005) asserts that the goals of child custody evaluations are to:

- a) identify the developmental needs of child(ren);*
- b) identify the strengths, vulnerabilities, and needs of all other members of the family;*
- c) identify the positive and negative family interactions;*
- d) develop a plan for custody and access utilizing the strengths of each individual that will serve the best interests of the child(ren) and within those parameters, the wishes and interests of the parents, and in most situations, provide them with an opportunity to share in the upbringing of their children; and*
- e) through a written report provide the court, parents, and attorneys with these recommendations and supporting data.*

(NASW, Model Standards of Practice for Child Custody Evaluations)

The assessment is one source of information used by the court in making child custody and access decisions. The courts have the final say in determining the child custody arrangements. This may include a judgment of sole custody for one parent or guardian, split custody, joint custody, or shared custody. Social workers are often called upon to make recommendations to the court about custody and access based on their assessment and involvement with the family.

For child custody and access assessments it is imperative that both parents are involved unless otherwise ordered by the court or mutually agreed upon by both parents.

STANDARDS FOR CHILD CUSTODY AND ACCESS ASSESSMENTS (ELABORATED)

Standard 1

Assessments are grounded in the values, ethics and philosophy of the social work profession and reflects adherence to the Canadian Association of Social Workers (CASW) 2005 Code of Ethics and Standards of Practice.

It is important that social workers possess an awareness of one's self and one's practice in relation to skills, knowledge and competencies for working in a highly confrontational and legal environment that is emotionally charged.

When social workers are faced with issues that are outside their area of expertise, they shall consult with external experts, while maintaining the confidentiality of the parents and families involved in the evaluation.

Standard 2

The best interest of children is the primary goal of child custody and access assessments and evaluations.

Banach (1998) notes that this is a standard used quite frequently within child welfare and family courts, and may mean different things to different people. For purposes of this document, the safety and well-being of children is paramount to the assessment process. The Children's Law Act (1990) outlines areas that the court will look for in determining the best interest of children (i.e. relationship between parents and children, views and preferences of child where appropriate, etc). It is important that the needs of each child in a family be assessed separately and objectively in terms of their emotional and physical needs, and each parent's ability to meet these needs. Therefore, it is important that all children of developmental age be interviewed by the social worker and observed together with each parent.

It is recommended that the social worker have advanced interviewing skills and a comfort level in working with children and youth. According to the Board of Registration for Social Workers in British Columbia (2002), "social workers should avoid asking children directly to choose which parent they would prefer to live with" (p. 9). However, it is acknowledged that in some situations it may be appropriate to talk with older children in the family and to obtain their views about living arrangements.

Standard 3

Interviews with parents and other collateral sources shall be completed to gather relevant information for the assessment. The social worker shall maintain a neutral relationship with both parents, and each must be interviewed before recommendations for custody are documented.

According to Palmer (2001) "the first and foremost rule should be to insist upon an evaluation of the entire family" (p. 1). Therefore, both parents should be interviewed when completing a child custody and access assessment to maintain the integrity of the assessment and to avoid biased information.

If one of the parents is not available or refuses to be interviewed, the reasons for this omission should be documented by the social worker. Direct observation is best, and while it is recognized that social workers may be provided with third party information and interpretations, it is important that this information is documented as such, and that recommendations are not made on the basis of this information.

Respective partners of one or both of parents who are involved in the care of children should also be interviewed with the parents and observed interacting with the children.

When the use of collateral resources such as teachers, physicians, day care providers, etc, is deemed necessary for the completion of the assessment, it is important to obtain the written consent of both parents which outlines the information that is being requested.

If the court orders one parent to pay for the assessment, or if one parent agrees to cover the assessment, fees should be discussed with the parents prior to social work involvement. Both parents need to understand that the courts own this information, regardless of who pays for it.

Standard 4

Social workers shall have knowledge in family systems theory, child development, attachment theory, family violence and abuse, addictions, child welfare, mental health, grief and loss, and relevant legislation, including case law governing child custody.

Assessments are typically carried out with families that are in high conflict, and whom are facing a multitude of complex issues. Therefore, it is essential that social workers have a thorough knowledge base of these issues and a strong theoretical background.

Child custody and access assessments are governed by the Children’s Law Act (1990), the Child, Youth and Family Services Act (1998), the Family Law Act (1990), the Divorce Act (1985), and the Unified Family Court Act (1990). Social workers should be aware of these laws, and other relevant laws as they are proclaimed, and the implications they have on their work.

It is important that social workers maintain current knowledge of the impacts of separation and divorce on children and families, and complete assessments that are well grounded in research and theory.

Standard 5

Social workers shall have access to on-going supervision and/or consultation.

Supervision and/or consultation are essential to the on-going professional development of social workers involved in this area of practice. This is not an entry level social work position. It is recommended that social workers have experience in child welfare, mental health and/or experience working with children and families, which can be enhanced through regular peer consultation and supervision. A record of supervision hours should be maintained if required for future reference.

Standard 6

Documentation of court assessments must adhere to the Newfoundland and Labrador Association of Newfoundland and Labrador (NLASW) Recording Standards and contain essential information that demonstrates best practice in child custody and access.

It is recognized that social workers will prepare documentation that is accessible for use by the courts, and that the format may vary depending on the theoretical style of the social worker. However, it is important that all assessments and recommendations be based upon objective facts.

Palmer (2001) notes that some of the key areas to include in the assessment are family background, education, employment, mental status, marital history, parenting capacity, history of substance use, and living and school arrangements intended for the children. The social worker should also document the procedures used to collect this information, including the use of secondary reports.

The NLASW also asserts that it is important for the social worker to document the strengths of the family and the wishes of the children and parents in informing the courts.

Standard 7

Conflicts of interest between the social worker and parties involved in the court assessment shall be disclosed before the onset of the professional relationship.

In situations where the social worker has had a previous relationship with the family, parents, and/or children, this should be openly disclosed to all parties to avoid an interpretation of bias. If possible, it is recommended that the social worker make a referral to another assessor.

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