

# S-209 COMMUNICATION WITH/FROM CHILDREN IN CARE



*In this document, the non implicit gender applies to both men and women.*

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(previously SE-10)

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## **Policy**

Foster parents must, within reason, respect the privacy and intimacy of the child placed in their care, in accordance with the habits of the foster family. Foster parents must always consider the child's well-being when he/she receives mail, visits or telephone calls.

Children are entitled to send and receive mail and email, make phone calls, and visit and receive visits from members of their biological families, except in cases of censorship, or where such limitations have been imposed by the court, or where they are not in the child's best interest and when the safety of the child and his/her foster home is compromised.

Of course, a ward of the Crown whose family of origin does not have visitation rights does not have the right to have conversations with his/her family of origin, to visit or receive visits from them, or to receive letters or other correspondence. However, if Valoris feels that contact or communication between a person and a ward of the Court are genuinely in their best interest and that no visitation order or openness order according to part VII of the Child and Family Services Act apply to them, Valoris may allow such contact or communication.

## **Procedure**

### **1. Private Communication**

The child in care has a right to have private conversations and meetings with the following people:

- the child's welfare worker and other staff members of Valoris;
- the child's lawyer;
- a person who represents the child, including a counselor assigned by the Office of Child and Family Service Advocacy;
- the ombudsperson and a member of his/her staff;
- a deputy of the legislative Assembly of Ontario or the Parliament of Canada;
- a Ministry representative.

#### **1.1. Private communication between the child and his/her lawyer**

In order to respect the foster family's private life, the child's welfare worker will request that the child's lawyer notify the family 48 hours in advance, in order to make arrangements for a visit. The planning of this meeting must consider the routines and schedules of both the child and the foster family.

Foster parents must ensure that this meeting between the child and his/her lawyer takes place in private, allowing for confidentiality. The role of the lawyer during these meetings is to represent the child, and not evaluate the foster parents and the care they are providing to the child.

## **2. Mail**

Foster parents must immediately contact the child's welfare worker if they suspect that mail destined to a child contains dangerous or illegal items or items prohibited by the Agency. In such instances, mail may be opened and inspected in the child's presence by the child welfare worker or another Agency representative.

Child welfare workers or Agency representatives who have reasonable doubt that the content of the mail may cause physical or emotional harm to the child may examine or read the mail in their presence. This procedure must be well documented in the intervention notes.

Mail from the child's lawyer is confidential and may not be read or examined by the child's welfare worker, an Agency representative or the foster family.

## **3. Telephone calls to and from the child**

Foster parents must consider the safety and well-being of the child in care, and must inform the child's welfare worker if they believe that receiving mail or telephone calls may be harmful.

When the child's plan of care is being developed, the foster family, the child welfare worker and the child must discuss conditions regarding the child's telephone calls: length, frequency, time limit, supervision, and reimbursement of long-distance charges. These conditions must be reasonable and consistent with the foster family's habits.

## **4. Openness Order**

### **4.1. Application (Article 145.1)**

- The child must be a ward of the Crown and the subject of a plan for adoption
- No access order is in effect under the terms of Part III.
- Only the Agency having care and custody of the child may apply to the court for an openness order; this request must be made before the child's adoption order is made.
- The following individuals and organizations must consent to the openness order being made: the Agency, the child who is 12 years old or older, the person who the child will be permitted to communicate with or have a relationship with if the order is made, as well as the person with whom the Agency has placed or plans to place the child for adoption.
- In instances involving aboriginal children, a band member or a member of the aboriginal community who has no previous relationship with the child may be named by in the order.
- No order may be made once an adoption is official.
- The order will allow the child to pursue significant and meaningful relationships as long as these are in the child's best interests.

**4.2. Requests to vary or terminate the openness order prior to or following adoption (Articles 145.2 and 153.1)**

- Valoris or the person with whom the child has been placed for adoption may apply to have the court vary or terminate the openness order made under Article 145.1.
- Any of the following persons may apply to the court to vary or terminate an openness order after an order for adoption has been made: the child's adoptive father or mother, a person who is permitted to communicate with or have a relationship with the child, or the Agency supervising the arrangements under the openness order.

**5. Openness Agreements (article 153.6)**

Similar to an openness order, the child may have contact with his or her parents, as described in Section 5. In the case of an openness agreement, Valoris may be excluded. This agreement may be made at any time.

**6. Failure to respect agreements**

Once an adoption order has been made for the child, the parties involved may attempt through a prescribed method of alternative dispute resolution to resolve any dispute between them with respect to varying or terminating an openness order (153.1(10)),

There are no articles that deal with modifying, terminating or respecting openness agreements (153.6). However, the agreements may include a method of dispute resolution for any disagreements arising from the agreement.

**Definitions, annexes and references**

**Definitions**

**Parents:** The term "parents" includes biological and adoptive parents, stepfathers, stepmothers and any other person who is responsible for a child before Valoris intervenes.

**Communication:** Written, verbal or face-to-face contact with a child or an individual. Communication may be direct or indirect and allow disclosure of identifying information or otherwise. Frequency of contact may vary from periodic to continuous.

**References**

- *Foster Care Licensing Manual*, Ministry of Community and Social Services, 1999
  - 0203-05: *Correspondence and Communication*;
  - 0302-05: *Correspondence and Communication*.
- *Child and Family Services Act – Part 5; 2003*.