

July 2023



# NBASW Feedback for Child and Youth Advocate's Review of Policy 713

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*Submitted to*

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Youth Advocate





## **NBASW Feedback for Child and Youth Advocate's Review of Policy 713**

### **Introduction**

The New Brunswick Association of Social Workers (NBASW) is an organization representing more than 2,250 social workers across New Brunswick. The NBASW works to promote excellence in social work practice and to protect the public.

Social workers are regulated health professionals who respond to the needs of individuals, families, groups, and communities across New Brunswick. Working from a person-in-environment perspective, social workers understand individual challenges and experiences within the broader social context. Social workers understand that people are influenced by their environments just as they influence their environments. They look at how family, community, legal, social, spiritual, and economic influences impact well-being and work to address any barriers that may exist. Social workers identify people who need help and then work with those people to improve their situations.

Social justice is a core social work value and social workers work every day to support the well-being of all individuals and protect the most vulnerable in our society. Providing vital services to the citizens of New Brunswick, social workers work in a wide variety of settings, including school systems. Social workers work with some of society's most vulnerable individuals, including children and youth who identify as being part of the lesbian, gay, bisexual, trans, queer, intersex, asexual, and two-spirited (LGBTQIA2+) community and will forever work to bolster their rights, well-being, and safety.

### **Policy 713**

Since coming into effect in 2020, Policy 713 has set minimum requirements for schools to create a safe and welcoming environment for LGBTQIA2+ students. It is crucial that the original Policy 713 be maintained so that students may continue to self-identify and express themselves without fear of consequence. Social workers often work with people experiencing trauma and crisis, including a growing number of LGBTQIA2+ youth, and any removal of the Policy's requirements puts marginalized youth at risk.

Teachers and all other school personnel should be required to use the preferred names or pronouns for students under 16 without parental consent. It is a matter of respect for students; it is a matter of safety when it comes to LGBTQIA2+ youth. Students have the right to be referred to by their preferred nickname, so why should a preferred name or pronoun be viewed any

differently? Having teachers find out whether a name preference is based on gender identity mandates discrimination against LGBTQIA2+ students. This is unacceptable.

LGBTQIA2+ individuals continue to be marginalized by society and face an array of challenges not experienced by cisgender folks including socioeconomic disadvantages, in addition to experiencing poorer mental and physical health outcomes. These disparities are exacerbated by a lack of support and understanding provided by the community. It is known that LGBTQIA2+ youth are also at a greater risk of experiencing bullying, violence, and suicide. Having safe and accepting families and communities is a protective factor and New Brunswick's school system must do everything it can to educate young New Brunswickers and provide a safe and inclusive learning environment for all students.

As social workers know all too well, not all children come from safe and supportive families. Sadly, home is not always a safe place for children and youth. Including a requirement for parents to provide consent for children under 16 to use their chosen names and pronouns imposes harm on LGBTQIA2+ children and youth in a multitude of ways. Not respecting people's preferred names, pronouns and misgendering them as a result is a form of discrimination. At the same time, children shouldn't be forced to come out to anyone, including their parents, until they are ready to. There is the potential for parents to have a wide range of reactions to having their child come out, some positive and others not. Children should be supported in disclosing this personal information to their parents only when they are ready and able to do so.

It is vital that the provincial school system properly educates students and prepares them for the real world, a world that is full of diversity. The school system must be designed in a way that provides psychological safety to students through instilling the value of acceptance and celebrates the diversity of all peoples. This includes providing an affirming education that includes educating New Brunswick students on the spectrum of gender identities and sexualities that exist. It also includes an inherent acceptance of gender expression, identities, and preferred pronouns.

New Brunswick's school system must be structured in a way that bolsters the rights and well-being of children. There must be policies in place that provide safety for New Brunswickers, particularly some of our youngest and most vulnerable citizens. Throughout the process of the government's initial review of Policy 713 many New Brunswickers, particularly young New Brunswickers, have rallied in support of Policy 713. It is clear that the policy as originally written, and the protections it offers, resonates with New Brunswickers of all ages, sexual orientations, and gender identities.

Beyond being a basic mark of respect, respecting the chosen names and identities of children and youth provides affirmation, which is a known protective factor against serious mental health challenges for transgender and non-binary kids. Transgender and nonbinary youths experience decreased social support and increased stigma and discrimination, leading to them to more often

experiencing poor mental health outcomes.<sup>1</sup> Countless studies have found that affirmation can offset the negative psychological effects of social oppression and is a predictor of lower rates of depression and higher levels of self-esteem, while no affirmation is associated with greater rates of depression and suicidal ideation.<sup>2</sup>

Mental health is a huge component of well-being with mental health struggles being particularly salient among school aged New Brunswickers. The New Brunswick Health Council's New Brunswick Student Wellness Survey is conducted in all provincial public schools and aims to evaluate several aspects of student wellness, including social and emotional development, physical health, substance use, and experiences at school and in the community.<sup>3</sup> Recent survey results found that symptoms of anxiety and depression are increasing among grade 6 to 12 students, with half reporting experiencing symptoms.<sup>4</sup> The survey also found that mental health concerns are especially high for non-binary individuals.<sup>5</sup>

The 2019 New Brunswick Education Summit noted that teachers and students recognize that mental health struggles disrupt classroom learning, hurting both the students affected and those around them. The report also states that mental health professionals are in short supply, with the need continuing to increase exponentially.<sup>6</sup> Social workers are increasingly being employed within the school system and also play an important role on Child and Youth Teams within the Integrated Service Delivery (ISD) approach that brings Education and Early Childhood Development, Social Development, Health, Public Safety, school districts, and regional health authorities together to provide holistic support to students in need.

While school social workers are a new addition to New Brunswick school districts and their presence in provincial schools is currently limited, they are found to be valuable members of the

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<sup>1</sup> Tordoff, D., Wanta, J., Collin, A., Stepney, C., Inwards-Breland, D. & Ahrens, K. (2022). Mental health outcomes in transgender and nonbinary youths receiving gender-affirming care. *JAMA Network Open*, 5(2). 1-13.

<sup>2</sup> Glynn, T., Gamarel, K., Kahler, C., Iwamoto, M., Operario, D. & Nemoto, T. (2016). The role of gender affirmation in psychological well-being among transgender women. *Psychol Sex Orientat Gen Divers*, 3(3). 336-344.

<sup>3</sup> New Brunswick Health Council (n.d.). About the New Brunswick student wellness survey. Retrieved from <https://nbhc.ca/surveys/about-new-brunswick-student-wellness-survey>

<sup>4</sup> New Brunswick Health Council (n.d.). 2021-2022 student wellness survey 6-12: social and emotional development. Retrieved from <https://nbhc.ca/table/social-and-emotional-development?cuts=NB>

<sup>5</sup> Urquhart, M. (2022). Mental health declined in N.B. students, especially those identifying as non-binary. *CBC News*. Retrieved from <https://www.cbc.ca/news/canada/new-brunswick/nb-student-wellness-survey-results-1.6590152>

<sup>6</sup> Province of New Brunswick (2019). Succeeding at home: a green paper on education in New Brunswick. *New Brunswick Education Summit*. Retrieved from <https://www2.gnb.ca/content/dam/gnb/Departments/ed/pdf/promo/summit/GreenPaper.pdf>



education teams, supporting students and their families in a timely manner and providing referrals to Child and Youth Team social workers, and other professionals, as needed. In using the person-in-environment perspective that is unique to the field of social work, school social workers understand the multitude of personal and societal factors that impact one's ability to learn and work with students and families facing challenges, while also providing ongoing prevention work with students of all ages.

## **Social Work Services with Minors**

As the regulatory body for social work in New Brunswick, the NBASW establishes the social work Code of Ethics, as well as the practice standards and guidelines that social workers are expected to abide by as a condition of licensure. In February 2021, the NBASW Board of Directors adopted the Standards Regarding the Capacity of Minors to Consent to Social Work Services.<sup>7</sup> These Standards consider the mature minor doctrine, a common law that indicates that minors who are capable of understanding the nature and consequences of the proposed treatment can consent to receiving services.

As per the mature minor doctrine, the Standards Regarding Capacity of Minors to Consent focus on the capacity of a minor to consent to social work services, rather than focusing on the individual's age. Before an individual can be considered a mature manor, social workers must assess whether the individual has the capacity to consent to services and must ensure that they demonstrate the necessary capacity indicators.

To provide further guidance to members on assessing capacity, the NBASW Board adopted the Guideline on Assessing the Capacity of Minors in February 2022.<sup>8</sup> While both the Standards and Guidelines are relatively new to the Association, it is not a new requirement for social workers to assess the capacity of clients, prior to providing services. This is an ethical principle that is highlighted in the NBASW Code of Ethics (2007) section on informed consent (section 1.4).<sup>9</sup>

The NBASW's goal is to remove barriers for children and youth seeking social work services and to provide clarity for members on what is expected of them. Currently, some employers are preventing social workers from practicing their full scope of practice and are continuing to require

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<sup>7</sup> New Brunswick Association of Social Workers (2021). Standards regarding the capacity of minors to consent to social work services. Retrieved from <https://www.nbasw-atsnb.ca/assets/Uploads/Standards-Regarding-Capacity-of-Minors-EN.pdf>

<sup>8</sup> New Brunswick Association of Social Workers (2022). Guidelines on assessing the capacity of minors. Retrieved from <https://www.nbasw-atsnb.ca/assets/Uploads/Guideline-on-Assessing-the-Capacity-of-Minors-EN2.pdf>

<sup>9</sup> New Brunswick Association of Social Workers (2007). Code of ethics. Retrieved from <https://www.nbasw-atsnb.ca/assets/Uploads/Complete-Code-of-Ethics2.pdf>

parental consent, prior to social work services being provided. While the NBASW has worked to remove barriers for minors wishing to access social work services, there continues to be major barriers within certain institutions who refuse to allow social workers to abide by the Associations directives.

By requiring social workers to receive consent from a parent or legal guardian of a minor, prior to providing services to that minor, institutions are creating barriers for children and youth and are not working in the best interest of the child. Not all children have parents/legal guardians that are willing and able to provide consent for them to receive services. The government must remove barriers to children and youth looking to access social work services, across organizations, and must ensure that all policies serve the best interest of children and youth.

The Medical Consent of Minors Act, as it's currently written, outlines the criteria needed for a minor to demonstrate capacity to consent to medical treatment and lists a few professions which the legislation applies to.<sup>10</sup> The legislation does not include social workers or apply to social work services, but it was amended in 2021 to include Licensed Practical Nurses (LPNs). The NBASW tried to get the profession of social work added at the time but the addition was denied, with the reason being that the legislation does not apply to mental health and addiction services.

Currently, children can consent to receiving medical treatment, under the Medical Consent of Minors Act, when they are deemed competent to do so, as the legislation does not include any minimum age. If children can consent to medical treatments without parental consent, based on individual capacity, they must be able to do the same when accessing mental health services such as social work services. Logically, children must also be able to use their preferred names and pronouns within educational institutions without parental consent, as the threshold and risk of harm posed in doing so is practically non-existent, whereas the harm caused by refusing to use a child's preferred name and pronouns is known to be a significant cause of harm.

## **Conclusion**

The government must reinstate Policy 713 as it was previously written and must once again require teachers to use the preferred names and pronouns of students under 16 years of age without parental consent. Any future changes to the policy must be done in consultation with the communities that are most affected by the changes. In this case, changes to the policy would only be appropriate following substantive consultation with LGBTQIA2+ students. Thorough impact assessments must also be completed, prior to any policy changes being made. All government

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<sup>10</sup> Department of Health (1976). Medical consent of minors act. Retrieved from <https://laws.gnb.ca/en/showdoc/cs/M-6.1>



systems must serve to enhance the rights of children and youth and must work in their best interest.

The rights of children and youth must be bolstered across organizations and the government should also recognize the Mature Minor Doctrine when it comes to the provision of mental health services. It is critical to remove barriers for children and youth wishing to access mental health services and allowing social workers to practice their full scope of practice, across organizations, is key in doing so.