



# Submission to the Select Standing Committee on Children and Youth on the Review of the Representative for Children and Youth Act

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Inclusion BC — July 2022

## Territorial & Land Acknowledgment

Inclusion BC would like to acknowledge that our head office is located in the traditional, ancestral, and unceded lands of the QayQayt First Nation, and that our staff and board members live and work in the unceded lands of Indigenous Nations across the province. We recognize and support the inherent Indigenous rights and titles throughout the province of British Columbia, the implementation of the UN Declaration on the Rights of Indigenous Peoples, the 94 calls to action by the Truth and Reconciliation Commission, and the British Columbian Declaration on the Rights of Indigenous Peoples Act.

## About Inclusion BC

We are a non-profit federation working with our partners to build community and enhance the lives of children, youth, and adults with intellectual and developmental disabilities, and their families. We do this by supporting people's abilities, promoting positive action, and advocating for rights, responsibilities, and social justice. We are supported by a membership of individuals, families, and 65-member organizations who are working together to build inclusive communities across our province.

## Our vision is a world where everybody belongs.

Inclusion BC appreciates the opportunity to provide a submission to the Select Standing Committee on Children and Youth on the Review of the Representative for Children and Youth Act.

In this brief we identify key points as to why expanding the mandate of the Representative would be beneficial for children, youth and young adults with disabilities and their rights. We have read the Representative's submission, and we echo and, in some parts, expand on their recommendations.

The Representative for Children and Youth plays a significant role in advocating for the rights of children, youth, and young adults with disabilities in B.C. This particularly vulnerable group receives services and supports that go beyond only the Ministry of Children and Family Development and an integrated, whole-child approach to the advocacy and monitoring of the services that impact their lives is necessary. We believe expanding the mandate of the Representative is very much needed to ensure that, when the Representative needs to be involved, they are able to inquire and advocate in all necessary areas to advance the child or youth rights. Children and youth lives' do not unfold in silos that follow government structures, a holistic view is necessary to properly address their needs.

## Our Community Inclusion Advocacy Program

Inclusion BC provides individual advocacy support to children, youth, and adults with disabilities and their families through our Community Inclusion Advocacy Program. We support an average of 1000 situations every year, 52% of these situations involve a child or youth. Every story involves a person who is experiencing barriers to inclusion in community and whose rights are not being fully realized. Our knowledgeable advocates journey by people's side offering information about their rights, options for resources and supports, and explaining systems' structures. We support them to develop a plan and empower them to advocate for their loved one. When we get involved we bring a rights-based, collaborative, and person-centred approach with the focus on supporting people to exercise their rights and access the supports and accommodations they need.

The main trends and themes that emerged from our Advocacy Program in the last year include issues about education (41%), transition and supports by Community Living BC (CLBC) (14%), early childhood and supports by the Ministry of Children and Family Development (9%), health - mostly access Nursing Support Services for children (4%), among others. Our continuous concern are the challenges children experience to have equitable access to education, which is the topic that dominates our advocacy work. During their K-12 educational years, children are in their most important formative time. The School Act and its regulations establish an inclusive education system in BC. Nevertheless, students with and without disabilities across the province are learning that it is acceptable to exclude a child from a school through different actions. Exclusion manifests in multiple ways like segregated programs, reduced hours of school, exclusion from fieldtrips, non-accessible playgrounds, among many others. The impact that these exclusions have on children when they are forming their identity and establishing their place in the world are significantly detrimental for their adult years.

The exclusions in education have an impact on services provided by the Ministry of Children and Family Development. Parents have to find care for their children so they can work and provide for them. When equitable access to education is denied to a student, their families enter into crises. As families look to the Ministry of Children and Family for support, they found very limited options to meet their needs.

We constantly emphasize the need for inter-ministerial collaborations as a key element to address the needs of children and youth. This becomes even more relevant when it involves a child or youth with medical complexities. The transition from youth to adult services is a stage where families largely struggle to secure the supports their child need as they move into adulthood. People eligible to services by Community Living BC who needs specialized health supports can go from a suite of services - if they received them - to a vacuum and it has become another time when parents reach out for support to advocate for their child's rights.

The Nursing Support Services program provided by the Ministry of Health to children and youth, becomes a critical support to ensure a child or youth can access their education and community, as well as providing much needed respite for families. There are several issues with this program that range from eligibility criteria to fulfilling the full number of nursing support hours a child has been deemed eligible for. Families who are already stretched trying to care for their youth are required to advocate strongly if they want to secure some level of services and supports. Many of them are fearful of losing what they are receiving, even if inadequate, if they increase their advocacy.

As youth with medical complexities transition to services by Community Living BC, the RCY advocates are not able to offer advocacy in the whole range of issues needed such as mental health, housing supports, and financial supports.

The complexity and scarcity of systems of support in BC have made it necessary for families to learn to advocate strongly or have an advocate by their side when they are being dismissed by people in positions of power. Depending on the complexity of the situation, it becomes necessary not only to have a community-based knowledgeable advocate but an advocate with a legislated mandate to ensure the rights and interests of children, youth and their families are protected and advanced. This is where the advocates from the Representative for Children and Youth have come in. However, the limitations of their mandate leave significant areas where they cannot advocate, like education and health.

Inclusion BC and RCY advocates have frequently collaborated in supporting children, youth, and their families in complex situations. Often times, while Inclusion BC advocates work on the education and health barriers, the RCY advocates work on those related to the Ministry of Children and Family Development. However, the type of inquiries and advocacy that the RCY can do become limited due to their mandate and leaves out education and health, two critically important systems.

## Expanding the RCY mandate

The Representative has articulated clearly in their submission for this process the importance of expanding the mandate of their office. Inclusion BC fully supports this approach and particularly to make the Representative's mandate broad enough to include all publicly funded services for all children and youth. As well as giving the Representative systemic advocacy functions in relations to services to young adults who were formerly in any type of care and young adults eligible or receiving services from Community Living BC. The way in which government organizes to deliver services most often does not align with how children's lives unfold and this leaves families dealing with a variety of ministries offices, different systems languages, and various disconnected processes, increasing their challenges and vulnerability. Extending the Representative's mandate for individual and systemic advocacy would increase the oversight of these systems and allow for systemic changes to emerge while children, youth, young adults and their families across the province are more supported in their advocacy to access the services and supports needed to live in community.

A specific addition to the Representative's recommendations is to also include the UN Convention on the Rights of Persons with Disabilities (UNCRPD) in the list of international human rights instruments that the Representative must take into account in carrying out their functions under the Act in relation to children, youth, and not only for young adults eligible for CLBC services.

The UNCRPD was created as a human rights instrument with an explicit social development dimension. Canada ratified the Convention in 2010 and accessed its Optional Protocol in 2018 creating a responsibility for all levels of Canadian government to uphold the rights recognized by the Convention. Of particular significance, is that the Convention advances a view of persons with disabilities, of all ages, as subject with rights, who are capable of exercising those rights.

Here are some of the articles that we invite the Select Standing Committee to review and strongly consider as you work on the Review of the RCY Act. They are all relevant to children and youth with disabilities rights and these are obligations Canada acquired when it ratified the UNCRPD and accessed its Optional Protocol.

### Article 7 – Children with Disabilities

*States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.*

Convention on the Rights of Persons with Disabilities, Article 7, para.1, United Nations

### Article 24 – Education

*States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning.*

Convention on the Rights of Persons with Disabilities, Article 24, para.1, United Nations

### Article 25 – Health

*States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability.*

Convention on the Rights of Persons with Disabilities, Article 25, para. 1, United Nations

### Article 26 – Habilitation and Rehabilitation

*States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organize, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services.*

Convention on the Rights of Persons with Disabilities, Article 26, para. 1, United Nations

### Article 28 – Adequate Standard of Living and Social Protection

*States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.*

Convention on the Rights of Persons with Disabilities, Article 28, para. 1, United Nations

International human rights instruments such as the UN Convention on the Rights of the Child, (UNCRC), the UN Convention on the Rights of Persons with Disabilities, and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) emphasize the importance of protecting children and youth rights and are essential to guiding the work of governments and societies at large. While at the national and provincial level, it is the Canadian Charter of Rights and Freedoms and the BC Human Rights Code that provide the more specific legal mechanisms to uphold them.

All these different levels of legal frameworks must ensure the protection of children and youth rights. For children and youth with disabilities, it is imperative to take a rights-based approach to all the services and supports that impact them. The long-standing charity view to fulfilling their needs and providing the accommodations they are entitled to continues to prevent them from having fully inclusive lives in their communities of choice.

The expansion of the Representative's mandate could also lead to gathering more specific data on children and youth with disabilities. Inclusion BC has been emphasizing in our various submissions the significance of data collection. We said:

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*“As a province, we have mostly decentralized this responsibility to regional bodies. People across all levels of our systems - from the early years to their senior years - spend years of their lives waiting for essential supports and services without much notice, attention, or accountability. Accurate data collection and its use for the adequate review of policies and the corresponding allocation of resources are critically needed.”*

From Inclusion BC's submission for Budget 2023

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We view data collection as a mechanism to increase transparency and accountability which needs to be built into the network of supports for people with disabilities in our province. This is another responsibility Canada and all the provinces acquired by adopting the UNCRPD, specifically Article 31 – Statistics and Data Collection.

## Article 31 – Statistics and Data Collection

*States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention.*

Convention on the Rights of Persons with Disabilities, Article 31, para. 1, United Nations

We support the Representative's recommendation to expand their mandate to give them authority to monitor, review, audit and conduct research in respect to quality assurance processes for all designated services.

Children and youth with disabilities should be able to access the supports needed and receive the necessary accommodations to exercise all their rights. While we work towards this goal, the Representative for Children and Youth plays a fundamental oversight role with both their individual and systemic advocacy.



## Summary of recommendations:

- Expand the mandate of the Representative to include all publicly funded services that impact children and youth with disabilities: education, health, childcare, mental health or any other.
- Expand mandate of the Representative to include young adults under any status or agreement under the Child and Family Community Act without restriction of the time when they were in care and to ensure this includes children and youth who have been under voluntary or special needs agreements.
- Include the UN Convention on the Rights of Persons with Disabilities (UNCRPD) in the list of international human rights instruments that the Representative must take into account in carrying out their functions under the Act in relation to children, youth, and young adults.
- Expand the mandate of the Representative to give them authority to monitor, review, audit and conduct research in respect to quality assurance processes for all designated services.



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