

GUIDELINES ON RELIGIOUS INSTRUCTION FOR CHILDREN AND YOUNG PERSONS IN OUT-OF-HOME CARE

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1. LEGISLATION

Section 157 (4) of the *Children and Young Persons (Care and Protection) Act 1998* states that an authorised carer:

- a) may provide a child or young person with whatever religious instruction (if any) the authorised carer considers to be appropriate; and
- b) may allow the child or young person to participate in religious activities,

unless a direction to the contrary has been given to an authorised carer by the designated agency responsible for the placement of the child or young person or the Children's Guardian.

In providing religious instruction a carer must also act in accordance with the principles of the Act as set out in section 9, namely

Principle 9(b)

Wherever a child or young person is able to form his or her own views on a matter concerning his or her welfare, he or she must be given an opportunity to express those views freely and those views are to be given due weight in accordance with the developmental capacity of the child or young person and the circumstances.

Principle 9(e)

If a child or young person is temporarily or permanently deprived of his or her family environment, or cannot be allowed to remain in that environment in his or her best interests, the child or young person is entitled to special protection and assistance from the State, and his or her name, identity, language, cultural and religious ties should, as far as possible, be preserved.¹

¹ Section 9 (b)(e) *Children and Young Persons (Care and Protection) Act 1998*

Section 10 of the *Children and Young Persons (Care and Protection) Act 1998* outlines the principle of participation in respect of children and young persons in out-of-home care and decisions that are likely to have a significant impact on their lives.

Within the *Children and Young Persons (Care and Protection) Regulation 2000* the authorised carer is required under schedule 2 section 4 (c) and schedule 3 section 2 (d) to preserve wherever possible the child or young person's religion. The care plan is required under Part 4, section 12 (2) (d) and section 13 (2) (d) to include information on the '*ethnic background and religion of the child or young person.*'

2. BACKGROUND

There are several guiding principles which inform the provision of religious instruction of children and young people in out-of-home care.

The United Nations Convention on the Rights of the Child, to which Australia is a party, states that when considering state care placements for a child or young person:

Due regard (must be given) to continuity in a child's upbringing and to the child's religious, cultural and linguistic background. (Article 20)²

The interagency guidelines also state that when case planning with children and young people, they have the right to:

*Respect for their culture, child rearing customs and religious beliefs*³.

If no direction were issued a carer could, under the Act, provide religious instruction as they see fit and even regardless of the child's or young person's views, the wishes of the parents or the requirements of the care plan. Whilst the giving of a direction could be left to the discretion of each designated agency, such an approach will result in a range of directions and practices.

Any religious instruction for children and young people should be consistent with the contents of the care plan and discussion with the significant parties. Children and young people should not be coerced or compelled to attend any religious activity nor is such a requirement to be made a condition of the placement. The views of the child or young person need to be considered as is appropriate to their age.

² United Nations Convention On The Rights Of The Child, Article 20

³ *New South Wales Interagency Guidelines for Child Protection Intervention*, p57

3. RELIGIOUS INSTRUCTION AND COURT ORDERED OUT-OF-HOME CARE

Religious instruction and/or activity should be discussed and included in the care plan. Consideration should be given to the purpose of the out-of-home placement, the proposed duration and the notion of permanency planning. The impact of changing or introducing a religion to a child or young person should be considered and discussed with the parent(s) where appropriate.

Authorised carers should not give religious instruction contrary to any order of the Children's Court.

4. ABORIGINAL COMMUNITIES

Aboriginal religion and spirituality

Aboriginal spirituality in the past and present permeates all aspects of Aboriginal life. It is often not possible to separate spirituality from other aspects of Aboriginal culture and identity. Edwards (1994) said, "*The roots of contemporary Aboriginal spirituality lie in a variety of traditions and experiences. First and foremost are the various stories, ceremonies, values and structures which sustained Aboriginal peoples throughout their long period of relatively unchallenged occupation of the continent*"⁴

Spirituality is inherent in all Aboriginal people in ways that are difficult to explain. It is the relationship with, respect and connection to land and environment, value systems, identifying with animals, significant landmarks, stories from the past and a sense of connection to Ancestral Beings. It is a feeling of belonging to a people who have lived on this land since the beginning of time, and recognising the expression of this through art, ceremony and an oral culture.

Aboriginal people live in diverse communities and their laws and practices reflect this diversity. It is always important to consult locally with Elders and communities to understand appropriate protocols.

The term the 'Dreaming' has come to mean religion and spirituality of Aboriginal communities. Tripcony (1996) states that there are problems with its usage as it is a non-Aboriginal anthropological term which, "*does not acknowledge the diversity amongst Aboriginal groups*".⁵

⁴ Edwards W, (1994) '*Living the Dreaming*', Chapter 5 in Bourke C.E & Edwards W. (Eds) *Aboriginal Australia* Brisbane: University of Queensland Press.

⁵ Tripcony P, Manager Oodgeroo Unit, Queensland University of Technology, paper presented at the National Conference of the Australian Association of Religious Education, September 1996.

Aboriginal people may have a range of religious affiliations and may choose to practice these in conjunction with their understanding of Aboriginal spirituality. These affiliations must also be taken into account when considering religious instruction.

Aboriginal Children and Young People

Aboriginal children and young people have a right to practice their own form of Aboriginal spirituality if they choose to.

There are situations where children and young people in out-of-home care may have become disconnected with family, community and culture. In fact their own family may not be in touch with their Aboriginality, due to the erosion of culture through colonisation, assimilation, the forced movement of Aboriginal people from their country and other past policies. The child or young person should ultimately be the one making the decision about whether they wish to explore their own culture further.

To facilitate this, designated agencies that have Aboriginal children and young people in their care should identify the relevant Aboriginal communities to which the child or young person belongs and liaise with them to identify:

- ? The child or young person's totem
- ? The child or young person's land or country
- ? Significant landmarks within the child or young person's country
- ? The language of the child or young person
- ? Whom the child or young person is related to, both blood and spirituality

It is a designated agency's responsibility to assist Aboriginal children and young people to foster relationships with their relatives and community or Elders from another community so that they have some connection to their spirituality. In some areas Aboriginal communities have designed programs, such as cultural camps, to assist people to understand and connect with their people.

Should a child or young person not wish to know about these issues now, they should be recorded for them, in case they wish to follow it up at a later date. It is also important information for them to pass on to their own children once they are adults and have their own families.

If there is a significant event or ceremony that a child or young person must attend within their community, they should be supported in doing so. It is imperative that a child or young person with strong ties to their community have these ties maintained and their cultural practices respected and acknowledged. Such bonds to community are a part of who they are and will assist them in forming a strong Aboriginal identity.

5. DIRECTION REGARDING RELIGIOUS INSTRUCTION

The attached direction has been prepared to ensure the directions about the provision of religious instruction by authorised carers are uniformly appropriate to the circumstances of each child and young person in out-of-home care. In accordance with section 157(4) the direction is to be observed by authorised carers, (both foster carers and principal officers) who are not at liberty to provide religious instruction contrary to this direction.

CHILDREN'S GUARDIAN'S DIRECTION

I, Gillian Calvert, Acting Children's Guardian, under section 157(4) of the *Children and Young Persons (Care and Protection) Act 1998* hereby direct that when providing religious instruction to a child or young person in out-of-home care, an authorised carer:

- Must have regard to the views of the child or young person regarding their willingness to receive religious instruction.
- Is not to coerce or compel a child or young person to attend or participate in any religious instruction, activity or teaching.
- Even if they are the same religion as the child or young person, is not to provide a level of religious instruction that will interfere with a restoration plan.
- If of a different religion, is not to provide religious instruction in the carer's religion, if restoration of the child or young person is the goal.
- May provide religious instruction to a child or young person in long term care, even if in a different religion to that in which the child or young person has been raised, providing it is part of an approved case plan.
- Is not at liberty to give religious instruction contrary to these directions.

Gillian Calvert
Acting Children's Guardian
12 January 2005