

Information and Privacy Commissioner,  
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,  
Ontario, Canada

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## CYFSA DECISION 29

Complaint FA21-00069

Jewish Family and Child Service of Greater Toronto

April 30, 2025

**Summary:** The complainants were foster parents, for half a year, to a child in the temporary care of the Jewish Family and Child Service of Greater Toronto (JFCS). They asked the JFCS for access to all records about them. The JFCS released some information to them but withheld a home study (Structure Analysis Family Evaluation), records of their complaint to the JFCS's Internal Complaint Review Panel, and information that it claims is legally privileged. The complainants argued they should be granted access to these records.

The adjudicator determines that the complainants do not have a right of access to the records under section 312(1) of the *Child, Youth and Family Services Act* and she dismisses the complaint.

**Statutes Considered:** *Child, Youth and Family Services Act, 2017*, SO 2017, c 14, Sch 1, sections 2(1) (definitions of "foster care," "foster parent," "society," "service," "service provider"), 74(1) (definition of "parent"), 281 (definition of "service") and 312(1).

**Decisions Considered:** CYFSA Decisions 1, 3 and 5.

### BACKGROUND:

[1] This decision considers an access request made by two former foster parents under Part X of the *Child, Youth and Family Services Act, 2017* (the *Act*). It determines that the former foster parents have no right of access to the records at issue under the *Act* because the records do not relate to the provision of a service to them within the meaning of the *Act*.

[2] The complainants are a married couple who were foster parents to a child in the temporary care of the Jewish Family and Child Service of Greater Toronto (JFCS).<sup>1</sup> During their six months of providing foster care, the complainants started the adoption application process with the JFCS to adopt the child. That adoption application process was discontinued. The complainants then submitted a request to the JFCS for access to all records about them, including any new information going forward.

[3] In response to the request, the JFCS issued a decision letter (2021 decision), granting the complainants access to records responsive to their request. The JFCS's 2021 decision letter stated that "access to records pertaining to provision of services to [the complainants]" was "provided in full."

[4] The complainants were dissatisfied with the JFCS's decision because they believed more responsive records exist for a specific two-year period. They filed a complaint with the Information and Privacy Commissioner of Ontario (the IPC) challenging the reasonableness of the JFCS's search for records responsive to their access request.

[5] The IPC attempted to mediate the complaint. During mediation, the JFCS sent the complainants a supplemental decision letter (2022 decision). In its 2022 decision, the JFCS stated that it had located "additional records dedicated primarily to services" the complainants received. The JFCS granted the complainants complete access to some of these additional records and partial access to others. It explained that it had withheld some information in the additional records, under the section 312(1)(a) legal privilege exemption to the right of access, because "the record is subject to a legal privilege that restricts disclosure of the record to the client."

[6] The complainants continued to challenge the JFCS's search because they believed that more records exist, including records of a home study – the Structure Analysis Family Evaluation (SAFE) home study – and about a complaint they had filed with the JFCS in 2022. The complainants also raised concerns about the information the JFCS had withheld under section 312(1)(a) of the *Act*.

[7] The JFCS responded to the complainants' search and section 312(1)(a) concerns. Regarding its search, the JFCS stated that the SAFE home study (a ministry-mandated assessment tool used to evaluate the capacities of applicants for fostering or adopting) and the records of the complaint filed with the JFCS Internal Complaint Review Panel (about the complainants' experiences with the JFCS's process) were not a "service" for the purposes of section 312(1) of the *Act* and, therefore, the JFCS did not provide those records to the complainants. Regarding the complainants' request for ongoing access, the JFCS stated that because the complainants' involvement with it had ended, it would not generate any new information or records about them going forward.

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<sup>1</sup> As a designated children's aid society under section 34(1) of the *Act*, the JFCS is a "society" and "service provider" within the meaning of section 2(1) of the *Act* and is subject to the requirements of Part X of the *Act*.

[8] At the conclusion of mediation, the complainants confirmed that they were satisfied with the JFCS's search for responsive records. However, they maintained their objection to information being withheld under sections 312(1) and 312(1)(a) of the *Act* and asserted that they had a right of access to that information.

[9] The complaint was moved to the adjudication stage of the complaint process in which an adjudicator may conduct a review under the *Act*. I conducted a review, inviting and receiving representations from the JFCS and the complainants on various issues.

[10] In this decision, I find that the complainants do not have a right of access under section 312(1) of the *Act* to the records at issue because the records do not relate to the provision of a service to them.

## **RECORDS:**

[11] The records at issue are the SAFE home study, records regarding the complaint to the JFCS Internal Complaint Review Panel, and the information withheld on the basis of section 312(1)(a).

## **DISCUSSION:**

### **Do the complainants have a right of access to the records under section 312(1) of the *Act*?**

[12] The sole issue I determine in this decision is whether Part X of the *Act* grants the complainants a right of access to the records at issue. While I invited the parties' submissions on other issues during my review, I need not address any of those other issues due to my finding below that the complainants have no right of access under section 312(1) of the *Act* to the records at issue.

### **Section 312(1)**

[13] With limited exceptions, section 312(1) of the *Act* grants an individual a right of access to records of her own personal information in the service provider's custody or control that relate to the provision of a service to that individual. It states, in part:<sup>2</sup>

An individual has a right of access to a record of personal information about the individual that is in a service provider's custody or control and that relates to the provision of a service to the individual[.]

[14] The three requirements in section 312(1) for an individual to have a right of access

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<sup>2</sup> The remaining parts of section 312(1) are not relevant in this complaint.

to a record under Part X of the *Act* are:

1. the record must be a record of personal information about the individual,
2. the record must be in the service provider's custody or control, and
3. the record must relate to the provision of a service to that individual.

[15] All three requirements must be satisfied for section 312(1) to confer a right of access on an individual. In this complaint, the parties agree, and I find, that all the records at issue contain personal information about the complainants and are in the custody or control of the JFCS in satisfaction of the first two requirements of section 312(1). The third requirement, that the records must relate to the provision of a service to the complainants, is the focus of this decision.

***The "provision of a service" requirement in section 312(1)***

[16] In the Notice of Review that I sent to the parties, I asked them to address whether the records relate to the provision of a service to them within the meaning of section 312(1), with specific reference to the definitions of "service" in section 281 and in section 2(1) of the *Act*. Those definitions read, respectively:

"service" means a service or program that is provided or funded under this Act or provided under the authority of a licence[.]

. . .

"service" includes,

- (a) a service for a child with a developmental or physical disability or the child's family,
- (b) a mental health service for a child or the child's family,
- (c) a service related to residential care for a child,
- (d) a service for a child who is or may be in need of protection or the child's family,
- (e) a service related to adoption for a child, the child's family or others,
- (f) counselling for a child or the child's family,
- (g) a service for a child or the child's family that is in the nature of support or prevention and that is provided in the community,

(h) a service or program for or on behalf of a young person for the purposes of the *Youth Criminal Justice Act* (Canada) or the *Provincial Offences Act*, or

(i) a prescribed service[.]

[17] The Notice of Review also directed the parties to three IPC decisions that have considered section 312(1) of the *Act* and the “provision of a service” part of that section: CYFSA Decisions 1, 3 and 5. In those three decisions, the IPC determined that individuals who were not children and/or their families were not the recipients of a service for the purposes of section 312(1) of the *Act*. The three decisions confirm that there is no general right of access under the *Act* to a record of personal information about an individual; the right of access in Part X of the *Act* is limited to records that relate to the provision of service to an individual, which, in most circumstances, is limited to children and/or families who have been provided a service under the *Act*.

[18] In its representations, the JFCS argues that section 312(1) of the *Act* does not grant the complainants, as foster parents or in general, a right of access to the records at issue because they were not service recipients under the *Act*. As explained in more detail below, the JFCS submits that the records relate to the provision of a service to the complainants’ foster child and the child’s birth family. It submits that the complainants were not receiving services, but rather they were providing services<sup>3</sup> under their foster care service agreement with the JFCS.

[19] To support this argument, the JFCS relies on CYFSA Decisions 1, 3, and 5. It states that in those three decisions, which provide guidance on interpreting the right of access to records, as prescribed by section 312(1), the IPC accepted that children and their families are considered beneficiaries of services. It notes that the definition of “service” at section 2(1) of the *Act* provides a list of services relating to children and their families as service recipients. The JFCS adds that foster parents are not considered the child’s family and are specifically excluded from the definition of a parent in sections 2(1)<sup>4</sup> and

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<sup>3</sup> The JFCS’s repeatedly refers to the complainants as “service providers” in its representations. I do not understand the JFCS to be asserting that the complainants are a “service provider” under the *Act*, since that is a defined term in section 2(1) that specifically excludes foster parents:

“service provider” means,

(a) the Minister,

(b) a licensee,

(c) a person or entity, including a society, that provides a service funded under this Act, or

(d) a prescribed person or entity,

but does not include a foster parent[.]

I understand the JFCS to mean that the complainants provided foster care services and, in doing so, assisted the JFCS in its provision of a service to the child in its care.

<sup>4</sup> Section 2(1) of the *Act* states: “foster care” means the provision of residential care to a child, by and in the home of a person who,

(a) receives compensation for caring for the child, except under the Ontario Works Act, 1997 or the Ontario Disability Support Program Act, 1997, and

74(1)<sup>5</sup> of the *Act*.

[20] The complainants argue that they have a right of access under section 312(1) because the records relate to adoption application services they received from the JFCS. They assert that throughout their dealings with the JFCS they were adoption applicants, and they provide a copy of a letter from the JFCS in which their foster parenting is characterized as "foster with a view to adopt placement." The complainants also rely on the definition of "service" in paragraph (e) of the definition in section 2(1) of the *Act* and note that it includes "a service related to adoption for a child, the child's family or others."

[21] The complainants submit that all the records meet the "provision of a service" requirement in section 312(1). In support of their argument that the SAFE home study is a service they were provided, the complainants say the JFCS acknowledged it was and repeatedly confirmed that it would share a draft of the home study with them. They also assert that there is nothing in the *Act* that to indicate that because the SAFE home study was not completed it is not a service. In its representations, the JFCS explains that the complainants initially submitted an application to undergo a SAFE home study assessment for adoption and this was shifted from a general adoption home study to a child-specific home study following the placement of the foster child in the complainants' care.

[22] Regarding the complainants' argument that they received adoption application services, the JFCS responds that the complainants' engagement with it as foster parents does not fit within the meaning of a service in paragraph (e) of the definition in section 2(1) because they never received a service relating to the adoption of a child. The JFCS asserts that the complainants could not have received such a service because the child placed in their home was not available for adoption. It explains that, in their engagement with it, the complainants were foster parents with a view to adopt if a suitable placement was secured for a child available for adoption. The JFCS states that the complainants acted only as foster parents for a child in its temporary care in accordance with the foster care services agreement they signed with the JFCS.

[23] The JFCS further submits that foster parents are not service recipients; rather, they provide a service. It explains that foster parents and children's aid societies enter into written foster care service agreements, under section 131(1) of Ontario Regulation 156/18 to the *Act*, that set out: the respective roles and responsibilities of the foster parents and the society, the supports that the society will provide to the foster parents during the placement (i.e. relief services, supervision, professional consultation), financial compensation for the child's care, and stipulations about re-evaluating or terminating the placement and agreement. As a result, the JFCS argues that foster parents cannot be beneficiaries of a service provided by a children's aid society while acting in their role as

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(b) is not the child's parent or a person with whom the child has been placed for adoption under Part VIII (Adoption and Adoption Licensing),  
and "foster home" and "foster parent" have corresponding meanings[.]

<sup>5</sup> The definition of "parent" in section 74(1) states that when that term is "used in reference to a child," it "does not include a foster parent."

foster parents, since they have a contractual relationship with the children's aid society for the purposes of providing services to the children in their mutual care.

[24] In response, the complainants acknowledge that they may be determined to have acted solely as foster parents. If so, they state that the position of the JFCS – that foster parents are not possible service recipients – does not align with its prior statements, actions, or the fact that foster parents under the *Act* also require a home study to be approved. The complainants note that the JFCS regularly acknowledged providing them with services throughout their engagement with it. For example, the complainants contend that the JFCS accepted that the home study was a service provided to them for the purpose of their internal complaint, since it accepts internal complaints only about services sought or received. The complainants submit that services are not defined based on the nature of the recipient.

### ***Two CFSRB decisions regarding foster parents and services***

[25] Both parties refer to a 2021 decision<sup>6</sup> of the Child and Family Services Review Board (CFSRB) in which the CFSRB considered the definition of "service" in section 2(1) of the *Act*. The JFCS submits that the CFSRB determined in *JD* that the subject foster parent did not receive services from the children's aid society, but instead provided a service to it. It says that on this basis, the CFSRB found it lacked jurisdiction to review the matter. The JFCS submits that while the IPC is not bound by the decisions of the CFSRB, as a tribunal that regularly reviews matters relating to children and families serviced under the *Act*, the *JD* decision can provide guidance on the IPC's statutory interpretation of "service" and the *Act* to ensure consistency in how the *Act* is applied.

[26] The JFCS argues that the complainants' situation – acting as foster parents under a foster care service agreement – can be distinguished from situations where foster parents may receive services as care providers to a child who is or may be in need of protection.

[27] The complainants agree with the JFCS that I am not bound by the CFSRB's *JD* decision. However, they disagree that the *JD* decision can provide guidance on the IPC's interpretation of "service" in their complaint because of the distinguishing facts: that the applicant in the *JD* decision was seeking continued care of a former foster child, unlike their seeking access to records in this complaint. They also note that in another CFSRB decision, *HLB*,<sup>7</sup> cited in the *JD* decision, the CFSRB acknowledged that "foster parents or teachers who are the subject of an investigation by a society are receiving a service." They argue that the SAFE home study is a kind of investigation and, thus, a service. They assert that the JFCS repeatedly acknowledged that it provided the SAFE home study as a service to them and took the position that it had provided the SAFE home study as a

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<sup>6</sup> *JD v Children's Aid Society of the District of Sudbury and Manitoulin*, 2021 CFSRB 57 (CanLII). (*JD*) [2021 CFSRB 57 \(CanLII\)](#) | [JD v Children's Aid Society of the District of Sudbury and Manitoulin | CanLII](#)

<sup>7</sup> *HLB v Chatham-Kent Children's Services (CFSA s.68)*, 2012 CFSRB 4 (CanLII). (*HLB*) [2012 CFSRB 4 \(CanLII\)](#) | [H.L.B v. Chatham-Kent Children's Services \(CFSA s.68\) | CanLII](#)

service in their complaint. They further argue that the JFCS's investigation of their internal complaint made them recipients of a service in accordance with the reasoning in *JD* since that complaint review was like an investigation.

[28] The JFCS responds that it agrees with the finding in the *HLB* decision that foster parents who are the subject of a child protection investigation by a society are receiving a service for the purposes of the CFSRB's jurisdiction. However, the JFCS asserts that being a service recipient as the result of a child protection investigation does not automatically mean that the foster parents are service recipients in their larger role as care providers for children in care. The JFCS notes that paragraph 56 of the *HLB* decision alludes to this key distinction and reiterates that when foster parents are not subjects of an investigation, they are providers of a service only. The JFCS adds that there is no suggestion in the *HLB* decision that the definition of "investigation" can and should be extended to any other type of assessment conducted by a children's aid society, such as an internal complaint made to it. It notes that the reference to investigations in the *HLB* decision relates specifically to child protection investigations where foster parents, teachers and other community care providers can be investigated in relation to child protection allegations similar to investigations of neglect and abuse by parents.

**The records do not relate to the provision of a service to the complainants within the meaning of section 312(1) and the complainants do not have a right of access to them**

[29] Having considered the parties' representations and examined the records at issue, I am not satisfied that the "provision of service" requirement in section 312(1) of the *Act* is met in this complaint. I do not consider the SAFE home study, the records regarding the complaint to the JFCS Internal Complaint Review Panel, and the withheld information in the remaining records to relate to the JFCS's provision of a service to the complainants within the meaning of Part X. To the extent that these records relate to the provision of a service, it is more reasonable to conclude that they relate to the provision of a service to the child who was temporarily placed in the complainants' foster care. My reasons follow.

[30] I begin by noting that, in this complaint, I am being asked to decide whether the SAFE home study, the records regarding the complaint to the JFCS Internal Complaint Review Panel, and the withheld information at issue relate to the provision of a service to the complainants under Part X. In other words, I am being asked to decide whether the complainants have a right of access to these specific records under the *Act*. Clearly, the JFCS performs many functions, not all of which qualify as a service for the purpose of the access rights in Part X, and it may use the word service in the regular sense of that word, and in the statutory meaning contemplated by Part X of the *Act*.

[31] The complainants' arguments, that they received a service related to adoption for a child from the JFCS because they were foster parents who intended to adopt and because the JFCS repeatedly acknowledged the provision of a service to them, are not



persuasive. They do not lead me to conclude that the records at issue relate to the JFCS's provision of a service to the complainants within the meaning of section 312(1) of the *Act*. While I accept the complainants' submission about what the JFCS told them and recognize the inconsistency in the JFCS's position, those facts are not determinative. What is determinative in this complaint is how the provisions of the *Act* apply to the circumstances of the complaint and the records at issue. As illustrated in CYFSA Decisions 1, 3 and 5, interpreting the words of section 312(1) occurs in the context of the access rights and the overall scheme and purposes of the *Act*.

[32] I do not consider the records at issue to be records that relate to the provision of a service to the complainants sufficient to establish a right of access under section 312(1). While the records document certain functions performed by the JFCS in its engagement of the complainants as foster parents, the service recipient at the centre of these records is the child that the complainants temporarily fostered. In reaching this conclusion, I have considered the definition of "service" in section 2(1), and I am satisfied that none of the provisions or circumstances listed under that definition deems or requires the complainants to be viewed as service recipients under section 312(1) of the *Act*.

[33] In the definition of "service" at section 2(1) of the *Act*, all the listed examples specify that the service is "for a child" and in some cases "for a child or the child's family." The definition of "service" in paragraph (e) of the definition in section 2(1), which is relevant here, includes "a service related to adoption for a child, the child's family or others"; key in this provision is that the service related to adoption is for "the child, the child's family or others" meaning, the individuals to whom such records must relate are the "child, the child's family or others" receiving the service related to adoption. While the complainants argue they should be considered "others" within the meaning of this definition, I disagree for three reasons.

[34] First, section 74(1) of the *Act*, relied on by the JFCS, specifically excludes foster parents from the definition of "parent." Taken together, section 74(1) – defining foster care and foster parents – and the definition of "service" in paragraph (e) of the definition in section 2(1) – confirming that adoption services are for a child or the child's family – confirm that foster parents are distinct from adoptive parents and the family of a child receiving adoption services.

[35] Second, I accept the JFCS's submission that it did not provide the complainants a service related to adoption for a child within the meaning of paragraph (e) of the definition of "service" in section 2(1) of the *Act* because there was no child available for them to adopt. While section 2(1) contemplates "others" receiving a service related to adoption for a child, I am not satisfied that the complainants fit within that term because services related to adoption for a child were not provided to them. Given it does not arise on the facts of this case, I leave open whether foster parents could fall under the category of "others" where they were, separately from their status as foster parents, also in the process of being considered as an adoptive family for a particular child. Also, the *Act* confirms that an individual becomes an adoptive parent on the date that an adoption

order is made,<sup>8</sup> and there is no suggestion that the complainants became adoptive parents within the definition of the *Act*.

[36] Third, I do not accept that the way that the JFCS referred to the records is determinative. Although the JFCS may have used the word service to describe its engagement with the complainants and taken the position that it provided them a service, that word choice and position do not establish that all the records were records of a service and therefore accessible under section 312(1) of the *Act*. Not everything the JFCS does as a service provider falls within the meaning of a "service" under Part X. As noted above, the record must be about the provision of a service to the individual whose personal information is in the record.

[37] I am also not persuaded that the records at issue qualify as records relating to the provision of a service to the complainants within the meaning of paragraph (c) of the definition of service in section 2(1) or the definition at section 281 of the *Act*. Paragraph (c) of the definition of service in section 2(1), like paragraph (e) discussed above, indicates that the service defined therein is for the child – "a service related to residential care for a child." However, it is even more narrow than paragraph (e), which includes "the child's family or others." Considering the limiting words "for a child" in paragraph (c), the records at issue cannot be said to relate to the provision of a service to the complainants, who provided residential care, because they relate to the provision of "a service related to residential care for" the child in their temporary care. Section 281 is broader than the definition of service in section 2(1) and includes "a service or program that is provided or funded under this Act or provided under the authority of a licence." The parties do not rely on section 281 or suggest that the records at issue relate to the provision of a "program" within the meaning of section 281 of the *Act*.

[38] In the case of the SAFE home study, it is a record of a service provided by the JFCS for the child. The JFCS conducted the SAFE home study, at its own expense, to determine the suitability of placing the child with the complainants for a longer term. In its representations, the JFCS states that the SAFE home study at issue became a child specific SAFE home study – specific to the complainant's foster child – part way through the process. The complainants do not dispute this. The JFCS has a duty to ensure the safe placement of children; foster parents are required to have a SAFE home study. Thus, when it undertook the SAFE home study with the complainants and turned it into a child-specific SAFE home study, the JFCS was not providing a service to the complainants; rather, it was fulfilling its duty and performing a function for the provision of a service to the child in the complainant's temporary foster care. The SAFE home study is an assessment tool the JFCS must use, as a safety check, in order to place children under its care. In this sense, a home study is a safety or quality assurance record that assists children's aid societies in assessing whether foster parents qualify to provide fostering services; it is not a record of a service to foster parents.

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<sup>8</sup> Section 217 of the *Act*.

[39] As for the internal complaint review records, I am not satisfied that these are records relating to the provision of a service to the complainants within the meaning of Part X. I agree with the JFCS that these records are not the same as investigation records where a service provider is investigating whether a child is in need of protection, and I reject the complainants' argument that they should be considered investigation records under Part X. These records do not relate to the provision of a service under Part X simply because the JFCS acknowledged that it provided a service to complainants or because it accepted their complaint. These records relate to the JFCS's performance of an administrative function – the management and review of the JFCS's internal complaints about its processes.

[40] I turn now to the parties' submissions on the two CFSRB decisions. I have considered the parties' positions and the CFSRB decisions they rely on; however, I do not find them persuasive or helpful in making my determination on access to the records at issue under Part X of the *Act*. Although the CFSRB also considers and applies the *Act*, it is an administrative tribunal with a specific mandate and its own jurisdiction and jurisprudence. The IPC's mandate is to oversee, interpret and apply Part X of the *Act*. In this complaint, I am required to decide whether the records before me are records of a service provided to the complainants within the meaning of Part X. I distinguish the two CFSRB decisions referred to by the parties on the basis that they do not concern access under Part X. My authority and focus are limited to the right of access to records under Part X; specifically, in this complaint, whether the complainants have a right of access to the records at issue. The CFSRB decisions are not binding on me, and, to the extent that they adopt a different interpretation of the scope of a "service" under the *Act*, I rely on my reasons above.

[41] I find that the records at issue do not relate to the provision of a service to the complainants within the meaning of the *Act* and the complainants do not have a right of access to them under section 312(1).

## **NO ORDER:**

For the foregoing reasons, pursuant to section 321(4) of the *Act*, I make no order and I dismiss the complaint.

Original Signed by: \_\_\_\_\_

Stella Ball  
Adjudicator

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April 30, 2025