

**Disabled Children's Action Group  
(DICAG)**

**Submission to the Department of Social  
Development**

**on the draft regulations of the Children's Act  
and Children's Amendment Act**

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## **Introduction**

DICAG members have been actively involved in advocacy around the Children's Act and Children's Amendment Act, with the purpose of promoting the inclusion of children with disability in all provisions. While much has been achieved in terms of the legislation, the challenge is to ensure that the regulations

- reflect the removal of barriers of access to all services for children with disability, and
- ensure the provision of an “enabling environment” as well as the necessary support services so that the rights of children with disability are protected.

In this light, DICAG welcomes the opportunity to make the following comments on the proposed regulations:

## **Chapter 5: Partial care**

### **20. Categories of partial care facilities**

We welcome the inclusion of category (f) a place of care providing partial care for children with disabilities who require a high level of support. This assumes the children with disability who do not require a high level of support would be accommodated in other categories of partial care.

### **25. Management of partial care facility**

(1) A register must be kept... in which the following particulars must be entered:

(d) any disability, or chronic medical condition....

(2) A partial care facility.... must keep a separate file in respect of each child in which the following information must be filed

(c) reports and notes by the provider of the programme within a partial care facility on the development of the child with particular reference to any deviations from the normal development of the child having regard to his or her age

Replace with:

(c) reports and notes by the provider of the programme within a partial care facility on any developmental delay or disability of the child

### *Discussion*

*Within the disability sector the concept of “normality” is deeply contested. There is strong objection to the assumption that development of children with disability is a “deviation from the normal development...”, implying that they are “abnormal” and therefore suggesting that they are less than other “normal” children. We therefore propose a replacement for this clause.*

## **Chapter 6: Early Childhood Development**

### **29. National norms and standards**

(b) Programmes aimed at helping children to realize their full potential

5. Programmes must promote and support the development of motor, communication and sensory abilities in children.

*Discussion:*

*Although clause 7 of this section refers to the need for programmes to “promote free communication and interaction amongst children” it is felt that in the case of children with speech difficulties, one cannot assume that children have communication abilities. Therefore it is part of the role of ECD programmes to support and develop such abilities so that children can interact with their peers.*

(d) Ensuring development of positive social behaviour

1. Programmes must promote understanding and respect for diversity in gender, language, religion and culture

*Discussion:*

*Disability is one form of diversity, but children with disability remain the target of teasing and abuse, simply because they are different in some way from other children. It is recommended that this clause be re-phrased to reflect the need for promotion of “understanding and respect” for children and adults with disability.*

(f) Meeting the emotional, cognitive, sensory, spiritual, moral, physical, social and communication development needs of children

12. Parents, care-givers and families of vulnerable children, children with disabilities and child-headed households must be reached out to provide information, knowledge and skills to promote the development of their children.

Replace with

12. Parents, care-givers and families of vulnerable children, children with disabilities and child-headed households must be provided with information, knowledge and skills to promote the development of their children.

*Discussion*

*The clause as it stands is clumsy and confusing. It is recommended that it be rephrased for clarity.*

### **32. Skills and training**

DICAG is pleased to see the inclusion of clause 1 (i) which relates to the skills and training of ECD personnel which needs to be appropriate “to the needs of the children to whom the services are provided, including children with disabilities, chronic illnesses and other special needs”.

## **Chapter 7: Child protection system**

### **35. National norms and standards for child protection services**

(b) Assessment of children who have been abused or deliberately neglected must be –  
12. sensitive to the child's need for support and assistance during assessment, especially for children with disability

#### *Discussion*

*It is recommended that the need for support for children with disability be made explicit, as frequently this is overlooked e.g. where a child with an intellectual disability is deliberately neglected, but does not understand what is taking place around him/her or how strangers are trying to protect him/her.*

(c) Therapeutic programmes must –

4. be sensitive to the linguistic needs and religious and cultural values of children and their families

(d) After care services must -

3. be sensitive to the linguistic needs and religious and cultural values of children and their families

(e) Family re-unification and integration services must –

3. be sensitive to the linguistic needs and religious and cultural values of children and their families

#### *Discussion:*

*It is not clear what is meant by “linguistic needs”. Does this include children who are Deaf? Does it include children with intellectual disability who require simple and concrete explanations in their mother tongue? This needs clarity.*

### **40. Broad risk assessment framework to guide decision-making in provision of designated child protection services**

(2) The framework consists of the following guidelines:

(e) the presence of indicators of deliberate neglect, including... bedsores and contractures.

#### *Discussion:*

*Children with physical disabilities (such as cerebral palsy) may require assistance with movement and changes of position. Where this does not happen (i.e. where there is deliberate neglect) such children are likely to develop preventable contractures and bedsores, which in addition to the pain and trauma that result, may permanently negatively impact on the development of the child.*

## **Chapter 10: Other protective measures**

### **56. Duties of supervising adult in relation to child-headed households**

An adult designated... to supervise a recognized child-headed household must...

(e) assist with the health care requirements of any member of such household, including the supervision of the taking of medicine and assistance to members with disability

Replace with:

(e) assist with the health care requirements of any member of such household, including the supervision of the taking of medicine

(f) provide assistance to members with disability as necessary

*Discussion:*

*It is important to de-link health needs and disability. Many disabled children are in good health, but require support to ensure that they have the same benefits as other children (e.g. a ramp so that a child using crutches can get into a building). Therefore we suggest two separate clauses.*

## **Chapter 11: Prevention and early intervention**

### **58. National norms and standards**

(b) Education, information and promotion programmes must –

6. provide information and support to families affected by HIV/Aids and other chronic illnesses

7. provide information and support to families of children with disability

*Discussion:*

*Provision of information and support to families of children with disability is an essential component of early intervention programmes, as they enable the family to positively foster the growth and development of the child within the household.*

(e) Skills development programmes must be –

4. aimed at providing skills for the care of sick, disabled and chronically ill children

Replace with:

4. aimed at providing skills to enable them to care for children with disability,

5. aimed at providing skills to enable them to care for children with chronic illness, and those who are sick

*Discussion:*

*This recommendation is made in the effort to de-link disability and illness.*

## **Chapter 15: Child and youth care centres**

### **82. National norms and standards**

(a) Size of facilities and ratios of staff to children

2. In a child and youth care centre that is registered to provide programmes for

(ii) the care of children with disabilities...

the ratio of child and youth care workers to children must be no less than 1 child and youth care worker on duty for every 5 children.

#### *Discussion*

*The ratio of children to care worker depends on the levels of support required by each child. DICAG members recommend that a range is included, to accommodate the fact that for children requiring high levels of support, a lower ratio may be required – such as 1 child and youth care worker on duty for every 2 children.*

### **83. The rights of children in child and youth care centres**

(1) Every child who is cared for in a child and youth care centre must be informed of his or her rights..., including the right –

(r) to an interpreter if language or disability is a barrier to consulting with them on decisions affecting their custody or care and development

Replace with

(r) to the necessary support or interpreter if language or disability is a barrier to consulting with them on decisions affecting their custody or care and development.

#### *Discussion*

*A child with an intellectual disability may require specific support. They would not need an interpreter (their mother tongue would be appropriate) but support in terms of simple and concrete terminology and sensitivity in approach.*

## **Chapter 17: Adoption**

### **111. Register on adoptable children and prospective adoptive parents**

(1) The register... must contain –

(b) in the care of an adoptable child

(vii) any disability or special needs that the child may have

#### *Discussion*

*It would be important for the register to indicate if the child has any disability e.g. if the child is Deaf. This would make it possible to assess the extent to which prospective parents are able to provide an enabling environment for the child i.e. one in which the child is able to grow and develop maximally.*