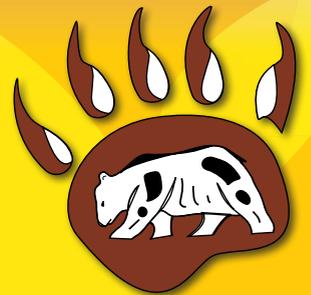




Conferences & Section 19

of the
Youth Criminal Justice Act (YCJA)



What is the *Youth Criminal Justice Act*?

The *Youth Criminal Justice Act (YCJA)* is Canadian legislation that governs the youth justice system for youth aged 12-17.

With the introduction of the *YCJA* in 2003, new goals were set to address youth offences. These include understanding the underlying circumstances of a young offender's behaviour, as well as rehabilitation and reintegration of youth into the community. While changes made in 2012 to the *YCJA* emphasize protecting society and preventing the youth from committing more crimes as necessary goals, they do not reduce the importance of rehabilitating and reintegrating youth into the community.

While prior legislation relied heavily on custody and using courts to deal with youth offences, the *YCJA* emphasizes using custody only as a last resort and responding to youth offences outside the court, especially for less serious offences.

Why are alternative ways of responding to youth offences important?

Belonging is one of the most important experiences a person can have in life. It helps people feel connected to one another and responsible for their actions. Without a sense of belonging, people may feel disconnected from others in the community and therefore less responsible for their actions, giving rise to wrongdoing and conflict.

The experience of belonging encourages responsibility and accountability to the community and is crucial for young people who are in conflict with the law.

This is a key reason why different ways of responding to wrongdoing that highlight healing and restoration of relationships are so important.



What is a Conference according to the *YCJA*?

Under section 42(1) of the *YCJA*, a youth justice court must consider any recommendations or alternative options for sentencing that result from a conference occurring under sections 19 and 41 of the *YCJA* before sentencing a young person.

Conferences are an additional option provided by the *YCJA* for responding to youth offences outside of court and can influence decisions about young people in the youth justice system. Conferences can also help address a youth's underlying issues.

A conference is a group of people brought together outside of court to discuss, and give advice related to, a certain youth in the youth justice system. Participants in a conference are usually community supports who have some knowledge of, and commitment towards, the youth.

Conferences can benefit both the youth and the community. Because those participating in a conference have diverse relationships with the youth, more relevant and creative solutions can be discovered together. There is also an opportunity to organize more supports and services to assist the youth. Conferences may also be restorative and focus on repairing damage done to the victim and community.

Conferences can only give advice or recommendations to a decision maker, such as a judge or prosecutor, and cannot make ultimate decisions. However, they can play an important role in the process of finding suitable sentencing options, review of a sentence, release, alternative measures outside the court, and reintegration of youth into the community.

This role includes developing a plan to address the youth's underlying issues. Sometimes a plan includes an agreement that all parties agree to and follow through on.

Another important function of conferences is that they connect youth and their families with supports and services in the community. Because most participants in a conference are connected to and committed to the youth, they are better able to understand what the youth needs and are ideal candidates to give advice in a conference.



Who can call a Conference?

Who is involved in a Conference?

Section 19 of the *Youth Criminal Justice Act* explains who can call a conference.

Conferences can be called by:

- I. a youth justice court judge;
- II. the provincial director (someone chosen by government to oversee the process);
- III. a police officer;
- IV. a justice of the peace;
- V. a prosecutor; or
- VI. a youth worker.

There are other people in the community who may also be involved in conferences. These include people in the community who have worked with the youth such as a teacher, a courtworker, Elders, the youth's parents, and a representative for the youth.



Family Group Conferences

There are a variety of conferences available to youth and their families that respond to youth offences outside the court. The type of conference best suited to a youth's case is determined by the individual circumstances.

Some of the most common conferences are:

Family Group Conferences (FGC)

Originally inspired by the Māori response to youth crime in New Zealand, a Family Group Conference (FGC) gathers together the youth's family and other community members to discuss and give advice about the young person's offence, address underlying issues, and create a plan together for the future. In fact, gathering together as a community to discuss how to address an issue, solve a problem, and provide support for one another as family, has always been an important feature of Aboriginal culture and communities.

FGCs reproduce this traditional Aboriginal process. They build on strengths that families already have, are culturally sensitive, and encourage youth and families to participate in making decisions that affect them.

Circle Process

FGCs often use a circle process based on Aboriginal culture and values. This may include a talking circle that helps the youth and family process their emotions and feelings, take responsibility for their actions, and experience healing and change.

Instead of isolating the young person and family, FGCs help create a circle of family, friends, and other community members who help the young person and family arrive at healthy decisions for the future. An Elder is often present in the circle to offer guidance and help bring people together.

Youth are included in all stages of the conference and everyone is equal in the circle. For example, private family time is an important part of an FGC. Private family time is time set aside for youth and families to further resolve conflict and develop a plan together to address the young person's issues and behaviour. In the circle, all voices are heard and are important in creating a successful plan for youths and their families.

An FGC provides a safe place for youth to talk about what happened, accept responsibility for their actions, possibly meet the person(s) they harmed, apologize, and begin repairing the damage caused by their actions. FGCs are focused on healthy and positive solutions rather than punishment.

FGCs are held in neutral locations and an FGC facilitator who is not connected to the justice system helps guide the group. Although a facilitator is present to prepare the group for different stages of the conference and provide support when needed, youth and their families are the key decision-makers.



Native Counselling Services of Alberta (NCSA) Conferences

NCSA offers facilitated FGCs, or Sacred Family Circles, Talking Circles, and other Restorative Conferences that use the circle process to help families and/or youth discuss issues, goals, and develop a plan together for the future.

Depending on their training and experience, NCSA courtworkers may be part of the conferences and circles NCSA offers as FGC or Talking Circle facilitators/co-facilitators, as support for the youth and family, as family mediators, and as sources of ongoing information. If youth and families are from a location where NCSA does not offer courtworkers, local courtworkers can be trained to facilitate these circles and conferences. This gives families from remote and rural locations access to these important services.

Talking Circles

NCSA's Talking Circles are based on circle processes rooted in Aboriginal culture. They highlight traditional values such as wisdom, love, respect, bravery, honesty, humility, and truth. They help families strengthen and restore relationships and develop a healthy plan for the future together.

Talking Circles are led by a neutral NCSA facilitator who helps guide the discussion and makes sure that every member of the circle is heard and valued. Circles can include family members, non-family members who feel like family, a caseworker, and other professionals in the community who feel responsible and committed to the youth and offer supports and services. Circles also often include an Elder who can provide further direction and guidance.

NCSA Talking Circles are not limited to one circle, but are flexible and respond to the needs of the youth and family. If needed, more than one circle can be facilitated.

The youth and family have a couple of meeting options. They can first meet privately in a circle with the assistance of a facilitator to discuss concerns. The goal is to help the family take control of the future by discussing the circumstances and developing a plan for the future together. During this circle, the facilitator is only present to assist the family and does not record or share anything discussed in the circle with professionals (social worker, caseworker, etc.) who are not participants. If a family reaches a common understanding, they can meet with professionals in a second circle to share the solutions they discovered together. The second option is to meet with professionals involved in the circle at the beginning to discuss concerns and arrive at a plan together.

Restorative Conferences

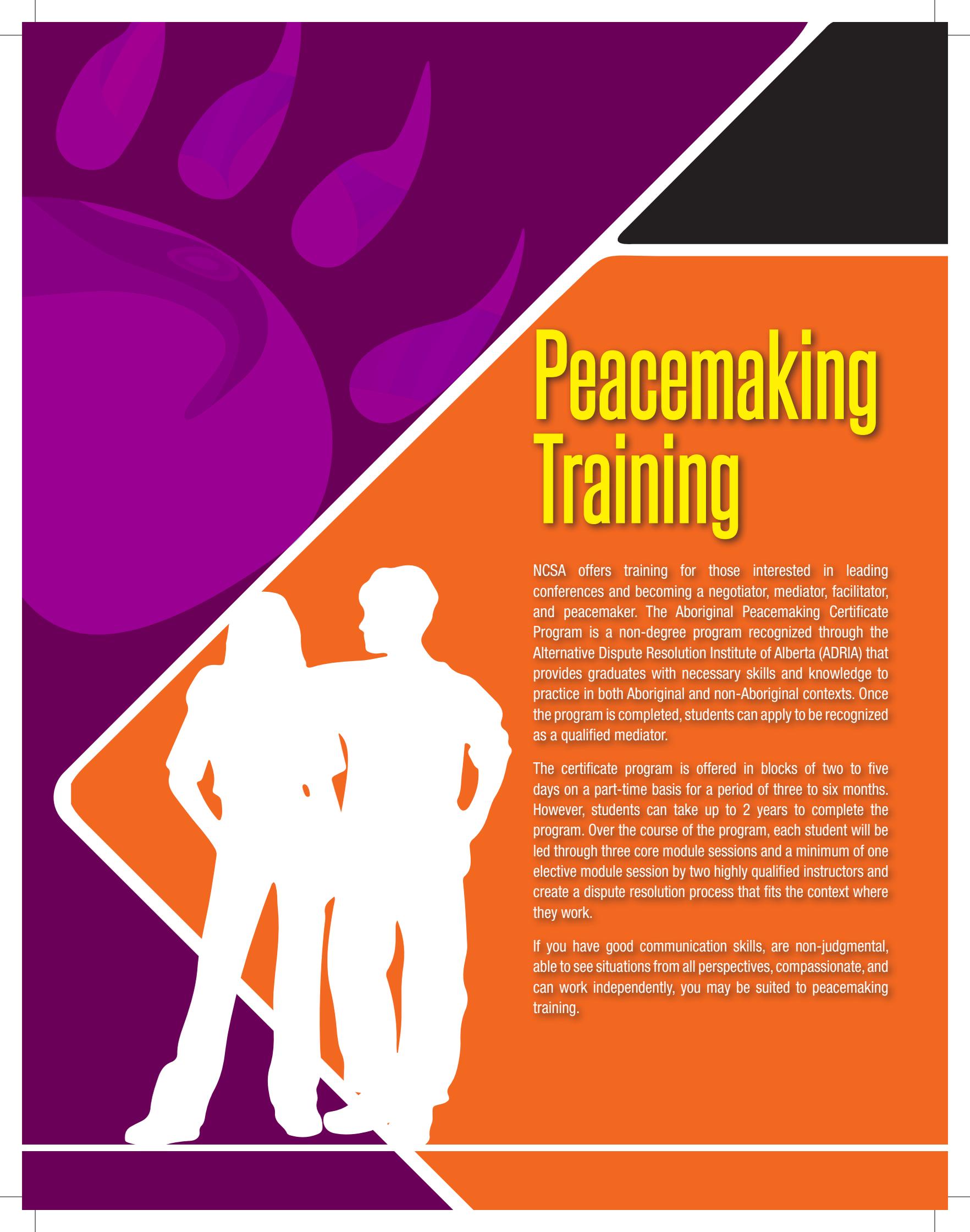
NCSA also offers conferences that bring the youth and all those affected by the youth's actions together to discuss how they have been affected and how to repair the harm done.

The Court may refer youth to NCSA for a restorative conference. At this time, an NCSA courtworker may facilitate a conference that brings the person(s) harmed and the person who caused harm together to reconcile. If a youth justice committee is organizing the conference, an NCSA courtworker may be a useful resource and link to the courts. Restorative conferences take approximately 2 hours, depending on the unique circumstances involved.

Healing and restoration of relationships for all involved, including person(s) harmed, person who caused harm, and the rest of the community, is an important goal of these conferences. During the conference, all participants have an opportunity to speak and to contribute to an appropriate solution. Disapproval of the harm caused is expressed but is balanced with valuing the youth and supporting further healing and change.

Belonging is critical to preventing further harm; these conferences help youth stay connected to their community, take responsibility for their actions, and heal and grow despite the mistakes they have made.

Similar to FGCs and talking circles, these conferences build community support around the youth and their family as they journey towards healing and harmony.



Peacemaking Training

NCSA offers training for those interested in leading conferences and becoming a negotiator, mediator, facilitator, and peacemaker. The Aboriginal Peacemaking Certificate Program is a non-degree program recognized through the Alternative Dispute Resolution Institute of Alberta (ADRIA) that provides graduates with necessary skills and knowledge to practice in both Aboriginal and non-Aboriginal contexts. Once the program is completed, students can apply to be recognized as a qualified mediator.

The certificate program is offered in blocks of two to five days on a part-time basis for a period of three to six months. However, students can take up to 2 years to complete the program. Over the course of the program, each student will be led through three core module sessions and a minimum of one elective module session by two highly qualified instructors and create a dispute resolution process that fits the context where they work.

If you have good communication skills, are non-judgmental, able to see situations from all perspectives, compassionate, and can work independently, you may be suited to peacemaking training.

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