




**Phase 2 Regulatory Amendments under  
the *Child Care and Early Years Act, 2014*  
and the *Education Act***

**Early Years Division  
Ministry of Education**

**13<sup>th</sup> Annual Summer Institute on Early Childhood  
Development**

**June 2016**

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Ontario

# Purpose

- To provide an:
  - Overview of the phase 2 regulatory engagement and feedback;
  - Overview of the phase 2 regulations under the *Child Care and Early Years Act, 2014*; and *Education Act*; and
  - Update regarding next steps.



# Background

- Phase 2 regulations are part of the ministry's **child care modernization strategy** and build on the **Ontario Early Years Policy Framework** and EDU's strategic framework: ***Achieving Excellence***.
- The ***Child Care and Early Years Act, 2014*** and first set of regulations came into effect August 31<sup>st</sup>, 2015.
- The CCEYA's first phase of regulations helped to transition from the old legislative framework to the new one. It focused on strengthening compliance and health and safety in child care settings, as well as helping parents make informed choices about their child care options.
- Phase 2 will continue to strengthen the regulatory framework to further support the health, safety, and well-being of children while fostering high-quality, viable child-care programs.
- The phase 2 regulations were informed by:
  - Advice from the public and sector partners;
  - Contemporary research and inter-jurisdictional scans; and
  - Recommendations from the province's Auditor General and Ombudsman.

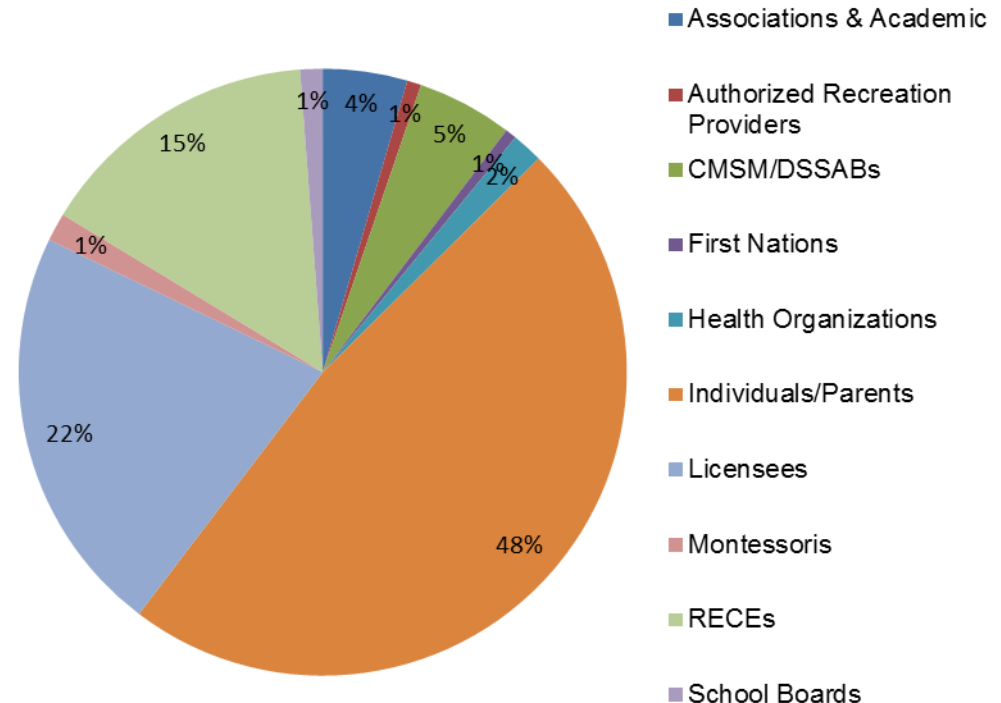
# Phase 2 Regulatory Consultations

- From February 1 to April 1, 2016, a consultation document was posted on the Ontario Regulatory Registry website to seek input on proposed regulatory changes under the ***Child Care and Early Years Act, 2014 (CCEYA)*** and the ***Education Act***.
- The ministry also met with a number of stakeholders to get feedback on phase 2 regulatory proposals.
- Phase 2 regulatory proposals under the *CCEYA* and the *Education Act* related to:
  - **Service system management and funding;**
  - **Licensing clarity** (authorized recreation, exemptions);
  - **Enforcement** (administrative penalties, offences);
  - **Tiered licensing** (term of a license);
  - **Licensing standards** (home child care, health and safety, serious occurrences, playground, age groupings & ratios);
  - **Licensing fees;**
  - **Before- and after-school programs:** extended day and third party programs for children age 6-12 years of age (BASP 6-12; changes under the *Education Act*); and
  - **Miscellaneous regulations.**

# Profile of Respondents

The ministry received over **1,300 submissions** through the Ontario Regulatory Registry website.

- Respondents included: CMSMs/DSSABs; licensed child care providers; researchers and academic institutions; advocacy groups and professional associations; school boards; RECEs and licensed child care staff; and parents and individuals.
- Respondents represented communities across the province including rural, urban, and northern parts of Ontario.



# What We Heard

## Key Areas of Support

- Family grouping and mixed age grouping would increase flexibility. A higher proportion of qualified staff would support quality interactions.
- Enhanced health and safety requirements such as first aid, posting of allergies, children with medical conditions, and emergency management plans would support quality care.
- Support for expansion of service system management role and access to additional information on service system plan requirements.
- Support for increased access to authorized recreation and before and after school programs with a recommendation that program requirements and oversight be consistent with child care.

## Key Issues Raised

- Concern that the age groupings and ratios proposals would compromise quality and safety, increase parent fees and decrease access to infants spaces.
- Increased number of qualified staff, elimination of reduced ratios for toddlers, and proposed sleep supervision requirements would result in financial implications for licensees.
- Further clarification was sought on administrative penalties, tiered licensing, serious occurrence definitions, authorized recreation program requirements and monitoring.

# How We Responded

The ministry listened to concerns raised through the regulatory posting and developed regulations that are reflective of the sector's and public's feedback.

Some of the **key changes** include:

- A new **optional** approach to **ratios and age groupings**;
- **Removing the proposed sleep supervision requirement** to have a staff person present where there are three or more babies under 18 months in a separate sleep/area room;
- Increasing time periods originally proposed for reduced ratios at arrival and departure times; and
- Including **longer transition times** for:
  - Service system managers to develop service plans, and;
  - The introduction of authorized recreational and skill building programs.

# CCEYA: Phase 2 Regulations





# Service System Management & Funding

*Phase 2 regulations will serve to enhance support for Service System Managers in the provision and administration of child care and early years programs and support enhanced integration of the sector as a whole.*

## Phase 2 Regulations Will:

- Provide additional clarity on procedural and content matters related to service system plans and power and duties of service system managers.
- Require service system managers to consult on the development and implementation of service plans.
  - These plans must be updated at least every five years and posted on the CMSM or DSSAB website.
  - The sector will be supported by a Minister's Policy Statement on Service System Management which will be developed and issued ahead of the January 2019 compliance date (which will be set out in the policy statement) .
- Update the existing funding regulation to reflect current funding and reporting practices, including removing and replacing cost share amounts and cost share maximums.

# Licensing Clarity- Authorized Recreation

*Phase 2 regulations will update the current transition regulation for programs offering after school care for school aged children to further recognize the role of local service system manager, the different needs and circumstances of their communities, and provide the flexibility required to support viable care options.*

## **Phase 2 Regulations Will:**

•Take a two staged-approach to enable authorized recreational and skill-building programs:

1.Effective August 29, 2016, allow recreation programs to offer up to 3 hours of programming once a day on weekdays if the provider is:

- Operated by a school board, First Nation, the Métis Nation of Ontario, a municipality; operated by the YMCA or Boys and Girls Club of Canada; an Ontario After School Program funded by Ministry of Tourism Culture and Sport (MTCS); a member of a provincial sports or multi-sport organization recognized by MTCS, operated by an MTCS agency or attraction; or authorized by a local service system manager or First Nation provided that the program supports health, safety, and well-being of children.

2.Effective September 1, 2017, require that these programs (listed above) meet the criteria set out in legislation under section 6(4) for authorized recreational and skill-building programs (e.g. only serve children aged 6 and up).

# Enforcement

*Phase 2 regulations will serve to minimize risk to the health and safety of children by expanding the contraventions that may be issued an administrative penalty or deemed an offence under the new legislation.*

## Phase 2 Regulations Will:

- Allow the Ministry to issue administrative penalties to contraventions of prescribed regulations that pose a high risk to the health and safety of children ( e.g. committing prohibited practices- **see next slide for full list**).
- Expand the list of offences to support the increased oversight of health and safety standards (e.g. exceeding ratio and maximum group sizes- **see slide 13 for the full list**).

# Contraventions & Penalty Amounts

The contraventions and penalty amounts for Phase 2 regulations are:

- **\$2,000** per child exceeding the permitted number as per age categories, ratios, and maximum group sizes related to centre-based and home-based child care.
- **\$2,000** for not reporting a serious occurrence to EDU within the specified timeframe.
- **\$2,000** for committing prohibited practices such as corporal punishment, harsh or degrading measures, deprivation of basic needs, or confinement.
- **\$1,000** for failing to ensure drugs are administered appropriately.
- **\$750** for failing to keep a daily record of attendance.
- **\$750** for home child care agencies failing to have an up-to-date list of home providers, copies of the agency's agreement with each provider, and a comprehensive and accurate list of the children receiving child care.

# Additional Offences

In addition to the existing list of offences prescribed by regulation, any failure to act in accordance with the following provisions of the Act and regulations would be an offence under the Act:

- Duty to disclose if not licensed and retain record of disclosure (section 12 of the Act).
- Duty to provide receipt for payment (section 15 of the Act).
- Prohibited practices (section 48 of Ontario Regulation 137/15).
- Ratios and maximum group sizes in child care centres (section 8(1) of Ontario Regulation 137/15).
- Duty to obtain initial reference check (section 60 of Ontario Regulation 137/15).
- Supervision by adult at all times (section 11 of Ontario Regulation 137/15).

# Tiered Licensing

*Phase 2 regulations will incentivize high levels of regulatory compliance while also focusing resources/efforts on centres which need greater levels of support to achieve compliance, and allow more time for discussions on pedagogy and program quality.*

## **Phase 2 Regulations Will:**

- Expand the maximum term of a license from one to two years.



# Licensing Standards – Home Child Care and Health and Safety Items

*Phase 2 regulations will provide greater flexibility to agencies' business practices, strengthen safety precautions and align with existing policy designed to ensure the safety and well-being of children.*

## **Phase 2 Regulations Will:**

- Remove the caseload cap from the current regulation that prescribes a home visitor employed by a licensed home child care agency may oversee no more than 25 homes.
  - The ministry will maintain an oversight/regulatory role and agencies will still be required to meet all licensing standards, and home visitors will still be required to make quarterly unannounced inspections of all homes using a ministry-issued checklist.
- Continue to strengthen health and safety standards by:
  - Adding new requirements related to sleep position and emergency management plans and procedures;
  - Improving requirements related to immunization, prohibited practices, posting of allergies, first aid, etc.; and
  - Codifying in regulation existing requirements set out in ministry policy to support compliance and enforcement related to areas such as bodies of water, serious occurrences and playground safety.

# Age Groupings and Ratios

## Effective Sept.1, 2017 phase 2 regulations will

- Provide licensees with the option to apply to adopt a new optional model for age groupings and ratios under Schedule 2 which will be implemented through a pilot approach.
- Approvals will be based on set criteria and supported by a research and evaluation framework.
- Licensees will be informed of when they can begin to submit requests for revisions this Fall.

Name of Age Category	Age Range	Ratio of Staff to Children	Max no. of Children	Min no. of Qualified Staff
<b>Infant/Toddler</b>	Younger than 24 months	1 to 3 (younger than 12 months)	12	2 out of 3
		1 to 4 (12 months - younger than 24 months)		
<b>Preschool</b>	24 months or older but younger than 5 years	1 to 8	24	2 out of 3
<b>Kindergarten</b>	44 months or older but younger than 7 years	1 to 13	26	1 out of 2
<b>Primary / junior school age</b>	68 months or older but younger than 13 years	1 to 15	30	1 out of 2
<b>Junior school age</b>	9 years or older but younger than 13 years	1 to 20	20	1 out of 1

- For the preschool age group, an additional staff person is required where there are 4 or more children younger than 30 months.



# Age Groupings and Ratios

## Phase 2 Regulations will:

•Support the implementation of the new optional model for age groupings and ratios through complementary regulatory provisions for programs licensed under **Schedule 2**, including to the following:

- **Reduced ratios** - no reduced ratios permitted for children younger than 12 months
- **Mixed age groupings:**
  - For the new infant/toddler group, if no more than 20 per cent of the children are 10 months or older but younger than 12 months, then a 1:4 ratio applies.
  - For the preschool group, mixed age grouping may be permitted for up to 20 percent of children from the younger age group.
- **Space requirements** – transitions for existing space and capital projects to support licensees who apply to convert to an infant/toddler group.

In addition, the regulation includes changes that are applicable to both **Schedule 1** and **Schedule 2**, including the following:

- Reduced ratios** – permitted 90 min. after a centre opens and 60 min. before the centre closes (reduced ratios during rest periods is still permitted).
- Mixed age groupings** – mixed age grouping permitted in more than one room.
- Staff Qualifications** – broaden qualifications required for individuals working in programs serving only children ages 9-12 years to include a degree or diploma in child and youth care or recreation and leisure services; or members in good standing with the Ontario College of Teachers without requiring Director approval.

# Age Groupings and Ratios

## Effective Sept. 1, 2017 phase 2 regulations will:

- Implement a **new family grouping** which would permit the placement of children from different ages together in the same play activity room (available under Schedules 1 or 2 or as the only age grouping in a centre).
- This licensed age group is a dedicated program and is not intended to be used as a temporary group.

## Formula for calculating staffing (as per new Schedule 4):

Total number of children per age range	Multiplied by weighting per child	Number of Staff Required
Enter number of children younger than 12 months	Multiply by 0.33	Number of staff
Enter number of children 12 months or older but younger than 24 months	Multiply by 0.25	Number of staff
Enter number of children 24 months or older but younger than 13 years	Multiply by 0.13	Number of staff
Total number of children		Total number of staff

## Additional requirements

Where there are:	Staff
<ul style="list-style-type: none"> <li>• Six or fewer children; and</li> <li>• No more than two children under two years of age</li> </ul>	Only 1 required
<ul style="list-style-type: none"> <li>• More than six children; and</li> <li>• Any children under two years of age in the group</li> </ul>	2 minimum
<ul style="list-style-type: none"> <li>• More than ten children; and</li> <li>• Any children under two years of age in the group</li> </ul>	3 minimum

# Licensing Fees

*Phase 2 regulations will serve to better balance the cost recovery for government services dedicated to the child care system and increase government enforcement and oversight of the licenced child care sector.*

## **Phase 2 Regulations Will:**

- Amend the child care licensing fee schedule to a range of \$25-\$450 which would apply to applications for a new licence to operate a child care centre or home child care agency, renewal of child care licenses, and revisions of child care licences (see regulations for the full fee table).
- Make fees proportionate to the number of child care spaces or number of contracted homes a licensee or prospective licensee has/will have.

# Before and After School Programs for 6-12

*Phase 2 regulations will broaden parental choice, increase access, provide flexibility for school boards to respond to the local needs and circumstances of their communities, and acknowledge the role of quality recreation providers in offering developmentally responsive programming for 6-12 year olds.*

## Phase 2 Regulations Will:

- Amend the existing regulation on extended day and third party programs to support an integrated approach to deliver before-and after-school programs for 4-12 year olds:
  - Including **authorized recreational and skill building programs for 6-12 year olds**, provided they meet specific programming requirements and standards;
  - **Streamlining processes** regarding the calculation of fees and surveying parents;
  - Requiring that where an exemption for a school is sought, there must be **consensus between the local school board, First Nations and the local service system manager that a program is not required**; and
  - Providing **additional requirements** in regulation and/or policy guidelines for **extended day and after school programs**, based on *How Does Learning Happen? Ontario's Pedagogy for the Early Years* this includes:
    - Staff qualifications, ratios and group size; and
    - A requirement that board-operated programs and licensed child care must offer **30 minutes of active play and that authorized recreation programs must dedicate 60 minutes** or 30% of programming to active play.

# Miscellaneous Regulations

*Phase 2 regulations will ensure all legislated policies, procedures, and individualized plans are put into practice, reviewed, and monitored on an ongoing basis.*

## **Phase 2 Regulations Will:**

- Provide licensees with flexibility to obtain an offence declaration from an individual any time throughout the year as long as it is no later than 15 days after the anniversary date of the previous offence declaration or vulnerable sector check.
- Ensure necessary background screening is completed for all individuals who provide child care or other services to a child at the child care centre who are not employees or volunteers, e.g. special needs consultants, speech and language pathologists.
- Require that students and volunteers are supervised at all times, consistent with current policy.
- Require a minimum of 30 minutes of outdoor time for before or after school programs.
- Ensure licensees set clear and consistent standards in their policies regarding how to address parental issues.
- Remove the requirement for a licensee of an integrated program to employ a resource teacher.

# Implementation Timelines

The ministry is taking a flexible and responsive approach to implementation to provide transition time for licensees. Phase 2 regulations come into effect at varying times:

- **July 1, 2016:** Licensing fees will come into effect, recognizing that renewal of existing licenses is staggered throughout the year.
- **August 29, 2016:** Many of the phase 2 regulations will come into effect to align with the start of the school year and to allow time for transition. (i.e. changes to the operation of recreation programs, mixed aged grouping, staff qualifications for programs 9-12, immunization exemptions, etc.)
- **January 2017:** New administrative penalties, and requirements related to screening other persons at a centre, outdoor time for before and after school programs, and addressing parent issues and concerns will come into effect.
- **September 1, 2017:**
  - Licensed child care centres will be able to apply for optional approach for age groupings, ratios, group sizes and staff qualifications and family age grouping.
  - Regulation for authorized recreational and skill building programs will come into effect.
  - Before and after school programs for 4-12 year olds will be available at every school serving children from JK – Grade 6 where there is sufficient demand.
- **January 2019:** The requirement for service system management plans will come into effect. A Minister's Policy Statement on Service System Management will be developed and issued ahead of the compliance date.

# CCEYA Key Resources

- **Child Care and Early Years Act Fact Sheets:**
  - Age Groupings, Ratios, Group size and Staff Qualifications
  - Family Age Groupings
  - Recreation programs
  - Day Camps
  - Serious Occurrences
  - Enforcement
- **Tiered Licensing Policy Memo & Child Care Centre Licensing Manual**
- **Child Care and Early Years Act Webcast (June 30,2016) and FAQs**
- **Putting How Does Learning Happen into Practice: Program Expectations for Licensed Child Care E-Module**
- **“A Parent’ s Guide to Child Care in Ontario” brochure**
- **Home Child Care and Unlicensed Child Care: How Many Children are Allowed? Web-based infographic**