

## **NOT-FOR-PROFIT GUIDELINES**

### **What does not-for-profit mean?**

Programs licensed by the Ministry of Children and Youth Services in accordance with the regulations under the *Day Nurseries Act* and which are incorporated as non-profit and that meet the following requirements may be eligible to receive funding:

- Programs operated by municipalities
- Programs incorporated under the auspices of a Church denomination or other religious organization.
- Programs operated under a special bill of the Ontario or Federal Legislature.
- Programs operated by Canadian Forces Bases and which are non-profit.
- Programs incorporated under the Ministry of Training, Colleges and Universities.
- Programs which are operated by a corporation without share capital to which Part III of the Corporations Act applies.
- Programs which are operated by a corporation that is incorporated under the Co-operative Corporations Act and that has articles providing that the corporation will be carried on without purpose of gain for its members.

### **What are the provisions required for letters patent of a not-for-profit corporation?**

The following corporations will be required to amend their letters patent:

- Programs that are operated by a corporation without share capital to which Part III of the Corporations Act applies.
- Programs that are operated by a corporation that is incorporated under the Co-operative Corporations Act and that has articles providing that the corporation will be carried on without purpose of gain for its members.

The above mentioned non-profit corporations are required to include the following 10 provisions in letters patent:

- a) The corporation shall have at least five directors
- b) No employee of the corporation may be a director of it
- c) The corporation shall not purchase goods or services from any director, officer or person related to a director or officer of the corporation unless there is only one available source of the goods or services within a reasonable distance of the day nursery
- d) The corporation shall not sell goods or services, other than child care services, to any director, officer or person related to a director or officer of the corporation

- e) The corporation shall not lend money to or borrow money from any director, officer or person related to a director or officer of the corporation
- f) The corporation shall not rent property to or from any director, officer or person related to a director or officer of the corporation
- g) The corporation shall not engage in any other transaction which may directly or indirectly confer a financial benefit on one of its directors
- h) the directors of the corporation shall serve as directors without remuneration but may be reimbursed for reasonable expenses incurred in the performance of their duties
- i) No director of the corporation shall directly or indirectly receive any form of money or money's worth as a result of his or her position as director
- j) Upon dissolution of the corporation and after payment of all of its debts and liabilities, the remaining property of the corporation shall be distributed or disposed of only to charitable or non-profit organizations which provide child care, which are beneficial to the community and which operate solely in Ontario.

For the purposes of this document, a person is related to a director or officer if:

- i. The person is married to the director or officer
- ii. The person is living in a conjugal relationship outside marriage with the director or officer
- iii. The person is the son or daughter or mother or father of the director or officer
- iv. The person is a relative of the director or officer and they have the same home
- v. The person is a corporation and voting securities in the corporation that together carry more than 10% of the voting rights attached to all voting securities of the corporation outstanding at the time are beneficially owned directly or indirectly by any combination of:
  - a) The director or officer
  - b) Any of the persons referred to in clauses (i) to (iv), and
  - c) The partner or the employer of the director or officer.

**DECLARATION OF NOT FOR PROFIT COMPLIANCE**

Name of Agency	Address and Telephone of Agency

Date of By Laws	Date of Letters Patent

I, \_\_\_\_\_, a Barrister and Solicitor qualified to carry on the practice of law in the Province of Ontario, act on behalf of the above-named agency in connection with the giving of this opinion. I have examined such corporate records and have made such other searches and enquiries as I have considered necessary or desirable for the purposes of the opinions hereinafter expressed. In my examination of all documents, I have assumed the genuineness of all signatures, the requisite legal capacity of all individuals, the authenticity of all documents submitted to me as originals and the conformity to originals of all documents submitted to me as photocopies, facsimile, certified or notarial copies thereof and that all facts set forth in the official public records, indices and filing systems and all certificates supplied by public officials or otherwise conveyed to me by public officials are complete, true and accurate.

Based on the foregoing, I am of the opinion that the agency's letters patent include provisions which require that:

- a) the corporation shall have at least five directors;
- b) no employee of the corporation may be a director of it;
- c) the corporation shall not purchase goods or services from any director, officer or person related to a director or officer of the corporation unless there is only one available source of the goods or services within a reasonable distance of the day nursery;
- d) the corporation shall not sell goods or services, other than child care services, to any director, officer or person related to a director or officer of the corporation;
- e) the corporation shall not lend money to or borrow money from any director, officer or person related to a director or officer of the corporation;
- f) the corporation shall not rent property to or from any director, officer or person related to a director or officer of the corporation;

- g) the corporation shall not engage in any other transaction which may directly or indirectly confer a financial benefit on one of its directors;
- h) the directors of the corporation shall serve as directors without remuneration but may be reimbursed for reasonable expenses incurred in the performance of their duties;
- i) no director of the corporation shall directly or indirectly receive any form of money or moneys worth as a result of his or her position as director;
- j) upon dissolution of the corporation and after payment of all of its debts and liabilities, the remaining property of the corporation shall be distributed or disposed of only to charitable or non-profit organizations which provide child care, which are beneficial to the community and which operate solely in Ontario;

For the purposes of paragraphs c, d, e and f above, define "a person related to a director or officer" as including:

- i. a person married to the director or officer;
- ii. a person living in a conjugal relationship outside marriage with the director or officer;
- iii. a person who is the son or daughter or mother or father of the director or officer;
- iv. a person who is a relative of the director or officer and lives in the same home as the director or officer;
- v. the person is a corporation and voting securities in the corporation that together carry more than 10 % of the voting rights attached to all voting securities of the corporation outstanding at the time are beneficially owned directly or indirectly by any combination of:
  - the director or officer;
  - any of the persons referred to in clauses (i) to (iv); or
  - the partner or the employer of the director or officer.

I acknowledge that the City is relying on the opinions expressed herein and I consent and agree to such reliance.

\_\_\_\_\_  
(signature)  
Name:  
Barrister and Solicitor  
Name of Firm:  
Firm Address:  
Phone #

\_\_\_\_\_  
Date