



STAFF REPORT ACTION REQUIRED

Response to Proposed Regulations under the Child Care and Early Years Act, 2014 and the Education Act

Date:	March 30, 2016
To:	Community Development and Recreation Committee
From:	General Manager, Children's Services General Manager, Parks, Forestry & Recreation
Wards:	All
Reference Number:	

SUMMARY

This report transmits the City of Toronto's response (Appendix A) to the Province of Ontario on 2016 proposed regulatory changes under the *Child Care and Early Years Act, 2014* and the *Education Act*. Proposed regulatory changes were posted for consultation on February 1, 2016. Children's Services and Parks, Forestry & Recreation consulted with a broad range of community partners and parents in developing this response.

The Ministry of Education accepted feedback on the proposed regulatory changes until April 1, 2016. The attached response was submitted in draft form to meet the deadline, with a provision that a final response would be submitted following City Council's consideration.

RECOMMENDATIONS

The General Manager, Children's Services and the General Manager, Parks Forestry & Recreation recommend that:

1. City Council approve the City's response to the proposed regulatory changes attached as Appendix A to this report;
2. City Council forward the response to the Premier of Ontario, Minister of Education, and all Toronto Members of Provincial Parliament;

Financial Impact

The adoption of recommendations included in this report forms advice to the Province and has no financial impact on the City. Should the Province make regulatory changes, any financial impacts will be reported to City Council.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

This report responds to proposed regulatory changes posted for consultation by the Province on February 1, 2016.

<http://www.ontariocanada.com/registry/view.do?postingid=20628&language=en>

ISSUE BACKGROUND

Since 2012, the Province has been pursuing a modernization agenda for child care in Ontario. The government's early years vision, as described in the *Ontario Early Years Policy Framework*, is "to ensure that Ontario's children and families are well supported by a system of responsive, high-quality, accessible and increasingly integrated early years programs and services."

As part of this agenda, new legislation, the *Child Care and Early Years Act (2014)* and its regulations came into effect on August 31, 2015. The provincial government is now soliciting feedback on a second phase of proposed regulatory changes under the Act through a consultation document posted to the Ontario Regulatory Registry on February 1, 2016.

The proposed changes fall under eight priority areas related to the early years system:

- Service System Management and Funding;
- Licensing Clarity;
- Enforcement;
- Tiered Licensing – term of a licence;
- Licensing Standards;
- Licensing Fees;
- Before and after-school programs for children age 6-12 years; and
- Miscellaneous.

The proposed changes in the consultation document continue the important work that the Province has taken to modernize the legislative and regulatory framework governing the child care and early years system in Ontario. Children's Services continues to support the need for modernization and has expressed appreciation for the opportunity to comment

on these proposals. Many of the proposed changes are important and necessary, especially those that provide flexibility for child care operators, recognize the importance of Registered Early Childhood Educators, strengthen the role of the service system manager, and improve quality of programming for children and families.

Consistent with previous practices, the City of Toronto Children's Services and Parks, Forestry & Recreation divisions submitted a draft response to the Province in order to meet the provincial deadline of April 1, 2016. The submission indicated that the response is in draft form until it has been considered by City Council. To develop this response, Toronto Children's Services and Parks, Forestry & Recreation conducted broad consultation with licensed child care providers, early years and recreation service providers, parents and other stakeholders. Consultations were held with District Child Care Advisory Committees, Children's Services staff, and the Toronto Child and Family Network and its committees, including early learning and care, family support, early identification and intervention, Aboriginal, and French-language. A parent survey was also distributed in English and French, collecting 9,291 responses from parents with children currently enrolled in the licensed child care sector, and those accessing programs and services outside the licensed sector.

COMMENTS

Children's Services and the Ministry of Education (MEDU) have a strong and positive partnership. The Division participates on a number of provincial advisory tables, including the Minister of Education's Advisory Table for Early Years. Over the course of 2015, the Province consulted on some, but not all, of the regulatory changes proposed in the consultation document. Many of the proposed regulation changes in areas where the City was consulted are supported. Where there was no consultation, there are significant concerns.

During Service Plan consultations in 2014 and 2015, Children's Services heard from families and a broad range of service providers that more affordable and accessible child care is needed to support participation in the workforce. There is a current fee subsidy wait list of 11,585 children between the ages of 0 and 12 years. After analyzing the proposed regulatory changes related to group sizes, ratios, increased staff qualifications, and sleep requirements and comparing them to the current system, it is evident that, if the regulations are implemented, the licensed child care system will decrease in size while the cost of delivering the service will increase. There is also a projected service loss for some programs offered by Parks, Forestry & Recreation to young children as a result of changes that would require certain programs to have a child care licence.

Summary of Response

Below is a summary of the response, organized by priority areas:

Service System Management and Funding

This section clarifies content and procedural matters relating to service system plans; requires that service system managers consult and cooperate with family support programs; and updates existing funding-related regulations while maintaining existing provincial-municipal cost share ratios.

The attached response supports the enhanced authority for Children's Services as the service system manager for child care, including the new requirement to consult and cooperate with family support programs.

Licensing Clarity

This section proposes to replace a regulation that currently exempts programs that run for no more than three hours per day from requiring a child care licence. Three-hour programs that serve children under the age of six years would no longer be exempted from licensing requirements (beginning January 1, 2017).

Authorized recreation and skill building programs would be exempt, as long as they operate for no more than three consecutive hours on weekdays, for children age six and older only, and are:

- Operated by a school board, First Nation, Métis Nation of Ontario, or a municipality;
- An Ontario After School Program funded by the Ministry of Culture, Tourism, Culture and Sport (MTCS);
- A member of a provincial sports organization
- Operated by an MTCS agency or "Attraction";
- Otherwise authorized by the local service system manager; or
- Authorized by a First Nation

The attached response supports the expanded responsibility to authorize recreation and skill-building programs beyond those provided directly by the City. It also supports exempting recreation programs from licensing where programs are considered episodic and for summer camps servicing ages four and up. However, it also recommends that the ministry work with recreation stakeholders to provide further clarity on defining recreational programming in order to allow sufficient flexibility to address family needs for recreation programs.

Enforcement

This section would broaden which contraventions of the Child Care and Early Years Act are subject to administrative penalties; set out penalty amounts; and prescribe additional contraventions that may be an offence under the Act.

The attached response supports increased enforcement tools that ensure compliance with child care licensing standards and include fines for infractions.

Tiered Licensing – term of a licence

This section proposes a new, progressive approach to licensing child care centres. Under tiered licensing, each child care centre will be placed into one of three tiers depending on its compliance history over the last three years. Centres that consistently demonstrate very high compliance will be eligible for a two year licence and will receive an abbreviated licence renewal inspection every other year, with an interim monitoring visit during the two year period. Centres with low or moderate non-compliances, but without ministry enforcement actions, will receive abbreviated annual licence renewal inspections. Centres that are experiencing difficulty meeting provincial licensing standards, or that have received enforcement actions, will receive a full licence renewal inspection every year, as well as additional compliance monitoring and support.

The attached response supports the implementation of a tiered, risk-based licensing approach because it would direct licensing resources to where they are most needed – providing more support for under-performing programs

Licensing Standards

This section proposes a suite of changes affecting age groupings, maximum group sizes, and staff qualifications in child care centres; and home child care visitor caseloads. It also proposes new requirements for operators related to, for example, planning for children with medical conditions, first aid certification, and serious occurrences.

The attached response supports increasing the minimum number of qualified staff in infant, toddler and preschool rooms as a mechanism to increase program quality; and limiting the time period for operators to reduce ratios for preschool groups to one hour after opening and before closing. It does not support removing the cap of 25 homes per licensed home child care visitor; changes to maximum group sizes and age ranges, especially where it affects the physical plant requirements of child care rooms; or requiring a staff member to be physically present in a room with three or more sleeping children age 0-18 months.

Licensing Fees

This section sets out a new fee schedule for a new or renewed child care licence, which has not changed since 1993. The fees are proportionate to the number of child care spaces or number of contracted homes a licensee oversees

The attached response supports the new fee schedule.

Before and after-school programs for children age 6-12 years

This section proposes changes that reflect a new duty of school boards to offer extended day (before- and after-school programs) programs for six to 12 year olds; and allows multiple options for the delivery of these programs. The ministry is also seeking advice on allowing programs to be offered off school property for six to 12 year olds.

The key changes would allow authorized recreation programs to offer after-school programming for six to 12 year olds for up to three hours per day; and support the provision of after school programs for this age group to take place off school property.

The changes would also remove the requirement for school boards to survey parents to assess demand for before-and after-school programs, in favour of consultation with the service system manager, service providers, and parents.

The attached response supports replacing the survey requirement for school boards in determining demand for before- and after-school programs in favour of working directly with families and service system managers. It also supports extending the duty of school boards to offer before- and after-school programming to six to 12 year olds, where there is demand. However, it does not support limiting recreation programs to a maximum of three consecutive hours per day for children aged six and up or requiring a maximum group size of 30 children in one area without providing greater clarity on what is considered an "area".

Further Comments

The suite of changes proposed to child care group sizes, age ranges, ratios and sleep supervision for infants and toddlers will result in a significant loss of space and a more expensive system. The service loss is an estimated 2,184 spaces for infants (325) and toddlers (1,859) due to group size changes alone. Additional impacts are expected as operators are likely to close infant programs that are no longer viable. The reduction in the number of children in infant (from 10 to 9) and toddler rooms (from 15 to 12) results in a revenue loss for centres who will continue to have greater operating costs because of the above changes. Many of the City's 3,300 infant spaces would be at risk.

These impacts would come at a time when the Province and City are making considerable capital investments to increase access for infants and toddlers by building new spaces. The Province has recently made considerable investments to create additional child care spaces for young children (3,834 spaces are currently planned under fully-funded provincial programs, including 302 infant spaces and 965 toddler spaces). Similarly, Toronto Children's Services developed a capital strategy in 2015 that focuses on building spaces for infants and toddlers. Children's Services is currently seeking approval for adjustments to its capital budget that would result in the delivery of 18 child care centers over the next 10-year term, which would add a total of 921 new child care spaces, including 170 infant spaces and 285 toddler spaces.

The proposed changes will result in a significant cost to child care operators and increase parent fees. The most significant changes in this respect are those that limit operators' ability to reduce ratios at the beginning and end of the day, requirements for additional trained staff in all rooms, and the addition of a toddler sleep area. Children's Services has projected cost implications based on an analysis of 669 centres representing 70 per cent of Toronto's system. These include municipally-operated centres and those with a service contract for fee subsidy. The total annual cost of the changes for these centres is \$20.582 million. This includes the cost of changes that limit the ability to reduce ratios and increase the minimum number of trained staff (\$13.460 million); and the changes that require the supervision of toddlers during sleep (\$7.122 million).

The attached response supports increasing the number of trained staff in order to enhance program quality. In order to offset the costs of this increase, current ratios and group sizes would need to be maintained. Otherwise, in order to absorb these costs, the average parent fee is expected to increase by 20.8 per cent for infant spaces and 39.2 per cent for toddler spaces. The additional costs will also reduce the number of fee subsidies the City can provide to families, as the cost of spaces will increase. In addition, as service system manager for the child care system, there will be considerable additional costs for Children's Services associated with the transition to proposed regulations that will require funding, technical changes and training.

Impacts are also expected to reduce recreation service levels. Additional clarification is needed from MEDU that indicates when a recreation program is exempt from requiring a child care licence before the full impact is known. If the criteria is too restrictive, many year-round recreation programs for children under the age of six could be put at risk. These programs promote the overall health and wellbeing of children not participating in licensed child care. Currently, Toronto Parks Forestry & Recreation provides a variety of programs for children under the age of six which are attended by thousands of children.

For older children, many after-school recreation programs are co-located in schools and are limited to operating for three hours a day. School boards' duty to offer programs before and after school for six to 12 year olds where there is demand may result in the displacement of existing after-school programs. Parks, Forestry & Recreation currently operates After-School Recreation Care (ARC) programs out of 35 schools with 1,123 children enrolled. These programs could be at risk of closure or relocation as they are limited to three hours per day but may be required to provide both before and after school programming. In addition, regulatory proposals that would require increased qualifications for after school program staff will drive the cost of program delivery up and make recruiting staff more difficult.

Overall, the response recommends that the Province proceed with the regulatory changes that the City of Toronto was consulted on and supports, as noted above; that the Province not proceed with regulatory changes that have the potential of destabilizing the current child care and recreation system; and that the Province and the City of Toronto work together to explore alternative options and develop further proposals that would increase access and quality in the system.

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SIGNATURE

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ATTACHMENTS

Appendix A - City of Toronto Response to Proposed Regulations under the Child Care and Early Years Act and Education Act