



REPORT FOR ACTION

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

Date: October 27, 2020

To: Economic and Community Development Committee

From: General Manager, Children's Services

General Manager, Parks, Forestry and Recreation

Wards: All

SUMMARY

This report transmits for Committee and Council's review and approval, staff's draft response on proposed regulatory amendments to the *Child Care and Early Years Act, 2014* released by the Ministry of Education on October 2, 2020. This report and attachment provides an overview of the response from parents and service providers that informed the draft City position, as well as information on potential impacts and the City's draft response. Full details of the City's assessment of the proposals, and draft response, are available in the attachment. Children's Services, with Parks, Forestry and Recreation, consulted with parents, service providers, and other stakeholders in developing these responses.

The Ministry of Education is accepting feedback on proposed changes until November 20, 2020. These responses will be submitted in draft to the Ministry in order to meet the deadline with a provision that a final response will be submitted following City Council consideration and decision.

RECOMMENDATIONS

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

1. City Council approve the City of Toronto's response to the proposed regulatory amendments under the Child Care and Early Years Act, 2014 in Attachment 1 to this report.
2. City Council forward the City of Toronto's response in Recommendation 1 above to the Premier of Ontario, the 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 on proposals for future implementation, and, consequently, there are no current or known future year financial impacts arising from the recommendations contained in this report. Should the Province approve proposed regulatory changes, any financial implications will be included in an applicable budget submission to be considered amongst other priorities through the City's Annual Budget Process.

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

EQUITY IMPACT STATEMENT

Child care and early years programs are critical services that redress the impact of inequities, in terms of affordable access for families and parental employment or training/education, as well as developmental outcomes for their children. Equitable access to high quality, affordable early learning and child care services is a critical factor in poverty reduction and workforce participation. It enables children's learning, health, and social development. These benefits to child and family outcomes are greatest for communities facing high inequities. The early years and child care workforce is comprised mainly of racialized women earning low wages.

Legislative changes and regulatory amendments are an important opportunity to advance equity in the early years. Addressing disparities in the child care and early years sector requires an understanding of key barriers to equitable access to high quality child care as well as the distinct needs of diverse equity-seeking groups. Part of taking an equity-based approach to policy and planning is analyzing the *potential* impact of proposed changes on disparities in child and family outcomes and equity-seeking populations. The City's response considers these potential impacts on families, service providers, and the workforce, throughout.

The proposed changes do not adequately reflect the current reality of living and working in Toronto, the disparate distribution of resources and opportunities among families in our city, or signal a commitment to driving equitable outcomes. These considerations are crucial during a pandemic which, through disproportionate impacts, has exacerbated challenges for many families facing high inequities.

Adoption of the recommendations in this report will ensure the province of Ontario receives comment from the City of Toronto detailing possible equity impacts of its proposed amendments to the Child Care and Early Years Act, 2014.

DECISION HISTORY

On October 14, 2020, the Economic and Community Development Committee requested the General Manager, Children's Services and the General Manager, Parks, Forestry and Recreation, report back to the November meeting of the Committee with a draft response for the City of Toronto to the Government of Ontario on the proposed regulatory amendments to the Child Care and Early Years Act, 2014, which were released by the Ministry of Education in a consultation document on October 2, 2020, including proposed changes, impacts, and consultation with child care providers, parents, and other stakeholders.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EC16.9>

COMMENTS

Background

Since the introduction of the *Child Care and Early Years Act, 2014* (CCEYA) the Province has pursued a modernization agenda for child care in Ontario. As part of the legislation the Minister of Education is required to review the Act every five years. The first five year review of the Act was launched by the Minister of Education in July, 2020. Through provincial consultations and as part of the review, the province has identified a suite of proposed amendments to regulations under the CCEYA. These amendments are intended to support the government's long-term objectives to provide more choice and affordability for families, reduce red tape and regulatory or administrative burden, and improve quality. Proposed amendments were released on October 2, 2020, and public submissions are required by November 20, 2020.

The Province has identified amendments in six broad areas:

- Flexibility and responsiveness
- Qualifications requirements
- Administrative/regulatory burden
- Health and safety
- Regulations requiring clarification of intent
- Technical matters

As part of the five year review through the summer, organizations were invited to submit proposals and priorities for the review. Toronto Children's Services' submission leveraged extensive consultations carried out through 2019 and early 2020 to recommend action under five thematic areas: system stability and quality, improving access and reducing structural barriers, making equity and inclusion a priority, supporting a thriving workforce, and furthering an evidence-informed system. While there are opportunities to address the City's suggestions through non-regulatory means, none of the suggestions have been taken up in this current suite of proposed regulatory changes.

Consultation Process

To develop this response to the proposed regulatory amendments, Toronto Children's Services conducted consultation with parents, service providers, and other key stakeholders. Parents and service providers were engaged through an online survey, distributed in English and French. The parent survey generated a total of 1,588 completed responses in English and four (4) in French. The service provider survey generated 722 complete English language responses and four (4) in French. The survey response rate from service providers in particular is substantial and the City thanks providers for taking the time to contribute to this consultation process.

Sector stakeholders were consulted including: all four Toronto school boards, the Home Child Care Association of Toronto, agencies delivering special needs resourcing, the Boys and Girls Clubs – Ontario, the Aboriginal Advisory and Planning Committee, and the Quality Early Learning Network. In developing this response, Toronto Children's Services also considered results of consultation on prior regulatory changes, as some proposals are quite similar to those made in 2014 and 2016. Results of extensive Service Plan consultations carried out in 2019 and early 2020 were also considered.

It is important to recognize limitations in this consultation process. As part of the parent survey, some demographic questions were included (optionally) to understand any gaps in representativeness of the sample. 55% of respondents identified as white, 16% preferred not to answer, and 6% or less of respondents identified with each of the remainder of the options (demographic questions, including options provided for racial identity, were selected from the City of Toronto core Data for Equity questions). 7% of respondents identified as a single parent household, while 73% were dual parent households. 7% of respondents identified as having a child with extra support needs. Children's Services recognizes there are gaps in the representativeness of this respondent profile.

Further, service providers in Toronto have been significantly impacted by the COVID-19 pandemic, leaving less time available for thorough engagement with regulatory proposals. In addition, given time and resource constraints Toronto Children's Services was not able to conduct significant focussed consultation across a wide range of program providers. In lieu of this, findings from extensive consultation through the Service Plan in 2019 and early 2020 were drawn upon. The inequitable impacts of the COVID-19 pandemic have demonstrated once again the critical importance of focussed engagement with Toronto's strong and diverse communities to ensure program and policy changes are responsive and equitable. The Division has used existing relationships with organizations, and existing data and research, to assess the possible equity impacts of the proposed changes, and gathered advice through consultation with Social Development, Finance, and Administration.

The Division continues to encourage all system partners to also submit their responses directly to the province so they can ensure they are thoroughly considered.

Overall City Response

The City of Toronto welcomes the opportunity to provide comments to the Ministry of Education on their proposed regulatory amendments. Appendix A contains staff's recommended response to the proposed regulations. In general and taken as a whole, the City and stakeholders consulted have concerns with the Province's proposed approach, which are described below.

While the City recognizes the intent of the province to increase flexibility and choice, improve affordability, reduce administrative burden, and enhance quality, the City, families, and service providers have broad concerns with many of the proposals. Taken together, the changes would have a negative impact on quality, and would undermine efforts to raise the bar on the reputation of the profession of early childhood education. There is also concern about the timing of these changes given that families, child care providers and their staff are under significant pressure due to the impacts of the COVID-19 pandemic. In addition, long-standing structural issues in the child care system, particularly related to the workforce, remain unaddressed by the proposals. Given recent announcements from the federal government indicating a more involved federal role in building a national child care system, any proposed changes should focus on stabilizing and readying the system for future growth.

System Impacts

The child care and early years sector continues to experience significant issues with respect to workforce compensation and benefits, job quality, recruitment, and retention. The City recognizes the provincial intent to provide operators with more flexibility, however many of the proposed changes would lead to a dilution of qualifications and training, which has been shown to be an important aspect of quality.¹ While some proposals may intend to address a recruitment and retention challenge in the sector, it is important to consider that the roots of the sector's workforce crisis lie in the profession being under-recognized and poorly compensated. The shortage of qualified professionals in the child care and early years sector is better addressed by investments that improve the wages, benefits, working conditions, and professional recognition of educators, to encourage more professionals to choose, return, and to stay in the field of early learning and care. In addition, the workforce is highly feminized and racialized, and attempts to improve compensation and benefits should also be prioritized on the grounds that they simultaneously achieve other equity goals related to economic participation for racialized women and newcomers.

The historical and current accessibility and affordability crisis in child care in Toronto is best addressed through a long-term strategy and vision that prioritizes growth and investment. Over the last four years the City of Toronto has made significant improvements in affordability for families in partnership with the federal and provincial governments, and through the "*Toronto Licensed Child Care Growth Strategy*". The Growth Strategy is founded on three main pillars:

- 1) Build capacity in the system to meet demand and provide high quality, licensed child care;

- 2) Improve affordability for families by reducing parent fees and increasing the number of fee subsidies; and
- 3) Support a thriving workforce through high quality jobs that attract and retain the best child care professionals.

A report to Council on improvements to the Growth Strategy will be forthcoming. This report is focused on proposed provincial changes and not intended to provide an update on Growth Strategy progress. The City of Toronto supports the continued role of the provincial and federal governments in implementing strategies that improve access and affordability while maintaining quality and supporting and recognizing the role of professional educators. While some of the proposed changes may improve affordability for some families, savings would generally be built upon larger group sizes, fewer in-room staff, and relaxed staff qualification requirements. The potential of improved affordability cannot be reasonably estimated until further operational guidelines, capital requirements, and actual uptake across the sector are known. We do know, however, that these changes would have a negative impact on program quality and child outcomes, and do not align with the overall objectives of the Growth Strategy.

Impacts on Quality

The child care and early years system has experienced significant improvements in quality in the past several years, realized incrementally through changes to legislation, regulations, staff qualifications and training, and partnerships between local service system managers and service providers. These gains in quality are closely tied to efforts to enhance the professionalization, reputation, and recognition for the sector and its workforce, and should be protected and enhanced. Unfortunately, some of the proposed changes may result in negative quality impacts for children and families using licensed child care, and would dilute the gains that have been made in the professionalization of the ECE workforce. Research demonstrates that quality is a crucial component when it comes to programs leading to healthy child development and positive outcomes for children.²

While further details on the proposals are available in the attached, taken together there is concern that the suite of changes proposed amount to a lowering of child care quality. The proposed changes will broaden – or remove – staff qualification requirements, and allow licensees to operate under an alternate set of requirements related to age groupings, ratios, maximum group sizes of children, and staff qualification requirements. This alternate set of requirements moves the system in the opposite direction of high-quality by generally reducing staff to child ratios – whereas research shows higher staff to child ratios are found to enhance quality and support children's healthy development.³

Timing of Proposed Changes

Thirdly, the timing of the release of the proposed regulatory amendments, and the anticipated timelines for implementation, are of significant concern to service providers and the City of Toronto. The child care system – in Toronto and across Ontario – has faced significant disruption in the last several months as a result of the COVID-19 pandemic. The mandated closure of licensed child care from March to June, followed by the complex road to reopening has significantly strained the resources of the sector.

Child care centres and their staff have shown remarkable commitment to returning to work and reopening with new health and safety practices to keep children, families, and staff safe. While most centres in Toronto have now reopened and are ready to operate at their original capacity, vacancies and low enrollment are widespread as families continue to navigate changes to their working conditions, education, and the delivery of schooling for their children. The focus of all levels of government should remain on recovery from the COVID-19 pandemic which continues to threaten the strong foundations that have been built in the child care sector in recent years. In addition, given the ongoing and resurgent spread of COVID-19, now is not an ideal time to pursue proposals that would increase the sizes of groups of children, in child care centres or in home child care settings. Instead, parent concerns about health and safety should be the current focus.

The proposal to implement many of these changes in early to mid-2021 risks destabilizing a sector that is already struggling to recover from a global pandemic. As Service System Manager, Children's Services also has significant concerns regarding the additional administration required to implement the necessary changes to its system administration / infrastructure, including funding, information technology, and quality improvement systems and tools. It should be noted that these recommended changes are within existing funding allocations. There are no incremental investments committed with these proposed changes. The COVID-19 pandemic has demonstrated how crucial the child care and early learning sector is to the broader recovery of Ontario's economy, and the sector should be stabilized and supported throughout this period to continue to enable that recovery to take place. Only then should attention be given to efforts aimed at rebuilding the system at enhanced levels.

Furthermore, the Federal government has recently made renewed commitments to invest in a national child care and early learning system. Given this pending involvement and investment, now is not the time to introduce regulatory amendments to an already unstable system that would risk misalignment. Rather, it would better support the sector to focus on a long-term, intergovernmental and sustainable plan that protects the workforce and quality and achieves shared objectives in improving the responsiveness, flexibility, affordability and accessibility of child care.

In the absence of a Provincial Child Care Plan it is unclear how these proposed regulatory amendments support a vision for child care in Ontario. The province signalled in 2018 that a new Child Care Plan would be forthcoming. Consultation had started, however with the 5-year review required by legislation, the consultations were repurposed to provide feedback on the CCEYA. To date, a provincial Child Care Plan has not been released.

Summary of Major Changes and City Position

While almost 40 unique regulatory changes have been proposed, there are several that are more substantial and require careful consideration and response. The attachment provides a fulsome description of staff's draft response to regulatory amendments that require City comment – in support, in opposition, or with further recommendations or clarifications. The most impactful proposals are summarized below. For a fulsome description of the draft City position please refer to the attachment.

A. Flexibility and Responsiveness

The Ministry is proposing three significant changes under the banner of flexibility and responsiveness, with the intent of providing service providers greater flexibility to meet local needs, and to help increase the number of child care programs/spaces available to Ontario's families. This section includes the most significant proposed changes. It proposes a new approach to the standards in licensed child care by introducing a second schedule of requirements with regards to age groupings, ratios, maximum group sizes, and proportion of qualified staff. The proposal would allow licensees to apply to the Ministry of Education to operate under this second schedule.

The attached response opposes these changes on numerous grounds, including timing of the proposed changes as the sector continues to seek stability through the COVID-19 pandemic, negative impacts on program quality and on the early years workforce, and due to the significant administrative burden the change would place on the City as service system manager. It also notes that this proposal was very unpopular with parents and service providers consulted. 80% of parent survey respondents were not in favour of allowing child care operators to choose between the two sets of licensing standards. The majority (65%) of service providers stated they would not be interested in operating under the alternate schedule, with only 17% indicating they are likely to consider it.

This section also includes a proposal to introduce a two provider model of licensed home child care. Currently, licensed home child care can be provided by one provider who may care for up to six children, in their own home. This was increased from a maximum of five children in 2014, in an attempt to entice unlicensed providers to join the licensed home child care system. The current proposal would allow two providers to care for up to ten children, in addition to a number of other associated changes. Currently, City by-law prohibits care for more than 6 children in a home – licensed or unlicensed. This by-law would need to be changed through municipal licensing and standards and subject to Council decision to enable a two provider model. The attached response opposes this change on grounds of health, safety, and quality, and for the significant administrative challenges the proposal presents to licensed home child care agencies.

Thirdly, this section proposes changes to how authorized recreational and skill building programs are delivered. The proposal would, as a pilot, remove restrictions on the hours of operation of these programs that were introduced in 2016 that prevented programs from operating both before and after school, and limited their operation to 3 hours maximum per day. The proposal would lift these requirement for a select list of service providers only in the pilot phase. The list of providers includes Municipal recreation programs – and therefore has implications for the City's ARC/CLASP programs and other after school programs. The ARC/CLASP program is designed specifically as an after-school program for children 6 to 12 years of age and in CLASP 10 to 15 years of age and would continue to operate at the same service level. The attached response supports this change for providing more opportunities to enhance service in underserved communities and support extended hours of care after school.

B. Qualification Requirements

The Ministry has proposed a number of changes to the qualification requirements of staff working in licensed child care, with the intention of supporting workforce retention and address long-standing staffing challenges experienced in the sector. These include:

- Changes to qualification requirements for staff in licensed kindergarten and school age programs;
- Changes to requirements regarding short-term supply staff;
- Changes to child care centre supervisor qualifications; and
- Broadening education requirements for the recruitment of resource consultants, who work with children with extra support needs.

The attached response opposes many of these changes on grounds they would dilute and erode efforts made over the past several years to improve program quality and the reputation of the ECE profession.

Other proposed changes concern reducing administrative/regulatory burden, health and safety, and other technical matters; the majority of these changes are deemed to be of minimal impact and reasonable, and do not require a specific response.

Unlicensed child care registry

As part of the five year review of the CCEYA, the Ministry is seeking input on innovative or novel policy approaches for the future. While these do not constitute actual proposals at this time, the City has taken the opportunity to provide a response regarding one proposal, concerning a registry of unlicensed child care providers.

The Ministry is considering the idea of developing a registry of unlicensed child care providers. By establishing the registry, the province is seeking to support child care delivered in the unlicensed sector. The province suggests that a registry might help with the following:

- communication with unlicensed providers;
- ability to share information about pedagogy, health, and safety with unlicensed providers; and
- help parents locate child care providers in their communities.

There is significant concern with a provincial registry of unlicensed home providers. The unlicensed sector operates without any oversight and concerns regarding health and safety of children in this sector remain prominent. The province has made several changes to encourage unlicensed providers to join a licensed home child care agency, and this proposal may contradict those efforts. A public provincial registry could further confuse parents as to the difference between licensed and unlicensed home child care, and provide a false sense of security to parents that that there is some provincial oversight.

The attached response opposes this proposal and instead encourages the province to continue to make further strides in moving unlicensed providers to the licensed home child care sector where there is support and resources for providers and families.

Conclusion

Toronto's children, families, and child care and early years service providers and staff have faced unprecedented challenges in recent months as a result of the COVID-19 pandemic. The essential role that child care plays in the economy and the contribution of RECEs in delivering emergency child care in the midst of the pandemic has highlighted the importance and value of the early years system. A full recovery from the pandemic will take some time, and it is important to leverage the learnings from this experience to rebuild a stronger early learning and child care system in Toronto. With a national system and investment on the horizon, now is not the time for regulatory changes that may destabilize an already struggling sector. The City is committed to working with other orders of government, service providers, and children and families, and welcomes any future opportunities to collaborate on improvements that improve accessibility, affordability and quality for families, while recognizing and valuing the early years workforce.

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ATTACHMENTS

Attachment 1: City of Toronto Draft Response to Proposed Regulations under the *Child Care and Early Years Act, 2014*

REFERENCES

1. Schleicher A., 2019. *Helping our Youngest to Learn and Grow: Policies for Early Learning*, International Summit on the Teaching Profession, OECD Publishing, Paris. Available from: https://www.oecd-ilibrary.org/education/educating-our-youngest_9789264313873-en
2. Shanker S., 2013. *Calm, Alert, and Happy: Classroom strategies for self-regulation*. Queen's Printer for Ontario. Available from: <http://www.edu.gov.on.ca/childcare/shanker.pdf>
3. OECD, 2012. Research Brief: Working Conditions Matter. Available from: <http://www.oecd.org/education/school/49322250.pdf>