

**Consultation Document Regarding  
Proposed Regulatory Amendments under the  
*Child Care and Early Years Act, 2014***

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Submissions Required by: November 20, 2020

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# Purpose

The Ministry of Education (“the ministry”) is seeking feedback on proposed regulatory amendments under the *Child Care and Early Years Act, 2014* (CCEYA).

Also included in this document are discussion questions regarding additional, potential policy approaches related to child care; the discussion questions begin on page 34 of this document.

More information about how to respond is provided at the end of the document. Responses must be received by the ministry no later than November 20, 2020.

# Background

On August 31, 2015, the CCEYA came into force, replacing the nearly 70 year old predecessor legislation, the *Day Nurseries Act*.

Since its coming into force, the ministry has taken a phased approach to introducing regulatory changes to the two regulations under the CCEYA, most recently in summer 2020 in response to the novel coronavirus 2019 pandemic. The two regulations under the CCEYA are:

- [Ontario Regulation 137/15: General](#) (O. Reg. 137/15)
- [Ontario Regulation 138/15: Funding, Cost Sharing and Financial Assistance](#) (O. Reg. 138/15)

Under the CCEYA, the Minister is required to conduct a review of the Act within five years of it coming into force (see section 80 of the Act). On July 7, 2020, the Minister of Education announced the start of the review of the CCEYA and launched two online surveys on [the government’s website](#). Sector partners were also invited to submit reports to the ministry with their ideas for how to improve the child care and early years system.

The five year review has provided an opportunity to identify a suite of proposed regulatory amendments. The results of surveys and submissions – which are summarized in the [Strengthening early years and child care in Ontario, 2020 report](#) – helped to inform the proposed regulatory amendments to the CCEYA described in this document. The proposals address the following:

- A. Flexibility and responsiveness
- B. Qualification requirements
- C. Administrative/regulatory burden
- D. Health and safety
- E. Regulations requiring clarification of intent
- F. Technical matters

# Proposed Regulatory Amendments

## A. Flexibility and Responsiveness

To support licensees and child care providers in being able to meet the child care needs of their local communities and to help increase the number of child care programs/spaces available to Ontario's families, the following changes to O.Reg. 137/15 are being proposed:

### A1. Schedule 2 – Requirements for Age Groupings, Ratios, Maximum Group Size, and Proportion of Qualified Staff

To address the varied needs of families and communities in Ontario and support successful business models, the ministry is proposing to add Schedule 2 to O.Reg. 137/15. This would be an optional approach where child care centre licensees could apply to the ministry to operate a program in accordance with the age groupings, ratios, maximum group sizes and proportion of qualified staff set out under Schedule 1 (currently in place) or under the proposed Schedule 2. Should it be approved, this proposal would have no impact on the family age groups set out in Schedule 4 in O.Reg. 137/15.

Current Requirements (O.Reg. 137/15):

SCHEDULE 1				
Name of Age Category	Age Range	Ratio of Staff to Children	Maximum Number of Children	Proportion of Qualified Staff
Infant	0-18 months	3 to 10	10	1/3
Toddler	18-30 months	1 to 5	15	1/3
Preschool	30 months-6 years	1 to 8	16	2/4
Kindergarten	44-68 months	1 to 13	26	1/2
Primary /Junior School Age	68 months-13 years	1 to 15	30	1/2
Junior School age	9-13 years	1 to 20	20	1/1

Proposed Change: Add Schedule 2 to O. Reg. 137/15, which would set out the following:

PROPOSED SCHEDULE 2				
Name of Age Category	Age Range	Ratio of Staff to Children	Maximum Number of Children	Proportion of Qualified Staff
Infant/toddler	0-24 months	1-3 (0-12 months)	12	2/3
		1 to 4 (12-24 months)		
Preschool	24 months-5 years	1 to 8	24	2/3
Kindergarten	44 months-7 years	1 to 13	26	1/2
Primary/Junior School Age	68 months-13 years	1 to 20	20	1/2
Junior School age	9 years-13 years	1 to 20	20	1/1

Should the proposal to add Schedule 2 into O.Reg. 137/15 be approved, consequential amendments would be made to provisions in O.Reg. 137/15 to reflect the addition of Schedule 2. For example, consequential amendments would be needed to section 8 of the regulation (*Ratios and maximum group sizes, child care centre*) as well as to provisions related to: mixed-age groupings, reduced ratios, and dedicated areas/spaces (play, sleep, spaces suitable for dressing or changing diapers, etc.).

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## **A2: Two Provider Home Child Care Model**

The CCEYA provides that “home child care” (as defined in that Act) may be provided by a single child care provider caring for no more than six children (no more than three may be under two years of age).

The CCEYA also sets out that home child care may be provided by two providers *if the regulations so provide*. No such regulations are currently in place.

The CCEYA also stipulates that the total number of children who could be cared for under a two provider model overseen by a licensed home child care agency may not be more than twice the number of children a single home child care provider can care for or, if a lesser number is prescribed in regulation, no more than the prescribed number of children. Please refer to sub-subparagraph 6(3)1i B of the Act to view the statutory provisions related to two provider home child care.

To increase capacity of the licensed home child care sector and provide more high-quality licensed options for families, the ministry is proposing to amend O.Reg. 137/15 to allow for the provision of a two provider home child care model. This would be done by prescribing the maximum number of children who could be cared for in a two provider home child care model and would address some of the unique considerations related to the model.

Current Requirement (O.Reg. 137/15)	Proposed Change
NIL	Add new regulations to O.Reg. 137/15 that would set out that: <ul style="list-style-type: none"> <li>• two providers may offer home child care for not more than <b>10 children</b> and the group cannot include more than <b>5 children who are younger than 2 years of age</b>.</li> <li>• home child care agencies are to develop policies and procedures with respect to <b>specialized training for providers in a two provider model</b>; the type, frequency, and modality of the training would be up to the home child care agency.</li> <li>• home child care agencies are to have policies and procedures in place regarding how to <b>address situations where one of the providers working in a two provider home child care model is not able to work</b> (e.g. she/he is sick). This policy would need to be reflected in the agency's agreement with the providers.</li> </ul>

It is notable that the CCEYA, including the licensing standards set out in regulations, does not distinguish between home child care provided by a single provider versus two providers. As such, all legislative provisions in the CCEYA and existing licensing standards in O.Reg. 137/15 that apply currently to a single provider providing home child care would apply to the two provider model (if approved), including:

- the maximum capacity of each home child care premises providing care in a two provider home model would be determined by the home child care agency (up to the maximum prescribed in regulation). Home child care agencies would be encouraged to work with local public health units and CMSMs/DSSABs to determine maximum capacity for each premises where home child care is provided
- rules in the CCEYA that govern whether a provider's own children are to be counted towards the maximum number of children allowed in home child care premises (see subsection 6(5)) would apply to the two provider child care model (if approved). These requirements would not be changed and would apply to the two provider home child care model; this would mean that in a two provider home child care premises, as is the case with single provider home child care, the providers' own children under age 4 years would be counted towards the maximum number of children allowed.

Given that the two provider model would be a new approach to the delivery of home child care (pending approval), the ministry would be interested in receiving feedback on the new approach during the early stages of implementation to support continued refinement of the approach.

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

### A3: Authorized Recreational and Skill Build Programs

As set out currently under subsection 6(4) of the CCEYA and section 3.1 of O.Reg. 137/15, “Authorized Recreational and Skill Building Programs” may provide up to three consecutive hours of care/programming once a day, on weekdays, for children age 4 years and older (or if the program is provided on or after September 1 in a calendar year, the child will attain the age of 4 years in that year).

To address critical shortages of before- and after-school programs, the ministry is proposing to allow specified Authorized Recreational and Skill Building Programs to operate for more than three consecutive hours. The approach would first be launched with select providers.

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 3.1:</b> Subsection 6 (1) of the Act does not apply in respect of the provision of child care if the child care is provided as part of a program that meets the criteria set out in paragraphs 1 to 4 of subsection 6 (4) of the Act and the following criteria:</p> <ol style="list-style-type: none"> <li>1. The program operates on weekdays for no more than one period of three or fewer consecutive hours each day.</li> <li>2. The program is,               <ol style="list-style-type: none"> <li>i. operated by the local service system manager, a municipality, a school board, a First Nation or the Métis Nation of Ontario,</li> <li>ii. part of Ontario’s After School Program funded by the Ministry of Tourism, Culture and Sport,</li> <li>iii. operated by a member of YMCA Canada or by a member of Boys and Girls Clubs of Canada,                   <ol style="list-style-type: none"> <li>iii.1 operated by a member of a provincial sport organization or multi-sport organization recognized by the Ministry of Tourism, Culture and Sport, where the program’s activities are related to the sport or sports promoted by the organization,</li> <li>iii.2 operated by an organization that is recognized by Parks and Recreation Ontario as a HIGH FIVE accredited organization,</li> <li>iii.3 operated by a Friendship Centre that is a member of the Ontario Federation of Indigenous Friendship Centres,</li> </ol> </li> <li>iv. operated by an agency or attraction of the Ministry of Tourism, Culture and Sport,</li> <li>v. authorized by the local service system manager to offer child care in their service area provided that the program can demonstrate to the local service system manager that it offers programming that supports the health, safety, and well-being of children, or</li> <li>vi. authorized by a First Nation to offer child care on their territory provided that the program can demonstrate to the First Nation that it offers programming that supports the health, safety and well-being of children.</li> </ol> </li> </ol>	<p>Before and After School programs operated by the following, would be exempt from the requirement to restrict the program to three or fewer consecutive hours a day:</p> <ul style="list-style-type: none"> <li>○ YMCA</li> <li>○ Boys and Girls Clubs</li> <li>○ Municipal recreation programs</li> <li>○ First Nation entities (on reserve)</li> <li>○ Ontario Federation of Indigenous Friendship Centres</li> </ul>

After a review of this new approach (if approved), the ministry may consider extending the exemption to additional program providers.

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## **B. Qualification Requirements**

The ministry is proposing to update several employee qualification requirements set out in O.Reg. 137/15 to support workforce retention and help to address long-standing staffing challenges experienced by the licensed child care sector.

### **B1. Qualified Employees**

Currently, under subsection 54(2) of O.Reg. 137/15, with respect to a licensed junior school age group or a licensed primary/junior school age group that includes only children who are junior school age (as described in Schedule 1 of the regulation), in addition to persons who are in good standing of the College of Early Childhood Educators or those otherwise approved by a director (i.e. ministry employee), the following are considered to be qualified employees:

- An employee who has a diploma or degree in child and youth care;
- An employee who has a diploma or degree in recreation and leisure services;
- A member in good standing with the Ontario College of Teachers.

The ministry is proposing to permit a person with any of the three qualifications listed above to be considered a qualified employee for the purposes of meeting the requirement respecting the proportion of employees that must be qualified for all licensed age groups serving kindergarten age children or older. In addition to supporting employee recruitment and retention, this proposal would help prioritize the supply of early childhood educators to the province's youngest children.

Please note that this proposal would apply to centres operating under the proposed Schedule 2; see part A1 (Schedule 2 – Requirements for Age Groupings, Ratios, Maximum Group Size, and Proportion of Qualified Staff).

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 54. (1):</b> The following are qualified employees for any licensed age group:</p> <ol style="list-style-type: none"> <li>1. An employee who is a member in good standing of the College of Early Childhood Educators.</li> <li>2. An employee who is otherwise approved by a director. O. Reg. 126/16, s. 36 (1).</li> </ol> <p>(2) With respect to a licensed junior school age group or a licensed primary/junior school age group that includes only children who are junior school age, the following are also qualified employees:</p> <ol style="list-style-type: none"> <li>1. An employee who has a diploma or degree in child and youth care.</li> <li>2. An employee who has a diploma or degree in recreation and leisure services.</li> <li>3. A member in good standing with the Ontario College of Teachers.</li> </ol>	<p>Make an amendment to section 54(2) to set out that with respect to a kindergarten age group, licensed junior school age group or a licensed primary/junior school age group, the following are also qualified employees:</p> <ol style="list-style-type: none"> <li>1. An employee who has a diploma or degree in child and youth care.</li> <li>2. An employee who has a diploma or degree in recreation and leisure services.</li> <li>3. A member in good standing with the Ontario College of Teachers.</li> </ol>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

**B2. Short-Term Supply Staff**

The ministry is proposing to make an amendment to section 54 in O.Reg. 137/15 to deem non-qualified persons to be “qualified employees” for the purpose of backfilling a “qualified employee” who is counted toward the required proportion of qualified employees required in situations where this person is away from work due to illness or vacation for a period of no longer than two weeks.

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 54. (1):</b> The following are qualified employees for any licensed age group:</p> <ol style="list-style-type: none"> <li>1. An employee who is a member in good standing of the College of Early Childhood Educators.</li> <li>2. An employee who is otherwise approved by a director.</li> </ol> <p>(2) With respect to a licensed junior school age group or a licensed primary/junior school age group that includes only children who are junior school age, the following are also qualified employees:</p> <ol style="list-style-type: none"> <li>1. An employee who has a diploma or degree in child and youth care.</li> <li>2. An employee who has a diploma or degree in recreation and leisure services.</li> <li>3. A member in good standing with the Ontario College of Teachers.</li> </ol>	<p>Make an amendment to section 54 to allow persons who do not meet qualification requirements in section 54(1) or 54(2) to be deemed as “qualified employee” for the purposes of backfilling a qualified employee for a period of up to two weeks.</p> <p>The proposed regulatory amendment would prohibit <i>consecutive</i> backfilling by non-qualified persons deemed to be qualified for the purposes of backfilling.</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

### **B3. Qualification Requirements for Child Care Centre Supervisors**

Currently, under O.Reg. 137/15, a supervisor must be a member in good standing of the College of Early Childhood Educators, have at least “two years of experience providing licensed child care”, and be approved by a director or in the opinion of a director (i.e. ministry employee), be capable of planning and directing the program of a child care centre, being in charge of children, and overseeing staff.

The ministry is proposing to modify the requirement for supervisors to have two years of experience providing licensed child care to require that they have two years of experience in general children’s programming (e.g. child care, recreation, teaching, child and youth services, etc.). This amendment, if approved, would not change the current requirement for the supervisor to be “approved by a director” in clause 53(a).

<b>Current Requirement (O.Reg. 137/15)</b>	<b>Proposed Change</b>
<p><b>Section 53:</b> A supervisor shall be a person who,</p> <p>(a) is a member in good standing of the College of Early Childhood Educators, has at least two years of experience providing licensed child care and is approved by a director; or</p> <p>(b) in the opinion of a director, is capable of planning and directing the program of a child care centre, being in charge of children and overseeing staff.</p>	<p>Amend clause 53(a) to provide that supervisors must, in addition to being a member in good standing of the College of Early Childhood Educators and being approved by a director, have two years of experience providing children’s programming/services.</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

### **B4. Resource Teachers**

Resource teachers are professionals who are funded under the CCEYA to support the inclusion of children with special needs (as defined in subsection 1(1) O. Reg. 137/15) in licensed child care settings, including home child care, camps, and “children’s recreation programs” pursuant to O.Reg. 138/15 (see section 6(1)(4)), at no additional cost to parents/guardians.

The ministry is proposing to change the term “resource teacher” to “resource consultant” in O.Reg. 137/15 to more accurately reflect the role these professionals play in supporting inclusion. The term “resource teacher” is a relic from the previous child care legislation and no longer reflects the primary modality of service these professionals provide.

The ministry is also proposing to make an amendment that removes the “director approval” requirement in section 55(1)a so that hiring decisions reside solely with employers (namely community agencies and service system managers). If this proposal is approved, this means that the employers of prospective resource teachers/consultants would be able to determine which post-secondary programs of studies that are both theoretical and practical and that relate to the needs of children with special needs would be appropriate to meeting the qualification requirement in clause 55(1)a.

Current Requirement (O.Reg. 137/15)	Proposed Change
<p>Section 55. (1): A resource teacher shall be a person who,</p> <p>(a) is a member in good standing of the College of Early Childhood Educators and has completed a post-secondary program of studies approved by a director that is both theoretical and practical and that relates to the needs of children with special needs; or</p> <p>(b) is otherwise approved by a director.</p>	<p>Amend subsection 55(1) to rename “resource teacher” to “resource consultant”.</p> <p>Amend clause 55(1)(a) to remove the requirement for the resource consultant to have completed a post-secondary program of study approved by the director.</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## C. Administrative/Regulatory Burden

The ministry is proposing regulatory changes to O. Reg. 137/15 and O. Reg. 138/15 under the CCEYA, with an aim to removing duplicative, onerous, and unnecessary requirements for licensees and providers.

### C1. Time Allowance for First Aid Certification

The ministry is proposing to provide newly-hired staff in child care centres who must be first aid certified per s. 58(2) of O. Reg 137/15 with a three month time period to obtain their certification, as long as at least one first aid certified employee is onsite at all times.

Similarly, if one provider in a two-provider home child care premises (see part A2 (Two Provider Home Child Care) of this document) meets the first aid certification requirements set out in the regulation, the other could be provided with up to three months to obtain his/her certification.

This amendment, if approved, would allow licensees to quickly hire centre staff (where there are already employees with first aid certification at the program) and rapidly contract home child care providers for the two-provider model, helping to address ongoing recruitment challenges experienced by licensees.

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 58 (2):</b> Every licensee of a child care centre or home child care agency shall ensure that the following persons have a valid certification in standard first aid, including infant and child CPR, issued by a training agency recognized by the Workplace Safety and Insurance Board:</p> <ol style="list-style-type: none"> <li>1. Every supervisor of a child care centre.</li> <li>2. Every employee of a child care centre who may be counted for the purposes of meeting the ratios required under section 8 or 8.1.</li> <li>3. Every provider of home child care or in-home services.</li> </ol>	<p>Amend the regulation to allow new employees in centres or a provider in a two-provider home child care premises up to three months to meet the requirements in s. 58(2), as long as someone who meets the requirements in s. 58(2) is already at the centre or at the premises operating the two-provider home child care model.</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

**C2. Requirements Related to Sanitary Practices and Food Storage, etc.**

The ministry is proposing to remove the requirement for licensees to have sanitary policies and procedures and to ensure food and drinks are stored to maintain nutritive value and prevent contamination as these matters are addressed by public health rules.

Removing these duplicative requirements from O.Reg. 137/15 would not have any effect on staff or children’s health, safety, and well-being as public health experts in local public health units already address these matters with licensees pursuant to the authority granted to them under the provincial *Health Protection and Promotion Act*.

Additionally, subsection 32(1) in O.Reg. 137/15 already requires centres to follow the direction of local public health units, making sections 33 and 42(1) redundant. Note that the ministry is also proposing to amend section 32(1) to add home child care agencies to the provision; please see part D2 (Medical Officer of Health Directions – Home Child Care Agencies) of this document for a description of this proposal.

Should this proposal be approved, there would be no changes/impacts to paragraph 4 of subsection 15 (1), which sets out that licensees must ensure that each child care centre it operates includes space designated for food.

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 33:</b> Every licensee shall ensure that there are policies and procedures with respect to sanitary practices in each child care centre it operates and in each premises where it oversees the provision of home child care</p> <p><b>Section 42.(1):</b> Every licensee shall ensure that,</p> <p>...</p> <p>(c) all food or drink is stored, prepared and served so as to retain maximum nutritive value and prevent contamination.</p>	<p>Revoke section 33 and revoke clause 42(1) (c).</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

### C3. Hiring of Resource Teachers by Licensees

The ministry is proposing to remove a provision from O.Reg. 137/15 which permits licensees to hire resource teachers. This provision is a relic from the previous child care legislation and is no longer required as most resource teachers in the province are not employees of licensees and the funding of resource teachers is already addressed under paragraph 6(1)4 of O.Reg. 138/15. This proposed amendment, if approved and once in effect, would not preclude licensees from hiring resource teachers directly if they wish to do so.

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 10. (1):</b> A licensee of an integrated child care centre or home child care agency may employ a resource teacher to plan and implement individual and small group experiences for children with special needs who receive child care in the child care centre or at a premises where the licensee oversees the provision of home child care, and in respect of whom funds are provided under the Act</p>	<p>Remove subsection 10(1).</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

### C4. Schedule 3 Child Care Centres

Schedule 3 under O.Reg. 137/15 sets out requirements for age groupings, ratios, and proportion of employees that must be qualified employees for “child centres for children with special needs”. This schedule is a historic relic from the previous child care legislation and is no longer operational/functional as child care centres with a Schedule 3 licence no longer exist.

Modern inclusion principles and practices encourage integration of all children in programs. Centres with a Schedule 1 child care licence (or future Schedule 2 licences – see part A1 (Schedule 2 – Requirements for Age Groupings, Ratios, Maximum Group Size, and Proportion of Qualified Staff) of this document) can and do operate specialized models of child care such as “reverse integration” models where the majority of children have special needs. The proposed revocation of Schedule 3 would have no effect on such approaches, if approved.

A number of consequential amendments would need to be made as there are several provisions in O.Reg. 137/15 that contemplate different requirements for Schedule 1 child care centres versus Schedule 3 centres.

Current Requirement (O.Reg. 137/15)	Proposed Change
<a href="#">Schedule 3</a> requirements for “child care centres for children with special needs”.	Revoke Schedule 3.  Make consequential amendments resulting from the revocation of Schedule 3.

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

### C5. Digital Records etc.

The ministry is proposing to add a provision to both O.Reg. 137/15 and O.Reg. 138/15 that would clarify, for greater certainty, that every record, policy, individualized plan, parent handbook, program statement, child registration, copy of agreement, or other document required in the regulations may be created, provided, and stored in an exclusively electronic/digital format. The regulation would also provide, for greater certainty, that such digital documents must be available at all times for inspection.

Licensees could still choose to print and distribute physical, hard copies of required documents, handbooks, etc. if they wish to do so.

Note that current requirements regarding posting of certain hard copy documents would continue to exist (e.g. for serious occurrence reports, fire procedures, menus, allergy/allergen list, etc.).

Current Requirement (O.Reg. 137/15)	Proposed Change
NIL in O.Reg. 137/15  NIL in O.Reg. 138/15	Add a provision to both regulations under the CCEYA that provides, for greater certainty, that required documents may be in exclusively digital/electronic format and provide that, for greater certainty, such digital documents must be available at all times for inspection.  Consequential amendments could be made to section 15(1), which requires licensees to have a designated space for the storage of records and section 72(2) which speaks to the need for records to be kept physically onsite.

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## C6. Exempting Certain Persons from Offence Declaration/Attestation Requirements

The ministry is proposing to amend section 61.1 of O.Reg. 137/15 that would, if approved and once in effect, exempt active duty first responders (i.e., (i.e., police, fire, and emergency medical/paramedic professionals), professionals governed by the *Regulated Health Professions Act, 1991* (RHPA), and professionals governed by the *Social Work and Social Service Work Act, 1998* (SWSSWA) from the requirement to provide an attestation or offence declaration when attending a licensed child care premises to provide services, e.g. for consultations, the delivery of presentations to children, etc. These professionals are already subject to oversight by other laws and employer policies in regard to their suitability to be around vulnerable persons such as children.

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 61.1 (1):</b> Every licensee of a child care centre shall obtain, in respect of any person who provides child care or other services to a child who receives child care at the child care centre, other than a person described in subsection 60 (1),</p> <ul style="list-style-type: none"> <li>(a) an offence declaration from the person; or</li> <li>(b) an attestation from the person’s employer or from the person or entity who retained the person’s services that,               <ul style="list-style-type: none"> <li>(i) the employer, person or entity has obtained and reviewed a vulnerable sector check from that person,</li> <li>(ii) the vulnerable sector check was performed within the last five years, and</li> <li>(iii) the vulnerable sector check did not list any convictions for any offences under the Criminal Code (Canada) listed in subparagraph 1 ii of subsection 9 (1) of the <i>Child Care and Early Years Act, 2014</i>.</li> </ul> </li> </ul> <p>(2) A licensee shall obtain the offence declaration or attestation described in subsection (1) in respect of a person,</p> <ul style="list-style-type: none"> <li>(a) before the person begins interacting with children at the child care centre; and</li> <li>(b) every year thereafter, no later than 15 days after the anniversary date of the most recent offence declaration or attestation, if the person continues to provide such child care or other services.</li> </ul>	<p>Amend the regulation to exempt active duty first responders (i.e. police and fire professionals and emergency medical technicians) and professionals regulated under the RHPA or SWSSWA from the offence declaration and attestation requirements in section 61.1.</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## C7. First Aid Certification Requirements for Resource Teachers

The ministry is proposing to remove the requirement for resource teachers to be certified in first aid. This requirement is a historic relic from the previous child care legislation and reflects a time when “resource teachers” were employed directly by licensees. Resource teachers now provide consultative services and, per section 10(2) under O.Reg. 137/15, cannot be counted towards meeting ratio requirements set out in the regulation.

For related amendments, see also parts B4 (Resource Teachers) and C3 (Hiring of Resource Teachers by Licensees) of this document.

Current Requirement (O.Reg. 137/15)	Proposed Change
<b>Section 55(2):</b> Every licensee shall ensure that every resource teacher has a valid certification in standard first aid, including infant and child CPR, issued by a training agency recognized by the Workplace Safety and Insurance Board.	Revoke section 55(2).

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## C8. Required Resource Area

The ministry is proposing to remove the requirement for “integrated child care centres” to have a resource area. This requirement is a historic relic from the previous child care legislation and presents an unnecessary regulatory and cost burden to licensees. This requirement stems from, what was at the time, a common practice of taking children out of regular child care programming at centres to receive treatment/therapy.

The ministry is also proposing to remove the definition of “integrated child care centre” in section 1(1) and all references and related references to this term.

For related amendments, see part C4 (Schedule 3 Child Care Centres) of this document.

Current Requirement (O.Reg. 137/15)	Proposed Change
<b>Section 18:</b> Every licensee of an integrated child care centre that provides child care for children with special needs shall ensure that each such child care centre it operates has one room or area set aside as a resource area for individual and small group experiences.	Revoke section 18.

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## C9. Lunches for Children 44 Months and Older

To date, the ministry's practice has been to place conditions on licensees' licences, on a case by case basis, to permit children in child care to bring their own lunches, e.g. those provided by parents or prepared at home. The ministry is proposing to allow children age 44 months or older to bring in their own lunches (in centres and home child care premises) without the need for conditions to be placed on licences.

In addition to allowing for this under O.Reg. 137/15, the ministry is proposing that licensees would need to describe their approach to lunches brought in by children in their parent handbook (if they choose to allow this) as well as address lunches brought from home in their required anaphylactic policy. For example, if a licensee chooses to permit children to bring lunches from home, the parent handbook would need to provide this information and also describe what would happen if a child failed to bring a lunch from home. For licensees choosing to allow lunches to be brought in from home by children age 44 months and older, their anaphylactic policies would need to set out that lunches provided by parents must meet the licensee's restrictions/requirements set out in the anaphylactic policy.

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 39:</b> sets out requirements related to anaphylactic policies.</p> <p><b>Section 42(2):</b> Subject to section 44, every licensee shall ensure that each child one year old or older who receives child care at a child care centre it operates and or at a premises where it oversees the provision of home child care is given food and beverages in accordance with the following rules:</p> <ol style="list-style-type: none"> <li>1. Where the child is present at meal time, a meal must be supplied and provided by the licensee or provider, except where otherwise approved by a director in the case of a child who is 44 months or older.</li> <li>2. Between-meal snacks must be supplied and provided by the licensee or provider, except where otherwise approved by a director in the case of a child who is 44 months or older.</li> </ol> <p><b>Section 45:</b> sets out requirements related to parent handbooks.</p>	<p>Make amendments that would allow licensees to permit children age 44 months and older to bring their own lunches.</p> <p>Add a requirement for licensees who choose to allow such lunches to address such lunches in the centre's/agency's required parent handbook and anaphylactic policy.</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## C10. Providing Certain Reports to Program Advisers

Currently, licensees are required to provide program advisers (ministry employees) with all reports issued by local public health units and fire departments, including those resulting from routine inspections. The ministry is proposing to amend O.Reg. 137/15 so it sets out that the only circumstance when licensees are required to provide documents issued by public health units and fire departments to program advisers is when the licensee is given an order and documents relating to the enforcement of the order from these entities.

The current requirement for licensees to maintain copies of all reports from the public health unit and fire department would not be affected by this proposal.

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 32(2):</b> Every licensee shall ensure that, where a report is made by the local medical officer of health or any person designated by the local medical officer of health or the local fire department with respect to a child care centre operated by the licensee or a premises where it oversees the provision of home child care, one copy of the report is kept on the premises of the child care centre or home child care agency and another copy is sent immediately to a program adviser.</p>	<p>Make an amendment to require only copies of orders made by the local medical officer of health/designate or the local fire department to be provided to program advisers.</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## C11. Emergency Contact Information

There are duplicative requirements in O.Reg. 137/15 related to emergency contact information for parents or alternate persons:

- Section 70 requires licensees to have updated and readily accessible contact information for a parent or alternate person (if the parent cannot be reached) in the event of an emergency.
- Section 72(1)4 requires licensees to ensure up-to-date records are available for inspection for each child, including the address and telephone number at which a parent of the child or other person can be reached in case of an emergency during the hours when the child receives child care.

To eliminate this duplication, the ministry is proposing to remove paragraph 4 of subsection 72(1).

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 72.(1):</b> Every licensee shall ensure that up-to-date records that are available for inspection by an inspector or program adviser at all times are kept of the following matters in respect of each child receiving child care at a child care centre operated by the licensee or receiving child care at a premises where it oversees the provision of home child care:</p> <p>...</p> <p>4. The address and telephone number at which a parent of the child or other person can be reached in case of an emergency during the hours when the child receives child care.</p>	<p>Revoke paragraph 4 of subsection 72(1).</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## C12. Emergency Telephone Numbers

Section 69 of O.Reg. 137/15 was put in place under the previous child care legislation and carried over to the CCEYA without amendments; the requirements were set out in a time period in history which predates vast 911 service coverage, the internet, and the common use of mobile/cell phones.

For licensees of centres and agencies *with* 911 service, the ministry is proposing to remove the requirement for licensees to have an up-to-date and accessible list of the telephone numbers for “emergency services”, poison control centre phone numbers, and taxi services.

For licensees of centres and agencies *without* 911 service, the current requirements in section 69, other than the requirement to have a phone number for a taxi service (which are not available in all areas of the province and do not capture mobile phone-based ride sharing applications), would continue to apply.

The requirement for home child care premises to have the agency’s phone number would not be impacted by the above proposed changes.

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 69:</b> Every licensee shall ensure that there is an up-to-date list of telephone numbers in each child care centre it operates and in each premises where the licensee oversees the provision of home child care that is accessible in the event of an emergency and that includes contact information for,</p> <ul style="list-style-type: none"> <li>(a) emergency services;</li> <li>(b) the nearest poison control centre;</li> <li>(c) a taxi service; and</li> <li>(d) the home child care agency, in the case of a premises where the licensee oversees the provision of home child care.</li> </ul>	<p>Amend section 69 so the current requirements for emergency telephone numbers would only apply to licensees whose centres or home child care premises are located in areas of the province which do not have 911 service.</p> <p>Remove the requirement at clause (c) of section 69 to have a phone number for a taxi service.</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

### C13. Telephone Service

The ministry is proposing to remove the requirement in O.Reg. 137/15 for licensees to ensure that child care centres and home child care premises be physically equipped with telephone service (i.e. a landline). This requirement is outdated and unnecessary given the common use of mobile/cell phones.

Current Requirement (O.Reg. 137/15)	Proposed Change
<b>Section 67:</b> Every licensee shall ensure that each child care centre it operates and each premises where it oversees the provision of home child care is equipped with telephone service or an alternative means of obtaining emergency assistance that is approved by a director	Revoke section 67.

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

### C14. Direct Visual Checks of Sleeping Children

The ministry is proposing to specify the age of children who need to have a direct visual check conducted. The current proposal is to require direct visual checks only for children under 24 months of age.

The requirement for children to be supervised at all times (see section 11 of O.Reg. 137/15) would not be impacted by this proposal, should it be approved.

Current Requirement (O.Reg. 137/15)	Proposed Change
<b>Section 33.1(2) (a):</b> Every licensee shall ensure that, if child care is provided for a child who regularly sleeps at a child care centre the licensee operates or at a premises where it oversees the provision of home child care ... an employee or the home child care provider periodically performs a direct visual check of each sleeping child by being physically present beside the child while the child is sleeping and looking for indicators of distress or unusual behaviours.	Amend section 33.1(2)(a) to require direct visual checks be conducted on each sleeping child under age 24 months only.

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## C15. Daily Written Record

The ministry is proposing to clarify requirements regarding when a notification to parents is required when an “incident affecting the health, safety or well-being” of a child in a child care centre or home child care premises has occurred.

Currently, section 36(4)(a) and (b) of O.Reg. 137/15 requires licensees to make an accident report when a child is injured and provide a copy of the report to the child’s parent. An accident is implied in this provision to be an event/situation that caused a direct injury to a child.

Section 37(2) requires licensees to notify parents when there has been an “incident affecting the health, safety or well-being” of a child in licensed child care. An incident could be an accident that directly injured a child and it could also be an event where there was not a direct injury. For example, an incident could be a natural disaster, loss of running water, a power outage, etc. that may have or could affect the health, safety, and well-being of a child. Parents need to be aware of such incidents to look out for signs of ill-health in their children and to understand whether such incidents may have had a psychological/emotional impact on children.

The ministry is proposing to clarify in section 37 that an “incident” notification does not need to be provided to parents when the “incident” that occurred was an “accident”, as described in section 36(4)(a).

Further clarification regarding what is an “accident” versus an “incident” would be provided through updates to the ministry’s licensing manuals.

Current Requirement	Proposed Change
<p><b>Section 37.</b> (1) Every licensee of a child care centre or home child care agency shall ensure that a daily written record is maintained that includes a summary of any incident affecting the health, safety or well-being of,</p> <ul style="list-style-type: none"> <li>(a) any child receiving child care at a child care centre operated by the licensee;</li> <li>(b) any staff at a child care centre operated by the licensee;</li> <li>(c) any child receiving child care at a premises where the licensee oversees the provision of home child care; or</li> <li>(d) any person providing child care at a premise where the licensee oversees the provision of home child care.</li> </ul> <p>(2) If an incident described in clause (1) (a) or (c) occurs, the licensee shall ensure that a parent of the child is notified.</p>	<p>Amend section 37(2) to clarify that parents must be notified of an incident affecting the health, safety, or well-being of a child only when the incident is not otherwise captured by the accident reporting requirements under section 36(4)(a).</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## C16. Administration of Drugs or Medications

The ministry is proposing to remove the requirement for licensees who agree to the administration of drugs/medication to have only one person responsible for overseeing/being in charge of the administration of drugs/medication. The expectations around this requirement and application of this provision can be inconsistent as the “one person” may not be present at all shifts, may be on vacation, etc.

Additionally, consistent with current policy (as described in the ministry’s licensing manuals), the ministry is proposing to exempt the following commonly used over-the-counter products from the application of section 40 in O.Reg. 137/15: sunscreen, lotion, lip balm, insect repellent, hand sanitizer, as well as diaper cream that is not used for acute, symptomatic treatment.

Current Requirement (O.Reg. 138/15)	Proposed Change
<p><b>Section 40. (1):</b> Where a licensee agrees to the administration of drugs or medications, the licensee shall ensure that,</p> <p>...</p> <p>(c) one person in each child care centre operated by the licensee and in each premises where it oversees the provision of home child care is in charge of all drugs and medications and that all drugs and medications are dealt with by that person or a person designated by that person in accordance with the procedures established under clause (a);</p>	<p>Revoke section 40(1)(c).</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## C17. Funding Provisions

The ministry is proposing to remove from O.Reg. 138/15 provisions that are no longer in use as they were carried over from the previous child care legislation and no longer functional.

Namely, the ministry is proposing to remove provisions related to “capital expenditures” as these matters are solely addressed through transfer-payment agreements and ministry business processes/practices.

Current Requirement (O.Reg. 138/15)	Proposed Change
<p>See sections 21 to 27: capital expenditures</p>	<p>Revoke sections 21-27. Make consequential amendments resulting from the revocation of sections 21 to 27.</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## D. Health and Safety

The ministry is proposing a suite of regulatory changes to O. Reg. 137/15 to support the health, safety, and well-being of children.

### D1. Harmful Substances

The ministry is proposing amendments to the regulation to protect children from serious injury in relation to potentially *harmful* objects and substances, including objects and substances may not be obviously “poisonous or hazardous” (e.g. recreational/medical cannabis, sharp knives, alcohol, and an employee’s/provider’s own medication).

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 15. (1):</b> Every licensee shall ensure that each child care centre it operates includes space designated for each of the following:</p> <p>5. Storage for medical supplies, cleaning materials and equipment and other poisonous or hazardous substances.</p> <p><b>Section 31:</b> Every licensee shall ensure that in respect of each premises where the licensee oversees the provision of home child care,</p> <p>(a) all poisonous and hazardous substances are inaccessible to children;</p>	<p>Amend sections 15(1)(5) and section 31 to contemplate potentially harmful objects/substances, including those which are poisonous or hazardous.</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

### D2. Medical Officer of Health Directions – Home Child Care Agencies

In light of the need to rely on the expertise of the province’s public health professionals, the ministry is proposing to amend O.Reg. 137/15 to set out that home child care agencies must ensure that any direction of a medical officer of health with respect to any matter that may affect the health or well-being of a child receiving home child care in a child care premises be carried out by the home child care provider.

The relationship between medical officers of health and home child care agencies is currently contemplated in O. Reg. 137/15 as follows:

- Section 25 of the regulation stipulates that every person who applies for a licence to operate a home child care agency under section 20 of the Act must ensure that each premises the person oversees in which child care is to be provided complies with, among other things, clause 13 (1) (b).
  - Clause 13 (1) (b) requires compliance with “any rule, regulation, direction or order of the local board of health and any direction or order of the local medical officer of health that may affect the provision of child care”.

- Section 57 (2) requires that every licensee of a home child care agency ensure that, before any child is provided with home child care, each home child care provider at a premises at which the licensee oversees the provision of home child care and each person who is ordinarily a resident of the premises or regularly at the premises has a health assessment and immunization as directed by the local medical officer of health.

Current Requirement (O. Reg. 137/15)	Proposed Change
<p><b>Section 32. (1):</b> Every licensee shall ensure that any direction of a medical officer of health with respect to any matter that may affect the health or well-being of a child receiving child care at a child care centre the licensee operates is carried out by the staff of the child care centre.</p>	<p>Amend section 32(1) to add home child care agencies to the provision.</p> <p>Add a definition of “medical officer of health”.</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

### D3. Rabies Inoculation

The ministry is proposing to update O. Reg. 137/15 so that the requirement for licensees to ensure that certain animals in licensed child care settings are inoculated against rabies includes ferrets. This would align with similar requirements set out in Regulation 567 (Rabies Immunization) made under the *Health Protection and Promotion Act*.

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 41:</b> Every licensee shall ensure that every dog and cat that is kept on the premises of a child care centre it operates or premises where it oversees the provision of home child care is inoculated against rabies.</p>	<p>Amend section 41 to add ferrets.</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

### D4. Health Assessments and Immunization

The ministry is proposing to extend immunization and “health assessment” requirements under O.Reg. 137/15 such that they would apply to students on an educational placement and volunteers who regularly attend a child care centre or home child care premises.

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 57(2):</b> Every licensee of a home child care agency shall ensure that, before any child is provided with home child care, each home child care provider at a premises at which the licensee oversees the provision of home child care and each person who is ordinarily a resident of the premises or regularly at the premises has a health assessment and immunization as directed by the local medical officer of health.</p>	<p>Amend section 57 (2) so it applies to students on an educational placement and volunteers who attend the centre/home child care premises on a regular basis (e.g. weekly).</p> <p>Consequential amendments would be made to section 57(3) and (4).</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## D5. Safe Arrival and Dismissal Policies and Procedures

There are currently no requirements under the CCEYA addressing safe arrival and dismissal of children.

The ministry is proposing to amend O. Reg. 137/15 to require licensees to develop and implement safe arrival and dismissal policies and procedures. This would help to align the child care sector with the publicly-funded school sector, which has been subject to [Policy/Program Memorandum No.123 - Safe Arrivals](#) since 1999.

The ministry would support the development of licensees' policies and procedures addressing safe arrival and dismissal of children through the creation of sample policies and procedures and/or templates.

Current Requirement (O.Reg. 137/15)	Proposed Change
NIL	Add new regulations requiring licensees to have written policies and procedures addressing safe arrival and dismissal of children.

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## D6. Attendance Records and Inspection by Medical Officers of Health

The ministry is proposing to amend O. Reg. 137/15 to clarify that the required daily attendance records for children are to result in a daily attendance list for each age group in a child care centre and each home child care premises. The ministry is also proposing to make a regulatory amendment to allow medical officers of health (and designates) to inspect attendance records required under the regulation. These proposed amendments are particularly important and relevant in light of the global public health situation stemming from the novel coronavirus 2019.

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 72(3):</b> Every licensee shall ensure that a record is kept of the daily attendance of each child receiving child care in each child care centre it operates and in each premises where it oversees the provision of home child care showing the time of arrival and the time of departure of each child or if a child is absent.</p> <p><b>Section 72(6):</b> Every licensee shall ensure that,</p> <p style="padding-left: 40px;">(a) the medical officer of health or his or her designate, upon producing proper identification, is permitted to inspect the records referred to in paragraphs 2, 3, 8 and 9 of subsection (1); and</p> <p style="padding-left: 40px;">(b) copies of those records are provided to him or her on request.</p>	<p>Amend section 72(3) to clarify that daily attendance records for “each child” be used to generate a daily attendance list for each age grouping/room and each home child care premises.</p> <p>Amend section 72(6)(a) to permit medical officers of health and their designates to inspect the records required under section 72(3).</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## D7. Application of Licensing Standards to “In-home Services” Child Care

“In-home services” is a type of child care overseen by a licensed home child care agency. See paragraph 3 of subsection 6 (3) of the Act for the definition of “in-home services”.

Regulatory amendments are needed to O.Reg. 137/15 to apply requirements related to critical health/safety and administrative/ procedural matters to this type of child care.

Current Requirement (O.Reg. 137/15)	Proposed Change
<p>The following provisions currently apply to in-home services:</p> <ul style="list-style-type: none"> <li>• <b>Section 39 (1)</b> regarding anaphylactic policy and the development of an individualized plan for each child with an anaphylactic allergy</li> <li>• <b>Section 39.1</b> regarding requirements for development of individualized plans for children with medical needs</li> <li>• <b>Section 48</b> regarding provisions related to prohibited practices</li> <li>• <b>Section 58</b> regarding first aid certification</li> </ul>	<p>Amend the regulation to contemplate “in-home services” including:</p> <ul style="list-style-type: none"> <li>• Serious occurrences – definition and procedures</li> <li>• Implementation and review of policies, procedures, and individualized plans</li> <li>• Supervision by adult at all times</li> <li>• Balconies, outdoor play, bodies of water, hazards, sleep supervision, first aid kit</li> <li>• Immunization</li> <li>• Accident reports and daily written record</li> <li>• Administration of drugs or medications</li> <li>• Special arrangements</li> <li>• Policies and procedures regarding program for children</li> <li>• Screening measures</li> <li>• Records, contact information, and agreements</li> <li>• Home child care agency register</li> </ul>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## D8. Allergy Lists in Home Child Care

The ministry is proposing to set out requirements regarding the keeping of lists of children’s allergies and food restrictions for children in home child care, including what would be the new two provider model of home child care (see part A2 (Two Provider Home Child Care) of this document).

Current Requirement (O.Reg. 137/15)	Proposed Change
NIL	Amend O.Reg. 137/15 to require every licensee of a home child care agency to ensure that each home child care premises it oversees has a list of children receiving child care in the home child care premises who have allergies or food restrictions, and their respective allergens or restrictions.

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## D9. Balconies

The ministry is proposing to clarify that children may not be permitted to be on a balcony unless an adult is also present. Currently, the relevant provision sets out that children may not *play* on a balcony unless an adult is present.

Current Requirement (O.Reg. 137/15)	Proposed Change
<b>Section 29:</b> Every licensee shall ensure that in each premises where the licensee oversees the provision of home child care, no child who receives home child care at the premises is permitted to play on a balcony unless an adult is present on the balcony.	Amend section 29 to set out that children cannot be on a balcony (i.e. regardless of whether they are playing, eating, reading, etc.) unless an adult is present.

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## D10. Prohibited Practices

Currently, prohibited practice provisions in O. Reg 137/15 only apply to licensees, employees, volunteers, students, and home child care providers. They do not apply to some individuals who may be around children in licensed child care settings on a regular basis (e.g. individuals ordinarily a resident of/or regularly at a home child care premises, resource teachers/consultants, etc.). The ministry is proposing to extend the application of the prohibited practice provisions so that employees and child care providers shall not permit other individuals to commit a prohibited practice.

In addition, section 78 currently provides that administrative penalties may only be levied against licensees found to have contravened the prohibited practices set out in subsection 48 (1). The ministry is proposing to amend section 78 in order to capture all individuals who are subject to prohibited practices.

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 48. (1):</b> No licensee shall permit, with respect to a child receiving child care at a child care centre it operates or at a premises where it oversees the provision of child care,</p> <ul style="list-style-type: none"> <li>(a) corporal punishment of the child;</li> <li>(b) physical restraint of the child, such as confining the child to a high chair, car seat, stroller or other device for the purposes of discipline or in lieu of supervision, unless the physical restraint is for the purpose of preventing a child from hurting himself, herself or someone else, and is used only as a last resort and only until the risk of injury is no longer imminent;</li> <li>(c) locking the exits of the child care centre or home child care premises for the purpose of confining the child, or confining the child in an area or room without adult supervision, unless such confinement occurs during an emergency and is required as part of the licensee’s emergency management policies and procedures;</li> <li>(d) use of harsh or degrading measures or threats or use of derogatory language directed at or used in the presence of a child that would humiliate, shame or frighten the child or undermine his or her self-respect, dignity or self-worth;</li> <li>(e) depriving the child of basic needs including food, drink, shelter, sleep, toilet use, clothing or bedding; or</li> <li>(f) inflicting any bodily harm on children including making children eat or drink against their will.</li> </ul> <p>(2) No employee or volunteer of the licensee, or student who is on an educational placement with the licensee, and no person who provides home child care or in-home services at a premises overseen by a home child care agency shall engage in any of the prohibited practices set out in subsection (1) with respect to a child receiving child care.</p>	<p>Amend section 48 to provide that employees and child care providers shall not permit other individuals to commit a prohibited practice.</p>
<p>See <b>section 78</b>, which contains two tables of accumulating and non-accumulating administrative penalties that may be levied as an enforcement tool to encourage compliance with the Act and its regulations or to prevent a person from deriving an economic benefit as a result of a contravention of the Act or its regulations.</p>	<p>Amend section 78 so that all persons subject to section 48 could be subject to the application of an administrative penalty</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## D11. Children’s Records

Subsections 10 (1) and (2) of the CCEYA set out that no person providing child care or operating a premise at which child care is provided may prevent a parent from entering the premises or from having access to his/her child except if the person believes on reasonable grounds that the parent does not have a “legal right of access” to the child.

The ministry is proposing to require licensees to include the name of a parent they believe on reasonable grounds does not have a “legal right of access” to a child in required children’s records. This would support compliance with the Act.

Current Requirement (O.Reg. 137/15)	Proposed Change
NIL	Amend section 72(1) to require children’s records to include the names of parents who are believed not to have a legal right of access to a child.

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## D12. Programs Offering Non-Standard Hours of Care

In Ontario, there is a need to have licensed child care programs that operate during non-standard hours (e.g. programs that operate overnight).

Rather than continuing to address certain requirements related to the provision of extended hours programs through conditions on a licence, the ministry is proposing to make regulatory amendments that would address the unique characteristics of extended hours programs.

Current Requirement (O.Reg. 137/15)	Proposed Change
NIL provisions specifically addressing extended hours	<p>Introduce a definition of “extended hours” to the regulation.</p> <p>Set out standards related to health and safety that require different policy parameters when care is offered during non-standard hours of care. Amendments would include revisions to requirements around:</p> <ul style="list-style-type: none"> <li>• Licensee responsible</li> <li>• Ratios, mixed age grouping, reduced ratios</li> <li>• Play activity space</li> <li>• Equipment and furnishing</li> <li>• Sleep policies and supervision</li> <li>• Meals</li> <li>• Rest and outdoor time</li> </ul> <p>Consequential amendments resulting from the proposed amendments described above may also be made.</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## **E. Clarifying Intent of Certain Regulations**

### **E1. Home Child Care Agency Registers**

Currently, home child care agencies licensees are required to have an “up-to-date” register that lists the addresses of each premises where it oversees the provision of home child care, the names and addresses of the children receiving child care, and the names of home child care providers.

To foster consistent interpretation of the regulation and ensure agencies have timely and accurate information regarding where children are being provided child care, the ministry is proposing that home child care agency registers be updated within 1 day of a new home child care premises joining or leaving an agency and when children have been enrolled in or leave a home child care premises. This proposal is particularly important and relevant in light of the global public health situation stemming from the novel coronavirus 2019 and is needed to support the implementation of the proposed two provider home child care model (pending approval, see part A2 (Two Provider Home Child Care Model)).

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 74:</b> Every licensee of a home child care agency shall ensure that an up-to-date register that lists the addresses of each premises where it oversees the provision of home child care, the names and addresses of the children receiving child care in each premises and the name of the home child care provider in each premises is kept at the home child care agency.</p>	<p>Amend section 74 to set out that agencies' registers must be updated within 1 business day of an update being required.</p> <p>Per part D7 of this document, section 74 would also be amended to address in-home services.</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

### **E2. Compliance with Health and Safety Standards, Building Code, Fire Code, etc.**

Subsection 13 (1) and section 25 of O. Reg. 137/15 require licence applicants to provide evidence to the ministry that they are compliant with the laws, requirements, by-laws, etc. specified in the regulation.

The ministry is proposing to amend the regulation in order to require licensees to comply with those laws, rules, requirements, etc. during the course of their operations (i.e. not just at the time the application is made.)

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 13. (1):</b> Every person who applies for a licence to operate a child care centre under section 20 of the Act shall at the time of application file with a director evidence that the premises to be used as a child care centre complies with,</p> <ul style="list-style-type: none"> <li>(a) the laws affecting the health of inhabitants of the municipality or of the reserve of a First Nation, as the case may be;</li> <li>(b) any rule, regulation, direction or order of the local board of health and any direction or order of the local medical officer of health that may affect the provision of child care;</li> <li>(c) any by-law of the municipality or any by-law of the council of the First Nation on the reserve, as the case may be, and any other law for the protection of persons from fire hazards;</li> <li>(d) any building by-law passed by the municipality pursuant to the Planning Act or any predecessor of that Act and any by-law of the council of the First Nation on the reserve to regulate the construction, repair or use of buildings;</li> <li>(e) the requirements of Ontario Regulation 332/12 (Building Code) made under the Building Code Act, 1992, where applicable;</li> <li>(f) the requirements of Ontario Regulation 213/07 (Fire Code) made under the Fire Protection and Prevention Act, 1997, where applicable; and</li> <li>(g) the requirements of the Safe Drinking Water Act, 2002, where applicable.</li> </ul> <p>(2) Every licensee who applies for the renewal or revision of a licence to operate a child care centre shall file any evidence that the director may require that the premises used as a child care centre complies with the matters listed in subsection (1).</p> <p><b>Section 25:</b> Every person who applies for a licence to operate a home child care agency under section 20 of the Act shall ensure that each premises the person oversees in which child care is to be provided complies with clauses 13 (1) (a), (b), (c) and (d).</p>	<p>Amend subsection 13 (1) and section 25 to set out that licensees must continue to comply with the laws, rules, by-laws, etc. after the application process is completed and a licence has been issued.</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

### **E3. Break in Employment and Vulnerable Sector Checks**

Currently, O.Reg. 137/15 sets out requirements regarding the submission of vulnerable sector checks (VSCs) when a person’s relationship with a licensee is “terminated” and then subsequently resumes.

The ministry is proposing to clarify the requirements regarding the submission of VSCs when a person returns to employment following any type of break in the relationship between the licensee and person such as when a person returns from maternity/parental leave or a prolonged medical leave.

<b>Current Requirement (O.Reg. 137/15)</b>	<b>Proposed Change</b>
<p><b>Section 63:</b> If a licensee’s relationship with a person in respect of whom it has previously obtained a vulnerable sector check terminates and then subsequently resumes, the licensee shall obtain a new vulnerable sector check or offence declaration as follows:</p> <ol style="list-style-type: none"> <li>1. If the relationship was terminated for six or more months, the licensee shall obtain a new vulnerable sector check from the person before the relationship resumes.</li> <li>2. If the relationship was terminated for less than six months and, but for the termination, the person would have provided a vulnerable sector check or offence declaration during the period of termination, the licensee shall obtain from the person such vulnerable sector check or offence declaration before the relationship resumes.</li> </ol>	<p>Amend section 63 to clarify under which circumstances a new VSC is needed upon return from any type of break in relationship between a licensee and a person.</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

### **E4. Relevant Factors When Determining the Primary Purpose of a Program**

The ministry is proposing to clarify the requirements in O.Reg. 137/15 which set out the factors that are considered to be relevant when determining whether the primary purpose of a “recreational, etc.” or “academic” program, as defined in the Act, is such that it is exempt from licensing requirements.

This proposal seeks to increase understanding and compliance of the requirements under the CCEYA by codifying in regulation existing ministry licensing policies/practices.

Current Requirement (O.Reg. 137/15)	Proposed Change
<p><b>Section 2.</b> (1): The following factors shall be considered, as may be relevant, when ascertaining the primary purpose of a program or service described in paragraph 7 or 8 of subsection 4 (1) of the Act for the purpose of determining whether the program or service is provided in exempt circumstances:</p> <ol style="list-style-type: none"> <li>1. The schedule of operation for the program or service, including the time of the year, the days of the week, the times of the day and the number of hours each day that the program is operated.</li> <li>2. The ages of the children in the program or service.</li> </ol>	<p>In addition to clarifying in the first statement of this section what the purpose of the section is, amend subsection 2 (1) as follows:</p> <p>Replace paragraphs 1 and 2 of subsection 2 (1) with the following rules:</p> <ul style="list-style-type: none"> <li>• Any program offered to children ages 4 and up (or turning 4 by September 1 of the calendar year) that meets any of the following criteria is not provided in an exempt circumstance described in paragraph 7 or 8 of subsection 4 (1) of the Act: <ul style="list-style-type: none"> <li>○ The program is operated for more than 2 consecutive hours on a weekday.</li> <li>○ The program operates on more than 3 weekdays in a week.</li> </ul> </li> <li>• A program offered to children between the ages of 3 and 4 years old at the time of enrollment for no more than one period of 2 consecutive hours which occurs no more than 2 times a week during weekdays.</li> </ul>
<ol style="list-style-type: none"> <li>3. Whether the program or service provides or organizes transportation for children to or from the program.</li> </ol>	<p>Add that any transportation provided or organized for children to or from the program must be included as part of the hours during which the program operates.</p>
<ol style="list-style-type: none"> <li>4. Whether the type of facility in which the program or service is held and the furnishings and equipment used for the program or service are suitable and intended for the purpose described in the paragraph.</li> </ol>	<p>Amend provision to clarify that the “purpose described in the paragraph” means the purpose of the program described in paragraph 7 or 8 of subsection 4(1), as the case may be.</p>
<ol style="list-style-type: none"> <li>5. The content of the program or service and the portion of time dedicated to the purpose described in the paragraph.</li> </ol>	<p>Amend provision to clarify that the “purpose described in the paragraph” means the purpose of the program described in paragraph 7 or 8 of subsection 4(1), as the case may be.</p>
<ol style="list-style-type: none"> <li>6. Whether the registration and administration for the program or service is coordinated with the registration and administration for one or more other programs or services offered by the same provider.</li> </ol>	<p>Amend to clarify that where a provider offers multiple classes or programs, enrollment must be limited for each child to be in compliance with what would be the new paragraphs 1 and 2 of subsection 2 (1), as described above.</p>

Timeline: These proposed changes would come into effect on a date to be determined. It is anticipated that the effective date would be no earlier than January 1, 2021, with most having an anticipated effective date of July 1, 2021 if approved.

## **F. Technical Matters**

### **F1. Technical Amendments**

The ministry is proposing to make several technical amendments to the regulations under the CCEYA, including:

- Updating references to the federal food guide in O.Reg. 137/15;
- Any consequential amendments necessary to implement the regulatory proposals set out in this document that are approved;
- Revoking transitional regulations under O.Reg. 137/15 which are no longer relevant; and
- In the table to section 2 of O.Reg. 138/15, updating the names of the geographic areas of municipalities and district social services administration boards (DSSABs) and the names of the municipalities and DSSABs.

# Discussion Questions

At this five year anniversary of the coming into force of the CCEYA, looking ahead, the ministry is seeking input on a number of novel/innovative policy approaches/concepts that could be considered in the future. The discussion questions set out below do not constitute a proposal to proceed at this time.

However, the ministry is interested in receiving input from our stakeholders, partners, parents, and any other persons who may be interested in these concepts/policies.

## Discussion Question #1: Forest/Outdoor Programs

The ministry is aware of the emerging interest in forest or outdoor child care programs. Thinking about this novel approach to child care, please provide input on the following questions:

- What are the benefits of forest/nature programs?
- What could the licensing scheme for a forest/nature child care program look like?
- How would a specialized licensing scheme for forest/nature child care program under the CCEYA support licensees/prospective licensees, children, and parents?
- Compared to centre-based child care, what are the unique health and safety considerations related to the provision of forest/nature programs?

## Discussion Question #2: Registry of Unlicensed Child Care Providers

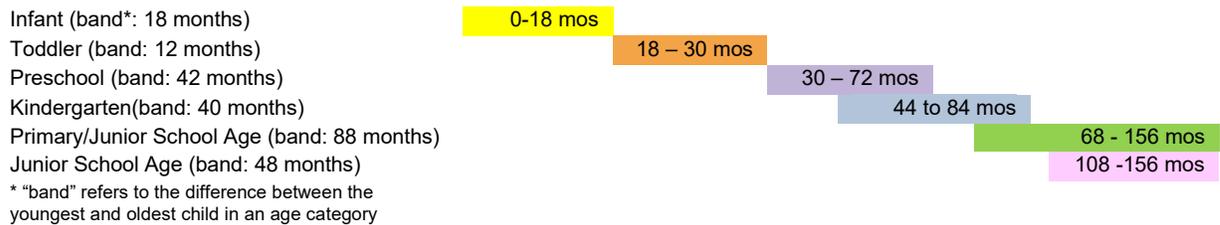
With regards to programs delivered in the unlicensed (also known as independent) child care sector, the government is seeking feedback about how to support the delivery of child care in such settings. For example, the creation of a registry could help the government to communicate with such child care providers and provide them with information about pedagogy, health, and safety. A registry could also help parents locate child care providers in their communities. Specifically, input is being requested in regard to the following questions:

- What are the considerations around the development of a publicly-accessible registry of unlicensed child care providers in Ontario?
- Which entity should be responsible for establishing and maintaining the registry?
- What potential eligibility requirements could be set out for a person to be included on the registry? For instance, should persons on the registry be certified in first aid?
- What information would be helpful for the public to access on the registry?
- If a registry of unlicensed child care providers is established, what support, information, resources, etc. could be provided to those on the registry by the government to support quality, health and safety, etc.?

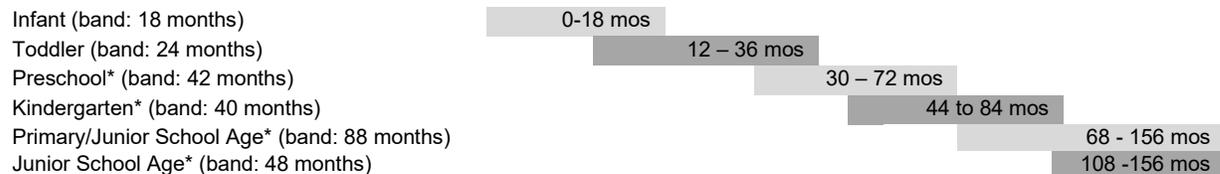
### Discussion Question #3: Overlapping Age Boundaries for Licensed Age Groups/Categories

Understanding the ongoing need to increase the availability of licensed child care spaces in Ontario for families and support the viability of child care centres, as well as meet the dynamic needs of children with a range of developmental abilities, the government is seeking feedback on an approach to how children in child care centres are grouped together that differs from the approach that has been operationalized in the province for decades.

Schedule 1 of O.Reg. 137/15 includes age boundaries (i.e. upper and lower age cut-offs for a particular age grouping) that overlap across the older specified age groupings but there is no such overlap for the younger groupings. Visualizing this, Schedule 1 looks like:



The ministry is seeking input on a potential, future approach to age grouping in child care centres which would set out *overlapping age boundaries* for all age groupings. For instance (as an example and for discussion purposes only), age groupings could be set out as the following:



\*same as current requirements

- How would such an approach to age groupings impact child care centre licensees and parents?
- What are the considerations of shifting to this new approach?
- What could an approach to determining the maximum group size and child:adult ratio look like for each age grouping?
- How would overlapping age boundaries for licensed age grouping support centre viability?
- What would the benefits of such a model be for children who may be on a developmental course/trajectory that is different from their peers?

## Conclusion

The child care needs of families, the make-up of Ontario's communities, sector and government tolerance for regulatory/administrative burden, and our collective understanding of what is best for children continues to change over time. In this evolving context, the CCEYA must also continue to evolve. To this end, the ministry is proposing a set of regulatory amendments described in this document, which would, if approved, continue to support the ongoing refinement of O.Reg. 137/15 and O.Reg. 138/15.

The ministry values the unique and diverse perspectives of all child care and early years partners across Ontario. All interested parties are encouraged to provide feedback on the proposed regulatory amendments described in this document as well as on the discussion questions presented at the end (starting on page 34).

Please provide the ministry with your comments no later than November 20, 2020.

You may send your response by e-mail to: [CCEYA\\_consultation@ontario.ca](mailto:CCEYA_consultation@ontario.ca)

Alternatively, you may wish to send your response by mail to:

Regulatory Registry Feedback  
c/o Early Years and Child Care Division  
Ministry of Education  
315 Front Street West, 11<sup>th</sup> Floor  
Toronto ON M7A 0B8

Thank you for taking the time to review this document and to provide feedback. Please note that you will not receive a formal response from the ministry to any feedback received.

Stakeholders, partners, parents, and the general public are encouraged to continue to stay engaged with news about child care in Ontario by visiting:  
[www.ontario.ca/childcare](http://www.ontario.ca/childcare).