

2010: EL7

MEMORANDUM TO: Directors of Education

FROM: Jim Grieve
Assistant Deputy Minister

DATE: June 8, 2010

SUBJECT: **Regulations and Guidelines for Full Day Junior Kindergarten and Kindergarten and Extended Day Programs**

ATTACHMENTS: O.Reg. 224/10 - Full Day Junior Kindergarten and Kindergarten
O.Reg. 225/10 - Extended Day Programs
Guideline – Extended Day Fees Disclosure Process
Guideline – Extended Day Program Unit Staffing Ratios
Form: Affirmation of Board Compliance with Extended Day Fees Disclosure Process Guidelines
Form: Affirmation of Board Compliance with O.Reg.225/10 – Extended Day Programs (Viability)
Form: Affirmation of Board Compliance with O.Reg.225/10 – Extended Day Programs (Transition, Third Party Agreements)

As you may know, the *Full Day Early Learning Statute Law Amendment Act, 2010* (Bill 242), received Royal Assent on May 18, 2010. All of the Act, except sections 277.46 to 277.52 (which pertain to induction, performance appraisal and reporting obligations for designated ECEs) has been proclaimed in force as of June 3, 2010.

This is an important step forward in implementing the government's vision for a seamless integrated extended day for four and five year olds beginning in September 2010.

I am writing to inform you about two regulations under the *Education Act* as amended by the *Full Day Early Learning Statute Law Amendment Act*, O. Reg. 224/10 (Full Day Junior Kindergarten and Kindergarten) and O. Reg. 225/10 (Extended Day Programs). A copy of the regulations is attached. They will also be available shortly at www.e-laws.gov.on.ca. These regulations were filed on June 7, 2010.

In addition to the regulations, the Minister has issued two guidelines relating to extended day

Early Learning Program – Regulations and Guidelines for Full Day Junior Kindergarten and Kindergarten and Extended Day Programs

programs (Extended Day Fees Disclosure Process and Extended Day Program Unit Staffing Ratios). The guidelines are attached.

An Extended Day Fees Excel Workbook Guide has been developed by the Ministry. This workbook is to be used as a tool for calculating fees for extended day programs, as required under O. Reg. 225/10, and for meeting the disclosure requirements under O. Reg. 225/10 and the guideline on the Extended Day Fees Disclosure Process.

The Workbook and an accompanying user guide are being sent under separate cover, pre-populated with the boards' phase one early learning sites. Along with the attached forms, the workbook serves as a "Form Approved by the Minister" for the purposes of compliance with the regulations and guidelines.

As noted above, there are two regulations. The first, O.Reg. 224/10 - Full Day Junior Kindergarten and Kindergarten pertains to the following:

- A. Duty to operate full day JK/K:** Identifies in a Schedule, the schools in which boards are required to operate full day junior kindergarten and kindergarten in the 2010/2011 school year (these are the phase one schools); and
- B. Threshold for a teacher-only JK or K class:** Provides for an exception from the board duty to designate an ECE position in every JK or K class, i.e. where class sizes are under 16.

The second, O.Reg. 225/10 - Extended Day Programs, pertains to the following:

- C. Duty to operate extended day programs:** Identifies in a Schedule, the schools in which boards are required to operate extended day programs for junior kindergarten and kindergarten pupils (these are the phase one schools);
- D. Viability of extended day programs:** Addresses the minimum number of pupils required for a site to operate an extended day program;
- E. Third-party delivery of before and after school programs:** Establishes temporary and time-bound circumstances under which boards may maintain already-existing agreements with third-parties in lieu of board-operated extended day programs, subject to certain conditions; and
- F. Extended day fees:** Establishes the fee-calculation process and calculation of defined costs that boards must use when calculating extended day fees.

The Minister has issued two guidelines with which boards must comply relating to extended day programs.

With respect to the guidelines, one guideline pertains to extended day fee disclosure and sets out the process for the disclosure of extended day fee calculations prior to final approval. The other guideline pertains to extended day program staffing ratios and addresses the following issues: (a) the adult to pupil ratio in extended day programs; and (b) the threshold for appointing additional staff in extended day program units.

Submission of Information and Affirmations to the Ministry

Information and affirmations that boards are required to submit to the Ministry under the regulations and guidelines are to be submitted to a board's Regional Early Learning Education Officer (see Appendix A) by the appropriate date.

Timelines

Boards that may not be required to operate extended day programs for the 2010-2011 school year at specific phase one school sites (due to viability issues or transitional third party arrangements) must submit the appropriate affirmations via Regional Early Learning Education Officer no later than the day before the last day of the 2009-2010 school year.

Extended day fee calculations for the 2010-11 school year are to be complete no later than the day before the end of the 2009-2010 school year. Boards are to disclose their proposed fees and fee calculations to the Ministry, their conterminous boards and Consolidated Municipal Service Managers (CMSMs) / District Social Services Administration Boards (DSSABs) five days prior to the submission of the proposed fees for final approval by the boards.

A. General Application of Duty to Offer Full Day Junior Kindergarten and Kindergarten

The phase-in schedule that indicates which schools are required to offer full day JK/K in the 2010-2011 school year is reflected in Schedule 1 of O.Reg. 224/10. Every board listed in Schedule 1 shall, in every elementary school of the board listed in Schedule 1, operate full day JK/K as required under paragraph 170(1)6.2 of the *Education Act*.

B. Threshold for Teacher-Only JK/K Classes

The regulation reflects that in certain limited circumstances it may not be appropriate to designate both a teacher and an ECE in every JK/K class. To this effect, a board is not required to designate an ECE position if fewer than 16 pupils are enrolled in the class as of the second Friday after Labour Day. This exception applies to only one JK or K class in a school (or one English and one French class in a school which offers both English language and French immersion programs). It is the Ministry's expectation that based on specific local circumstances, there will be a limited number classes under the 16 pupil threshold.

C. General Application of Duty to Operate Extended Day Programs

The phase-in schedule that indicates which schools are required to operate extended day programs in the 2010-2011 school year is reflected in Schedule 1 of O.Reg. 225/10. Every board listed in Schedule 1 shall operate an extended day program in every elementary school of the board listed in Schedule 1, as required by section 259 of the *Education Act*.

Extended day programs are to be operated both before the start of the school day and after the end of the school day. Circumstances where a board may not be required to offer an extended day program in a school are set out in O.Reg. 225/10 and described further in this memorandum.

D. Viability of Extended Day Programs

Boards are not required to offer extended day programs at school sites where: (a) there is a projected enrolment (as defined in the regulation) of less than 10 pupils in at least one part of the day (before or after school) per minimum staff required and (b) the appropriate projected pupil enrolment cannot be reached by opening up to 25 percent of extended day spaces in a program unit to pupils in Grades one and two (Note: the requirement to use older pupils to support viability applies only to schools with no onsite third party operating a before and after school program for pupils in Grades 1 and 2).

If the board is using a one adult per program unit model, fewer than 10 pupils means that a program is not viable. Where there is a two person staff model, fewer than 20 pupils means that a program is not viable. However, where 20 or more pupils have expressed interest, a program is always viable.

While board may not be required to operate an extended day program at a specific school site, the regulation does not prohibit boards from operating programs where the pupil to staff ratios are less than 10 to 1.

A board is required to provide to the Ministry a list of extended day program sites it has determined to be non-viable one day before the last day of the preceding school year, in accordance with the affirmation described at the end of the next section.

Determining Viability

In determining viability, boards shall base projected enrolment in extended day programs on the following information:

- Information about parents' intentions and interests related to enrolling their children in one or more portions of the extended day program in the school during the school year;
- Demographic information related to the community served by the school;
- In respect of the 2011/2012 school year and subsequent school years, projections based on data about enrolment in extended day programs operated in the school in previous years; and
- Other relevant sources of information.

Sources of some of the above information include the following:

- Parents of pupils who are registered in the school for the school year in junior kindergarten, kindergarten and, where relevant, Grades 1 and 2; and
- Parents who have expressed an interest in enrolling their children in the school for the school year in junior kindergarten, kindergarten and, where relevant, Grades 1 and 2.

The means by which boards may gather information for determining viability include:

- Questionnaires filled out by parents; and
- Oral and written comments from parents who contact or visit the school.

Where a board has determined that an extended day program is not viable, it is to provide the information on which it has based its conclusion and an affirmation that its conclusion was reached in good faith to the Ministry via the Regional Early Learning Education Officer using the attached form: “Affirmation of Board Compliance with O.Reg.225/10 – Extended Day Programs (Viability)”.

Morning and Afternoon Extended Day Components

The viability test applies separately to the before and after school components of extended day programs. This means that if a board does not meet the threshold for a viable before school extended day program, but it does meet the threshold for an after school extended day program, it is only required to run the extended day program after school.

Considerations for Determining Viability

Before determining that an extended day program is not viable, boards may consider other options, including partnering with another school of the board or a coterminous board to deliver a combined extended day program for the portion of the day that has been determined non-viable (before school, after school or both). While this is not required by regulation, such partnerships support viability and are permitted under section 259 of the *Education Act*.

E. Transitional Exception, Third Party Delivery of Before and After School Programs

For a transitional period, boards are not required to offer extended day programs at school sites where they have existing written agreements with third parties to operate before and after school child care services on the premises. A written agreement could be one of a variety of documents including, but not limited to, a contract, lease, permit, or letter of understanding. As noted in previous memoranda, third party delivery is expected to occur in limited circumstances. During the transition period, boards, child care operators and the Ministry will work collaboratively towards the goal of fully integrated, board-operated extended day programs.

Definition of an Existing “Third Party” for the Purpose of the Regulation

For transitional purposes, an existing third party is a child care operator who is licensed or authorized under *Day Nurseries Act* and operates before or after school programs.

Definition of Existing “Third Party Agreements” for the Purpose of the Regulation

For transitional purposes, existing third party agreements are written agreements between boards and third parties to operate before or after school programs or both on the premises of a given

school site during the 2010-11 or 2011-12 school years. These agreements must have been in place before these regulations were filed on June 7, 2010.

Duration of the Transitional Period

For phase one schools, there will be a two year transitional period. For phase two schools, there will be a one year transitional period.

Board Affirmation for the Use of Third Parties

Boards seeking to rely on existing third party agreements during the transitional period are required to affirm the following to the Ministry (via the Regional Early Learning Education Officer), using the attached form: “Affirmation of Board Compliance with O.Reg.225/10 – Extended Day Programs (Transition, Third Party Agreements)”, by one day before the end of the 2009/2010 school year for phase one sites and one day before the end of the 2010/2011 school year for phase two sites:

- That, at the time the regulation was filed on June 7, 2010, the board had a written agreement with a third party to operate a before or after school program or both for JK/K pupils on the school site for the 2010/2011 or 2011/12 school year;
- That the board has evidence that the third party is licensed or authorized under the *Day Nurseries Act* to operate the before and after school program for the relevant school year;
- That the before or after school program or both, as the case may be, will be operated by the third party with a pupil to staff ratio of no more than 15 to 1;
- That the third party will operate a before or after school program or both, as the case may be, at a minimum, on every instructional day; and
- The before or after school program or both, as the case may be, will include similar program content as required for extended day programs under the *Education Act*.

As the rollout moves forward, all boards will need to plan carefully around third-party issues. All school boards that have recently entered into, or plan to enter into, written agreements with third-party providers for the four- and five-year old age group (in phase one or otherwise) should speak with their Regional Early Learning Education Officer.

F. Extended Day Fees

As communicated in the EL2 and EL6 memoranda and pursuant to both the *Education Act* as amended and O.Reg. 225/10, boards must charge fees for extended day programs as set out in the regulation.

Fees are to have reasonable connection to operating costs incurred. Boards are required to complete their extended day fee-calculation and approval processes at least one day prior to the end of the school year, for extended day fees for the following school year. Boards are also required to publish the fees on their websites by the same date.

Consistent with best practices and modern, efficient principles of controllership, boards would be encouraged to promote the use of electronic transactions to support payment of extended day fees, such as electronic funds transfers / pre-authorized debits and the use of pre-authorized credit card transactions.

Special Education Needs

A memorandum signed jointly by five ADMs from the ministries of Education, Children and Youth Services, and Health and Long-Term Care was sent to boards (and other affected stakeholders) on May 6, 2010 stating that the ministries' shared goal is to ensure that students and families get the support they need to fully participate in full day early learning.

Currently, four- and five-year olds, depending on their age and special needs, receive services that support their development and their participation in school from a variety of providers, including schools and community service agencies and through a number of programs that operate under different policies.

This memorandum stated that for phase one, there will be no policy changes made for these programs. School boards, community-based agencies and parents were asked to continue to work together as partners to ensure that children with special needs / special education needs can participate in full day early learning and that their enrolment will not affect their eligibility for and receipt of services. The memorandum included Guiding Principles for Year One that were developed with input from the Early Learning Program Special Needs / Special Education Needs Reference Group to assist in the consideration of local solutions for the delivery of services to four- and five-year olds with special needs / special education needs enrolled in the full day JK/K.

For full day JK/K classes, Education Program Other (EPO) funding will be allocated to boards for the provision of special education programs and services during the second half of the JK/K instructional day. Funding will match the calculations for Special Education Per Pupil Amount (SEPPA), High Needs Amount (HNA), Special Equipment Amount (SEA), and Behaviour Expertise Amount (BEA). Note that SEA and BEA base amounts will not be included as they will be funded through Grants for Students Needs (GSN). Special Incidence Portion (SIP) will also be fully funded through GSN.

For the extended day, under O.Reg 225/10, boards are required to include a board specific flat per pupil, per day amount in their fees that reflects a portion of a board's special education allocation. These amounts have been calculated for each board and are set out in Column 3 of Schedule 2.

This approach will give boards the resources to meet their obligations to provide access to pupils with special education needs to the board's extended day programs and is consistent with the principle of full cost recovery through program fees.

Allowable Costs

When calculating daily fees, boards are required to use only the allowable discretionary and non-discretionary costs, as set out in O.Reg. 225/10.

Non-discretionary costs include:

- Benefits for ECEs and program staff – 24.32 percent of salary (consistent with benchmarks under the 2010-11 GSN).
- Vacation and statutory holidays for ECEs and program staff – 13.4 percent of salary and benefits (based on compensating ECEs and program staff for three week vacation and eleven statutory holidays during the school year).
- Professional development for ECEs and program staff related to extended day – 2 percent of salary, benefits and holidays.
- ECE and program staff supply allowance for extended day – 5 percent of salary, benefits and holidays to provide coverage as needed, for example, when an ECE or a program staff member is sick.
- Special Needs – a board specific flat per pupil, per day amount, as indicated in Column 3 of Schedule 2 of O.Reg.225/10.

Discretionary costs include:

- School operations – up to \$0.60, per pupil, per hour (derived from the GSN benchmark to cover cost of utilities and custodial expenses associated with operating for extended hours).
- Vacancy allowance – up to 10 percent of the fee to address potential revenue fluctuations associated with pupils leaving classes over the course of a year (due to normal turnover in school enrolments).
- ECE and program staff wage levels– the board’s average hourly rate to cover ECEs who lead extended day programs and any non-ECE program assistants if boards choose to use them.
- Program costs – the projected total supplies expenditures, as per the Ministry’s Uniform Code of Accounts, related to a board’s extended day programs on instructional days.
- Snacks – an amount to cover daily snack costs for extended day, if provided.
- Fee collection and administration costs based on arrangements made by boards to collect and administer the fees, defined as:
 - Administrative services contracts – costs related to contracts boards may have entered into with third parties prior to July 1, 2010 to provide administrative services related to a board’s extended day programs.
 - Administrative staff costs – for employees of boards who spend 75 percent or more of their time providing administrative services related to a board’s extended day programs for the 2010/2011 school year.

Fee Calculation

Fees are based on an initial calculation of the costs of operating five hours of extended day programming across a board’s viable school sites. The base daily fee is determined by projecting the board’s operating costs for extended day programs and dividing this amount by the projected total enrolment of pupils in extended day programs for the upcoming school year. This figure is divided by 188 to generate the board-wide base daily fee.

The base daily fee is used to calculate the actual fee charged by specific schools. The actual fee is determined by multiplying the base daily fee by the percentage of the five hour operational

period a specific school offers the before school and after school portions of the program. The regulation requires boards to calculate an actual before school fee and an actual after school fee. For example, if a school offers a before school extended day program for a total of two hours, its actual fee would be 40 percent of a board's base fee. The following chart identifies how the actual fee is calculated:

Hours of operation of extended day program in a school	Percentage (of five hours and of base daily fee)
Up to and including 0.5 hrs	10%
More than 0.5 hrs, up to and including 1.0 hrs	20%
More than 1.0 hrs, up to and including 1.5 hrs	30%
More than 1.5 hrs, up to and including 2.0 hrs	40%
More than 2.0 hrs, up to and including 2.5 hrs	50%
More than 2.5 hrs, up to and including 3.0 hrs	60%
More than 3.0 hrs, up to and including 3.5 hrs	70%
More than 3.5 hrs, up to and including 4.0 hrs	80%
More than 4.0 hrs, up to and including 4.5 hrs	90%
More than 4.5 hrs, up to and including 5.0 hrs	100%
More than 5.0 hrs, up to and including 5.5 hrs	110%
More than 5.5 hrs, up to and including 6.0 hrs	120%
More than 6.0 hrs, up to and including 6.5 hrs	130%
More than 6.5 hrs, up to and including 7.0 hrs	140%

Fees for Non-instructional Days

Subsection 259 (2) of the *Education Act*, permits boards to offer extended day programs on non-instructional days to parents of pupils enrolled in an extended day on non-instructional days. Program fees for non-instructional days are calculated by multiplying 85 percent of a board's base fee by 1.2 and adding this amount to the actual fee charged by a specific school for extended day programs on instructional days. This adjustment covers the six hours normally included as the instructional core day.

Where a board wishes to distribute the costs of non-instructional day programs over the full instructional period, a board may develop an equal billing plan for parents who will be enrolled in both instructional and non-instructional day components.

Guideline on the Extended Day Fees Disclosure Process

The process for the extended day fees disclosure is set out in the Guideline on the Extended Day Fees Disclosure Process, issued on June 8, 2010. This requires boards to disclose their proposed fees and fee calculations to the Ministry (via the Regional Early Learning Education Officer), their conterminous boards and Consolidated Municipal Service Managers (CMSMs) / District Social Services Administration Boards (DSSABs).

This disclosure is to be made at least five days prior to the submission of the proposed fees for final approval by the board.

The guideline also requires boards to affirm to the Ministry that they have complied with the above fee disclosure process using the attached affirmation form.

G. Conditions Where an ECE is not required to Lead an Extended Day Program

Section 259 of the *Education Act*, which requires boards to operate extended day programs for JK/K pupils also gives boards the discretion to operate extended day programs for older pupils. Where boards choose to operate extended day programs for older pupils, they are not required to designate an ECE position in program units composed exclusively of pupils over nine years of age.

H. Staffing Ratios for Extended Day Programs

A maximum staffing ratio for an extended day program unit has been set by guideline to ensure that boards are able to deliver high-quality extended day programs while cost-effectively managing staffing considerations.

Guideline on Extended Day Program Unit Staffing

Staffing ratios for extended day program units are set out the Guideline on Extended Day Program Unit Staffing Ratios, issued on June 8, 2010. This guideline requires the pupil to staff ratio in an extended day program unit to conform as closely as possible to 13 pupils to 1 staff (or 26 to 2), which is consistent with the ratio for the core full day JK/K programs. The guideline sets the maximum allowable pupil to staff ratio for an extended day program unit at 15 pupils to 1 staff (or 30 to 2). Where an extended day program unit size exceeds 30, a board shall appoint an additional adult staff person to that program unit.

Sincerely,



Jim Grieve
Assistant Deputy Minister

Copy: Consolidated Municipal Service Managers/District Social Services Administration Boards Chief
 Administrative Officers
 Early Learning Implementation Advisory Group
 Ministry of Education, Executive Team
 Darryl Sturtevant, Assistant Deputy Minister, Strategic Policy and Planning, Ministry of Children and Youth Services
 Nancy Matthews, Assistant Deputy Minister, Service Delivery, Ministry of Children and Youth Services
 Kit Rankin, Director, Field Services Branch, Ministry of Education

Appendix A: Early Learning Regional Education Officers

Region	Education Officer	Contact Information
Barrie	Ana Marie Prokopich	20 Bell Farm Road, Unit #9 Barrie ON L4M 6E4 Email: anamarie.prokopich@ontario.ca Tel: 705-725-6260 or 1-888-999-9556
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