Ministry of Education Early Learning Division Ministère de l'Éducation Division de l'apprentissage des jeunes enfants



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2010: EL12

FROM:Jim Grieve Assistant Deputy MinisterDATE:December 16, 2010	MEMORANDUM TO:	Directors of Education	
	FROM:		
	DATE:	December 16, 2010	
SUBJECT: Regulatory Amendments for Full-Day Junior Kindergarten and Kindergarten and Extended Day Programs	SUBJECT:	·	
ATTACHMENTS: O.Reg. 511/10 – Amending O.Reg. 224/10 – Full Day Junior Kindergarten and Kindergarten	ATTACHMENTS:		
O.Reg. 509/10 – Amending O.Reg. 225/10 – Extended Day Programs		6 6 6	
O.Reg. 510/10 – Amending O.Reg. 399/00 – Class Size		O.Reg. 510/10 – Amending O.Reg. 399/00 – Class Size	

Amendments to the *Education Act* will be required to authorize proposed new measures related to the third-party delivery outlined in this memorandum. The Minister intends to seek the amendments to the *Education Act* needed to fully authorize such measures, such amendments being conditional on the approval of the Legislature.

The information in this memorandum regarding the proposed measures is provided to assist boards' planning should the required legislation be passed.

I am writing to provide you with information on regulatory amendments that will enable and support the second year of implementation of the Full-Day Early Learning Kindergarten Program. I would also like to announce a proposed new direction for boards with respect to the role of third parties in operating before- and/or after-school programs for junior kindergarten and kindergarten pupils on school sites. Many boards and associations have raised concerns that, regardless of regulatory changes, board-operated before- and/or afterschool programs will not be viable at their schools. To help maximize access to beforeand/or after-school programs, beginning in Year 2, proposed legislative amendments would give boards the flexibility to enter into agreements with third-party operators to provide before- and/or after-school programs at school sites when there is the demand of 10 families or more. This new flexibility is intended to ensure optimal access for families to high quality before- and/or after-school programs across the province. This proposed new direction is subject to the approval of the Legislature.

The regulatory amendments pertaining to full-day kindergarten are found in regulations filed on December 16, 2010. Specifically:

- O.Reg. 511/10 amends O.Reg. 224/10 (Junior Kindergarten and Kindergarten);
- O.Reg. 509/10 amends O.Reg. 225/10 (Extended Day Programs); and
- O.Reg. 510/10 amends O.Reg. 399/00 (Class Size).

The implementation of full-day kindergarten has been successful to date. However, the Ministry recognizes that boards have faced challenges with respect to implementing extended day programs.

To address the challenges and respond to stakeholder feedback, substantive amendments have been made to O.Reg. 225/10, including a revised fee calculation process for the 2011-12 and 2012-13 school years, and new provisions that address the need for better information gathering and informed program design. These amendments will support boards that implement and expand affordable extended day programs in Year 2.

Third-Party Delivery of Before- and/or After-School Programs

Subject to the approval of the Legislative Assembly, the duty of boards set out in section 259 of the *Education Act* to operate extended day programs for JK/K pupils would be amended to enable boards to enter into agreements with third-party operators to provide on-site before- and/or after-school programs for JK/K pupils where demand exists. A board would have the flexibility to:

- Directly operate the extended day program, or
- Enter into an agreement with a qualifying third-party provider to operate a beforeand/or after-school program on site.

It is expected that the following conditions would apply to third parties operating beforeand/or after-school programs for JK/K pupils:

- Meet requirements under relevant legislation (e.g., the Day Nurseries Act);
- Be located on site;
- Deliver program content consistent with the Ministry's *Extended Day Program*;
- Operate programs on instructional days; and
- Investigate parental interest for programs on non-instructional days.

It is anticipated that the statutory amendments required to provide this new flexibility regarding delivery of before- and/or after-school programs would be introduced for the approval of the Legislature in early 2011. The Ministry will provide boards with status updates as the proposed legislation proceeds through the legislative approval process.

Highlights of Regulatory Amendments

O.Reg. 224/10 – Full Day Junior Kindergarten and Kindergarten:

Schools subject to the duty to operate full-day JK/K: Schedule 1 is updated to include schools in which boards are required to operate full-day JK/K classes in the 2011-12 school year. This is in addition to the schools that became subject to the duty to operate full-day JK/K in 2010-11.

O.Reg. 225/10 – Extended Day Programs:

Schools subject to the duty to operate extended day programs: Schedule 1 is updated to include schools in which boards are required to operate extended day programs for JK/K pupils in the 2011-12 school year. This is in addition to the schools that became subject to the duty to operate extended day programs in 2010-11.

Viability of extended day programs: New requirements have been introduced with respect to the collection of information from parents and the provision of information to parents (see Appendix A for more detail).

Fee calculation process (see Appendix A for more detail):

- *Planning of extended day programs*: When planning extended day programs, boards are required to consider information they collected when determining viability.
- Extended day fees: When determining fees, boards are now required to project

the costs for an extended day program unit based on an average unit size of 25 pupils. The method for determining costs for providing access for pupils with special education needs and program administration has also been revised.

O.Reg. 399/00 - Class Size:

The table "Early Learning Program Schools" that identifies the specific schools that are subject to the full-day kindergarten class size calculation methodology is updated to include schools in which boards are required to operate extended day programs for JK/K pupils in the 2011-12 school year.

Submission of Information and Affirmation Forms to the Ministry

Information and affirmation forms that each board is required to submit to the Minister under the regulations and guidelines are to be submitted to the board's Regional Early Learning Education Officer (see Appendix A) by the date identified in the relevant regulation or guideline.

The affirmation forms will be made available at a later date.

Timelines

Please note the following Year 2 timelines:

- The base daily fee calculations for extended day programs in the 2011-12 school year are to be completed before the first school day in February of the 2010-11 school year.
- The actual daily fee calculations for extended day programs in the 2011-12 school year are to be completed no later than the day before the last day of the 2010-11 school year (boards must disclose their proposed fees and fee calculations to the Minister, their coterminous boards and Consolidated Municipal Service Managers or District Social Services Administration Boards five days prior to the submission of the proposed fees for final approval by trustees).
- Boards that are exempt from the duty to operate extended day programs for the 2011-12 school year at specific Year 1 or 2 school sites (due to lack of viability or transitional third-party arrangements) must submit the appropriate affirmation to the Ministry no later than the day before the last school day of the 2010-11 school year.
- Boards are required to provide a detailed account of how they determined actual daily fees for extended day programs on both instructional and non-instructional

days to the Minister by July 15, 2011.

Copies of the amending regulations are attached. They are also available at <u>www.e-</u> <u>laws.gov.on.ca</u>. The consolidated versions of O.Reg. 224/10, O.Reg. 225/10 and O.Reg. 399/00 will be available shortly at the same website.

Program Resources

The Ministry has developed the following resources to support boards in planning extended day programs:

- The Extended Day Fees Excel Workbook Guide. This is a revised version of the fee calculation tool that the Ministry developed for Year 1. As with Year 1, the workbook can be used by boards to calculate extended day fees, as required under O.Reg. 225/10 and can also be used as a "form approved by the Minister" for the purpose of meeting the disclosure requirements under O.Reg. 225/10 and the guideline on the Extended Day Program Fees Disclosure Process.
- Three templates to support boards in the distribution and collection of information (these can be adapted to reflect board-specific circumstances):
 - An extended day brochure template for providing preliminary information, such as base daily fees, to parents;
 - A survey template, that can be used to collect information on extended day programs from parents; and
 - A handbook template that boards can use to develop parent/guardian handbooks for parents once programs have been planned and finalized.

The Extended Day Fees Excel Workbook Guide will be distributed to boards shortly. The templates will be sent under separate cover in January 2011.

Class Size Calculation

As communicated in the EL4 memorandum, O.Reg. 399/00, which pertains to the calculation of class sizes, was amended on March 2, 2010 regarding calculating the average class size under the new Full-Day Early Learning Kindergarten Program. The specific schools that are subject to the full-day kindergarten class size calculation methodology in the 2010-11 school year were listed in the table "Early Learning Program Schools." This table has been updated to identify the schools that are required to operate full-day JK/K and extended day programs in 2011-12.

We received excellent advice from the sector as we developed these regulatory amendments. After just four months of a brand new program, we are delighted with the implementation of full-day kindergarten. Thank you for your continued effort.

Sincerely,

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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

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Appendix A: Revised Fee Calculation Process

Viability of Extended Day Programs

The viability threshold for operating the extended day is unchanged from Year 1 (i.e., 2010-11). Boards are not required to operate extended day programs at school sites where: (a) there is a projected enrolment (determined in accordance with 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 at least 25 per cent of extended day spaces in a program unit to pupils in Grades 1 and 2. With respect to the requirement to use older pupils to support viability, it should be noted that (a) a board could open more than 25 per cent of extended day program spaces to children ages 6 to 12 if it wished to do so and (b) this requirement does not apply to schools with on-site third-party before- and/or after-school programs for pupils in Grades 1 and 2.

If the board is using a one adult per extended day 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 interest has been expressed in relation to 20 or more pupils, a program is always viable.

The viability test applies separately to the before- and/or 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 a viable after school extended day program, it is only required to operate the extended day program after school.

It is important to note that O.Reg. 225/10 requires that the viability of extended day programs be determined for each school year. Therefore, boards that had non-viable extended day programs in 2010-11 are required to reassess viability for the next school year.

Determining Viability

In Year 1, a board projected the viability of their extended day programs using information it collected from parents regarding their intentions of enrolling their children in extended day programs, demographic information and any other information a board deemed relevant.

The Ministry's ongoing consultations with boards, municipalities and other key early learning stakeholders have identified best practices to support the viability of extended day programs. A key success factor is board engagement with parents to determine local needs for the purpose of planning extended day programs. Thus, a parent engagement and program planning component has been introduced to the enrolment projection process used to determine the viability of extended day programs.

Revised Enrolment Projection Process

Provision of Information to Parents

Once a board has determined its base daily fee, it is now required to post this fee on its website and communicate it to:

- Parents of pupils of the board enrolled in JK/K classes;
- Parents of pupils of the board enrolled in other primary or junior division classes, where the board is considering operating extended day programs for older children; and
- Parents who have expressed an interest in enrolling their children in the next school year as pupils of the board in JK/K classes and, where the board is considering operating extended day programs for older children, as pupils in other primary or junior division classes.

Collection of Information from Parents

In conjunction with communicating the base daily fee as indicated above, boards are also now required to collect information regarding these parents' interests and needs with respect to extended day programs. This information includes:

- Whether or not these parents are interested in enrolling their children in the board's extended day programs in the upcoming school year;
- Whether or not parents are interested in enrolling their children in the board's extended day programs if they were offered on non-instructional days in the upcoming school year; and
- Parent preferences with respect to the hours of operation of the board's extended day programs.

Boards must collect this information through parent questionnaires, as well as any other means that the board considers appropriate.

These provisions do not obligate a board to operate an extended day program nor do they prescribe hours of operation of a board's extended day program.

Exceptions from Determining Viability

A board is not required to determine the viability of an extended day program at a school site where the board has a transitional agreement with a third-party to operate an on-site before- and/or after-school program for JK/K pupils in the 2010-11 and 2011-12 school years.

Considerations for Determining Viability

Before determining that a before- and/or after-school program is not viable, a board may consider other options, including:

- Operating before- and/or after-school programs for pupils enrolled in primary or junior division classes other than JK/K;
- Operating before- and/or after-school programs on non-instructional days during the school year;
- Permitting pupils to enrol in before- and/or after-school programs on a part-time basis; and
- 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 these considerations are not required, they support viability and are permitted under section 259 of the *Education Act*.

Planning of Extended Day Programs

Reflecting best practices identified from Year 1, O.Reg. 225/10 now requires that a board use the information it collected when determining viability to determine the following with respect to planning its extended day programs:

- The site-specific actual daily fee (see the fee calculation section for more detail);
- The schools in which the board plans to operate extended day programs for JK/K pupils;
- The schools in which the board plans to operate extended day programs for other primary or junior division pupils;

- The hours of operation, before- and/or after-school, for each school operating an extended day program;
- Specific program features; and
- Any non-instructional days on which the board plans to operate extended day programs.

Distributing Program-Specific Information to Parents

Once a board has planned its extended day programs, it is now required to communicate the following information regarding its upcoming extended day programs to the parents from whom it collected information when projecting enrolment:

- Information regarding decisions the board has made with respect to planning its extended day programs (as described in the above section);
- Information regarding financial assistance that may be available to families; and
- Any other information a board deems relevant.

Extended Day Fees

The *Education Act* requires boards to charge and collect fees for extended day programs to recover the operating costs incurred by the board as set out in regulation. The regulatory requirements, set out in O.Reg. 225/10 (Extended Day Programs) reflect the statutory requirement that the fees have a reasonable connection to operating costs incurred. However, substantive changes have been made to the fee calculation set out in the regulation based on extensive consultations regarding boards' Year 1 experiences. Feedback included:

- Extended day fees tended to be higher than other before-and/or after-school programs;
- The methodology for calculating fees lacked flexibility, particularly with respect to the costs associated with providing access for pupils with special education needs and the specific number of program minutes at each site; and
- The fee calculation process was cumbersome in that it required boards to calculate an initial base fee to project enrolment and then recalculate this fee based on confirmation of interest from parents.

Revised Approach for Determining Fees

To streamline the fee calculation process, a board must now determine its board-wide base daily fees by projecting the operating cost for a single extended day program unit using an average per-unit enrolment of 25 pupils, which represents the mid-point between the viability threshold (20 pupils) and the maximum size of a program unit with two staff (30 pupils). This approach means that boards are no longer required to project enrolment when determining fees.

Base daily fees now reflect 300 minutes of programming rather than 5 hours. While this represents the same duration, the new approach gives a board greater flexibility when determining the actual daily fees for specific school sites.

Mitigating Enrolment Variance

The Ministry recognizes that there may be situations where a board faces challenges in reaching an actual average program unit size of 25 pupils. There are several approaches a board could consider using in order to mitigate enrolment variance, such as:

- Using the vacancy allowance built into the fee calculation (e.g., a 5 per cent vacancy allowance means that the actual average number of pupils required to recover costs is 23.5 rather than 25);
- Considering part-time enrolment and/or operating the program for older children as ways to increase enrolment; and
- Programs that meet community needs based on information gathered.

Furthermore, it should be noted that the average program unit size of 25 pupils is a boardwide average. Thus, program units with enrolments over 25 pupils will offset those with enrolments under 25 pupils.

Changes to Calculating Accommodation Costs for Pupils with Special Education Needs

As with the core school day, boards have an obligation to provide access for the extended day for pupils with special education needs.

The Year 1 approach to determining costs for providing access for pupils with special education needs to extended day programs was a board-specific, flat, per-pupil, per-day amount that was set out in regulation. The Ministry has received feedback that this approach was inflexible and did not allow boards to match the related costs to revenues.

Under the new approach, a board will project these costs per extended day program unit based on estimating the following components:

- The number of additional staff needed to provide access for pupils with special education needs;
- The cost of salary, benefits, vacation and statutory holiday pay, and supply staff costs for the additional staff needed to provide access for pupils with special education needs;
- Costs for advisory and training services associated with providing access for pupils with special education needs; and
- Other necessary costs a board has identified related to providing access for pupils with special education needs.

Boards will determine each of these cost components and consider certain facts, as described below.

Estimating the Number of Additional Employees

Each board estimates the average number of additional employees per program unit (based on the assumption of 25 pupils per unit) it requires to provide access for pupils with special education needs.

To do this, the board uses information from previous school years to determine the number of additional employees required to provide access for JK/K pupils (and other primary and junior division pupils, where relevant) with special education needs to both the instructional and extended day in relation to the total number of pupils enrolled in the classes and extended day program units (not just pupils with special education needs). This yields the ratio of additional employees to the total number of pupils.

The board then projects the number of pupils with special education needs that it anticipates enrolling in its extended day programs using the following information:

- The number of pupils the board expects to enrol in its schools that have been identified as having special education needs in the upcoming school year; and
- The extent to which parents of pupils identified as having special education needs have expressed an interest in enrolling their children in the board's extended day programs in the upcoming school year.

The board uses information on projected enrolment of pupils identified with special education needs and the number of additional staff required to provide access for these pupils to project the per-unit staffing requirements for its extended day programs. For example, if a board determined that, on average, it would need one additional staff person per 100 pupils to provide access for pupils with special education needs, this would generate a 0.25 FTE per program unit.

Determining Salary Costs for Additional Employees

The board determines the average hourly wage it anticipates paying these additional employees. This figure is then multiplied by the number of additional employees per unit the board anticipates requiring to provide access for pupils with special educations needs (e.g. 0.25). The board then multiplies this figure by 940 (representing 188 days multiplied by 300 minutes) to generate the total salary costs per unit for these employees.

Determining Benefits, Vacation, Statutory Holiday Pay and Supply Staff Costs

A board determines the costs, benefits, vacation, statutory holiday pay and supply staff costs for additional employees required to provide access for pupils with special education needs in the following manner:

- Benefits are calculated at 24.32 per cent of salary costs;
- Vacation and statutory holiday costs are calculated at 13.4 per cent of salary and benefits costs; and
- Staff supply allowance is calculated at 5 per cent of salary, benefits and holidays.

Determining Advisory and Training Costs Associated with Providing Access for Pupils with Special Education Needs

The board estimates the total costs per unit required to provide advisory or training services for the additional extended day program staff and other individuals involved in the provision of extended day programs to pupils with special education needs.

Determining Additional Costs Related to Providing Access for Pupils with Special Education Needs

The board estimates any other costs per unit that it has identified as necessary to provide access for pupils with special education needs. The determination of the type and amount of these costs is to be based on relevant experiences of the board or any other board.

Changes to Calculating Administrative Costs

Under the new fee calculation approach, the projection of administrative costs is apportioned to the projected cost of operating a program unit. To determine its projected administrative costs per program, the board adds the following:

- Cost per unit of third-party contracts; and
- Cost per unit of employees of the board who spend 75 per cent or more of their time providing administrative services related to the board's extended day programs.

If the board charges a registration or a fee deposit, it would subtract the deposit amount from the sum of the above costs in order to determine its total administrative costs per program unit.

The approach that the board will use to determine each of these components is described below.

Third-party Contract Costs

The board determines the per-unit cost for third-party contracts to provide administrative services for extended day programs by estimating the average number of extended day program units for which a single third-party contractor provides administrative services and dividing this figure by the average cost of the board's third-party contracts. The board must have entered into these third-party contracts before the first school day in May of the preceding school year in which the extended day program will operate.

Administrative Staffing Costs

The board determines the per-unit cost for employees who spend 75 per cent or more of their time providing administrative services for extended day programs by estimating the average salary of these employees and dividing this figure by the estimated number of program units such employees would manage. For example, if such an employee was paid \$40,000 and the board determined that one such employee was required for every 10 program units, the administrative cost per unit would be \$4,000.

Registration and the Collection of Fee Deposits

When determining total administrative costs, boards are permitted to incorporate registration and fee deposits. Where a board chooses to charge a fee deposit, it must adhere to the following conditions:

- The amount of a deposit must not exceed the equivalent of two weeks of program fees;
- Where a parent chooses to cancel a pupil's enrolment in an extended day program before the program begins, the board must refund any deposit, less a maximum of \$50 for administrative fees; and
- If the board does not operate an extended day program in a school or discontinues the operation of the extended day programs in a school, the board must refund any deposits without deducting administrative fees.

When developing policies for fee deposits, boards are encouraged to consider waiving deposits for financially vulnerable families, including those families receiving a subsidy related to a pupil's enrolment in an extended day program. In lieu of deposits, where a family is approved for subsidy, an alternative is to request confirmation of the receipt of subsidy from the relevant Consolidated Municipal Service Manager or District Social Service Administration Board.

Allowable Costs

As in Year 1, a board is required to use only the allowable discretionary and nondiscretionary costs, as set out in O.Reg. 225/10. The types of allowable costs are unchanged from Year 1, but adjustments have been made to the cap for the school operations component and the vacancy allowance to reflect the actual experiences of boards from Year 1.

Discretionary Costs:

- Salary costs per unit, reflecting the anticipated wages for ECEs and program staff in the extended day.
- Per-unit cost for providing access for pupils with special education needs based on additional staffing requirements, advisory and training services and other necessary costs identified by the board.
- School Operations calculated at up to \$0.40, per-pupil, per-hour (adjusted from \$0.60 in 2010-11).

- Food costs per unit, reflecting a per-pupil, per-day amount to cover daily snack costs, if provided.
- Program costs per unit, reflecting a per-pupil, per-day costs for supplies.
- Vacancy allowance of up to 5 per cent of the fee to address potential revenue fluctuations associated with pupils leaving classes over the course of a year (adjusted from 10 per cent in 2010-11).
- Administrative costs per unit, reflecting the cost of third-party contractors, staff who spend 75 per cent or more their time providing administrative services and registration/fee deposits.
- Transaction costs (e. g., credit and debit transactions) per unit, determined as percentage of the total of all other operating costs for a program unit.

Non-discretionary Costs:

- Benefits for extended day program staff, calculated at 24.32 per cent of salary costs.
- Vacation and statutory holidays for ECEs and program staff, calculated at 13.4 per cent of salary and benefits cost.
- Professional development for ECEs and program staff related to extended day, calculated at 2 per cent of salary, benefits and holidays.
- ECE and program staff supply allowance for extended day, calculated at 5 per cent of salary, benefits and holidays.

Calculating Fees

Base Daily Fee

Under the new fee calculation process, the board calculates its base daily fee for an extended day program unit of 25 pupils by projecting the cost of operating the program unit for 300 minutes per day for 188 days. The total program unit cost is divided by 25 to reflect the per-pupil cost. The per-pupil cost is then divided by 188 to determine the base daily fee.

Actual Daily Fee

In Year 1, the actual daily fee was calculated using a table in O.Reg. 225/10 that attributed 10 per cent of the base daily fee to each half hour increment of before-and/or after-school programming operated by a board. Boards have indicated that this approach limited their flexibility to reflect the bell times and break periods of specific schools,

resulting in fees that did not accurately reflect program duration. The revised approach for determining actual daily fees is as follows:

- The board determines the total number of minutes that an extended day program will operate and what percentage of 300 minutes this total represents. This percentage is then applied to the base daily fee. For example, if a board operates an extended day program at a school for 250 minutes, its actual daily fee for that school would be 83 per cent of its base daily fee.
- The board then rounds its actual daily fee to the nearest multiple of 50 cents.

This new approach allows boards to accurately match its actual daily fee to the duration of the extended day at specific schools.

Fees for Non-Instructional Days

Subsection 259(2) of the *Education Act* permits a board to operate extended day programs on non-instructional days. Amendments to the fee calculation provisions in O.Reg. 225/10 provide greater flexibility to boards that choose to do this.

In Year 1, fees for programs on non-instructional days were calculated by multiplying 85 per cent of a board's base fee by 1.2 (to represent the six hours normally included as the instructional core day) and adding this amount to the actual daily fee charged for extended day programs on instructional days. The revised process uses the same approach as Year 1, but splits the non-instructional day fee into two components:

- A portion that corresponds to the duration of the instructional day, which is determined by multiplying 85 per cent of a board's base daily fee by 1.2 and rounding this amount to the nearest multiple of 50 cents; and
- A portion that corresponds to the actual daily fee for the before- and/or afterschool portions of a board's extended day programs.

This new approach allows boards to calculate different fees to reflect the noninstructional day programming needs of families in different schools. Where a board wishes to distribute the costs of non-instructional day programs over the full instructional period, it may develop an equal billing plan for parents whose children will be enrolled in both instructional- and non-instructional day components.

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Appendix B: Early Learning Regional Education Officers