

**MEMORANDUM TO:** Directors of Education

**FROM:** Jim Grieve  
Assistant Deputy Minister

**DATE:** May 5, 2010

**SUBJECT:** Legislative Changes Under Bill 242

**The information in this memorandum is provided to assist boards in planning. The new early learning legislation will not come into force until a date to be named by proclamation. As well, regulations, policies and/or guidelines to support many of the measures in the legislation will be required.**

I am writing to inform you that Bill 242, "The Full Day Early Learning Statute Law Amendment Act, 2010", was passed in the Legislature on April 27, 2010. Once in force, this legislation will establish the legal framework governing the long-term implementation of the government's full-day learning initiative.

Specifically, it:

- Requires boards to deliver full day JK/K programs,
- Requires that there be a teacher and early childhood educator (ECE) team in JK/K classrooms,
- Requires boards to deliver extended day programs for four- and five-year olds on instructional days, and
- Provides the government with authority to enter into agreements with municipalities, or other persons or entities, to administer subsidies related to the extended day program.

The purpose of this memo is to provide school boards with information about the new legislation and to provide further information regarding:

- Third-party delivery of extended-day programs
- Kindergarten early learning programs
- Roles and responsibilities of teachers and ECEs
- Extended-day programs
- Special needs/special education needs in extended day programs
- Extended day fees
- Subsidies for extended day program fees and childcare stabilization
- Ministry responsibility for child care
- Other items

I would like to take this time to thank the many stakeholders who contributed to the development of Bill 242. As a result of the many consultations that were held, and the motions presented to Standing Committee, Bill 242 is a stronger piece of legislation.

Areas addressed by the legislation that will require regulation or are expected to be elaborated upon by regulation include: i) determining extended day fees, ii) determining viability of extended-day programs, iii) establishing a transition period and the required conditions associated with the delivery of third party services to four- and five-year olds, in lieu of a board-delivered extended day program, iv) establishing conditions when an ECE may not be required in a JK or K class (such as class size) and v) identifying conditions around letters of permission related to filling designated early childhood educator positions by persons who are not ECEs. To ensure that boards will have enough time to plan for the year ahead, the Minister intends to seek approval of these regulations in the coming weeks.

#### **A. Third-party delivery**

At full implementation, full day early learning will be a seamless and integrated program delivered by school boards. With school boards directly operating extended day programs for four- and five-year olds, current relationships with third-party providers serving that age group will need to change.

At the Standing Committee consideration of Bill 242, stakeholders put forward many issues related to third-party services for children ages four and five and six to 12. Many of these issues were taken into account and addressed in legislative debate and committee motions.

### ***Third-party delivery - ages six-12***

The legislation permits boards to operate extended day programs for children ages six to 12. In Memorandum 2010: EL2, the ministry encouraged boards to provide these services where there is sufficient parent demand and board capacity.

The new section 259 of the *Education Act* confirms that school boards may enter into agreements with third-party service providers to operate programs for this age group. These arrangements would not be subject to the conditions governing extended day programs for four- and five-year olds.

### ***Third-party delivery – ages four and five (non-instructional days)***

The legislation requires boards to operate extended day programs for four- and five-year olds during the school year and permits them to offer programs on other days. In Memorandum 2010: EL2, the ministry encouraged boards to provide extended day programs year round where there is sufficient parent demand and board capacity.

As noted, section 259 of the *Education Act*, acknowledges that school boards may enter into agreements with third-party providers to provide programs in schools for four- and five-year olds outside of regular instructional days. In other words, nothing in the legislation prevents boards from entering into agreements with third-parties to provide programs to four- and five-year olds on professional activity days, school holidays and summer breaks.

### ***Transitional Issues – third-party delivery, ages four and five (instructional days)***

In keeping with the government's vision of a seamless and integrated school day, the legislation requires boards to directly deliver extended day programs for four- and five-year olds on all instructional days.

Over the full-day learning phase-in, boards will need to transition from any current wrap-around child care programs offered in agreement with third-parties to the integrated, board-operated model. Where third-party arrangements exist, their time-limited continuation will be subject to conditions outlined by ministry regulation in the coming weeks.

As noted in previous communications, regulations on transition would intend to set out the limited circumstances under which transitional arrangements might be permitted, while continuing to work towards the goal of a fully integrated, board-delivered model at full implementation.

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

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.

## **B. Junior Kindergarten and Kindergarten early learning program**

As you know from Memorandum 2010: EL5, the *Full-Day Early Learning-Kindergarten Program (Draft version)* has been released to school boards.

To facilitate implementation, a copy of the learning expectations portion of the document has been posted to the ministry website at <http://www.edu.gov.on.ca/eng/curriculum/elementary/kindergarten.html>.

In the coming weeks, the document will be updated with an introductory section that will provide greater descriptions of play-based learning, as well as the roles of the teacher-early childhood educator team. Once complete, printed copies of the complete draft document will be distributed to school boards and selected school sites.

A complementary companion document to the *Full-Day Early Learning-Kindergarten Program (Draft version)* detailing the extended day component of the program is also being developed and will be released shortly.

The draft program, together with the extended day companion document, will be used to support implementation of full-day early learning at selected sites beginning in September 2010.

As discussed in Memorandum 2010: EL5, initial implementation training sessions are scheduled to begin in late April 2010 and will include web-based components, as well as face-to-face components. These initial training sessions will be followed by summer institute opportunities, to be held regionally, for school board teams. Boards are also encouraged to provide opportunities for professional development for teachers and ECEs in year-one program sites before the end of the 2009-2010 school year or early in September 2010.

## **C. Roles and responsibilities of teachers and ECEs**

The legislation creates section 264.1 in the *Education Act* to establish a duty for teachers and ECEs to co-operate and co-ordinate in the following areas:

- Planning and delivery of the JK/K program,
- Assessment and observation of children,
- Communicating with families, and
- Maintaining a healthy social, emotional and learning environment.

Amendments to the Bill (as a result of motions put forward at the Standing Committee on Social Policy) removed references to duties of teachers with respect to the extended day program by reflecting that extended day programs will be led by ECEs. Nothing in the duty to cooperate limits the requirements that teachers and ECEs must be members of their respective Colleges (i.e. the Ontario College of Teachers and the College of Early Childhood Educators), nor limits the duties of teachers under the *Education Act*, including “duties related to report cards, instruction, training and evaluation of the progress of pupils in junior kindergarten and kindergarten classes, and the preparation of teaching plans”.

Under the legislation, principals may delegate responsibility for the operation of the extended day to a vice-principal or other persons approved by the board in accordance with regulations, policies and guidelines.

The introductory section of the *Full-Day Early Learning-Kindergarten Program* (Draft version) which is scheduled to be released in the coming weeks has been developed as a further resource with respect to the roles and responsibilities of teachers and ECEs.

#### **D. Extended day programs**

The legislation obligates boards to directly operate extended day programs for four- and five year olds on instructional days, with ECEs responsible for leading the extended day. Key features of the extended day program were outlined in ministry memorandum 2010: EL2, dated January 13, 2010.

As with the full day JK/K program, the ratio of staff to pupils during the extended day would be 2:26. Where a second adult is required to support the registered ECE in the delivery of the extended day program, boards may choose to require that this second adult be a registered ECE, or they may choose to hire a non-ECE (though in these cases, some additional training may be required).

It is recognized that it may not be viable for a board to operate an extended day program at some sites (i.e., where demand is very low). It is expected that in the coming weeks the Minister will seek approval of a regulation to address this issue. In the meantime, boards should note that the legislation supports viability by providing the option to enter into an agreement with another board to operate an extended day program. Boards are also encouraged to explore other options to support viability, such as opening up an extended day program to some six- and seven- year olds.

#### **E. Special needs/special education needs**

Full day early learning is intended to put all of Ontario’s children on the road to success. The Ministry of Education is working with partners, including the Ministry of Children and

Youth Services and the Ministry of Health and Long Term Care, to help ensure that all students, including those with special needs/special education needs, continue to receive appropriate supports as full-day early learning is introduced.

We are aware that questions and concerns have been raised regarding supports for students with special needs/special education needs who are transitioning to full-day learning. The ministry will be communicating with boards with respect to full-day early learning and special needs/special education needs shortly.

## **F. Extended day program fees**

The legislation authorizes and requires boards to charge fees to recover costs associated with operating extended day programs. This authority is subject to regulation and cannot be exercised until regulations governing the fees are made. That is, boards do not have the authority to set or collect extended day program fees in the absence of such regulations.

Memorandum 2010: EL2 provided boards with information for planning purposes on the expected principles, processes and allowable fee cost components. Boards would be responsible for charging and collecting fees for the extended day – though boards would remain free to contract with another party or establish consortia or a similar mechanism for the purposes of fee collection and administration.

As also noted in memorandum 2010: EL2, it is expected that the fee regulation will require that fees be calculated on a board-wide basis. In other words, that they will be based on board-wide costs and revenues, rather than a single site model. It is also expected that boards will be required to set fees annually and approve them through regular, open meetings of the board. Boards will also be required to publish fees for extended day programs on their website.

Also noted in memorandum 2010: EL2, it is expected that the fee regulation will provide boards with the discretion to determine whether to charge a single fee for the entire extended day or whether to set separate fee schedules for the before- and after-school periods or both. Boards would be required to disclose proposed fees to their coterminous boards and the ministry prior to finalizing the fee.

The ministry recognizes the urgency of having an extended day fee regulation in place in order for boards to establish their extended-day fees, and hopes that this can be accomplished in the coming weeks.

In the absence of the regulation, boards can continue to develop proposed fees in accordance with the parameters set out in Memorandum 2010: EL2, taking into account that the fee regulation would require boards to establish fees that bear a reasonable relationship to operating costs. That is, fees set by boards must reflect a reasonable connection between anticipated program costs and anticipated revenues. The ministry strongly encourages boards to share their current draft calculations of fees with their Regional Early Learning Education Officers as soon as possible to ensure that they are well-prepared to comply with the regulation when it is made.

As indicated in memorandum 2010: EL2, boards can continue to expect that they would have discretion in determining certain fee components, while other components would be non-discretionary and calculated in accordance with prescribed benchmarks. For more information on fee-setting, see Appendix 1.

### **G. Subsidies for extended day fees and child care stabilization**

The legislation allows for agreements with municipalities to administer subsidies related to the extended day program. While details are currently being finalized, it is anticipated that Consolidated Municipal Service Managers (CMSMs) and District Social Services Administration Boards (DSSABs) will administer subsidies for extended-day programming in largely the same fashion that they administer subsidies for the child-care sector.

The ministry encourages school boards to continue to build on relationships with CMSMs and DSSABS to ensure the smooth operation of subsidies programs for extended day programs.

Under the anticipated CMSM/DSSAB delivery model, boards would be expected to consult and share information with their CMSMs/DSSABs, create a pro forma administrative agreement to support the flow of funds, and invoice CMSMs/DSSABs monthly for payments of subsidies. CMSMs/DSSABs would be expected to determine eligibility for subsidies, receive and administer funds from the province, pay funds to boards based on regular invoicing, report back to the ministry, and manage wait lists.

As you are aware, the Government of Ontario has announced stabilization funding for the childcare sector to ease the impact of full-day learning. The government will also provide capital funding to non-profit child care centres to help them retrofit to serve younger children: <http://www.news.ontario.ca/edu/en/2010/04/ontario-passes-full-day-learning-act.html>.

In addition, the government expects to increase the overall amount of subsidy for four-

and five-year olds as participation in extended day programs grows. The resources provided to CMSM/DSSABs for both stabilization and extended-day subsidy will be funded by a combination of new provincial dollars and reinvestments from existing provincial funding (i.e. subsidies for four- and five- year olds moving to extended day).

These investments are in addition to the \$63.5 million a year announced in the 2010 Budget to fund the child care spaces abandoned by the federal government.

## **H. Ministry of Education responsibility for child care**

The government has announced that it is moving forward with some of the other recommendations in Charles Pascal's report, *With Our Best Future in Mind*. A key part of this announcement that impacts most directly on the Ministry of Education is that responsibility for child care has been transferred from the Ministry of Children and Youth Services to the Ministry of Education within the Early Learning Division. The transfer will occur through a phased approach. Effective immediately, responsibility for child care policy and program will transfer to the Ministry of Education. Contract management will be transferred in fall 2010, and child care licensing will remain with the Ministry of Children and Youth Services, at this time.

The transfer of child care to the Ministry of Education is a significant step in the government's plan to enhance seamlessness between the two systems and integrate programs and services for young children and their families. Putting the care and education of our children under one ministry will make them more coherent, consistent and responsive to Ontario's families' needs.

## **I. Other Items**

### ***Letters of Permission***

The legislation allows the Minister to grant a letter of permission authorizing a board to appoint a non-ECE to a designated ECE position, if the Minister is satisfied that no ECE is available. Such authority would be subject to regulation.

The ministry recognizes that the conditions pertaining to letters of permission must be further defined and expects that a regulation governing letters of permission for ECEs will be put forward in the coming months.

### ***Delegation of responsibility for operation of extended day programs by principal***

As noted above, the legislation authorizes principals to delegate responsibility for the operation of extended day programs to the vice-principal or other persons approved by the board. It is anticipated that the designate could be an ECE with designated responsibility at a particular site. As with the letter of permission regulation, the ministry



anticipates that a regulation respecting board approval of persons to whom the principal can delegate such responsibility will be brought forward for approval in the coming months.

## **Conclusion**

I take this opportunity to thank boards, and their staff, for the tremendous work you have already done and the work you will continue to do in the months ahead. The success of full-day early learning is ultimately in your hands. The government and ministry are responsible for articulating the vision, setting policy, allocating resources and providing support. But full-day early learning will become reality for young children and their families through the leadership and actions of boards and local communities.

Transforming vision into action is a process, one that requires your ongoing commitment and participation. All of the stakeholders have shown remarkable support for the initiative. As partners in this initiative, we share a commitment to serving the best interests of young children and their families. By continuing to collaborate, we will work through the remaining implementation details in the months ahead, leading up to the launch of the first phase of this exciting new program.



Jim Grieve  
Assistant Deputy Minister

Copy: Consolidated Municipal Service Managers/District Social Services Administration Boards Chief  
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Early Learning Implementation Advisory Group  
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## Appendix 1 - Calculation of Daily Fees

Under the proposed regulations, it is expected that some components of extended day fees would be wholly or partly determined at boards' discretion, while others would be developed in accordance with provincially-set guidelines and benchmarks. Expected components of fees considered non-discretionary, which would be determined according to specific provincial direction, include:

- Benefits for ECEs – as 24.32 percent of salary (consistent with benchmarks under the 2009-10 GSN);
- Vacation and Statutory Holidays for ECEs – as 13.4 percent of salary and benefits (based on compensating ECEs for three week vacation and eleven statutory holidays during the school year);
- Professional Development for ECEs and staff related to extended day – as 2 percent of salary;
- ECE Supply Allowance for extended day – as 5 percent of salary to provide coverage when an ECE is sick;
- School Operations – at \$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) (to a cap);
- Vacancy Allowance – up to 10 percent of the fee to address potential revenue fluctuations associated with children leaving classes over the course of a year (due to normal turnover in school enrolments)

It also is expected that certain other components of the daily fee calculation would be discretionary and determined at the board level. These would include:

- Staff (ECE) wage levels– the board's hourly rate to cover ECEs who lead extended day programs and any non-ECE program assistants if boards choose to use them;
- Program costs – an amount to address basic extended day program needs (for example, \$1-3 per day per child);
- Snacks – an amount to cover daily snack costs for extended day, if provided (for example, \$2 per day per child);
- Fee collection and administration costs based on arrangements made by boards to collect and administer the fees (for example, internal administration costs, costs of fee collection contract).

The following table from 2010: EL2 provides additional details in a simple one-site case.

<b>Example of Fee Calculation*</b>		<b>DAILY FEE</b>		
		<b>Before School</b>	<b>After School</b>	<b>BEFORE + AFTER</b>
		<b>7:00 am - 9:00 am</b>	<b>3:00 pm - 6:00 pm</b>	<b>TOTAL</b>
<b>Benchmark</b>	<b># Hours / day -&gt;</b>	<b>2</b>	<b>3</b>	<b>5</b>
	<b>ECE / STAFF COSTS</b>			
\$ 19.48	(a) Wage compensation	\$ 3.00	\$ 4.50	\$ 7.50
24.32%	(b) Benefits (including Pension contributions)	\$ 0.73	\$ 1.09	\$ 1.82
13.40%	(c) Vacation + Statutory Holidays	\$ 0.50	\$ 0.75	\$ 1.25
2.00%	(d) Professional Development	\$ 0.07	\$ 0.11	\$ 0.18
5.00%	(e) Supply ECEs for Extended day	\$ 0.22	\$ 0.32	\$ 0.54
	<b>(1) ECE / STAFF COSTS (a+b+c+d+e)</b>	<b>\$ 4.52</b>	<b>\$ 6.77</b>	<b>\$ 11.29</b>
\$ 0.60	(2) School Operations (Utilities, Custodial)	\$ 1.20	\$ 1.80	\$ 3.00
\$ 1.00	(3) Materials for Extended day	\$ 0.40	\$ 0.60	\$ 1.00
\$ 2.00	(4) Food / Snacks	\$ 0.80	\$ 1.20	\$ 2.00
	<b>(A) ESTIMATED COST (1+2+3+4)</b>	<b>\$ 6.92</b>	<b>\$ 10.37</b>	<b>\$ 17.29</b>
10.0%	(B) Vacancy Allowance (up to 10% allowance)	\$ 0.69	\$ 1.04	\$ 1.73
2.0%	(C) Administration (Fee collection, etc)	\$ 0.14	\$ 0.21	\$ 0.35
	<b>ESTIMATED FEE (A+B+C)</b>	<b>\$ 7.75</b>	<b>\$ 11.62</b>	<b>\$ 19.37</b>

Note:

- Line items highlighted indicate discretionary costs (i.e. costs that boards have flexibility in determining).
- Non-highlighted line items indicate non-discretionary costs (i.e. costs that must be determined in accordance with benchmarks).
- Only listed costs are permitted.
- Fees may not be used to recover capital costs.
- Boards have the option to determine structure of fees (i.e. separate morning and afternoon options, or full-day only).