

Date of Issue: May 9th, 2016**Effective:** August 29, 2016
until revoked or
modified**Subject:** TIERED LICENSING**Application:** Licensed Child Care Centres
Consolidated Municipal Service Managers
District Social Service Administration Boards

INTRODUCTION

As part of the transformation of Ontario's child care system, the Ministry of Education (the ministry) is implementing a new modernized approach to licensing child care centres called tiered licensing.

The ministry has heard from child care licensees that the current licensing inspection checklist, comprised of 300 requirements, includes many administrative items and leaves little room for important conversations about pedagogy and program approaches.

The new tiered licensing approach addresses this concern while allowing the ministry to maintain its oversight of children's health, safety, and well-being. The approach will enable the ministry to focus resources on working with child care centres that need more support to achieve and maintain compliance and allow for more time during inspections for program discussions.

This policy memorandum provides important information to all child care centre licensees about how the tiered licensing process will work.

LEGISLATIVE AUTHORITY

Section 22 of the *Child Care and Early Years Act, 2014* (CCEYA) provides flexibility for the Director to determine the term of a licence in accordance with the regulations.

Section 85.2 of Ontario Regulation 137/15 now sets out that the term of a licence shall be a period of up to two years.

NEW TIERED LICENSING PROCESS

Beginning on August 29, 2016, the new tiered licensing process will be available to child care centres that have been licensed for three years or more. Eligible child care centres will be assigned to Tier 1, Tier 2, or Tier 3 based on their compliance history over the last three years. A centre's tier will determine the type of inspection the ministry will conduct, as well as the duration of the licence that may be issued.

Tiered licensing, and the maximum two year licence duration, will not apply to child care centres that have been licensed for fewer than three years. After three years, the child care centre would be placed into the appropriate tier at their next licence renewal inspection, depending on their compliance history.

Tiered licensing will not apply to licensed home child care agencies.

For those programs not eligible for tiered licensing, the current licensing process will remain in place.

TIER LEVELS

Each centre's tier will be determined by the Child Care Licensing System (CCLS) at each licence renewal. Licensees will be able to view information regarding the tier determination for the centre(s) it operates in CCLS.

The tier calculation will use licensing data from **three years prior to the licence expiry date up to the licence renewal issue date**, including:

- a. **non-compliances** from all inspections (e.g., renewal, monitoring, etc), taking into consideration:
 - the risk level of identified non-compliances (see appendix A for more information about risk levels); and
 - how recently the non-compliance was identified.
- b. **provisional licence(s)** issued
- c. **enforcement actions** issued (e.g. licence suspensions, compliance orders, and/or administrative penalties, etc)

The table below outlines the criteria a child care centre must meet in order to be assigned a Tier 1, Tier 2 or Tier 3 level:

Tier	Criteria
Tier 1	<p><i>Over the past three years, the child care centre:</i></p> <ul style="list-style-type: none"> • has maintained a regular licence; • has not been subject to any enforcement actions; and • does not have any outstanding non-compliances from the last renewal inspection <p><i>Additionally, over the past three years, the child care centre:</i></p> <ul style="list-style-type: none"> • has had full compliance; or • has had no more than one low risk non-compliance at the last renewal inspection; or • has had no more than two low risk non-compliances or one moderate risk non-compliance prior to the last renewal

Tier	Criteria
Tier 2	<p><i>Over the past three years, the child care centre:</i></p> <ul style="list-style-type: none"> • has maintained a regular licence; • has not been subject to any enforcement actions; • does not have any outstanding non-compliances from the last renewal inspection; and • is not among the bottom 10% of centres in terms of number and severity of non-compliances
Tier 3	<p><i>Over the past three years, the child care centre:</i></p> <ul style="list-style-type: none"> • has received a provisional licence; or • has been subject to an enforcement action; or • is among the bottom 10% of centres in terms of the number and severity of non-compliances

Note: The criteria for tier determinations may be modified in the future as compliance trends change. This memorandum will be updated if the criteria change. CCLS will also include the most up to date criteria.

New licensing requirements under the CCEYA will be exempt from tier calculations for one year from their effective date (e.g. Phase 1 regulations that came into effect on August 31, 2015 will begin to be included in tier calculations as of August 29, 2016).

At this time, tier levels will not be posted on the Licensed Child Care website. Tiers will also not be included on licences or on decals.

Consolidated Municipal Service Managers / District Social Services Administration Boards will be able to view each centre's tier in CCLS for their geographic area.

LICENSING PROCESS AND TERM OF A LICENCE

The type of inspection the ministry will conduct as well as the duration of a licence that may be issued to the child care centre will depend on the centre's tier:

Tier 1 child care centres will have an abbreviated inspection (see page 4 for more information) and based on the results, may be issued a licence for up to the maximum of two years. Centres that receive a two year licence will only be required to submit a licence renewal application and fee in the second year, prior to licence expiry.

Ministry program advisors will conduct an unannounced interim monitoring inspection for Tier 1 centres during the licensed period to review compliance with licensing requirements and provide support for program quality.

Note: the term of the licence may change during the licensed period should the ministry change the licence type from regular to provisional.

Tier 2 child care centres will have an abbreviated inspection and may continue to receive a licence with a term of one year or less.

Tier 3 child care centres will continue to have a full renewal inspection and may continue to receive a licence with a term of one year or less.

The ministry will also provide additional oversight and supports to help Tier 3 centres improve their compliance and ultimately, their tier level. This will involve additional compliance monitoring during the licensed period.

In addition, licensees will be provided with a *Compliance Action Plan* that can be used to reflect on identified non-compliances and specify strategies for maintaining and monitoring compliance with requirements that were not met at inspections.

ABBREVIATED INSPECTIONS

The ministry has developed an abbreviated inspection checklist and licensing process based on consultation with Ontario's child care stakeholders and best practices from across North America.

The abbreviated inspection checklist contains a shorter list of requirements from the regular inspection checklist, including those that:

- have been rated by ministry staff and a sample of child care licensees/ supervisors from across the province as being of the highest risk to children's health, safety and well-being;
- predict overall compliance based on an established statistical methodology; and
- have been newly introduced as a result of regulatory changes under the *Child Care and Early Years Act, 2014*.

Additionally, the abbreviated checklist will include a random sample of requirements that do not fall into the categories listed above.

Where a non-compliance is observed using the abbreviated inspection checklist, the checklist will automatically expand to include additional related requirements that will be assessed for compliance. The ministry may also expand the checklist based on observed non-compliances.

MINISTRY CONTACTS

Should you have any questions about the tiered licensing approach, please contact our Licensed Child Care Help Desk at 1-877-510-5333 or by email at childcare_ontario@ontario.ca.

APPENDIX A – RISK LEVEL DEFINITIONS

In spring 2015, surveys were conducted with ministry licensing staff and a sample of 57 child care licensees/supervisors and Consolidated Municipal Service Managers / District Social Services Administration Boards from across the province to determine the risk levels of Ontario's child care licensing requirements.

Participants were asked to rate each of the licensing requirements in terms of the associated risk to children's health, safety and well-being if it is was not in compliance, among the following four risk levels:

Critical Risk: Non-compliance poses a direct threat to a child which could result in/has resulted in death.

Note: A direct threat includes situations where there is a clear cause-and-effect relationship between the non-compliance and harm to the child.

High Risk: Non-compliance poses a direct threat to a child which could result in/has resulted in serious harm to their health, safety and well-being (e.g. may require professional intervention, such as medical treatment, Children's Aid Society, public health department).

Note: Harm can include: injury/illness requiring immediate or follow up medical treatment or hospitalization; deprivation of basic needs; and harsh/degrading treatment that would humiliate a child or undermine their self-respect.

Moderate Risk: Non-compliance poses an indirect threat to a child which could result in / has resulted in harm to the health, safety and well-being of a child.

Note: An indirect threat includes situations where the non-compliance may not immediately impact children's health/safety; however, repeat non-compliance may result in harm.

Low Risk: Non-compliance is not likely to pose a threat to the health, safety and well-being of children, but the possibility exists.