



**FOR ONTARIO'S CHILDREN:
BUILDING AN INTEGRATED AND
EFFICIENT EARLY LEARNING & CHILD
CARE SYSTEM**

**YMCA's Proposal for the Modernization of the
*Day Nurseries Act***

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Executive Summary

Even though child care is now under the Ministry of Education, the outdated *Day Nurseries Act* (DNA), which has not been modernized in decades is perpetuating unnecessary and outdated barriers for child care providers and exacerbating staffing difficulties due to a shortage of qualified, practicing registered early childhood educators.

YMCA's proposed recommendations below is based on in-depth review of the current legislative framework governing early learning and child care. If implemented, it will help to build an early learning system that is accessible, sustainable, of high quality and provides a smooth transition to learning for families and their children.

YMCA Ontario *Day Nurseries Act* modernization recommendations:

Recommendation 1: Equipment Use

- Clarify the type of equipments that can be used as change table at a child care centre (DNA O. Reg. 262, section 15).

Recommendation 2: Police Reference Check Policy

- Adopt a whole-of-government approach and work with the Ministry of Community Safety and Correctional Services, and the Ministry of Economic Development and Innovation to support the Police Reference Check work as part of the Open for Business Initiative.

Recommendation 3: Anaphylactic Policy

- Clarify the Parental Training Requirement and the Medical Input Requirement under the Anaphylactic Policy.

Recommendation 4: Communicable Disease Reporting

- Adopt a whole-of government approach and work with MOHLTC to align the Communicable Disease Reporting requirement under the *Education Act* with the *DNA* (DNA O. Reg. 262 & *Health Protection and Promotion Act, 1990, sec. 21*).



Executive Summary Cont'd...

Recommendation 5: Fire Safety and Emergency Requirements

- Align the Fire Safety and Emergency Requirements under the DNA with the *Education Act* (DNA O. Reg. 262, sec 27).

Recommendation 6: Outdoor Play Space and Equipments

- Allow school-age children to access the same outdoor play space and outdoor play/climbing equipment as children in a board operated Extended Day Programs (DNA O. Reg. 262, sec 5(1)).

Recommendation 7: Sleeping Arrangements

- Align sleeping arrangements for children four years old and up under the DNA with the *Education Act* (DNA O. Reg. 262, sec 15(6)).

Recommendation 8-10: Staffing

- Increase flexibility for Director's Approval to include Child and Youth Workers and Recreational specialists for school-age programs (DNA sec. 58(a)).
- Grant Director's Approval to permit an individual to work within a stated agency and allow transferability between centres and regions at operator's discretion (DNA sec. 59,(1b)).
- Increase Director's Approval for increased flexibility for sick coverage.

Recommendation 11: Mixed-Age Groupings

- Strengthen the child care sector by extending the permissible Mixed-Age Groupings to more than one classroom per site (DNA sec. 55, schedule 3)



Executive Summary Cont'd...

Recommendation 12: Licensing Space in Schools

- Align the DNA with the *Education Act* to allow child care providers to use all available student-use spaces in a school.

Recommendation 13: Staff Ratios

- Explore opportunities to harmonize the ratio of staff to children aged four and five years old under the DNA of 1:10 with the *Education Act* ratio of 1:13.

Recommendation 14: Water Inspection Requirements

- Align the water inspections and other requirements under the *Safe Drinking Water Act* for school-based child care centres with the *Education Act* (this requires a whole-of-government approach).

Recommendation 15 : Licenses Home Child Care

- Modernize the permissible ratio during arrival and departure time at home care settings (DNA 55(6)).



YMCA Ontario

YMCA Ontario is a federation of 21 independent Member Associations across the province. Reaching into the smallest and the largest communities, the YMCA is a charity with a collective vision to dramatically improve the health of children and youth. We do so through offering an array of health promoting programs and services including early learning and child care; youth support services; healthy active living; employment and skills development; and newcomer settlement.

Together our YMCAs provide 32,581 licensed child care spaces, representing approximately 12% of the total available in the province. We also currently offer 10% of the before- and after-school programs related to full-day kindergarten and employ over 1600 Registered Early Childhood Educators.¹

¹ 2010 YMCA Yearbook



Background

The *Day Nurseries Act* (DNA) governs the provision of licensed child care in Ontario. Its purpose is to help protect the health, safety and well-being of children in secondary care arrangements. However, the regulations currently in place have not been modernized in decades. This situation has created unnecessary and outdated barriers for child care providers, making the system unsustainable. These are exacerbated by the framework for full-day learning under the *Education Act*, creating two rules for similar programs and services.

In late January 2009, the Ministry of Children and Youth Services brought forward a discussion paper aimed at modernizing many of the Act's regulations to provide child care agencies with the flexibility and innovation they needed to remain viable during the implementation of full day learning in Ontario. Those early discussions were put on hold and responsibility for the Act has since been transferred to the Ministry of Education.

Throughout this time, the YMCA has urged the Ministry of Education to restart discussions around modernizing the DNA. This proposal from the YMCA provides a starting point for that review. We have provided a comprehensive analysis and suggested recommendations with respect to the current legislative framework governing early learning and child care that is integrated, ensures the best outcome for families and their children and is pertinent to the realities of child care operation in Ontario.

It is our hope that this document will contribute to the discussion sure to be kick started around the province due to the recently released discussion paper by the Ministry of Education with respect to modernizing child care.

Now is the time in Ontario to ensure that child care is valued as part of the continuum of life-long learning in Ontario's education system. Together, let's modernize the early learning and child care framework to provide the best outcome for Ontario's children and our future.



Introduction

Quality early learning and child care programs give children the support and experiences they need to become healthy, caring and competent adults. Notwithstanding the significant investment in Full Day Kindergarten (FDK), of which we are proud to be a partner, there is growing instability in the early learning and child care system.

The framework for FDK under the *Education Act* and the different regulatory environment under the *Day Nurseries Act* is perpetuating an early learning and child care system that is unsustainable and inefficient. This is not in the best interest of Ontario's families.

The fifteen recommendations in this report provides a roadmap for achieving a modernized child care system in Ontario.

The recommendations contain herein fall into three subsections:

1. Section A provides recommendations around current policies that requires clarification through a Ministry of Education's directive. The proposed recommendations will ensure uniform application of DNA polices across the province.
2. Section B provides recommendations with respect to areas where there needs to be regulatory alignment between the *DNA* and *Education Act*.
3. Section C provides recommendations around aspects of the *DNA* that would require legislative changes to align the child care system with the *Education Act*.



Section A: Recommended Policy Changes



Recommendation 1: Equipment Use

- The current regulation mandates that any child care provider licensed to enroll children under 18 months of age must provide a table or a counter space that is suitable for dressing or changing the diaper of one child at a time. There is, however, no clear definition of what is considered an appropriate table or counter space.
- As a result of this seemingly minor vagueness, the interpretation and application of O. Reg. 262 (15) varies from region to region across the province. In some regions, the Ministry of Education program advisors are narrowly defining what is considered a change table, which should not be the case.
- For example, in some regions, a day care operator could be cited for non-compliance if they are found using fold down change tables even though this is permitted under the current regulation.
- **To ensure uniform application of O. Reg. 262 (15) across the province, we are recommending that the Ministry of Education issues a policy directive to clarify the type of equipments that can be used as change table at a child care centre (DNA O. Reg. 262, section 15).**
- **The proposed new policy directive with respect to O. Reg. 262 (15-1) and (15-2) should clarify that a “table or counter space” may include a wall-mounted change table, a fold down change table or a baby changing tray that has been approved under Health Canada manufacturing guidelines for baby accessories.**
- Our proposed recommendation provides the necessary clarity required for uniform interpretation and application across the province.



Recommendation 2: Police Reference Check Policy

- Under the Criminal Reference Check Policy, each organization is required to establish a criminal reference check policy that complies with the Ministry's guidelines. There is, however, currently no provincial guidelines with respect to Police Record Checks (PRC) that establishes uniform application and processing methods across police forces in the province.
- In 2011 the Ontario Chiefs of Police Association released a new *Guideline for Police Records Checks: Police Criminal Record Check, Police Information Check and Police Vulnerable Sector Check*. The guideline was intended to assist police services to understand and apply relevant legislation, policies, procedures and directives to the processing of PRC; participation in the guidelines is not mandatory. As such, some police forces across the province do not apply the same standards to the processing of police reference checks.
- As a result of the lack of consistency, in some regions in Ontario, a PRC and a Vulnerable Sector Check can take up to four months. This is negatively impacting the recruitment of child care staff. Child care providers cannot start a new hire until a PRC and Vulnerable Sector check is completed. The lack of provincial standards and guidelines is an issue not only affecting child care providers, but the entire not-for-profit sector and student workers.
- For example, in some municipalities, police departments will only process a PRC for residents. A post-secondary student seeking a job with a child care provider is thus required to travel back to their hometown to apply for a PRC. This is an unnecessary financial burden for students.
- In November 2011, as part of the government's Open for Business Initiative, the not-for-profit sector issued recommendations to improve the PRC process in Ontario. Those recommendations, if implemented, will go along towards addressing the concerns of the child care sector.

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Recommendation 2: Police Reference Check Policy Cont'd...

- With the work of the Open for Business still on-going, we are recommending that the Ministry of Education adopt a-whole-of-government approach and work with the Ministry of Community Safety and Correctional Services, and the Ministry of Economic Development and Innovation to adopt the proposed recommendations on PRC from the not-for-profit sector.
- The recommendations from the not-for-profit sector report called on the government to:
 1. **Highlight requirements legislated by the provincial government that relate to police checks.** This would clarify compliance expectations and minimize inconsistencies in interpretation of legislation.
 2. **Create a clear language guideline related to these legislative requirements.** This will be of use to the not-for-profit sector and the policing community and of assistance to ensure that all provincial ministry/government employees are aware of how to apply legislative requirements.
 3. **Provide references to key relevant resources online for access by Police Forces and the not-for-profit sector.**



Recommendation 3: Anaphylactic Policy

- The current Anaphylactic Policy mandates every child care operator to develop an individual plan with respect to a child with anaphylactic allergy with input from the child's physician and parent or guardian.
- A separate medical note is required every six months. This policy is a financial barrier for some low-income families as most physicians charge a fee for a medical note.
- **As such, we are recommending that the prescription label on the child's medication along with a note from a parent should be sufficient for a child to carry their own anaphylactic medication.**
- Additionally, the current policy requires a parent to provide training to all staff regarding the child's condition.
- **The initial training by the parent should be provided only to the child care site supervisor and the staff directly involved with the child. The site supervisor will then be responsible for training the rest of the staff at the site.**



Section B: Recommended DNA Regulatory Changes



Recommendation 4: Communicable Disease Reporting

- The list of classified institutions under the *Health Protection and Promotion Act, 1990* with respect to communicable diseases exclude school boards even though day nursery centres are included (HPPA, 1990, Part IV, sec. 21).
- As such, when there is an outbreak at a child care site located in a school, the child care centre is often shut down or evacuated while the rest of the school remains accessible to school-age children.
- There needs to be a mechanism for dealing with communicable disease reporting during the implementation of FDK to ensure consistent application of the *Health Protection and Promotion Act, 1990* across all programs operating in schools.
- For example, if a child care site is in a school, then there should be a uniform application of how communicable diseases are reported under the DNA and the *Education Act*.
- To ensure an integrated early learning and child care system, the Ministry of Education should adopt a whole-of-government approach with the Ministry of Health and Long-Term Care to **align the Communicable Disease Reporting requirement under the *Education Act* and the DNA (DNA O. Reg. 262 & *Health Protection and Promotion Act, 1990, sec. 21*).**



Recommendation 5: Fire Safety and Emergency Requirements

- Under the current regulation, child care providers must maintain a written copy of fire procedures.
- School buildings are mandated by the Ontario Fire Code to keep a copy of the school's fire safety plan, which sets out the effective running of fire safety systems, equipments and procedures in the event of an emergency. The plan is kept in the Principal's office and the school custodian's office at all times.
- Even though the school board is responsible for the testing of all fire safety equipments, a child care provider could be cited by an inspector for non-compliance for any negligence by the school board that is related to fire inspection.
- In one region, the Ministry of Education inspectors refused to license a new FDK site opening in an existing school because of outstanding fire safety and emergency requirements by the school board. Since the non-compliance was solely the responsibility of the school board, the child care operator could not rectify the situation on his/her own.
- Additionally, the current regime has created inconsistencies across the province with respect to the interpretation of monthly fire drills required under O. Reg. 262, Section 27(1d). In some regions, the morning program, after school program and a full day school age program at the same site are considered separate programs. Child care providers are therefore asked to complete three separate fire drills per month at the same school site.
- The child care system could operate more efficiently if the Minister transferred the responsibility for the Fire Safety and Emergency Requirements for child care providers on a school site to school boards.
- The Ministry of Education should, therefore **align the Fire Safety and Emergency Requirements under the DNA (O. Reg. 262, sec 27) for child care centres on a school site with the *Education Act***. Under the proposed recommendation, child care providers will still be responsible for instructing their staff about their responsibilities with respect to fire safety and emergency requirements.
- **It is also recommended that the Ministry of Education adopts a whole-of-government approach and work with the Ministry of Community Safety and Correctional Services to update the Ontario Fire Code Guidelines with respect to the different guidelines and requirements for school board operated facilities and child care centres.**



Recommendation 6: Outdoor Play Space and Equipments

- Under current regulation, all playground equipments in public parks including equipments on school board properties must comply with the Canadian Standard for Children’s Playscapes and Equipment (CSA Z614-98). The CSA guideline establishes standards for playground equipments for different age groups.
- As part of the *DNA* regulatory regime, all playground equipments must adhere to the CSA guidelines and be inspected daily, monthly, seasonal and annually by the operator. The *DNA* additionally requires all outdoor play spaces at a child care centres to be inspected by a third party annually.
- School boards follow the CSA guidelines and inspect playgrounds daily, but are not required to complete an inspection regime by a third party as mandated under the *DNA*.
- The Ministry of Children and Youth Services’ 2008 report on early integration of FDK and child care found this misalignment as a critical example of what “can influence and complicate planning and implementation efforts” of full-day learning (MYCS, “Full-Day Kindergarten and Child Care Integration: A Look at Promising Practices in Ontario”, July 2008).
- In June 2011, to rectify this inconsistency, the Ministry of Education issued a memorandum clarifying licensing guidelines. The guideline on Outdoor Space Requirements stated that “if operators choose to use the same playground space and equipment/structure(s) used by schools for pupils in the kindergarten program during the school day, they must adhere to the *DNA* playground safety policy requirements and the requirements of O. Reg. 262.”
- The guidelines does not, however, resolve the current misalignment in outdoor space requirements under the *DNA* and the *Education Act*. By stating that playgrounds must adhere to O. Reg. 262, it implies that child care providers are not permitted to use school board playgrounds since O. Reg. 262 requires inspection by a third party and school board playgrounds do not.

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Recommendation 6: Outdoor Play Space and Equipments Cont'd...

- Due to this inconsistency and despite the Ministry of Education's memorandum clarifying outdoor spaces and equipments, school age children at child care centers on a school site are still not allowed to use the same outdoor equipments that they are permitted to use during the school day.
- This means that child care providers on school site are required to build a separate playground, which is cost prohibitive, inefficient and does not support the government vision of an integrated early learning and child care system in Ontario. To build a new playground can cost upwards of \$20,000 to \$50,000.
- Parents in some communities who helped raise funds to build a new playground at their child's school are also concerned about why their children are unable to use the playground during the after-school period while they are at a child care centre.
- To better integrate the early learning and child care system, **the Ministry of Education should align the DNA with the *Education Act* to *permit* school-age children to use the same outdoor play spaces and outdoor play/climbing equipments that is used by school-age children in a school board operated program (DNA O. Reg. 262, sec 5(1)).**
- The corollary of the proposed recommendation would require school boards to meet the safety standards established under the DNA.



Recommendation 7: Sleeping Arrangements

- The DNA mandates that child care providers have cots for children aged four years old and up enrolled for six hours or more in a child care program. During the school year, however, when school-age children are at a school board site, the school is not required to provide a cot for the children.
- This creates inconsistencies in program delivery for children while they are enrolled in full-day kindergarten and while they are attending a child care centre during the summer.
- To create an integrated early learning and child care system, **the Ministry of Education should align the sleeping arrangement for children aged four years old and up with the Education Act (DNA O. Reg. 262, sec 15(6)).**



Recommendation 8: Staffing

- Child and Youth Workers, Recreation Skills Leadership, and Certified Ontario Teachers have the theoretical knowledge of child development and program planning appropriate to the children with whom the individual would work, however, they are not recognized as qualified staff.
- For example, at a Satellite School Age Program, an ECE with less than two years of experience, but years of experience as an Early Childhood Education Assistant (ECA) was denied approval as the Onsite Supervisor even though she had the theoretical knowledge and child development and program planning appropriate to the age group with whom she would be working. (The onsite supervisors are supported by Centre Supervisors who provide support in operations)
- The recommended approach would be to change the experience level to two years of relevant experience working with pre-school and school age children, and to eliminate the reference that specifically mandates experience in a day nursery setting.
- **The Ministry of Education should therefore increase flexibility for Director's Approval to include Child and Youth Workers, Recreation Skills Leadership, and Certified Ontario Teachers for school-age programs (6-12 year olds) (DNA Section 58(a)).**
- **Furthermore, the Ministry should expand the requirement for onsite supervisor to include ECEs who may have less than two years of experience working in a day nursery but years of experience working with children in a different setting (DNA section 58(b)).**
- This will help alleviate some of the current shortage of qualified ECEs across the province.



Recommendation 9: Staffing Cont'd...

- Under the current regulatory framework, Director's Approval that is granted to an individual is site specific.
- If a staff with a Director's Approval transfers internally to another site, they are required to reapply for Director's Approval for the same position.
- Upon application, however, they can be denied since different Regional Offices sometimes apply different criteria for approval.
- The Ministry should amend the current DNA regulation with respect to **Director's Approval to permit individual to work within a stated agency and allow transferability between centres and regions at operator's discretion (DNA 59, sec. 1b)**
- This will improve efficiency and reduce operating costs related to the volume of multiple applications.

Recommendation 10: Staffing Cont'd...

- The implementation of FDK has created a shortage of ECEs across the province.
- Director Approval is granted to individuals on a site specific basis and is non-transferrable therefore only supply staff can be used.
- The Ministry of Education should **increase Director's Approval for increased flexibility for sick coverage.**
- This would help to ameliorate the gap in the supply of ECEs.
- This could also help to alleviate some of the challenges associated with the delay in processing police background checks as previously outlined in Recommendation 2.



Recommendation 11: Mixed-Age Groupings

- Currently, the DNA only allows a 20 per cent mixed age grouping per one site.
- In small communities where there is limited availability of child care centres, this model is not sustainable.
- Families are struggling to find available space for their children, however, due to the limitation on mixed-age grouping, child care providers are unable to accept additional children.
- Junior kindergarten and senior kindergarten children should be classified into one group to give child care providers the ability to help more families find space in a high quality child care centre for their children.
- The Ministry of Education should **strengthen the Child Care Sector by extending the Mixed-Age Groupings to more than the currently allowable limit of one room per site (DNA 1990, section 55, schedule 3).**



Section C: Legislative Alignment or Amendments



Recommendation 12: Licensing Space in Schools

- Child care agencies face unreasonable and outdated constraints regarding use of space in schools. Each room must be licensed and more often than not, they are licensed for different numbers of children and usually much smaller groups than similar aged group attending school programs under the *Education Act*.
- In some instances, child care providers have been asked to relocate to other spaces in the school or to move their programs to new rooms permanently. To satisfy this request, the child care provider must have the new space licensed, which means getting written approval from Public Health, Zoning and Fire departments.
- For example, many Public Health units will not inspect a location more than once per year. In some other regions, the Fire Department can take up to one year to carry out an inspection and for the licensing process to take place. In others regions, again it is the Ministry that sends the request to Public Health and Zoning for inspections after the operator has requested a change to the license or a new license.
- In one particular region, the child care operator had to apply for re-zoning of a site even though they were taking over the site from an existing operator; that triggered inspection from all the various municipal inspectors.
- To eliminate the duplication and reduce unnecessary barriers, **the Ministry of Education should align the DNA with the *Education Act* and license all student-use spaces (libraries, gymnasiums, classrooms, etc) . All rooms should be licensed for use by child care providers in order to provide innovative, active programming opportunities for children.**
- To ensure school boards do not move child care centres around without justifiable cause, the proposed recommendation would require the ministry to strengthen its directive with respect to when the school board can require a child care operator to use a different room.



Recommendation 13: Staff Ratios

- Currently the DNA states the ratio of staff to child as 1:10 for children between 44 months and 60 months old and 1:12 for children between 56 months and 67 months. If the grouping has children under 56 months and there is no provision for mixed age grouping or another room in the centre is utilizing the 20 per cent mixed age grouping provision then the ratio must be reduced to the lower ratio of 1:10.
- Harmonizing the ratio with the *Education Act* of 1:13 would improve the efficiency of the system and move towards true integration of early learning as envisioned in the Best Start Strategy. It will also not impact child safety or developmental appropriateness.
- The Ministry of Education **should strengthen the child care sector by exploring opportunities to harmonize staff ratios under the DNA and the *Education Act***. In the context of the current operational model, **this is a key recommendations that needs further discussion (DNA 1990, sec. 55, schedule 3)**.



Recommendation 14: Water Inspection Requirements

- Under current legislative and regulatory requirements, school boards and child care centres are required to comply with the standards set out under the *Safe Drinking Water Act, 2002*, O. Reg. 243/07. But the current regulation under the *Safe Drinking Water Act* does not distinguish between a stand alone child care centre and a child care centre operating on school site. As such, even though a school board will regularly conduct water maintenance, school-based child care centres are required to also complete a separate water maintenance regime.
- For example, in a school, the board is required to flush the water pipes on a regular basis, yet, under the current regulatory requirements, a child care operator on a school site must also flush their pipes separately. The child care provider must additionally complete separate water tests in the child care's kitchen even though it is the same water that is used in the school.
- This is inefficient, consumes limited resources and on a practical level, a school-aged child uses the same water system at the school so any safety concerns does not justify this inconsistency.
- The responsibility for compliance with water inspection and other required standards under the *Safe Drinking Water Act* should be delegated to school boards when a child care provider is on a school site.
- **The Ministry of Education should therefore work with the Ministry of Environment to align water inspections and other requirements under the *Safe Drinking Water Act* for school-based child care centres with the *Education Act*.**
- This proposed change will reduce regulatory duplication and inefficiency.



Recommendation 15 : Licensed Home Child Care

- For safety reasons, the regulatory framework for child care operations in Ontario sets out very strict requirements for childcare providers either centre-based or home-based. The DNA should, however, be modernized to give child care providers the flexibility they need to run viable operations without compromising quality and safety.
- A modernization of ratios during arrival and departure time would provide flexibility and address the need to recognize the overlap during the child pick-up and drop-off times in the home care setting.
- **The current regulatory regime should be modernized to allow no more than seven children, including the provider's children, to be in a home for a maximum of 30 minutes to allow for children to arrive while others are leaving for school and/or home.**



Thank You

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