

AECEA Response to Alberta's Early Learning and Child Care Legislation Changes January 2021

On February 1, 2021, the amended Early Learning and Child Care Act¹ (formally the Child Care Licensing Act) and its accompanying regulations will come into effect. Bill 39, the bill introducing changes to the Act, had its first reading on October 28, 2020. Over the following two months, it was debated in the legislature. The Act was passed and received Royal Assent in mid-December. The supporting regulations have not yet been made public. The Association of Early Childhood Educators of Alberta (AECEA) and other community groups have recommended changes that primarily focus on the recognition and support of Alberta's early childhood educators (ECEs) and the development of a comprehensive system that ensures quality and affordable early learning and child care (ELCC) provision for all children and their families.

During the town hall and in media interviews, the Minister of Children's Services, Rebecca Schulz, has foreshadowed some of the regulation changes the province anticipates making. At this time, AECEA can only respond to the revised Early Learning and Child Care Act changes. AECEA plans to respond to the regulations once they are made public.

Purpose of this document

This document intends to:

- inform ECEs in Alberta working in licensed child care centres, preschools, out of school cares, and day home agencies about the amended Alberta Early Learning and Child Care Act; and,
- help ECEs and other stakeholders consider the implications changes to the Act may have on the field and the children and families it serves

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What We Know

Timing

The Act and supporting regulations opened for consultation in mid-April 2020, at a tough time for Alberta's early learning and child care (ELCC) sector. Operators and ECEs were already taxed with provincial funding cuts and stresses from the COVID-19 pandemic.

The consultation process had a focus on red tape reduction. With a tight timeline around consultation, the legislation and regulations are being put forth with little opportunity to offer additional feedback.

What we could learn from other jurisdictions

Across Canada and around the globe, governments are moving away from the historically-rooted model of child care as custodial care (supervision) toward a model that acknowledges the importance of children's early years, supports their learning and respects the rights of children as citizens. This approach places the child at the heart of an integrated system and recognizes the ECE workforce as its foundation. Elements of a system include research, strong governance, planning and policy, sustainable funding, quality delivery, a qualified and supported workforce, evidence-based curricula, and supportive workplaces.

In a 2020 report by Jane Beach entitled, *An Examination of Regulatory and Other Measures to Support Quality Early Learning and Child Care in Alberta*,² Ms. Beach writes that many inter-related elements determine quality; they cannot be considered in isolation of one another. But, Beach does say that research shows, the **"single most critical factor affecting the quality of early learning and care programs is the knowledge, skills and stability of the early childhood workforce."**³

A well-planned system, with a prepared and supported ECE workforce, allows an Early Learning and Child Care Act to focus "on the purpose of child care, and the rights, roles, responsibilities of the various stakeholders,"⁴ instead of on administration and compliance. This has been evident in other jurisdictions.

The recently passed Act does not acknowledge the critical role ECEs play in the early learning and child care of Alberta's youngest children, nor the vital role they play in engaging families and the community in that learning.

Overview of the Changes

Please note that this is a summary of the main changes to the Act as identified by AECEA. At this time, details are available in the Bill 39 document with the official Act being released soon.

The bold text indicates the changes that have been identified by AECEA.

PREVIOUS ACT⁵

REVISED ACT⁶

Changes to terminology	
Child Care Licensing Act, 2007 Licensed child care program Contracted family day home agency	Early Learning and Child Care Amendment Act, 2020 Licensed facility-based program Licensed family day home agency
Licensing	
Schedule 1 Day Care Program Schedule 2 Group Family Child Care Program Schedule 3 Innovative Child Care Program Schedule 4 Out of School Care Program Schedule 5 Pre-school Program	One schedule intended for all licensed facility-based programs
Initial license terms 1 year	Initial license terms can be from 1 to 3 years (p. 6)
Any provisions of the license must be posted	Any provisions of the license must be posted and parents must be informed (p. 8)
Non-compliances found during an inspection that were immediately remedied were not written up	Non-compliances found during an inspection, but that were immediately remedied will be written up (p. 10)
Appeals	Appeals still available. Addition of reviews and alternative dispute resolution (p. 17)
Investigations and Stop orders: Can investigate or place a stop order on a person who is providing a child care program without a license	Can investigate or order a person to cease offering or providing child care if the statutory director believes that: <ul style="list-style-type: none"> (a) the person is offering or providing the child care to more than 6 children, not including the person's own children, without being authorized to do so under a facility-based license, or (b) an imminent threat to the health, safety or welfare of children to whom the person is offering or providing child care exists (p. 20-21)
Family Day Home Agencies are contracted by the Ministry	Family Day Home Agencies licensed by the Ministry (p. 13-16)
Approved family day homes can provide care to not more than 6 children in each private residence	No person shall offer or provide a family day home program that provides child care to more than 6 children, not including the person's own children (p. 13). This means that both unlicensed private babysitters and licensed day homes will have the same ratio.

Additions to the Act

Addressing 'quality'
Addition to amended Act: Guiding Principles & Matters to be Considered ⁷ (intended to replace Accreditation standards, see more information below)
Addition to amended Act: Standards and certification The Minister may set standards respecting (a) the skills, training and other qualifications that an individual must have, and (b) the conduct requirements that an individual must meet in order to hold a child care certification under the regulations. (2) The standards under subsection (1)(a) may set different training requirements for each level of child care certification established in the regulations. ⁸

AECEA recognizes the government's hard work on the new legislation. The government had a mission to reduce red tape, and there will be some streamlined processes that will benefit operators.

AECEA believes an Early Learning and Child Care Act should consider carefully both:

- the meaning of quality ELCC, and
- the foundational aspects of ensuring quality provision – a vision and goals for ELCC, quality and access principles, planning mechanisms, physical and social infrastructure and recognition of a qualified ECE workforce that can ensure quality.

What AECEA and Stakeholders Were Asking For

When the provincial government began the consultation process, AECEA and other stakeholder organizations submitted regulation consultation submissions to the Ministry of Children's Services. AECEA's regulation consultation submission was titled, [Getting It Right: Recommendations for Improving Alberta's Child Care Licensing Legislation](#).⁹ AECEA continues to advocate for these changes in its day-to-day work.

Other stakeholder submissions are available on the [AECEA website](#).¹⁰ Collectively, these submissions have a strong focus on:

- the quality of ELCC being enshrined in legislation— move away from a custodial care model (supervision) to a model with clear principles outlining what high quality early learning and child care is
- legislation that protects the rights of children, including the right to high-quality ELCC
- restructuring certification levels, education qualifications and titles to recognize ECEs as professionals and their importance in the provision of quality child care
- ongoing professional learning as a requirement for ECEs and the adoption of *Flight: Alberta's Early Learning and Care Framework*¹¹
- a phased ECE workforce development strategy with timelines, education pathways, workplace supports and related funding
- reducing red tape and the regulatory burden on businesses not lessening the Ministry of Children's Services' capacity to oversee and regulate child care programs and services in ways that protect and ensure the health, safety and well-being of all children and their families

- a need for regulation changes to include recommendations from *The Report to the Minister of Justice and Solicitor General Public Fatality Inquiry*¹² issued by Judge Hawkes in 2018, in response to the tragic death of 22-month-old Mackenzy Woolfsmith in unlicensed private care
- increased regulation for unlicensed day homes and adjusting ratios of unlicensed day homes to be lower than regulated day homes

The Child Care Consultation Report¹³ and the amended Act do not reflect many of the recommendations from AECEA or other stakeholder organizations. These submissions are research-based and contain input from directors, ECEs and post-secondary staff working in Alberta's child care sector. AECEA and its fellow stakeholders represent thousands of ECEs, directors and operators who contributed to these submissions.

Will these stakeholder organization recommendations based on expert experience and research be reflected in the updated child care licensing regulations?

Considerations and Questions to Ask

Changing the name of the Act

Child Care Licensing Act  Early Learning and Child Care Amendment Act¹⁴

AECEA agrees with the addition of 'early learning' to the title of the Act. We know that children's early learning and child care needs are interdependent and intertwined. Alberta has now followed the lead of other jurisdictions in using terminology that reflects this interconnection.

While 'early learning' was added to the Act's title, the addition of 'early learning' was not included in the definition of child care in the amended Act. The focus remains on the supervision and care of children.

Child care “means the temporary care and supervision of a child by an individual other than the child’s parent or guardian...”
(Early Learning and Child Care Amendment Act, p. 2)

How will the title change be reflected in the revised regulations (e.g. staff certification, pedagogical approach, government oversight, child, family and program outcomes)?

Two types of licenses

Facility-based licenses

The new Facility-based license consolidates the previous five licenses (Day Care, Group Family Child Care, Innovative Child Care, Out of School Care, Pre-school).¹⁵ However, it appears likely that the anticipated new regulations will still include different requirements for these five types of child care programs in respect to staffing and child/ECE ratios.

Family day home agency license

Now appearing in the legislation is the 'family day home agency license'.¹⁶ AECEA believes that this will help families better understand that they are using a licensed child care program.

In the new legislation, licensed day homes can now have six children, not including their own.¹⁷ AECEA believes that the age requirements will be maintained; licensed day homes can only have three children

under three and two under two. The changes to day home ratios increase flexibility for day home educators, especially when it comes to having school-age children return home at the end of the day.

Changes in the Act will empower Children's Services to enter unlicensed day homes, issue stop orders, and educate families. This is a positive step in risk management. However, the Alberta Family Child Care Association recommended that unlicensed day homes have a lower ratio than licensed in their regulation review submission¹⁸. The amended legislation does not incorporate this recommendation.

AECEA believes that further limiting unlicensed private babysitters would have been the best action to consider children and families' best interests.

How will the Ministry support licensed day home ECEs towards increasing their education? What kinds of pathways and flexible delivery models can be created so licensed day home ECEs can advance their education? Will licensed day home ECEs have access to professional development funding to advance their education?

Will licensed family day home agencies consider their own policies around ratios, experience, education levels, and play space?

Will the Ministry consider further oversight of unregulated private babysitters through government policies?

Addressing the Woolfsmith Inquiry and Judge Hawkes' Recommendations

In 2018, there was an inquiry into the death of 22-month-old Mackenzy Woolfsmith. Mackenzy was being cared for by an unlicensed private babysitter. In the Inquiry document, Judge Hawkes issued several recommendations,¹⁹ and the amended legislation reflects some of these. The changes that seem to line up with Judge Hawkes' recommendations include

- when conditions are placed on license, the program must inform parents directly
- parents will be informed of stop orders and safety concerns in unlicensed care
- the addition of conduct requirements for ECEs to qualify for or maintain certification.

Regarding oversight of unlicensed private babysitters, Judge Hawkes called for more than merely regulating the size of unlicensed care. He emphasized the need to reduce risk and increase protective factors.

How do the new legislation and upcoming regulations reduce risk and increase protective factors in unlicensed private babysitting arrangements?

AECEA knows that optimal working conditions, supportive work environments, and fair pay reduces ECE stress and contributes to good mental health. Judge Hawkes said, "providing childcare is demanding work that is often stressful. That stress can be amplified by the number and age of children and is also exacerbated when that care is provided in an isolated setting without other adults present for support. Tools for self assessment, and for support should be readily available and accessible. Mandatory support and assistance should be considered for all involved in reported critical incidents."²⁰

Will additional supports be given to programs and ECEs to address stress and mental health?

How will unlicensed private babysitters be encouraged by the Ministry to sign with a licensed family day home agency to access support?

Embedding 'principles of quality' into legislation

The Minister of Children's Services and government staff have indicated that quality will be embedded into the legislation through the '*Principles*' and '*Matters to be Considered*' sections of the Act.²¹ This is how the government has incorporated previous child care accreditation standards. The '*Principles*' and '*Matters to be Considered*' in the new Act are written broadly and do not address more specific accreditation standards. For example, there is no reference to Accreditation's focus on positive, supportive relationships between programs, ECEs, children and families, supportive work environments for ECEs, community collaboration, or continuous quality improvement. AECEA hopes to see these items strengthened in the upcoming regulations with required specific outcomes or indicators.

Other jurisdictions with high-quality ELCC

- include the best interests of the child as of the utmost importance, including the child's right to high-quality ELCC
- mention the early years being a critical period for children's development that builds the foundation of their well-being and success
- recognize the importance of qualified and support ECEs for their crucial role in providing quality ELCC
- speak to how affordability and accessibility matters for families
- involve agencies, outside of the government, to manage and support quality through monitoring and pedagogical support

PRINCIPLES:

"This Act is to be interpreted and applied in accordance with the following principles:

- (a) the safety, security, well-being and development of the child is to be supported and preserved;
- (b) flexibility in child care supports choice and accessibility for families;
- (c) engagement of parents, guardians and community members in the provision of child care supports the child's optimal development"

MATTERS TO BE CONSIDERED:

"All providers of child care programs shall take into consideration the following matters as well as any other matter the provider considers relevant:

- (a) children should be encouraged in having care and play experiences that support their development and learning;
- (b) the child is to be protected from all forms of physical punishment, physical and verbal abuse and emotional deprivation;
- (c) diversity in
 - (i) the background and circumstances of children in the program and their families, including those who may be experiencing social or economic vulnerability, and
 - (ii) the abilities of the children in the program is to be respected and valued;
- (d) the child's familial and Indigenous or other cultural, social, linguistic and spiritual heritage are central to the child's safety, well-being and development;
- (e) care of the child must be appropriate to the child's mental, emotional, spiritual and physical needs and stage of development;
- (f) involvement and engagement of parents and guardians supports accountability of child care program providers, monitoring of child care programs and maintenance of good quality child care programs" (Early Learning and Child Care Amendment Act, p. 3-4)

Individual programs and agencies will be responsible for figuring out for themselves, with assistance from their licensing officer, how to address the '*Principles*' and '*Matters to be Considered*' in their program plans. This puts the onus on the programs and agencies and limits the government's responsibility in quality provision.

What weight will the new 'Principles' and 'Matters to be Considered' carry?

How will they be monitored, enforced, and, where deficits exist, addressed through Ministry supports and investments?

Will licensing officers be required to have post-secondary education in ELCC to provide pedagogical support to programs?

Will the Ministry provide new infrastructure, education, and support to help programs address these 'Principles' and 'Matters to be Considered'?

How will the Flight²² curriculum framework's values be embedded in each program's 'Principles' and 'Matters to be Considered'?

Early childhood educators and quality

"The *Starting Strong* series and other reports by the [Organisation for Economic Co-operation and Development] OECD showed that higher qualifications and more specialized training enable early childhood educators to create higher quality learning environments, which in turn result in better outcomes for children."²³

The part of the amended legislation that mentions early childhood educators says

"24.1(1) The Minister may set standards respecting

- (a) the skills, training and other qualifications that an individual must have, and
- (b) the conduct requirements that an individual must meet in order to hold a child care certification under the regulations.

(2) The standards under subsection (1)(a) may set different training requirements for each level of child care certification established in the regulations" (Early Learning and Child Care Amendment Act, p. 23).

We know that ECEs are the heartbeat of ELCC in Alberta and across the world. They deserve to be recognized and valued for their hard work. At the November town hall, the Minister mentioned the importance of education for ECEs and said she wants to discuss how to address it in government policy. AECEA highly respects and recognizes all ECEs that work in the field, no matter the type of child care they work in or their education level. We acknowledge that there is currently a wide breadth of education and experience, and we would like to see bridging to help ECEs advance their education.

Where in the Act do we see the value and recognition of ECEs and their critical role in ELCC?

If we value the education and qualifications of ECEs, how does government legislation, regulation, policy, and funding demonstrate this value?

As mentioned, there will be conduct requirements that must be maintained for ECEs to maintain their certification. What are these requirements?

Other jurisdictions have either legislation or policy surrounding ELCC pedagogy. For example, the government of Ontario has a *Minister's Policy Statement on Programming and Pedagogy*²⁴ made under

the *Child Care and Early Years Act, 2014*. This ministerial statement on pedagogy mandates the use of Ontario's curriculum framework, "*How Does Learning Happen? Ontario's Pedagogy for the Early Years (2014)*," in licensed child care programs and asks programs to create statements for its implementation. The statement also says that the Ministry will issue related announcements regarding programming and pedagogy to help operators develop their programs and services.

Will the Ministry consider creating an Alberta Ministerial Policy Statement on Pedagogy that draws on the work from the Flight²⁵ curriculum framework and expand funding supports for its implementation, including pedagogical partner support?

System Building and Support

AECEA recognizes how difficult it is for the government to address all stakeholders' needs and the challenges in embedding quality into legislation when the government has a mission to reduce red tape, streamline processes, and recover from the COVID-19 pandemic. While streamlining processes should allow program staff to spend more time with children and families, we want to be sure that the children's health, safety, development, and well-being is at the forefront.

The legislation in other jurisdictions includes an opening statement on the provincial interest in a child care system and then lists the system's characteristics. AECEA knows that "a child care system includes a number of interlinked elements that are determined by public policy... To achieve system quality, these elements must be considered in totality rather than in isolation from each other."²⁶ AECEA's ELCC system model is adapted from the Childcare Resource and Research Unit's *Quality by Design Project* at the University of Toronto. A well-planned and well-supported ELCC system includes

- **Values, goals, and curriculum:** what we believe and what we want for our children. They define who the system is for and why quality is important.
- **Governance and infrastructure:** roles and responsibilities for government, parents, and the community. It includes legislated standards and guidelines and ongoing consultation and assessment.
- **Public management and accountability:** ongoing monitoring and evaluation as well as mechanisms for quality improvement. It also includes accountability related to expenditures of public funds.
- **Data, research, and evaluation:** provides the foundation for planning and policy development.
- **Planning and policy:** is strategic, grounded in research and developed from a system-wide perspective.
- **Funding:** sustainable, predictable, public investment to keep the system stable and support quality delivery.
- **The physical environment:** well-designed indoor and outdoor spaces and first-rate equipment.
- **Early childhood educators:** educational qualifications and professional learning is needed to provide quality early learning and child care. ECEs earn fair wages in supportive workplaces.

Will the Ministry consider a policy statement on the provincial interest in building an ELCC system?

How does the new legislation and regulation set the stage for building a well-planned system of ELCC that supports programs, ECEs, and families?

How can we all come together to plan a system of ELCC that leads to consistent, high-quality provision for Alberta's children and families and supports ECEs in their important work?

The Association of Early Childhood Educators of Alberta believes...

All children and their families deserve and have a right to accessible, affordable, high-quality early learning and child care.

High-quality child care is the cornerstone of a caring, thriving society. It is a public good that must be supported by public investment.

High-quality child care depends on highly qualified early childhood educators who—like all Albertans—deserve fair wages, satisfying work and supportive working conditions.

The work of early childhood educators requires specialized knowledge and pedagogical practices that can only be acquired through formal education and ongoing professional learning.

Early childhood educators deserve respect and to be valued for their hard work with Alberta's children and families.

A well-planned and well-supported system of ELCC is vital in the provision of high-quality early learning and child care.

Sources

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- ¹² Joshua B. Hawkes, [Report to the Minister of Justice and Solicitor General Public Fatality Inquiry](#) (Calgary, AB: 2018)
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- ¹⁶ The Legislative Assembly of Alberta, [Bill 39: Child Care Licensing \(Early Learning and Child Care Amendment Act\)](#), p.2 (Edmonton, Alberta: Minister of Children’s Services, November 2020)
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- ²¹ The Legislative Assembly of Alberta, [Bill 39: Child Care Licensing \(Early Learning and Child Care Amendment Act\)](#), p. 3-4 (Edmonton, Alberta: Minister of Children’s Services, November 2020)
- ²² Lee Makovichuk, Jane Hewes, Patricia Lirette, and Nancy Thomas. [Flight: Alberta’s Early Learning and Care Framework](#) (Edmonton, AB: 2014).
- ²³ Association of Early Childhood Educators of Alberta, [Getting It Right: Recommendations for Improving Alberta’s Child Care Licensing Legislation](#), p. 2 (Edmonton, AB: February 2020) as cited in Marie Lesoway, [Quality Early Learning and Care Depends on Qualified Early Childhood Educators](#) (Edmonton, AB: Edmonton Council for Early Learning and Care, 2020)
- ²⁴ Government of Ontario, [Minister’s Policy Statement on Programming and Pedagogy](#). (Ottawa, ON: 2014)
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- ²⁶ Jane Beach, [An Examination of Regulatory and Other Measures to Support Early Learning and Child Care in Alberta](#), p. 35 (Edmonton, AB: Edmonton Council for Early Learning and Care and the Muttart Foundation, 2020).