

# Regulatory amendments respecting full-day junior kindergarten and kindergarten and extended day and third party programs <sup>[1]</sup>

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## AVAILABILITY

Memorandum to Directors of Education <sup>[2]</sup>

Excerpts from the memorandum:

As you know, the government has made changes with respect to the framework for the Full-Day Early Learning Kindergarten Program (FDK) that involve amendments to the related legislation, regulations and guidelines.

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Schedule 10 to Bill 173, the Better Tomorrow for Ontario Act (Budget Measures), 2011, amended the Education Act to permit boards to enter into agreements with third parties to operate before- and/or after-school programs for junior kindergarten/kindergarten (JK/K) pupils at FDKELP schools. These amendments came into force on May 12, 2011.

Under the Education Act, where a board chooses to ensure the operation of a FDK third party program must be:

- Delivered on at least every instructional day;
- Delivered on the school premises;
- Led by a Registered ECE (or by an individual approved by a Director under the Day Nurseries Act); and
- A day nursery program licensed under the Day Nurseries Act;

...

To set out the operational framework for extended day and FDK third party programs, a new regulation, O. Reg. 221/11 (Extended Day and Third Party Programs), came into force on June 7, 2011. This regulation replaces O. Reg. 225/10 (Extended Day Programs).

The following criteria for FDK third party programs and operators:

The operator must be a not-for-profit corporation or municipality except for in the following two situations:

- On June 7, 2011, that date that O. Reg. 221/11 came into force, the board had a written agreement with a for-profit operator to operate a before- and/or after-school program at the relevant school (whether or not this was a FDK school); or
- The board made reasonable efforts to find a not-for-profit or municipal operator that complied with the legislative and regulatory requirements but was unable to do so.

The operator must be eligible to receive fee subsidy payments for children enrolled in the program;

The content of the third party program must be the same content that a board is required to include in a board-operated extended day program; and

The operator must ensure that when its employees or contractors become aware that a pupil of the board may have engaged in an activity for which suspension or expulsion must be considered, that these staff or contractors report the matter to the school's principal (see Appendix A for further information regarding the reporting requirements).

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The Minister's binding policy guidelines pertaining to FDK have been revised to reflect the new provisions and provide greater clarity with respect to the operation of extended day and third party before- and after- school programs. Specifically:

- A new guideline, "Extended Day Program Content", has been issued specifying the program content to be used in extended day programs (under O. Reg. 221/11, this is the same content that must be used in third party programs);
- The guideline "Extended Day Program Unit Staffing Ratios" has been updated to reflect the amended regulatory requirements;
- The guideline "Extended Day Fees Disclosure Process" has been revoked. Boards do not determine third party fees, therefore the disclosure process is no longer relevant.

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## Use of For-Profit Third Parties

For the 2011-12 school year, where a board enters into an agreement with a for-profit third party, it must affirm to the Minister by July 15, 2011 that it had a pre-existing agreement in place with a for-profit operator at the time the regulation was filed, or that it made all reasonable efforts to find a not-for-profit or municipal operator and but was unable to do so.

For the 2012-13 and beyond, where a board enters into an agreement with a for-profit third party, it must affirm to the Minister by May 15 of the preceding school year that it had a pre-existing agreement in place with a for-profit operator at the time the regulation was filed, or that it adhered to the following process and was unable to locate a qualifying not-for-profit operator:

After the first day of the preceding school year the board advertised for expressions of interest from not-for-profit operators for a period of at least 45 days:

(a) On the board's website;

(b) In a newspaper with provincial distribution for at least 5 days during the board's website posting period, with at least one of these days being within the first 10 days of the board's posting;

(c) On a publicly accessible website approved by the Minister (e.g. [charityvillage.ca](http://charityvillage.ca)) for at least 10 days during the board's website posting period;

The board must also communicate its notice of expressions of interest to the relevant CMSM/DSSAB on the day that the notice was posted on the board's website.

Agreements with for-profit operators are "grandparented", thus if a board had such an agreement in place at the time the regulation was filed, i.e. June 7, 2011. If a board entered into an agreement with a for-profit operator because it was unable to find a not-for-profit or municipal operator, the board may enter into successor agreements in consecutive years with the same for-profit third party to operate a program at the relevant school.

In either case, a board is required to affirm to the Minister each year that an agreement with the for-profit operator has been in place since it was initially established. Should the for-profit operator cease to operate at that location, the board would be required to follow the applicable steps above in order to secure a not-for-profit operator, or to demonstrate that no qualifying not-for-profit operator could be found.

**Region:** Ontario <sup>[3]</sup>

**Tags:** kindergarten <sup>[4]</sup>

school system <sup>[5]</sup>

full-day early learning <sup>[6]</sup>

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