

*COALITION ONTARIENNE POUR
de meilleurs services
éducatifs à l'enfance*



*ONTARIO COALITION FOR
Better Child Care*

**Ontario Coalition for Better Child Care submission to
the Standing Committee on General Government in response to
Bill 66: Restoring Ontario's Competitiveness Act**

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SUMMARY OF RECOMMENDATIONS

- Schedule 3 should be removed in its entirety. The inclusion of these Education issues in an omnibus bill on business competitiveness is inappropriate and seems hasty and haphazard.
 - The proposed home child care changes under schedule 3 weaken important regulations that were put in place for children’s well-being and safety.
 - Any changes to before- and after-school child care changes require much more thoughtful consideration of the impact on quality and should only be made after extensive consultation with families, educators and the child care sector.
- We recommend against the changes to the *Employment Standards Act* in Schedule 9 that would remove oversight of excessive weekly hours and overtime averaging arrangements. These changes would have a negative impact on early childhood educators’ employment standards and child care program quality.

WHO WE ARE

The Ontario Coalition for Better Child Care (OCBCC) is the province’s central advocacy group for a universal, affordable, high quality, public and non-profit system of early childhood education and care. Formed in 1981, the OCBCC is a member driven organization comprising: non-profit child care centres; provincial social justice, women’s and labour organizations; and individuals from all across Ontario. Our members are early childhood educators, child care workers, parents, grandparents, child care program managers and trade unionists - most importantly we are people who care about child care.

SCHEDULE 3: HOME CHILD CARE

SAFETY FIRST

Bill 66 proposes to increase the number of very young children that one person may legally care for in regulated and unregulated home child care settings. The repeal of subparagraph 2 iii of subsection 6 (3) of the *Child Care and Early Years Act, 2014* would allow home child care providers to care for three children under two years of age (up from two children under two years), as well as additional allowable children over the age of two years, for a total of five children in unregulated and six children in regulated settings. Simultaneously, the repeal of Paragraph 2 of subsection 6 (5) of the Act allows for home child care providers to also care for *any* number of their own children four years of age or older at the same time.

Current laws allow for the provider’s own children four years old and over not to be counted in the total number while they are at school. But the changes mean that these children *never* need to be included in the total number of children being cared for, even when they are present in the home before school, after school or on evenings and weekends. This means that there is no hard cap on the total number of children that can be cared for by a single adult in a home. For example, if an unregulated provider has three of their own school-age children, they could still look after five children for pay, swelling the total to *eight* children, including three babies, with one adult in an unregulated setting. This is simply too many young children for one person to care for adequately.

These changes mean that children’s needs will not be well met, and at worst it could put their safety and security at risk.

The rationale given by Minister of Education Lisa Thompson for these changes at a January 29th press conference was to “increase access” to child care for parents, and to help home child care providers to “expand their business and earn more”.ⁱ While aiming to increase access to child care for parents is an admirable goal, it cannot be achieved at the expense of safety and quality considerations. Setting the legally allowable number of children in unregulated settings has always been about adequately ensuring young children’s health and safety. Young children’s wellbeing and the quality of their care environments must be paramount when it comes to setting laws and regulations around child care. The goal of increasing access to child care for parents is best met by continuing to invest in licensed centre and regulated home-based child care to increase the number of quality sites and spaces.

Further, “expanding businesses” is not an appropriate goal for the Ministry of Education – the safety of children and the quality of our children’s education and care must not be compromised by profit incentives. As Dr. Rachel Langford writes in her commentary on the Bill, “There is something seriously wrong when child care is lumped in with mining and pawn broking. Children are not products to be exchanged in a marketplace from parents to an unlicensed home child care provider for a profit.”ⁱⁱ

Simply put, children’s safety must come first and these changes would put the safety, security and wellbeing of young children at risk.

OUT OF STEP WITH INTERNATIONAL RECOMMENDATIONS AND PROVINCIAL NEIGHBOURS

International benchmarks and provincial comparisons both point to the need to re-assess these changes and instead look at strengthening regulation of home child care. A longstanding recommendation from the European Commission Childcare Network’s *Quality Targets in Services for Young Children*ⁱⁱⁱ, states that “Ratios in family day care should not be less than *1 adult: 4 places* for children under compulsory school age, and the *ratio should include the family day carer’s own children*” (emphasis added). It should be noted that this recommendation is specifically directed at regulated home child care, because in most European countries it is not legal to operate home child care without being part of a regulated system.

Table 1 compares characteristics of unregulated home child care by province/territory. This chart shows that there is no single common number when it comes to setting the maximum number of children, age limitations and whether to include the provider’s children in the total. Rather it is important to take into account the interplay between these three features. So while a total number of five children is not out of step with other provinces, we can see that the majority of jurisdictions require providers to include *all* their own children in the total number – providing a hard cap on the total number of children. Among those provinces that allow providers to exclude their children from the count, two set much lower maximum numbers to offset this. When we examine age limitations, there are many ways that provinces/territories approach this issue, but four provinces have set the number at two children under 2 years. Again, those that allow a larger number, or have no age restrictions, often require provider’s to count all their own children in the total. It is worth noting as well, that the recent cross-provincial

trend has been to strengthen regulations around home child care, rather than to weaken them. And it should be remembered that, internationally, Canada remains a laggard when it comes to the strength of our child care regulations and quality assurance systems. If Ontario wanted to be a leader on this issue, it would be advised to prioritize children's health, safety and wellbeing and to abandon the changes proposed in Schedule 3.

Thus, we recommend that the government remove Schedule 3 from this Bill and instead undertake further research as to the international best practices on home child care provision. These include: ensuring all homes are brought under regulation; including a provider's own children in the allowable number, so that there is a hard cap on the total number of children being cared for; and increasing the oversight, mentorship, training and employment conditions of home child care providers.

SCHEDULE 3: BEFORE AND AFTER SCHOOL PROGRAMS

The change to paragraph 4 of subsection 6 (4) of the *Child Care and Early Years Act* to lower the age of entry for authorized recreation programs is an inappropriate way to address the need more before- and after-school child care programs. Instead we suggest further investment in school-age licensed child care programs, so that young children can benefit from the smaller groups and more qualified staff that are emblematic of licensed settings.

The repeal of Paragraph 2 of subsection 259 (2) of the *Education Act* will negatively impact the quality of care for young children, as it removes the requirement for third party operators providing before- and after-school care for School Boards to have Registered Early Childhood Educators (RECEs) lead their programs. This is a clear lowering of program standards and will weaken program quality. As the Association of Early Childhood Educators Ontario (AECEO) states: "Ontario RECEs have specialized knowledge of child development and pedagogy in the early years. They create rich, inclusive, learning and care environments." Research shows that high-quality early childhood education and care is directly linked to well-educated and qualified ECEs. Removing the requirement of ECE-led programs jeopardizes the quality of experiences for young children. Children attending before- and after-school programs deserve to benefit from ECEs' knowledge and skill. This change is not in the best interests of Ontario's children and families. Instead of pursuing this change, the government should work to expand licensed before- and after-school care choices, so that all children can benefit from the knowledge and skills of ECEs and the quality programs offered by licensed child care.

SCHEDULE 9: EMPLOYMENT STANDARDS ACT

We are concerned about the changes to the *Employment Standards Act* (ESA) that eliminate the need for the Ministry of Labour's Director of Employment Standards to approve excessive weekly hours agreements (above 48 hours a week) and overtime averaging agreements. The amended ESA would allow an employee's weekly hours to exceed 48 hours per week so long as the employee agrees. The change to overtime averaging would allow employers to structure the schedules of their employees to avoid or limit the amount of overtime they have to pay, again, with only their employees' agreement.

As an analysis by Goldblatt Partners states, there is a strong policy rationale for requiring approval from a neutral third party regulator in these matters. "As recognized by the Supreme Court of Canada, employment relationships are 'typically characterized by unequal bargaining power, which places employees in a vulnerable position vis-à-vis their employers.'^{iv} The Director's approval is therefore necessary to ensure that employees are

not forced to enter into ‘agreements’ that are not in their interests.” The changes proposed in Bill 66 disregard this power imbalance that the Supreme Court has recognized as ingrained in most employment relationships.

This change would have a detrimental effect on the child care workforce. As a sector that is characterized by chronic shortages of staff, there is already pressure on employees to work long hours to help ensure that programs have enough staff to maintain legally required staff to child ratios. Overtime averaging arrangements might also be tempting to child care operators looking to contain human resources costs. But, ultimately these types of arrangements overstress educators and fly in the face of the principles of decent work. If regulatory oversight is removed, it becomes more likely that child care staff could be coerced into agreeing to excessive hours or overtime averaging arrangements that are not in their best interests or in the best interests of the children and families that they serve. Remember: an educator’s work environment is a child’s learning environment.

TABLE 1. Characteristics of unregulated child care by province/territory^v

<i>Province/territory</i>	<i>Maximum number of children</i>	<i>Does maximum number include caregiver’s own children? Of what ages?</i>	<i>Additional age limitations</i>
Newfoundland and Labrador	4	Includes caregiver’s own children under 13 years of age.	No more than 3 under 2 years of age.
Prince Edward Island	5	Includes provider’s own preschool-aged children only.	Maximum of 3 children if all children are under 2 years. Maximum of 5 children if there are 2 children under 2 years.
Nova Scotia	6 8 if all children are school-aged	Includes caregiver’s own preschool-aged children only.	None
New Brunswick	5	Includes caregivers own children under 12 years of age.	No more than 2 may be infants.
Quebec	6	Includes caregivers own children of any age.	None.
Ontario (proposed)	5	Including provider’s own children under 4 years of age.	No more than 3 under 2 years.
Manitoba	4	Including caregivers own children under 12 years of age.	No more than 2 under 2 years.
Saskatchewan	8	Includes caregivers own children under 13 years of age.	No more than 5 may be under 6 years; of the 5, no more than 2 may be under 30 months.
Alberta	6	Not including caregiver’s own children.	No more than 3 may be under 2 years.
British Columbia	2	Not including the provider’s own children.	None.
Northwest Territories	4	Including the provider’s own children	None.
Nunavut	4	Including the provider’s own children	None.
Yukon	3	Not including the provider’s own children under 6 years	None.

ⁱ LisaThompsonMPP. (2019, January 29). LIVE: Minister Thompson makes an announcement. [Twitter post]. Retrieved from: <https://twitter.com/lisathompsonmpp/status/1090359387036766208>

ⁱⁱ Langford, R. (2018, December 10). Ontario lowers the bar for how we care for our children in the name of profit. *Toronto Star*. Retrieved from: <https://www.thestar.com/opinion/contributors/2018/12/10/ontario-lowers-bar-for-how-we-care-for-our-children-in-the-name-of-profit.html>

ⁱⁱⁱ European Commission Childcare Network. (1996). Quality targets in services for young children. Brussels, Belgium: European Commission. [Reprinted by the Childcare Resource and Research Unit 2004.]

^{iv} Newell, R. (2018, December 12). Bill 66: Ontario’s omnibus offensive. Toronto: Goldblatt Partners. Retrieved from: <https://goldblattpartners.com/wp-content/uploads/Bill-66-analysis-2.pdf>

^v Adapted from: Childcare Resource and Research Unit (2013). Characteristics of unregulated child care by province/territory. Briefing NOTES. Toronto: Author.