Labour shortage: Revised ratios of qualified staff members in child care centres

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At a time when the pandemic is continuing to have repercussions and we are experiencing a severe labour shortage, the educational childcare sector is facing unprecedented challenges. These circumstances have led to a reassessment of the standards relating to the presence of qualified childcare staff with children.

The purpose of this bulletin is to shed light on the regulatory amendments that have been made to the *Educational Childcare Regulation*[1] (the "**ECR**"), and more specifically to the required ratio of qualified staff members. Enacted by Order in Council 102-2024,[2] these amendments came into force on March 1, 2024.

Childcare providers should imperatively take cognizance of these regulatory amendments, as they will help them optimize their operations and improve their ability to respond to the challenges they are facing in attracting and retaining qualified childcare staff.

Background

On July 22, 2021, in response to the impact of the pandemic on educational childcare services, amendments were made to the requirements respecting the ratio of qualified staff members provided for in the ECR.

During the first 9 months that followed the end of the public health emergency, the ratio was reduced to one qualified staff member out of three. During the 12 months after that, it was increased to one in two. The ratio applicable to childcare services was expected to return to pre-pandemic levels, or a ratio of two qualified staff members out of three, on March 1, 2024.[3] However, faced with the labour shortage,[4] which is particularly affecting the childcare sector, the government

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estimated that many childcare providers would not be able to comply with a qualified childcare staff ratio of two out of three, as was initially required for that date.

As a result, the legislator amended the ECR once again so as to address ongoing problems and prevent service closures or disruptions. These amendments are summarized below.

New ratio requirements for childcare services

Section 23 of the ECR has been amended to reaffirm the general standard stipulating that the ratio of qualified childcare staff must be two out of three.

However, section 23.1 of the ECR now provides for certain exceptions to the previously established rule on the ratio of qualified childcare staff. The notable exceptions are as follows:

> A ratio of one qualified childcare staff member out of two may be maintained during the provision of childcare until March 31, 2027.
> A ratio of one qualified childcare staff member out of three will be authorized while childcare is being provided during the first and last business hour of the permit holder's core hours.
> A ratio of one qualified childcare staff member out of three will also be authorized during the first five years following:
> the initial issuance of a day care centre permit;
> the modification of a day care centre permit to increase, by 8 or more, the maximum number of children that may be provided with childcare in the permit holder's facility; or
> the conclusion of a first subsidy agreement between the Ministère de la Famille and the holder of a day care centre permit, provided that the agreement was entered into after October 31, 2023.

Conclusion

The changes described above, came into force on March 1, 2024, are intended to address the current shortage of qualified staff in the childcare sector in Quebec. Although the temporary flexibility and the exceptions to the qualified staff ratio will help childcare providers guarantee the continuity and accessibility of their services, compliance with prescribed ratios is still mandatory. Note that failure to comply with these requirements may lead to administrative penalties or penal sanctions, as well as a decision by the Ministère de la Famille suspending, revoking or not renewing a permit.

The members of the Lavery team are available to answer your questions.

The information and comments contained herein do not constitute legal advice. They are intended solely to enable readers, who assume full responsibility, to use them for their own purposes.

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1. Chapter S-4.1.1, r. 2.
2. *Regulation to amend the Educational Childcare Regulation*, O.C. 102-2024 (G.O. II)
3. *Regulation to amend the Educational Childcare Regulation*, O.C. 879-2021 (G.O. II).
4. Ministère de la Famille, *Mémoire au conseil des ministres : Projet de règlement modifiant le Règlement sur les services de garde éducatifs à l'enfance*, tabled on September 20, 2023; Ministère de la Famille, *Portrait de la main-d'œuvre du réseau des services de garde éducatifs à l'enfance*, 2022–2023, October 2023.

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