

**Office of the Child and Youth Advocate**

**Submission to the  
Department of Education regarding the  
Early Learning Action Plan**

**July 2023**





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## Preamble

On June 8, 2023, the Department of Education announced that it would be holding public consultations throughout the province to seek input and recommendations on the development of an Early Learning Action Plan, including a legislative review of the **Child Care Act** and regulations. The public consultations offered an opportunity for those in the early learning and childcare sector, stakeholders, and the public to provide input and feedback on programs and legislation, and how they can be improved to meet the needs of children and families in Newfoundland and Labrador. The Office of the Child and Youth Advocate (OCYA) welcomes the opportunity to provide feedback on the current state of early childhood education in this province and makes recommendations on changes to the **Child Care Act** and regulations.

## Considerations for Review

For reasons discussed below, the Office of the Child and Youth Advocate makes the following considerations for review:

- 1) **The Early Learning Action Plan and any revisions to the Child Care Act and regulations include express reference to children’s rights and the United Nation Convention on the Rights of the Child.**
- 2) **All legislation which pertains to services provided to children and youth in this province contain similar provisions which expressly integrate the principles of the United Nations Convention on the Rights of the Child into the legislation.**
- 3) **Any revisions to the Child Care Act and regulations seek to improve the availability of child care and early education spaces for neuro-divergent children and children requiring supports for inclusion.**

## Background

On July 28, 2021, the Governments of Canada and Newfoundland and Labrador announced an agreement regarding early learning and child care in this province. The Early Learning and Child Care Action Plan laid out four pillars including: increased **access** to child care, improved **affordability** and improved **quality** and **inclusivity** of early learning and child care programming. As part of this plan, the Government of Newfoundland and Labrador committed to creating a new pre-kindergarten program for all four year olds in the province as well as creating approximately 5800 child care spaces by 2025-26.

The Early Learning and Child Care Action Plan also introduced \$10 a day daycare, which was fully implemented in Newfoundland and Labrador by the beginning of 2023. The Action Plan quickly achieved its goals of providing affordable, regulated childcare. However, according to many recent reports, it has created a situation where childcare has become less inclusive for children with disabilities and much more difficult to access for those wishing to avail of regulated child care.

On April 18, 2023, CBC News reported on the child care crisis in which child care spaces in this province are noted to be sparse and wait-lists are stretching up to two years. The article provided examples of neurodiverse children who were dismissed from their early childhood education centers because they require inclusion workers and there are not enough staff to provide inclusion assistance. Some daycares are not accepting neurodiverse children for this reason.

Recent reports make it clear that Newfoundland and Labrador is facing a childcare crisis. This crisis is even worse for neurodiverse children and those with exceptionalities requiring extra assistance. To meet the extraordinary demand for regulated childcare spaces, some early childhood education centers have resorted to terminating spaces and reducing hours for children with diverse needs.

A report released by the Childcare Resource and Research Unit on April 28, 2023, showed that only 14% of children in this province have access to child care spaces. On May 16, 2023, another report on early childhood care in Canada was released by the Canadian Centre for Policy Alternatives. This report titled “Not Done Yet- \$10-a-day child care requires addressing Canada’s child care deserts” showed that 79% of children in Newfoundland and Labrador live in a “childcare desert”- defined as living in a postal code with more than three children per full-time licensed childcare space.

The capital city of St. John’s scored particularly bad and was stated to be one of the worst cities in Canada for infant childcare with spaces for only 5% of children under 18 months of age. Overall, Newfoundland and Labrador is rated last among the Atlantic Provinces and second last in Canada for children without access to early childhood education or childcare.

The Department of Education news release states that more than 8,000 children are currently availing of \$10 a day child care in the province, which is about 40% of the 18,985 children age 0-4 living in Newfoundland and Labrador according to the 2021 census. Although this signals an improvement from the data in the reports mentioned above, the issue of a lack of access to these early childhood care programs for neuro-divergent and special needs to be addressed with the utmost urgency before these vulnerable children fall further behind their peers.

# Importance of Early Childhood Education

Studies by Canadians Dr. Fraser Mustard and the Honourable Margaret McCain have shown that early learning is at least as important to lifelong development as elementary, secondary, and post-secondary education. It improves graduation rates, promotes lifelong well-being, boosts lifetime earnings, and increases social equity. Children's early learning is supported by participation in high quality childcare and early childhood educational programs.

Harvard University's Center on the Developing Child states:

Healthy development in the early years (particularly birth to three) provides the building blocks for educational achievement, economic productivity, responsible citizenship, lifelong health, strong communities, and successful parenting of the next generation.

With powerful scientific evidence that early childhood education is crucial to a child's development and their ability to participate in society, it can be rightly argued that children have a right to early childhood education under the **United Nations Convention on the Rights of the Child** and government entities must ensure that no child is left behind.

## Early Childhood Education as a Right

The **United Nations Convention on the Rights of the Child** (UNCRC) was ratified by Canada in 1991. The right to education is outlined in section 28 of the UNCRC. Although the UNCRC does not expressly mention early childhood education in its original form, the Committee on the Rights of the Child (the Committee), a body of 18 independent experts that monitors implementation of the UNCRC by its state parties, has provided several comments that express the importance of including early childhood education as part of the right to education.

The Committee's General Comment No. 7 (2005) "Implementing Child Rights in Early Childhood" explains the importance it gives to early childhood education. A General Comment is a treaty body's interpretation of human rights treaty provisions, thematic issues, or its methods of work. This means the Committee's comments on the right to early childhood education is a persuasive interpretation of section 28 of the UNCRC. General Comment No. 7 states:

... The Committee recognizes with appreciation that some States Parties are planning to make one year of pre-school education available and free of cost for all children. The Committee interprets the right to education during early childhood as beginning at birth and closely linked to young children's

right to maximum development (art. 6(2)). Linking education to development is elaborated in article 29(1): ‘States Parties agree that the education of the child shall be directed to ... the development of the child’s personality, talents, and mental and physical abilities to their fullest potential’.

General Comment No. 1 on ‘The aims of education’ explains that the goal is to ‘empower the child by developing his or her skills, learning and other capacities, human dignity, self esteem and self confidence and that this must be achieved in ways that are child centered, child friendly, and reflect the rights and inherent dignity of the child (para. 2).

... The Committee calls on States Parties to ensure that all young children receive education in the broadest sense... which acknowledges a key role for parents, wider family and community, **as well as the contribution of organized programmes of early childhood education provided by the State**, the community or civil society institutions.

Research evidence demonstrates the potential for quality education programmes to have a positive impact on young children’s successful transition to primary school, their educational progress and their long-term social adjustment. Many countries and regions now provide comprehensive early education starting at 4 years old, which in some countries is integrated with childcare for working parents. Acknowledging that traditional divisions between ‘care’ and ‘education’ services have not always been in children’s best interests, the concept of ‘Educare’ is sometimes used to signal a shift towards integrated services, and reinforces the recognition of the need for a coordinated, holistic, multisectoral approach to early childhood.” (Committee on the Rights of the Child, General Comment No. 7, 2005, CRC/C/GC/7/Rev.1, paras. 28 and 30)

In their periodic report of India, the Committee made it clear that it expects States to provide early childhood education for children below the age of compulsory primary education stating:

“The Committee recommends that the State Party ... **raise awareness of the importance of early childhood education and introduce it into the general framework of education...**” (India CRC/C/15/Add.228, para. 65)

Also, in its periodic report of Lebanon, the Committee states:

“The Committee recommends that the State Party continue to **allocate adequate financial, human and technical resources in order to... provide access to early childhood education for every child** and raise

awareness and motivation of parents with respect to preschools and early-learning opportunities, by taking into account the Committee's General Comment No. 7 (2005) on implementing child rights in early childhood and establishing a national mechanism to promote, develop and coordinate early childhood education..." (Lebanon CRC/C/LBN/CO/3, para. 64)

It is commendable that the Governments of Canada and Newfoundland and Labrador have made progress in promoting early childhood education and are allocating resources to make affordable, high-quality early childhood education a reality for many Canadians. However, it cannot be stressed enough that Early Learning Action Plan and legislative review of the **Child Care Act** and regulations must take into consideration the Government of Newfoundland and Labrador's obligations under article 28 of the UNCRC as well as parallel obligations under the **Convention on the Rights of Persons with Disabilities**, and the **International Covenant on Economic, Social and Cultural Rights**.

## Integrating Children's Rights into Provincial Legislation

The Ontario **Child, Youth and Family Services Act**, 2017, S.O. 2017, c. 14, includes direct references to children's rights at the forefront of the legislation. The Preamble states:

**The Government of Ontario acknowledges that children are individuals with rights to be respected and voices to be heard.**

The Government of Ontario is committed to the following principles:  
Services provided to children and families should be child-centered.

...

Services provided to children and families should respect their diversity and the principle of inclusion, consistent with the Human Rights Code and the Canadian Charter of Rights and Freedoms.

Systemic racism and the barriers it creates for children and families receiving services must continue to be addressed. All children should have the opportunity to meet their full potential. Awareness of systemic biases and racism and the need to address these barriers should inform the delivery of all services for children and families.

...

**In furtherance of these principles, the Government of Ontario acknowledges that the aim of the Child, Youth and Family Services Act, 2017 is to be consistent with and build upon the principles expressed in the United Nations Convention on the Rights of the Child.**

## Conclusion

Access to child care and early education is a social determinant of health. Greater investment so that children can access affordable, high quality, and responsive child care has always been key to improving family and community health. Participation in early education programs is vital to fostering children's healthy cognitive and socio-emotional development. It is hoped that with the creation of an Early Learning Action Plan and the requisite review of the **Child Care Act**, a more inclusive, accessible, and responsive child care system will be the result.

Based on the foregoing, the Child and Youth Advocate provides the following considerations for review:

- 1) The Early Learning Action Plan and any revisions to the **Child Care Act** and regulations include express reference to children's rights and the United Nation Convention on the Rights of the Child.
- 2) All legislation which pertains to services provided to children and youth in this province contain similar provisions which expressly integrate the principles of the **United Nations Convention on the Rights of the Child** into the legislation.
- 3) Any revisions to the **Child Care Act** and regulations seek to improve the availability of child care and early education spaces for neuro-divergent children and children requiring supports for inclusion.

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