

Research Report: Licensing First Nations' Early Childhood Programs

Prepared for the First Nations Early Childhood Development Council

by the BC Aboriginal Child Care Society



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Executive Summary

Since 1943 the province of British Columbia has a system in place for the licensing and regulation of early childhood programs. When First Nations began operating Head Start programs, preschools, and child care centres in the mid-1990s, the provincial regulatory system spread onto reserves. This research documents the perspectives and opinions of two groups with first-hand experience related to licensing First Nations' early childhood programs: early childhood educators who work in these programs and licensing officers employed by regional health authorities to inspect the programs and ensure their compliance with the provincial regulations.

Both components of the research, the interviews with early childhood educators and the survey of licensing officers, confirm that First Nations' early childhood programs find it very difficult to remain in compliance with the *Child Care Licensing Regulation (CCLR)*¹ regulations. Staffing the programs with qualified early childhood educators is the greatest challenge. This concern was recently investigated and reported on in a separate report² to the First Nations Early Childhood Development Council.

The early childhood educators identified challenges they have delivering culturally-appropriate programs while complying with the regulations. A major obstacle is the impact of regulations on Elder participation. The regulations create a barrier to Elders becoming employees if they do not have the academic credentials needed to qualify as early childhood educator assistants. The regulations also require anyone who is ordinarily present in a licensed facility to have undergone a criminal record check, which some Elders find objectionable. CCLR regulations are seen as excluding Elders who are essential to their programs. In contrast, the majority of licensing officers expressed the opinion that regulations do not interfere in the delivery of cultural programming or make it difficult for First Nations to involve Elders.

This report suggests actions that could reduce the difficulties associated with the application of the provincial licensing regulations in First Nations' early childhood programs until such time as a system defined by First Nations is created.

¹ http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/332_2007

² BC ACCS (2012). *Training and Retention in the First Nations ECE Sector: A Report from the Frontlines*.

Section 1: British Columbia's Licensing Regime for Early Childhood Programs

The province of British Columbia has a system in place for the regulation of community care facilities. Most off-reserve early learning and care services are required to have provincial licenses. Services for groups of children, such as child care centres, preschools, infant and toddler programs, and school-age care programs all require licenses. Some family child care providers require licenses. Family child care providers work in their own homes. A license is required if a child care provider is caring for more than two children from more than one family and the children are not related to the care provider by blood or marriage. There is a category of child care known as "License Not Required" for care providers caring for one or two children or a sibling group, not related to the care provider by blood or marriage.

1.1 Why are early childhood programs licensed?

Licensing is a mechanism used by governments to ensure that care provided to vulnerable persons meets minimum health and safety requirements. It is also a mechanism for ensuring that recipients of public funds are in compliance with standards established by the province. The "License Not Required" child care sector is an anomaly since no standards must be met and public funds, in the form of child care subsidies, can be received by parents who place their children in these unlicensed child care spaces.

With that one exception, the province issues licenses to applicants who meet its standards and it monitors licensees to ensure they remain in compliance. If a licensee does not continue to meet the standards, the license can be withdrawn and the program would be required to close. The authority to withdraw licenses and close programs is a means of protecting children from harm in settings that are judged to be unsafe or unhealthy or staffed by people who are unable to provide the children with adequate supervision and support.

The primary rationale for instituting a licensing regime for early childhood programs is the promotion of public health. The licensing system is also a way of addressing educational objectives. The licensing system promotes children's well-being beyond the provision of safe, healthy environments. Licensed facilities are required to provide more

than healthy and safe custodial care. They are required to employ personnel who are trained to support children's development and encourage early learning.

In addition, the British Columbia licensing system addresses the social goal of integrating exceptional children. The extra training requirements for personnel who care for children with "special needs" are a means of ensuring that exceptional children can access programs and receive appropriate supports.

1.2 By what authority are early childhood programs licensed?

The provincial legislation governing early childhood programs is the *Community Care and Assisted Living Act* (CCALA).³ The CCALA provides for the appointment of a director of licensing and gives the director of licensing the authority to specify policies and standards of practice for all community care facilities. The policies and standards of practice for all childhood programs including early childhood education and care programs are contained in the *Child Care Licensing Regulation* (CCLR).⁴ The CCLR is the document that is commonly referred to by people working in the field of early learning and care as "the regulations." Although the term "child care" is part of the title, the CCLR applies to a more encompassing range of services than just child care centres and family child care homes.

The CCLR addresses facility requirements (such as the floor area for each child, the furniture, equipment, and fixtures), specifies employee qualifications (such as certificates required, group sizes, and employee to child ratios), and sets standards for the operation of all childhood facilities (such as behavioural guidance, illnesses, and records). See Appendix A for an overview of the topics addressed in the CCLR.

1.3. How is the licensing system structured?

The provincial Ministry of Health administers the CCALA. The CCALA requires the minister to designate an employee to be the director of licensing. The CCALA permits the director of licensing to delegate, in writing, his or her powers and duties to "(a) a person who, in the opinion of the director of licensing, possesses the experience and qualifications suitable to carry out the tasks as deligated, or (b) a medical health officer."

³ http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_02075_01

⁴ http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/332_2007

The province of British Columbia has been divided into geographic areas known as health authorities. Within the health authorities, medical health officers have powers and duties related to public health issues. Those powers and duties include those designated by the director of licensing. The medical health officers delegate licensing officers to carry out the day-to-day activities associated with licensing. Licensing officers are employed by the health authorities to monitor community care facilities in their regions. Licensing officers have direct contact with early childhood programs, with the exception being "License Not Required" family child care.

1.4 What are the Responsibilities of Licensing Officers?

Licensing officers are the front-line workers who are mandated to promote the health, safety, and well-being of individuals in community care facilities by monitoring compliance with the CCALA. With respect to early childhood programs, licensing officers have responsibilities such as:

- Receiving and assessing applications from new facilities;
- Assessing manager suitability;
- Assisting with the start-up of new facilities;
- Ensuring licensed facilities remain in compliance with the CCLR through inspections;
- Issuing temporary exemptions, in some circumstances;
- Educating managers on matters related to the CCLR;
- Investigating complaints or allegations that the facility does not meet the requirements of the CCLR;
- Investigating and following up on the reportable incidents specified in the regulations; and
- Initiating due process in cases of non-compliance.

Section 2: Licensing First Nations' Early Childhood Programs

First Nations in British Columbia have, for over two decades, been using the provincial regime while continuously asserting their authority to regulate early childhood programs or ceding their authority. At the same time, the province of British Columbia claims jurisdiction over on-reserve child care facilities and the authority to require First Nations to comply with the CCALA – this is an issue that continues to remain unresolved.

2.1 How are First Nations' early childhood programs licensed?

First Nations' early childhood programs began to be funded by the Government of Canada in the 1990s. At that time, the British Columbia provincial regulatory system spread to on-reserve facilities. As Greenwood and Shawana (2000) reported in *Whispered Gently Through Time: First Nations Quality Care: A National Study*,⁵ the provincial regulations were applied “with almost no debate among First Nations government representatives or First Nations child care authorities (p. 108).” They also noted that many First Nations governments and communities were not content with the application of provincial licensing regimes. The use of the provincial licensing system in British Columbia was seen as an interim measure, to be used until First Nations could develop their own regulatory systems. Greenwood and Shawana contrasted practices in British Columbia with those in Saskatchewan. In Saskatchewan, provincial licensing officers do not monitor on-reserve child care services. Individual First Nations and Tribal Councils in Saskatchewan regulate child care services while in British Columbia, provincial licensing officers come on-reserve “by invitation (p. 79).” The Saskatchewan First Nations' regulations set standards that meet or exceed the provincial standards.

The use of the provincial licensing regime for on-reserve early childhood programs remains a contentious issue in British Columbia. Many advocates, including the BC Aboriginal Child Care Society and the First Nations Early Childhood Development Council have called for a new on-reserve regulatory system defined by First Nations. A regulatory system developed by First Nations would reflect a worldview and principles of quality that differ from those expressed in the CCLR.

⁵http://www.access.resources.lidao.ca/main/professionals/resources/First%20Nations%20Child%20Care_National%20Study.pdf

2.2 Why is the provincial licensing regime used by First Nations?

The primary explanation for the present use of provincial licensing is economic. In order for families to qualify for the child care subsidies administered by the Ministry of Children and Family Development (MCFD), children must be in eligible programs.⁶ For group child care programs, this means they must be licensed. First Nations pursue licenses for their early childhood programs in order for their families to be eligible for the provincial child care subsidy. Subsidy dollars are an essential part of the revenue stream for early childhood programs. In addition, being licensed by the province entitles centres to apply for grants available from MCFD such as the Child Care Operating Funding Program and the Child Care Capital Funding Program. A unilateral withdrawal of “invitations” to provincial licensing officers could be harmful to on-reserve early childhood programs. If the province were to take the position that the families were no longer eligible for child care subsidies and the centres were no longer eligible for MCFD child care grants, the financial survival of the programs would be put in jeopardy.

The child care sector, both on-reserve and off-reserve, is poorly resourced throughout British Columbia. Programs typically struggle to remain viable. Financial pressures are particularly acute in centres serving low-income families who are unable to pay higher fees. In this context, First Nations’ early childhood programs cannot risk losing access to provincial subsidy dollars and grant programs by failing to comply with the CCLR.

The second explanation for the present use of provincial licensing is practical. The CCLR, in spite of its imperfections and lack of congruence with First Nations visions of quality, is a means of instilling confidence in parents that on-reserve programs are being monitored and required to meet the provincial standards. Although a license is not a guarantee that a program delivers services that match First Nations perspectives on quality, parents can be assured that their children will be in safe, healthy environments, cared for by qualified people who will support their children’s development. In the absence of First Nations regulations and licensing personnel, the provincial system is filling the gap.

The province has yet to formally recognize the authority of First Nations in this area. Resolving the issue of authority will involve addressing the need for resources to exercise that authority.

⁶ <http://www.mcf.gov.bc.ca/childcare/eligibility.htm#>

2.3 Is the provincial licensing system satisfactory?

The question of who licenses early childhood programs in First Nations communities in British Columbia has been an issue since the first on-reserve early childhood programs were established. As early as 2002, BC ACCS made a formal submission⁷ to the Ministry of Health's Community Care Licensing Branch calling for provincial legislation recognizing the authority of First Nations to regulate and license child care services in First Nations communities. BC ACCS made a second submission⁸ to the director of licensing in 2005 as part of ongoing public consultations on proposed changes to the Child Care Licensing Regulation (CCLR). The 2005 submission reiterated the call for provincial legislation to recognize the authority of First Nations to regulate and license child care services in First Nations communities along with adequate resources to take over this role.

The CCLR was revised in 2007 and amended further in 2011 and some changes advocated by BC ACCS were made. However, the regulations still do not address the essential issue of the authority of First Nations to regulate and license early childhood services in their communities. In fact, the Ministry of Health has recently published materials asserting provincial jurisdiction over on-reserve facilities. In the section of the 2012 publication *A Guide to Community Care Facility Licensing in BC*⁹ entitled "First Nations Communities," the Ministry states: "Regardless of where facilities (including child care facilities) are located, or which organization operates them they are **required** (emphasis added) to be licensed under the CCALA (p. 13)." There is clearly a difference of opinion between First Nations that see provincial licensing officers coming on-reserve "by invitation" on an interim basis and Ministry of Health personnel who claim to have legal authority to require on-reserve facilities to comply with the CCALA.

In addition to the fundamental questions of jurisdiction and authority, a number of the particulars of the CCLR create difficulties for First Nations wishing to deliver locally-appropriate, culturally-based programs. Until the resources needed to exercise their authority over on-reserve programs are made available, First Nations communities are temporarily using the unsatisfactory provincial system.

⁷ Community Care Facilities Act and Child Care Licensing Regulation Response from the BC Aboriginal Child Care Society. August 12, 2002.

⁸ Community Care Facilities Act Child Care Regulation Proposal Response from the BC Aboriginal Child Care Society. January 24, 2005.

⁹ Ministry of Health (2012). *A Guide to Community Care Facility Licensing in BC*. At <http://www.health.gov.bc.ca/ccf/publications/a-guide-to-community-care-facility-licensing.pdf>

The challenges associated with complying with provincial regulations have been a source of frustration for First Nations' child care centres, preschools, and other early learning and care programs for many years. The child care community has long been aware of the incongruence between the CCLR and First Nations' visions of quality care. For example, participants in a national research study of First Nations' child care conducted by Greenwood and Shawana (2000) were unanimous in their desire to see Elder involvement in children's programs but they reported provincial regulations hampered the participation of Elders. The accreditation category of "community certified caregivers" recommended by Greenwood and Shawana was not incorporated into the CCLR when it was revised in 2007 or when it was amended more recently, confirming the validity of their observation that "...provincial policies do not support community-based, culturally relevant, and language-based programming as key components of quality care for children (p. 113)."

The current research project is the first time since the Greenwood and Shawana study that the specifics and extent of the problems with licensing First Nations' early learning and care programs in British Columbia have been investigated and documented.

The present research was designed to gather evidence of the experiences of people working in First Nations' early childhood programs in British Columbia. The research design also included a survey of licensing officers who presently monitor early childhood facilities and enforce the provincial regulations. The perspectives of both groups enable First Nations to make well-informed decisions and initiate improvements to the system.

Section 3: Research Design

This research project included two components. Two groups were surveyed: 25 personnel from First Nations' early childhood programs and 15 licensing officers employed by health authorities to ensure compliance with the CCLR. Both groups were asked questions related to licensing.

3.1 Design of Component One: Early Childhood Program Personnel

3.1.1 Participants

During September, 2012, BC Aboriginal Child Care Society researchers interviewed personnel from a total of 25 First Nations' early childhood programs. Participating programs were from all of the health authority regions of British Columbia: Vancouver Island (7), Northern (7), Vancouver Coastal (3), Interior (5), and Fraser (3). The participants were not randomly selected. They were chosen to insure a diverse mix of large and small, urban and suburban and remote communities from throughout the province.

3.1.2 Methodology

Interview questions were developed by the researchers to elicit information regarding:

- The participants
- Their programs
- Their use of the regulations
- Their challenges complying with the regulations
- Their interactions with licensing officers
- Their opinions regarding three specific regulations
- Their views on additional policy questions

The complete script and list of interview questions are in Appendix B.

Researchers contacted the participants by phone at agreed times and conducted the interviews by phone. In one case, the phone connection was very poor and it was

impossible to complete the interview by phone. In that case, the questions were sent to the participant by e-mail and the survey was completed in that format.

The responses of the 25 participants were pooled.

3.2 Design of Component Two: Licensing Officers

3.2.1 Participants

BC Aboriginal Child Care Society researchers developed a survey for licensing officers. A senior child care licensing officer assisted BC ACCS by e-mailing the survey to licensing officers in all of the health authority regions of British Columbia. The survey was distributed in January, 2013 to Community Care Facilities Licensing Officers of BC (CCFLOBC) regional representatives and they were asked to forward it to their colleagues and/or complete it themselves. The senior child care licensing officer who distributed the survey suggested that it be forwarded initially to managers and that the managers have input into the selection of individuals to complete the survey. The decision about whether or not to involve managers was left up to individual regional representatives. A total of 15 licensing officers from four of the health authority regions completed the survey: Vancouver Island (6), Northern (3), Vancouver Coastal (3), and Interior (3). No licensing officers from the Fraser region returned the survey. At the time of the survey, all 15 were, or had been in the past, the licensing officers for at least two First Nations' on-reserve early childhood programs.

The responses of the 15 licensing officers were pooled.

3.2.2 Methodology

Interview questions were developed by the researchers to elicit information regarding:

- The licensing officers' experience and training
- Their self-evaluation of their knowledge of the cultures of the First Nations' programs with which they work
- The frequency of their visits to on-reserve programs
- The regulations that are most challenging for First Nations' programs
- Their perspectives on whether the regulations impact the delivery of cultural programming
- The exemptions most commonly requested by First Nations' programs
- Their perspectives on Elder participation

- Their opinions on the question of unique regulations for First Nations' programs
- Their training needs and priorities

The complete survey is in Appendix C.

Section 4: Research Findings

4.1 Component One Findings: Early Childhood Program Personnel

4.1.1 The participants

All but one of the participants was a program supervisor or manager and had primary responsibility for ensuring their facilities comply with the CCLR. The majority of the participants (60%) had been in their present positions for less than three years and 32% of all of the participants had been in their present positions for less than one year. The participants had a lot of experience working in the field of Early Childhood Education with 67% of them having more than 10 years of experience in the field.

4.1.2 The programs

Most of the participants were employed in facilities that offered more than one type of program. The following numbers and types of programs were represented:

- 19 Head Start programs;
- 16 full-time child care programs;
- 12 part-time preschool programs;
- 12 infant and toddler programs;
- 5 school-age care programs;
- 1 young parents' program;
- 1 full-time preschool and school-age program during the summer months only; and
- 1 language nest preschool program.

All of the sites employed at least one certified early childhood educator¹⁰ and 10 of the sites employed at least one person with an early childhood educator assistant¹¹ certificate. Nine of the sites employed at least one responsible adult.¹²

¹⁰ An early childhood educator must have completed a basic Early Childhood Education training program at an institution recognized in the CCLR and have completed 500 hours of work experience within the previous 5 years. Certificates expire on the 5th anniversary after their date of issue. In order to renew their certificates, early childhood educators must have completed at least 40 hours of professional development and 400 hours of relevant work experience during the term of the previous certificate.

The numbers of early childhood educators and assistants required for group child care and for preschool programs are specified in the CCLR. For example, a preschool group of 10 or fewer children requires one early childhood educator. A preschool group of between 11 and 20 children requires one early childhood educator and one assistant.

A group of 12 or fewer school-age children including any preschoolers or grade 1 children requires one responsible adult.

Five of the participants reported that their programs are operating with exemptions¹³ from some of the provisions of the CCLR. Of those five, three exemptions were related to staff qualifications.

4.1.3 Use of the Child Care Licensing Regulation

Most of the participants reported having hard copies of the CCLR in their centres. Only two reported that they did not have hard copies. Most described their knowledge of the CCLR as either good or very good. Only two reported “some understanding” of the CCLR. Only two participants reported that they had not read any sections of the CCLR in the past year.

When asked how often they or other employees in their programs usually refer to the CCLR, responses ranged from once a week to never. The most common responses were once a month (10) and a few times a year (8).

Among the participants who referred to the CCLR, the sections they read were varied with the most common topics being operations matters, the physical environment, the qualifications of managers and employees, and group sizes.

When asked how easy it is to read and understand and use the CCLR, only four reported that it was “difficult” or “very difficult.”

¹¹ An early childhood educator assistant must have completed at least one basic course in Early Childhood Education.

¹² Responsible adults must have completed at least 20 hours of training. Responsible adults are usually hired to staff school-age care programs and to work as substitutes to replace assistants who are temporarily absent for less than 30 days. If an assistant is absent for more than 30 days, an early childhood educator or assistant must replace the absent assistant.

¹³ The CCALA includes provisions for exemptions. Medical health officers have the authority to grant exemptions from some provisions of the CCLR. Schedule A of the CCLR specifies the sections from which exemptions are not permitted.

4.1.4 Experiences complying with the regulations

The vast majority of participants (88%) felt the CCLR improved the quality of the child care children receive and 92% felt the present system of licensing is helpful and positive for their programs. However, compliance is challenging and 64% of participants stated that the licensing regulations have had negative effects on their programs. In response to an open-ended question about which regulations have been challenging, participants reported a variety of areas that have been difficult for their programs. For example:

- Hiring qualified early childhood educators and assistants
- Serving traditional foods
- Involving Elders in the program
- Maintaining prescribed staff to child ratios
- Meeting record-keeping requirements
- Staffing infant and toddler programs
- Segregating children on the basis of age
- Accessing training
- Complying with regulations related to transportation of children
- Meeting initial licensing requirements for a new facility
- Requiring criminal record checks for Elders
- Hiring qualified substitutes
- Funding required renovations

Staffing challenges were the most pressing, identified by eight of the participants. The second most often-mentioned challenge reported by participants was related to cultural foods. Six participants expressed concerns about being unable to serve traditional foods. The other areas identified as challenging were mentioned by individual participants.

4.1.4.1 Proposals to address staffing challenges

Participants proposed changes to the regulations to address the challenges they have staffing their programs. The following recommendations paraphrase the comments of individual participants:

- Revise employee qualification requirements
- Make multi-age grouping easier
- Revise requirement for a responsible adult to accompany the bus driver if more than seven children are being transported

- Allow First Nations to decide who can and cannot work in the facility
- Allow responsible adults to supervise children during educators' lunch breaks

4.1.4.2 Regulations hampering culturally-appropriate programming

When asked if the CCLR interferes with the delivery of culturally-appropriate programming at their centres, 71% of participants replied that it does. The most frequently identified problem area concerns the foods the programs provide for snacks and meals.

Traditional foods

The topic of traditional foods came up frequently as a source of dissatisfaction. The following quotations from participants illustrate their perspectives:

- *“Food regulations are a problem, as we cannot have our own traditional foods. Elders want to bring in salmon, but because of the regulations this does not allow us the freedom to do this with our children.”*
- *“Cultural foods are not as easily accessible to present to the children due to licensing requirements in regards to elk or deer being presented.”*
- *“Indian foods - not allowed to serve own fish made in summer because fish must be store bought, processed, in cans.”*
- *“Elders, for instance, sometimes want to share their food but regulations say they need to be individually wrapped in plastic, which is not appropriate and not how the children eat at home.”*
- *“not being able to offer traditional foods in the program”*
- *“... we have to jump through hoops in the presentation of traditional foods, as it is not allowed.”*
- *“...they can't bring in food from outside the centre....”*
- *“Restrictions around food preparation – regarding our cultural foods. Food preparation must happen on site and cannot be brought into the centre from outsiders.”*
- *“Presenting cultural foods is an issue with licensing.”*
- *“Should be allowed to bring traditional moose meat for the children, but regulations state that food must be bought from a store.”*
- *“Not being able to serve moose meat and other traditional foods.”*
- *“Our traditional nutritional foods coming into the centre is an issue.”*
- *“Not being able to present to the children our own cultural foods must change”*

- *“...several community members hunt wild game. I find it hard not being able to serve our traditional foods to our children.”*

Restrictions on Elders

Participants reported that the CCLR restricts Elder participation in their centres, making it difficult for them to deliver culturally-appropriate programming. 71% of the participants see the CCLR as limiting Elder involvement in their programs. The following quotations reveal their dissatisfaction:

- *“Elders having to get college training and criminal record checks”*
- *“... the regulations not permitting our Elders to freely participate in our programs.”*
- *“Elders not being able to freely participate in programs due to each person who is participating in the program needing a criminal record check.”*
- *“Lack of Elder involvement due to strict regulations.”*
- *“We presently do not have Elders in our programming. If we did have them involved there would be problems with licensing in regards to training the Elders to work with the children.”*
- *“Elders need to undergo a criminal record check, which is insulting to Elders, who are to be respected.”*
- *“Elders not being permitted to freely participate in the day care programs, as licensing requires them to have ECE assistant status.”*
- *“Licensing requires Elders to have at least one ECE college course to work with children. Many of our Elders do not have the time, money, and education to seek this type of training.”*
- *“The Elders do not understand why they have to have a criminal record check to work with our own children. They don’t know why they are not permitted to just drop in when they want.”*
- *“Elders should not have to have criminal record checks to work with our own children. They also should not have to take college courses to work with our own children.”*
- *“Elders have to have criminal checks and doctor’s notes.”*
- *“Elders are not qualified ECE educators so can’t technically be directing children in the centre.”*
- *“Don’t have many Elders involved and the one they have had they haven’t done criminal checks for, but maybe they should have. It is a sensitive topic though and some Elders may not understand or find it insulting that it has to be done.”*

- *“[Elders] do not feel they need to have criminal record checks.”*
- *“Criminal record check requirement prevents them from planning visits to Elders’ home ... and other programs involving Elders. They still have these programs but they have to say that they were unplanned.”*
- *“The change in licensing requirements which require all adults to have ECE assistant status, which means our Elders would have to take a college course to obtain this status, to work in our program.”*
- *“Criminal record checks for the Elders have been an issue. The Elders feel that it is a hassle to get it done.”*
- *“...they are uncomfortable with having to do the criminal record checks. They know their Elders so they shouldn’t need to have record checks.”*
- *“The criminal record checks are an issue, and not being open to Elders being able to just spontaneously drop in and visit the children. Our community members/Elders should be able to come in and visit any time and not have to be subjected to getting a criminal record check.”*

4.1.4.3 Changes to address barriers to culturally-appropriate programs

Participants proposed changes to the regulations to address the challenges they have delivering culturally-appropriate programs. The following recommendations paraphrase the comments of participants:

- Exempt Elders from training requirements
- Exempt Elders from criminal record check requirements
- Make it easier to include culture in child care programs
- Allow First Nations to decide who can and cannot work in the facility
- Allow traditional foods

4.1.5 Opinions regarding specific regulations

Participants were asked their opinions on CCLR requirements related to these topics:

- the 500 hours;
- employee to child ratios; and
- records and care plans.

4.1.5.1 The 500 hours of work experience

Regarding the 500 hours of supervised work experience required to gain early childhood certification, 67% of the participants felt it was just the right amount of time. 25% felt it was too many hours and 8% felt it was too few hours.

Although some participants consider the 500 hours requirement to be too much, the majority considers it to be the right amount of time for early childhood educators to demonstrate their knowledge and skills. There was no evidence that making changes to the 500 hours requirement is a priority among the research participants. It was not raised at all in response to the open-ended question inviting participants to recommend changes to the regulations.

4.1.5.2 Ratios

Regarding employee to child ratios, 60% felt the regulations should require fewer children per employee. 36% felt the ratios should be kept the way they are. One participant felt there should be more children per employee. The ratios required by the CCLR vary depending on the ages of the children. The ratios range from one infant and toddler educator for four or fewer children under the age of 36 months to one responsible adult for 15 or fewer school-age children if no preschool or Grade 1 children are present.

When asked specifically about ratios, 15 of the 25 participants said there should be fewer children per employee, however, ratios were raised by only one participant in response to the open-ended question inviting participants to recommend changes to the regulations. This suggests ratios are an important issue, but not a priority.

4.1.5.3 Records and care plans

Regarding the records and care plans required by the CCLR, 88% of participants felt they were helpful in the delivery of quality programs. Records and care plans were not raised at all in response to the open-ended question inviting participants what changes to the regulations they would recommend.

4.1.6 Licensing officers

Almost all participants reported positive working relationships with their licensing officers.

4.1.6.1 Frequency of visits

There was a wide range in the frequency of visits from licensing officers. Participants reported that the frequency of visits from their licensing officers ranged from “twice since 2008,” to “monthly.” Two participants reported that their licensing officers visit every 18 months. Nine participants were visited once a year. Six were visited every six months. One was visited quarterly and one was visited three times a year. One reported being visited twice in the last two and a half months.

4.1.6.2 Relationships with licensing officers

The participants reported reasonably stable relationships with their licensing officers. 86% of the centres have had only one or two licensing officers in the past five years. Only 17% have been working with their present licensing officers for a year or less while 61% have been working with their present licensing officers for between one and five years.

The licensing officers were, for the most part, regarded positively with 91% of participants describing their licensing officers' approaches and interactions with their programs as “very positive” or “somewhat positive.” When asked if licensing officers have shown respect for the cultures of their First Nations, 91% responded “yes.” All but one participant agreed that the licensing officers with whom they have worked were collaborative and helped the programs understand and comply with the regulations.

Licensees are required to notify the medical health officer within 24 hours after a child is involved in, or may have been involved in, a number of reportable incidents. 90% of the participants indicated that their licensing officers followed up on reportable incidents appropriately and in a timely manner.

Of the eight facilities that were investigated following complaints, seven reported that their licensing officers conducted the investigations fully and fairly and in the best interests of the children.

The impression created by the answers of most participants is that they have good working relationships with their licensing officers and that the licensing officers are

respectful toward early childhood program personnel. There are some exceptions, however, and two participants felt their licensing officers were disrespectful toward the cultures of their First Nations.

4.1.6.3 Training for licensing officers

There was unanimous agreement among all participants when they were asked if provincial licensing officers should receive professional development designed to prepare them to develop and maintain positive working relationships with First Nations early childhood programs. All participants replied “yes.” Although only two participants had previously reported that their relationships with licensing officers were “somewhat negative,” there was consensus that licensing officers should have training that addresses working with First Nations. The participants suggested that licensing officer training ought to include these areas:

- *“Must be trained to be culturally sensitive to the many relevant celebrations that take place in First Nations communities.”*
- *“Understand the teachings of the Elders and its importance to the children.”*
- *“Learn about the history of our First Nations communities, including what is involved with First Nations rights, and the treaty.”*
- *“Understand the relationships between family members i.e.: grandparents to grandchild, aunties and uncles and their involvement in the child’s life and how important this is.”*
- *“Respecting tradition, respecting language, respecting the culture and they must be interested enough to ask questions about why we do things a certain way.”*
- *“They must understand our history around education and the violence our people experienced in residential schools and Indian day schools.”*
- *“Understanding of protocol. They should be aware of the cultural practices of their neighbouring communities.”*
- *“They should have an understanding of what goes on in the community when there is a death in a First Nations community*
- *Understand the importance of our family relationships and how we pass on our traditions and practices to the children.”*
- *“First Nations people, self-care, health, foods ... language.”*
- *“Cultural practices that are band-specific.”*
- *“Challenges that parents have.”*
- *“Should be taught by a First Nations person and include First Nations background, culture, tradition, beliefs.”*

- *“Understanding the history and legislation, residential school, Indian day school, First Nation reserve imposed system.”*
- *“Understand the trauma that the First Nations people experienced with the legislation, residential school and Indian day school experiences.”*
- *“Elder involvement within the training and delivery of programs.”*

4.2 Component Two Findings: Licensing Officers

4.2.1 Experience and education

The 15 licensing officers who completed the survey were experienced in their occupation. All had been employed as licensing officers for more than three years and six had more than 10 years of experience. Only one licensing officer had no training in Early Childhood Education. Seven had completed either certificates or diplomas in Early Childhood Education and six had completed university degrees in a related discipline. Only one licensing officer reported no experience working directly with children under the age of six prior to working in licensing.

4.2.2 Preparation to work with First Nations

When asked if they had received pre-service or in-service training that helped to prepare them to work with First Nations' on-reserve programs, 13 of the 15 licensing officers responded "Yes." In their evaluations of that training, eight said it was "somewhat adequate," "adequate," or "more than adequate" and two rated it "inadequate" or "very inadequate." The remaining three licensing officers were neutral in their evaluations of their training to work with First Nations.

All 15 licensing officers evaluated their own knowledge of the cultural practices, history, and traditions of the First Nations they visit in the course of their work. Sixty-six percent assessed their own knowledge to be "somewhat adequate," "adequate," or "more than adequate" and 20% responded that their own knowledge was "inadequate" or "somewhat inadequate." The remaining 13% of licensing officers were neutral in their self-evaluations.

4.2.3 Protocols for visits to First Nations' programs

The survey asked if the licensing officers follow specific protocols when they visit on-reserve facilities and it asked those who answered "Yes" to describe the protocols. The majority of licensing officers reported using the same processes when inspecting all licensed programs, both off-reserve and on-reserve. Only one licensing officer reported always going first to the office of the First Nation to let the administrative assistant know that he or she was on the reserve. That individual licensing officer also reported that he or she always schedules visits to the facility rather than arriving unannounced. Another licensing officer reported always contacting the facility manager, band manager, and

department head prior to visits to the community. A third licensing officer reported that he or she “may” inform the supervising coordinator for the band of an upcoming visit, depending on the community’s preferences.

4.2.4 Frequency of on-reserve visits

The licensing officers explained that they rate the risks of licensed facilities. Programs with high risk assessment ratings would be visited frequently and programs with moderate or low risk assessment ratings would be visited less frequently. The number of visits per year varies significantly from program to program. The reported range was between every three months to every 18 months.

The variables considered when assessing the risk in programs include:

- Complaints
- How long the program has been operating
- Staff turnover
- History of compliance

4.2.5 Challenges complying with regulations

The survey asked the licensing officers to identify the three types of regulations that present the greatest challenges to First Nations’ programs. Regulations pertaining to facility requirements and regulations pertaining to employee qualifications were both identified as the number one challenge by four licensing officers. Regulations pertaining to manager and employee requirements were identified as the number one challenge by three licensing officers and as the number two challenge by five licensing officers.

Licensing officers identified these three areas as creating the top three licensing challenges for First Nations’ early childhood programs:

- Regulations pertaining to facility requirements
- Regulations pertaining to manager and employee requirements
- Regulations pertaining to employee qualifications

Nine licensing officers ranked each of these areas as being among the top three licensing challenges faced by First Nations’ programs.

In order of prevalence, challenges were also associated with the following facets of the regulations:

- Regulations pertaining to licensing (in the top three for six licensing officers)
- Regulations pertaining to general care requirements (in the top three for four licensing officers)
- Regulations pertaining to the supervision of children (in the top three for three licensing officers)
- Regulations pertaining to certificates (in the top three for two licensing officers)

4.2.6 Regulations and cultural programming

The survey asked the licensing officers if, in their experience, the regulations interfere with the delivery of cultural programming. The response of 73% of the licensing officers was “No.”

When invited to explain their answers, licensing officers made the following comments:

- *“But do sometimes require an exemption or some “creative” plans to ensure the regulations are met and the cultural programming can occur.”*
- *“Regulations impose limits/barriers to engaging children in cultural activities, e.g., if elders “ordinarily present” (e.g., for story-telling) then require a criminal record check (some elders refuse to obtain a CRC), use of fires during dances in long house.”*
- *“...Licensing’s processes, like needing a detailed written plan on how a facility will use a small open fire with the children in a “mini” big house when engaging in ceremony and traditional practices, I feel is condescending and patronizing.”*
- *“One I can think of that has always been an issue is mixing the ages and groups. Programming provided by elders, other visitors, and staff would be preferred to be conducted with all groups present together. Also eating meals together without separating the various groups. Meals and learning experiences culturally are done together for various reasons. The regulations stipulate no mixing of groups and this is no longer exemptible.”*
- *“In my experience, these facilities would like extended family and elders to be part of the group on a regular basis and the regulation of volunteers needing the same documentation on file as an employee is a strong impediment to this happening and I think this is a real shame.”*

4.2.7 Exemptions requested by First Nations’ programs

Licensing officers were asked what exemptions were most commonly requested by First Nations’ programs. By far, the most commonly requested exemptions were related to staff qualifications. Of the 15 licensing officers, 13 stated that staffing exemptions were

requested most often. One licensing officer reported no requests for exemptions and one licensing officer reported requests to have younger children attend programs licensed for older children.

4.2.8 Elder involvement

When asked if the regulations make it difficult for First Nations to involve Elders in their programs, nine of the licensing officers said “No.”

The six licensing officers who said the regulations do make it difficult for First Nations to involve Elders were asked to identify the barriers to Elder participation either as employees or as volunteers. All six identified the criminal record check as the biggest barrier; four identified enrolling in additional training programs for early childhood educators as a barrier; three identified arranging a medical reference as a barrier; and two identified being part of an immunization program as a barrier. One licensing officer identified Elders’ lack of résumés, references, and “relevant skills/training” as barriers.

4.2.9 Unique regulations for First Nations

The licensing officers were asked if they thought First Nations’ programs would benefit from having a unique set of regulations. Ten replied “No” and three replied “Yes” and two replied “Not sure / Don’t know.”

4.2.10 Training to work with First Nations

The survey asked the licensing officers their opinions on the question of whether all licensing officers should be given training to prepare them to work with First Nations’ communities and individuals. The reply of 87% of the licensing officers was “Yes.”

The licensing officers were asked an open-ended question that invited them to suggest topics or issues they would like to see included in a professional development workshop. Their suggestions included the following:

- Cultural competency and protocols training (seven licensing officers)
- Communication styles (four licensing officers)
- History (three licensing officers)
- Culturally-appropriate programming to assess compliance with Schedule G of the CCLR (two licensing officers)
- Specific information about cultures of First Nations in their areas (two licensing officers)

4.3 Summary of Findings

4.3.1 Component One: Early childhood program personnel

The research found the vast majority of early childhood program personnel felt the provincial regulations have the effect of improving the quality of care children receive. Almost all participants working in First Nations' programs felt the licensing system was, overall, helpful and positive for their programs. However, compliance with some requirements of the CCLR was found to be difficult and compliance with other requirements of the CCLR was found to cause dissatisfaction. The regulations pertaining to the qualifications required for employment or regular volunteer work in early childhood programs were identified as being particularly challenging. It is hard for programs to find qualified staff. The exclusion of Elders on the basis of academic qualifications was a very serious source of dissatisfaction. Dissatisfaction was expressed by some participants with the requirement that children be grouped on the basis of their ages. The research also highlighted dissatisfaction among many educators wishing to serve traditional foods. The participants proposed many changes to the regulations.

4.3.2 Component Two: Licensing officers

The survey of the licensing officers found that many First Nations' programs have great difficulty finding personnel with the qualifications specified in the CCLR. By far, the most commonly requested exemptions requested by First Nations' programs were for personnel lacking qualifications. Compliance with the regulations pertaining to facility requirements was identified by 60% of the licensing officers as a significant challenge for First Nations' programs.

From the perspective of most of the licensing officers, the regulations do not interfere in the delivery of cultural programming. Only four saw the CCLR as interfering with the delivery of cultural programming and only six saw the regulations as making it difficult for Elders to be involved in early childhood programs.

Although two thirds of the licensing officers evaluated their knowledge of the cultural practices, history, and traditions of the First Nations' programs they visit as better than neutral, 87% of them responded "Yes" when asked if all licensing officers should be given training to prepare them to work with First Nations. They proposed various topics for workshops.

Section 5: Discussion of Findings

5.1 Component One: Early childhood program personnel

The interviews with the early childhood program personnel identified both areas of satisfaction and areas of concern related to licensing.

5.1.1 Areas of satisfaction among early childhood educators

This study documented many areas of satisfaction with the existing licensing system. These include the following findings:

- 88% of participants thought the CCLR improves the quality of care children receive.
- 92% of participants thought the present system of licensing is overall helpful and positive for their programs.
- 91% of participants described their licensing officers' approaches and interactions with their programs as either very positive or somewhat positive.
- 91% of participants said their licensing officers show respect for the cultures of their First Nations.
- 95% of participants described the approaches of their licensing officers as collaborative and helping their programs to understand and comply with the regulations.
- 91% of participants stated that their licensing officers followed up on reportable incidents appropriately and in a timely manner.
- 88% of participants felt the records and care plans required by the regulations were helpful in the delivery of quality programs.

5.1.2 Areas of concern among early childhood educators

Along with the aspects of the present licensing system that elicited high rates of approval from participants, there were some areas of concern. Some of the regulations are considered to be reasonable even though compliance is challenging. Other regulations are seen as unreasonable and the need to comply has generated considerable dissatisfaction.

5.1.2.1 Employee qualifications

Hiring qualified employees is the most frequently cited challenge faced by the early childhood program supervisors and managers who participated in this study. Of the 22 participants who reported having difficulties complying with the CCLR, 11 specified challenges related to staffing their programs with qualified personnel. The human resources challenges reported by these participants are consistent with findings of research conducted by the BC Aboriginal Child Care Society in 2012.¹⁴ When asked if they had ever had to close their centres because they were unable to meet a licensing requirement, seven said “yes.” Six of those seven had to close because they could not hire certified staff.

Recruiting qualified personnel is a significant challenge for most First Nations’ early childhood centres. Although it is difficult to hire qualified staff, professional training requirements were objected to only for the effects they have on Elders.

The CCLR’s training standards for early childhood program personnel are not the essential problem. Personnel shortages exist not because the regulations are unreasonable. They exist for other reasons.¹⁵ The challenges associated with recruitment, training, and retention of early childhood educators working in First Nations early childhood programs require more complex policy changes than simple removal or lowering of the training requirements found in the CCLR.¹⁶ For a detailed discussion of this topic and recommendations, see these BC Aboriginal Child Care Society publications: *Training, Recruitment and Retention in the First Nations ECE Sector: Background Paper* and *Training and Retention in the First Nations ECE Sector: A Report from the Frontlines*.

5.1.2.2 Elder involvement

A great deal of dissatisfaction was expressed concerning the regulations that interfere with participants’ ability to involve Elders in their programs. The exclusion of Elders hampers their ability to deliver culturally-appropriate programs for children.

¹⁴ BC Aboriginal Child Care Society (2012). Training and retention in the First Nations ECE Sector: A report from the frontlines.

¹⁵ See BC Aboriginal Child Care Society (2012). Training, recruitment and retention in the First Nations ECE sector: Background paper. At http://www.acc-society.bc.ca/files_2/documents/BackgroundPaper.pdf

¹⁶ See BC Aboriginal Child Care Society (2012). Training and retention in the First Nations ECE Sector: A report from the frontlines.

The participants spoke clearly on this issue. They value Elder participation in their programs. Their communities benefit from Elder participation. The exclusion of Elders from employment or other ways of being “ordinarily present” due to their lack of formal qualifications is detrimental to their programs. The exclusion of Elders is additionally problematic because it conflicts with the objectives of Head Start programs. Head Start includes culture and language as one of its six key program components and specifically recognizes Elders as curriculum resources. First Nations Head Start programs are caught in the dilemma of conflicting requirements. On one hand, they are required by a federally-funded program to deliver curricula that include their cultures and languages. On the other hand, they are prevented by the provincial licensing system from having Elders “ordinarily present” unless they have academic credentials that are hard, if not impossible, for Elders to acquire.

There appears to be some inconsistency in the application of the regulations by different licensing officers. While many participants reported that the regulations were preventing Elder involvement, one participant stated, in the context of a discussion of licensing officers, that “Grandparents/Elders have been involved in language instruction and he was ok and respectful of that.” It appears that individual licensing officers are able to exercise discretion and choose to overlook practices that are not completely in compliance with the CCLR.

5.1.2.3 Ratios

The numbers of early childhood educators, infant and toddler educators, early childhood assistants, and responsible adults required in group care settings are specified in Schedule E of the CCLR. The numbers depend on the ages of the children and the sizes of the groups. For example:

- **Infant and toddler programs:** In group care settings for children under age 36 months, if there are four or fewer children in the group, one infant and toddler educator is required. If there are between five and eight children in the group, one infant and toddler educator and one other educator are required. If there are between 9 and 12 children in the group, one infant and toddler educator, one other educator, and one assistant are required.
- **Group child care programs:** In group care settings for children between the ages of 30 months and school-age and there are not more than two children younger than 36 months, if there are eight or fewer children in the group, one early childhood educator is required. If there are between 9 and 16 children in the

group, one educator and one assistant are required. If there are between 17 and 25 children, one educator and two assistants are required.

- **Preschool programs:** In preschool programs with children between the ages of 30 months and school-age, if there are ten or fewer children in the group, one early childhood educator is required. If there are between 11 and 20 children in the group, one educator and one assistant are required.
- **School-age care programs:** In school-age care programs with 12 or fewer children in the group, and any preschool child or child in grade 1 is present, one responsible adult is required. If there are between 13 and 24 children in the group, and any preschool child or child in grade 1 is present, two responsible adults are required. In school-age programs with 15 or fewer children in the group and no preschool child or grade 1 child is present, one responsible adult is required. If there are between 16 and 30 children in the group and no preschool child or grade 1 child is present, two responsible adults are required.
- **Multi-age care:** The maximum group size for multi-age programs is eight children. One early childhood educator is required for multi-age groups. If any child younger than 12 months present, the group can include no more than three children younger than 36 months and no more than one child younger than 12 months. If no children younger than 12 months are present, the group can include no more than three children younger than 36 months.

The majority of participants felt the standards are too low. However, there is no requirement that programs operate with the permitted ratios. They can operate with more adults if they wish to do so, if qualified individuals are available, and if the centres' budgets allow them to hire additional staff. In other words, the provincial regulations do not require early childhood programs to operate with these numbers of children per employee.

5.1.2.4 Licensing officers' training

There was unanimous agreement on the desirability of more encompassing training for licensing officers. Participants made many constructive suggestions for professional development content that would prepare licensing officers to work effectively with First Nations' early childhood programs.

5.1.2.5 Traditional foods

Many participants believe, incorrectly, that they are unable to serve traditional foods because licensing prohibits them.¹⁷ The comments of participants revealed the widespread but mistaken belief that the CCLR prohibits many traditional foods and requires certain types of packaging. In fact, the Nutrition section of the CCLR states that “A licensee must (a) ensure that each child has healthy food and drink according to Canada’s Food Guide, and (b) promote healthy eating and nutritional habits.” The licensee must also consider “the child’s food preferences and cultural background.” There is no prohibition of traditional foods or requirement that foods be canned or individually packaged or obtained from a store. The requirement to consider a child’s cultural background encourages licensees to serve traditional foods. There is a First Nations, Inuit, and Métis edition of Canada’s Food Guide¹⁸ that incorporates both traditional foods and store-bought foods.

It may be that Health Canada’s environmental health officers are inspecting on-reserve early childhood programs and identifying safety issues related to food preparation. Additional research would be required to identify the sources of the widespread concerns regarding traditional foods. Since the CCLR does not prevent licensees from serving traditional foods, the centres are being discouraged from serving traditional foods by individuals other than licensing officers.

5.1.2.6 Criminal record checks for Elders

The criminal record check requirement in the CCLR is very contentious. Section 20 of the CCLR states: “The licensee must not permit a person over the age of 12 to be ordinarily present on the premises of a community care facility while children are present, unless the person is of good character and the licensee has obtained a criminal record check for that person.” The key phrase is “ordinarily present.” It may be that some centres are unnecessarily discouraging Elders from visiting. A spontaneous drop in or occasional visit from an Elder who is not an employee or regular volunteer would not meet the “ordinarily present” threshold.

¹⁷ The CCLR only requires that facilities serve healthy foods and drinks according to Canada’s Food Guide and promote healthy eating and nutritional habits. Section 48 specifies that licensees must ensure that the food and drink given to children has regard to their food preferences and **cultural background** (Emphasis added), a clear green light to serve traditional foods.

¹⁸ http://www.hc-sc.gc.ca/fn-an/alt_formats/fnihb-dqspni/pdf/pubs/fnim-pnim/2007_fnim-pnim_food-guide-aliment-eng.pdf

Participants' understandings of the requirements that apply to all employees are correct. If Elders are employees, criminal record checks are required and no exemptions are available.

While criminal record checks are seen as an unnecessary and insulting barrier to Elder participation in early childhood programs, the importance of protecting vulnerable children from possible harm must be kept in mind. Knowing that criminal record checks are a requirement for employment and volunteer positions, unsuitable individuals do not apply for jobs in early childhood programs. The requirement is based on valid safety concerns. To reduce the possibility that Elders would feel insulted by this regulation, First Nations' early childhood programs could be encouraged to explain to Elders the rationale for the policy, describe the benefits from the point of view of protecting children, respectfully assist Elders through the process, and pay the costs of obtaining the criminal record checks.

Since the completion of this research, the province of British Columbia has announced plans to change the legislation related to criminal record checks. The proposed changes will make criminal record checks free for volunteers in non-profit organizations. When these changes come into effect, the costs associated with obtaining criminal record checks for Elders who volunteer will no longer be a barrier. Although the details are still uncertain, it appears that the proposed changes will only apply to volunteers, not to individuals who are employed by non-profit organizations.

5.1.2.7 Grouping children by age

When asked an open-ended question about which regulations have been challenging for them, six of the participants identified the requirement that children be grouped on the basis of age. In some cases, this separates children from their siblings or other family members. Multi-age grouping is one of the principles of quality identified in the BC Aboriginal Child Care Society's *Statement on Quality Child Care*.¹⁹ Segregation of children on the basis of age is contrary to First Nations' cultural values and traditions.

The CCLR permits multi-age child care and specifies allowable group sizes and composition. The multi-age staffing ratios are summarized in Section 5.1.2.3 above. If a facility is licensed to provide care for a multi-age group, there are limits on the numbers of infants allowed. For example, no more than three children younger than 36 months

¹⁹ See BC Early Childhood Development Council (2009). *BC First Nations early childhood development framework*. "Appendix B." At <http://www.fnesc.ca/Attachments/ECD/ECD%20Consultation%20Document%20Dec%2017%2009.pdf>

can be part of a multi-age group of eight children and no more than one child can be younger than 12 months.

The precise difficulties related to grouping by age were unclear. If the difficulties are being experienced by programs licensed for preschoolers but wishing to include younger children, it might be possible for them to obtain licenses as multi-age programs. If the difficulties are being experienced by programs licensed for multi-age groups but wishing to include more infants than the CCLR permits, the quality of care could be put at risk unless additional educators are hired. The permitted ratio of one educator to eight multi-age children would be unreasonable in groups with more infants. The principle of multi-age grouping must be balanced with reasonable group sizes and age-mixes to avoid overloading educators and compromising program quality.

Additional inquiries are needed to clarify the grouping challenges being experienced by First Nations' early childhood programs.

5.2 Component Two: Licensing officers

The data gathered from the licensing officers reinforced some findings from component one of this research project. The licensing officers confirmed the problems associated with staffing First Nations' early childhood programs. The survey also brought new issues to light.

5.2.1 First Nations' authority

The survey revealed that licensing officers do not distinguish between First Nations' early childhood programs and the other programs they inspect. They appear to be following the same "licensing protocols" for all facilities both on-reserve and off-reserve. In other words, they appear to be unaware when they enter First Nations' programs that they are there "by invitation." The licensing officers seem to assume they have the authority to enforce provincial legislation on-reserve. The source of this assumption may be the Ministry of Health's publication *A Guide to Community Care Facility Licensing in BC*, cited in Section 2.3 above. Only one of the licensing officers reported always going to the Band Office first to let the administrative assistant know he or she is there. It is unclear if this individual's practice is rooted in sensitivity to the constitutional issue and awareness that he or she is there "by invitation" or if it is a simple expression of courtesy.

5.2.2 Perspectives on Elders

The responses of the licensing officers suggest that they see Elder involvement in First Nations' early childhood programs only through the lens of enforcing regulations related to employee qualifications and requirements. Only one of the four licensing officers who said the regulations interfere in the delivery of cultural programming mentioned the role of Elders in the delivery of cultural programming. The 73% who expressed the opinion that the regulations do not interfere in the delivery of cultural programming are apparently unaware that Elders are essential to cultural programming. As knowledge keepers in their communities, Elders are crucial to the delivery of language instruction and other meaningful cultural programming. The importance of Elders is not understood by the licensing officers.

5.2.3 Challenges experienced by programs

The licensing officers were aware of the difficulties First Nations' early childhood programs have complying with the CCLR. They identified the regulations pertaining to staffing as most challenging and requiring the most exemptions. These findings are consistent with the findings in the interviews with early childhood program personnel in component one of this research. They are also consistent with 2012 research conducted by BC ACCS: *Training and Retention in the First Nations ECE Sector: A Report from the Frontlines*.

The licensing officers identified additional challenges that were not discovered in the interviews with early childhood program personnel. For example, when identifying the top three challenges to First Nations' programs, nine of the licensing officers identified challenges pertaining to facility requirements, four of the licensing officers identified challenges pertaining to general care requirements, and three licensing officers identified challenges pertaining to supervision of children. Satisfying facility requirements such as the physical space, furniture, equipment, fixtures, and play materials is costly. The fact that many licensees are having difficulty complying with these regulations is the consequence of the severe underfunding of First Nations' early childhood programs. The challenges First Nations' programs experience with regulations pertaining to general care requirements and supervision of children are inextricable from the staffing problems. It is reasonable to expect that employees with insufficient training will be more likely to have difficulty remaining in compliance with the regulations in these areas. By addressing the personnel problem, it is probable that the general care and supervision of challenges will also be resolved.

5.2.4 Training needs

The majority of licensing officers had positive assessments of their own preparation to work with First Nations and their knowledge of First Nations. Nevertheless, 13 felt all licensing officers should be given training to prepare them to work with First Nations and they suggested many topics and issues that they would like to see included in professional development workshops.

Some training topics proposed by the licensing officers were also recommended by the early childhood program personnel. For example, First Nations' cultures, histories, and protocols were identified as necessary training topics for licensing officers by both groups. However, there were noteworthy differences. Many of the topics suggested by the early childhood program personnel were not suggested by the licensing officers themselves. The licensing officers appear to be unaware of many of the gaps in their knowledge. For example, the early childhood program personnel suggested that licensing officers receive information on these topics:

- Teachings of the Elders and the importance of those teachings to children
- First Nations' rights and treaties
- Family relationships
- Respect for traditions, languages, and cultures
- The violence experienced in residential schools and day schools
- Practices when there is a death in the community
- Challenges parents have
- The reserve system
- Traumas caused by legislation

The specific content suggested by the early childhood program personnel can assist those who plan future workshops and courses for licensing officers.

Section 6: Acting on the Findings

This research documented ways in which the licensing system is negatively impacting First Nations. The negative impacts can be reduced or eliminated via the initiatives outlined below.

6.1 Issues requiring co-operative action

6.1.1 Remove barriers to Elder participation

The issue of Elders being excluded from employment or volunteer work is a priority. Arrangements should be made, as soon as possible, for First Nations' representatives to meet with the director of licensing to collaboratively seek timely solutions so that another school term does not go by without Elders being able to work and volunteer in First Nations' early childhood programs.

The First Nations' representatives should emphasize the importance of ensuring Elders feel welcome to participate in First Nations' early childhood programs to teach the children their languages and pass on their cultural knowledge. The unintended negative effects of the training requirements in the CCLR can be addressed by the director of licensing. The representatives might wish to propose the following possible solutions:

- Option 1: The director of licensing might recognize Elders' prior cultural knowledge as an alternative to a course in basic Early Childhood Education for the purposes of satisfying Section 27(b) of the CCLR. In other words, an applicant for an early childhood educator assistant certificate might be required to complete **either** one course in basic Early Childhood Education **or** present a letter from a program manager confirming that the applicant has knowledge essential for the delivery of a culturally-appropriate curriculum.
- Option 2: The director of licensing might amend Division 2 of the CCLR to include an additional category of employees to be known as "community certified caregivers." These caregivers might be required to meet community-defined standards that are equal to or exceed those for "responsible adults" in the CCLR. Individual communities might choose to recognize the life experiences of Elders and their status as knowledge keepers as an alternative to 20 hours of formal courses. Seabird College's *Aboriginal*

Responsible Adult course²⁰ could be made available to “community certified caregivers” to supplement their cultural knowledge.

- Option 3: The director of licensing might support the development and delivery of a single Early Childhood Education course specifically for Elders. Completion of the course would qualify Elders for employment as early childhood education assistants. The BC Aboriginal Child Care Society’s course for on-reserve family child care providers could be revised and adapted for Elders wishing to work as either employees or volunteers in early childhood centres.

Agreement on the part of the director of licensing to pursue any of these options would represent a step forward. In the interim, the director of licensing might take steps to encourage licensing officers to exercise discretion in their application of the CCLR in ways that create barriers for Elders who work or volunteer in First Nations’ early childhood programs.

6.1.2 Address human resources problems

Well-trained employees are essential if children are to receive more than custodial care. The human resources problems are deep-rooted and complex. Although the CCLR requirements are a component of challenges associated with staffing First Nations’ early childhood programs, this is not primarily a licensing issue. The problems will not be solved by simply lowering the training requirements found in the CCLR. Strategies for addressing the serious human resources problems in First Nations’ early childhood programs are discussed in detail in the 2012 BC Aboriginal Child Care Society publication *Training and Retention in the First Nations ECE Sector: A Report from the Frontlines*. At the earliest possible date, work should begin on implementing that report’s recommendations in order to insure that young First Nations children living on-reserve are cared for by skilled early childhood educators.

²⁰ <http://www.seabirdisland.ca/page/courses>

6.2 Issues requiring follow-up by BC ACCS

6.2.1 Correct misunderstandings regarding traditional foods

The second most often-mentioned challenge reported by early childhood program personnel was related to traditional foods. The research did not reveal who is discouraging programs from serving traditional foods. Many participants thought the CCLR included restrictions related to traditional foods.

After conducting the research, BC ACCS made additional inquiries in an effort to discover the source of the belief that traditional foods are prohibited. The First Nation and Inuit Health Branch – BC Region was consulted. It was confirmed that federal environmental health program officers inspect on-reserve early childhood programs. These inspectors are concerned with preventing the spread of food-borne diseases. In personal communication²¹ an officer in Environmental Public Health Services explained that environmental health program officers do not object to the serving of traditional foods. Their concern is that the facility be equipped to safely prepare food and sanitize dishes. They also require kitchen staff to be properly trained and certified. As there are no federal food safety and preparation regulations, they enforce the provincial *Food Premises Regulation*.²² Provided these standards are being met, early childhood programs should have no problems serving traditional foods.

Early childhood programs need to receive accurate information on this topic. The BC Aboriginal Child Care Society will share these findings with early childhood programs via its weekly newsletter and other communications with front-line early childhood personnel.

6.2.2 Provide professional development on the content of the CCLR

Some of the comments made by participants reveal potential misunderstandings of the requirements of the CCLR. For example, one participant stated:

We should be able to combine the various centres based on our numbers. For example, at the end of the day we may only have 1 child in the infant/toddler centre and 1 child in our 3-5 centre, and it is moments like this that we should be allowed to combine these 2 centres. We feel that it

²¹ Environmental Public Health Services, First Nation and Inuit Health Branch – BC Region, January 29, 2013

²² http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/11_210_99

is unnecessary to have 2 ECEs there for 2 children, licensing is inflexible and does not allow for us to do this.

In fact, this type of grouping is sometimes permitted by the CCLR. Section 34 (4) allows licensees to permit children who would otherwise be grouped in different care programs to be grouped together and supervised during the half hour before a care program begins and the half hour after a care program ends.

This example and evidence of confusion regarding foods suggest there is a need for program personnel to receive professional development that acquaints them with the details of the CCLR so they can best understand all the options that may be available to meet their unique needs.

The BC Aboriginal Child Care Society will set aside time in a future ECE conference for a workshop focusing on the CCLR. Provincial licensing officers will be invited to speak about the CCLR and conduct a question and answer session. The workshop will be recorded and made available on the BC ACCS Website.

6.2.3 Provide professional development on food safety

The BC Aboriginal Child Care Society will set aside time in a future ECE conference for a workshop focusing on the *Food Premises Regulation* that is enforced by Health Canada's environmental health officers. Environmental health officers will be invited to speak about food safety and conduct a question and answer session. The workshop will be recorded and made available on the BC ACCS Website.

The *Food Premises Regulation* requires some kitchen workers to complete FOODSAFE²³ training. The training is available in face-to-face courses, by correspondence, and on-line. BC ACCS will provide First Nations' early childhood programs with information about FOODSAFE via its weekly newsletter and other communications with early childhood programs.

6.2.4 Reach out to family child care providers

This research focused on licensing issues that impact centre-based programs. Throughout Canada, more children are being cared for in family child care settings than in centres. Family child care is preferred by some parents. In smaller communities,

²³ <http://www.foodsafe.ca/>

family child care is the only practical option. The extent to which family child care is being used in First Nations' communities is unknown since many care providers are in the "License Not Required" category.

BC ACCS will seek support for a research project focused on First Nations' family child care providers, both licensed and "License Not Required," in order to gain an understanding of their concerns and needs. Their opinions will be documented. Options will be explored for providing these care providers with training opportunities and other supports, for recognizing their work and including them as members of the early childhood profession.

6.2.5 Clarify age-grouping challenges

More clarity is needed to understand why the age-grouping requirements of the CCLR are a source of dissatisfaction for some early childhood programs. Further research might seek information about: the unique limitations small communities have in setting up licensed group programs in regards to age composition; the cultural importance of keeping related children together; and the significance of large group celebrations.

6.3 Issues relevant to the Ministry of Health

This research generated many constructive suggestions for improving the training of licensing officers in order to prepare them to work more effectively with First Nations' early childhood programs. The Ministry of Health is encouraged to take steps to have the topics identified by the early childhood program personnel and the licensing officers incorporated into professional development programs for existing licensing officers and for new hires, thereby strengthening their cross-cultural knowledge and skills. The Ministry is encouraged to collaborate with a qualified First Nations' organization to have appropriate resource materials developed for this purpose.

This research revealed that there are inconsistencies in the application of the CCLR throughout the province. Licensing officers differ in their enforcement of the regulations. The findings also raised the question of whether some licensing officers are providing licensees with inaccurate information regarding the requirements of the CCLR. These are matters that the Ministry may wish to explore with the health authorities to whom licensing authority is delegated.

During the course of this work, the researchers learned that the Ministry of Health is claiming the legal authority to enforce the CCALA on-reserve. The Ministry's 2012 publication *A Guide to Community Care Facility Licensing in BC*²⁴ asserts regulatory powers without regard for the rights of First Nations. This issue must be addressed at the highest level within the Ministry. First Nations specifically deny and object to the Ministry of Health's provocative assertion that on-reserve child care facilities are "required to be licensed under the CCALA (p.13)." The Ministry of Health is encouraged to review this position, acknowledge that provincial licensing officers have been coming into First Nations' early childhood programs by invitation, and direct the health authorities to insure their licensing officers clearly understand and respect the underlying constitutional principles.

6.4 Issues relevant to the First Nations and Inuit Health Branch – BC Region

This research revealed widespread concerns among First Nations' early childhood program personnel regarding their ability to serve traditional foods. These findings raised the question of whether some environmental health officers are providing facilities with inaccurate information. The Branch is encouraged to ensure its personnel conduct their health and safety inspections without discouraging or prohibiting programs from serving traditional foods.

6.5 Issues relevant to First Nations

This research identified both positive and negative aspects of the provincial licensing system. Early childhood educators working in First Nations' programs felt that in many ways the CCLR improves the quality of care children receive. Many aspects of the regulations were seen as reasonable and beneficial. However, the regulations were found to interfere with the ability of First Nations to deliver culturally-appropriate programs. The impact of the regulations on Elder involvement is a source of a great deal of dissatisfaction. Most licensing officers appeared to be unaware of this issue, expressing the opinion that the regulations do not interfere with cultural programming.

²⁴ <http://www.health.gov.bc.ca/ccf/publications/a-guide-to-community-care-facility-licensing.pdf>

While improvements to the existing system are a possibility, the essential issue remains the poor fit between the vision of quality expressed in the CCLR and vision of quality expressed in the “Guiding Principles for Quality First Nation Early Childhood Programs & Services.”²⁵ The CCLR represents a worldview and a perspective on what is best for children that are incongruent with the perspectives of First Nations. Implementing the “Guiding Principles for Quality First Nation Early Childhood Programs & Services” will require a regulatory system that accepts those principles as its foundation. A system defined by First Nations can retain or expand the positive elements of the CCLR, replace the elements that interfere with cultural programming, and fill the gap that presently exists for “License Not Required” family child care settings. Staffed by individuals who understand First Nations’ traditions and circumstances, a First Nations’ regulatory system can contribute to the achievement of our vision.

²⁵ See BC Early Childhood Development Council (2009). *BC First Nations early childhood development framework*. “Guiding Principles for Quality First Nation Early Childhood Programs & Services.” At <http://www.fnesc.ca/Attachments/ECD/ECD%20Consultation%20Document%20Dec%202017%2009.pdf>

Section 7: Looking to the Future

This research focused on the licensing system that is presently in place. The pros and cons were identified and strategies were proposed for fine-tuning the system to make it a better fit with the needs of First Nations. Fine-tuning could provide interim improvements while systemic changes are made and the issue of authority to regulate is addressed. On-reserve early childhood program personnel were asked their opinions on the essential question of whether authority for licensing should be transferred to a First Nations' organization. A majority of participants, 67%, said unique licensing regulations should be developed for First Nations' early childhood programs. This response acknowledges the lack of congruence between the visions of quality child care expressed in the CCLR and First Nations' perspective on quality. The laudable goal of ensuring that all children receive care that keeps them safe and healthy can be reached in different ways. The CCLR is not the only way or the best way. A system that better suits First Nations' values and priorities can be created by First Nations. In the meantime, province-wide changes are urgently needed to enable Elders to be fully involved in early childhood programs.

It is time to begin building a regulatory system that reflects the priorities of First Nations. Preliminary work has been done. A vision of quality has been articulated. Expertise and capacity have been growing over many years within the BC Aboriginal Child Care Society and the First Nations Early Childhood Development Council and early childhood personnel in First Nations throughout the province. It is clear that the provincial system is far from ideal and the province's assertion that it has authority to regulate on-reserve programs is particularly troubling. While it may be possible to have changes made to lessen the CCLR's inherent drawbacks, eventually First Nations need to create a system for licensing early childhood programs, a system that places at its core First Nations' views of quality with language and culture and family participation.

Circumstances have changed significantly since the provincial system began to be used by First Nations. Among the noteworthy changes is the federal's government's endorsement, in 2010, of the *United Nations Declaration of the Rights of Indigenous Peoples*. Article 14 of the *Declaration* affirms the right of Indigenous peoples "to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning." National and international recognition of this right provides First Nations with

moral support in the negotiations that lie ahead to implement a new regulatory system for early childhood programs.

The researchers hope that this examination and discussion of licensing issues will assist decision-makers as they develop strategies for creating conditions in which culturally-appropriate First Nations' early childhood programs can thrive.

Appendix A: Outline of the Child Care Licensing Regulation

This outline provides an overview of the topics addressed in the CCLR. The full document is available

at http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/332_2007

Part 1 – Definitions, Exemptions and Other Matters

Division 1 – Definitions

Division 2 – Exemptions from the Act

Division 3 – Other Matters

Part 2 – Licensing and Facility Requirements

Division 1 – Licensing

Division 2 – Facility Requirements

Part 3 – Manager and Employee Requirements

Division 1 – General Requirements

Division 2 – Employee Qualifications

Division 3 – Certificates

Division 4 – Supervision of Children

Part 4 – Operations

Division 1 – General Care Requirements

Division 2 – Guidance and Treatment of Children

Division 3 – Illnesses

Division 4 – Records

Part 5 – Repealed

Part 6- Transition

Schedules A to H

Appendix B: Interview Questions for Early Childhood Program Personnel

1. Do you agree to participate?
2. What type of ECD program do you work in?
3. Is your program operating with any exemptions or variances to licensing regulations?
4. What are the exemptions for your centre and how did you obtain them?
5. Have you ever had to close your centre because you were unable to meet a licensing requirement?
6. Please explain why you had to close your centre.
7. How long have you worked in the field of ECE?
8. In what region of the province do you work?
9. What is your position at the centre?
10. How long have you been in your present position at the centre?
11. Do you have a hard copy of the Child Care Licensing Regulations in your centre?
12. Do you have the primary responsibility for ensuring your facility complies with the Child Care Licensing Regulations?
13. How would you describe your knowledge of the Child Care Licensing Regulations? Would you say you have:
 - A very good understanding of the regulations
 - A good understanding of the regulations
 - Some understanding of the regulations
 - Little or no understanding of the regulations
14. How often do you or other employees in your program usually refer to the Child Care Licensing Regulations?
 - Once a week
 - Once a month
 - A few times per year
 - Never
15. Have you personally used any sections of the Child Care Licensing Regulations in the past year?
16. Which topic or topics have you referred to in the past year? Check all that apply.
 - The physical environment, building, furniture, play areas, materials, etc...

-
- The qualifications of managers and employees
 - Group sizes
 - Operations matters such as guidance of children's behaviour, illnesses, record keeping, care plans, etc...
 - Other, please specify
17. How easy is it to read and understand and use the regulations?
- Very easy
 - Easy
 - Neither easy nor difficult
 - Difficult
 - Very difficult
18. Do you think these regulations improve the quality of the care children receive?
19. Compliance with some of the regulations can be challenging for some programs. Which ones, if any, have been difficult for your program and why?
20. Focusing on the regulations that have been most difficult for your program to satisfy, do you think the regulations are reasonable or do you think they should be changed?
21. What changes to the regulations would you recommend?
22. Overall, is the present system of licensing helpful and positive for your program?
23. Have the licensing regulations had any negative effects on your program?
24. What are the negative effects of regulations?
25. In your experience, do the regulations interfere in the delivery of programming that is culturally-appropriate for the First Nations families in your community?
26. Please explain how the regulations interfere with delivering culturally-appropriate programming at your centre.
27. Do the regulations make it difficult for your program to involve Elders?
28. How do the regulations make it difficult to involve Elders?
29. How often does your licensing officer visit your facility?
- Once every 6 months
 - Once a year
 - Once every 18 months
 - Once every 2 years
 - Other, please specify
30. How long have you had this current licensing officer?
- 1 year or less
 - 1 – 5 years

-
- More than 5 years
31. How many different licensing officers have visited your facility in the past 5 years?
 32. How would you describe your present licensing officer's approach and interactions with your program?
 - Very positive
 - Somewhat positive
 - Neutral
 - Somewhat negative
 - Very negative
 33. Have the licensing officers with whom you have worked shown respect for the culture of your First Nation?
 34. How did the licensing officers show respect?
 35. How were licensing officers disrespectful?
 36. Would you describe the approach of licensing officers with whom you have worked as collaborative, helping your program to understand and comply with the regulations?
 37. Licensing officers investigate complaints and allegations that child care facilities are not meeting the requirements of the regulations. Has your facility been investigated following a complaint?
 38. Did the licensing officer conduct the investigation fully and fairly in the best interests of the child?
 39. Does your licensing officer follow up on reportable incidents appropriately and in a timely manner?
 40. Do you think that 500 hours of work experience required to gain ECE certification is:
 - Too few hours
 - Too many hours
 - Just the right amount of time
 41. Do you think the group sizes and employee to child ratios specified in the regulations should be changed?
 - Yes. There should be more employees per child
 - Yes. There should be fewer employees per child
 - No. Keep the regulations the way they are
 42. Are the records and care plans required by the regulations helpful to you in the delivery of quality programs?

43. Should provincial licensing officers receive professional development designed to prepare them to develop and maintain positive working relationships with First Nations child care programs?
44. What topics should be included in licensing officer training?
45. Should authority of regulations be transferred away from medical health officers to a First Nations organization?
46. Should unique licensing regulations be developed for First Nations child care centres?
47. Who should be involved in creating unique regulations for First Nations child care centres?
48. Would you like to make any other comments or suggestions related to child care licensing issues?

Appendix C: Survey Questions for Licensing Officers

1. Do you agree to participate?
2. In what region of the province do you work?
3. How long have you been a licensing officer?
4. Does your academic background include training in Early Childhood Education or Child and Youth Care?
5. Other than working in licensing, do you have experience working directly with children 0 – 6 years old?
6. Has any pre-service or in-service training helped to prepare you for working with First Nations' on-reserve child care facilities?
7. How would you evaluate the training you received that prepared you to work with First Nations' child care programs?
8. Are you now or have you ever been the licensing officer for a First Nation's on-reserve child care facility?
9. Over the span of your career, how many First Nations' on-reserve child care facilities have you worked with?
10. How would you evaluate your knowledge of the cultural practices, history, and traditions of the First Nations' programs you visit in the course of your work?
11. Do you follow specific protocols when you visit an on-reserve child care facility? If yes, please describe the protocols you follow.
12. How frequently do you visit the First Nations' on-reserve child care programs on your caseload?
13. Which regulations do you feel present the most significant challenges to First Nations' on-reserve child care programs? Please list your top 3 selections in order of prevalence.
14. In your experience, do the regulations interfere in the delivery of cultural programming? If yes, please explain how.
15. In your experience, what exemptions are the most commonly requested amongst First Nations' on-reserve programs?
16. In your experience, do the regulations make it difficult for First Nations to involve Elders?
17. For Elders who might want to work or volunteer in a child care program, what do you feel are the biggest barriers to participation?

18. Do you think First Nations' child care programs located on-reserve would benefit from having a unique set of regulations?
19. Do you feel that all licensing officers should be given training to prepare them to work with First Nations communities and individuals?
20. If a professional development workshop were to be developed for licensing officers on the subject of working with First Nations' child care programs, what topics or issues would you like to see included?