

TJ Solutions - Human Updates for Your Child Care Organization

We hope everyone had a wonderful long weekend. Following up from our February newsletter, just a reminder that as of **April 1, the new provisions regarding Equal Pay for Equal Work under the ESA are in effect.** (If you missed the previous newsletter it is posted to our website)

Employers, including child care organizations are now prohibited from paying a lesser rate of pay based on employment status regardless if an employee works full-time, part-time, or supply/casual. Under the definition set out by the Ministry of Labour, employees who are doing "substantially" the same kind of work that requires the same skill, effort and responsibility under similar working conditions in the same organization are entitled to the same rate of pay.

Employers should be cautious as the definition of "substantially" under Equal Work is written very broadly as "substantially the same kind of work but not necessarily identical". However, the MOL does define "responsibility" as being measured by the number and nature of an employee's job obligations, the degree of accountability, and the degree of authority exercised by an employee in the performance of the job. It is important that Child Care organizations pay special attention to this provision as RECE's, ECA's and supply staff do essentially the same job yet receive different levels of pay

Executive Directors/Owners should be reviewing/revising the organization's current job descriptions and corresponding salary grid to ensure that they clearly outline the different requirements for RECEs, ECAs and Supply staff. In order to support any disparity in pay, your job descriptions must highlight the differences between all three classifications, including level of education, years of experience with the organization, classroom accountability, responsibility, and/or authority.

The Ministry does allow for employers to maintain different rates of pay if the difference is due to:

- Seniority system
- Merit or Performance based system
- A system that measures earning by production quantity or quality

If your child care organization does have a seniority system and/or merit-based system with different rates of pay you should ensure:

- Policies are clearly articulated and documented
- Based on objective and measurable criteria
- Review or develop a salary grid which includes how employees will progress through the grid
- Develop a policy for employees requesting a salary review
- Communicate policies to employees
- The procedures are fair and equitable to all employees

Why is all this so important?

Employees as of April 1, 2018 can request an employer to review of their rate of pay if they believe they are paid less than other employees for the same work. Employees can also file a claim directly with the Ministry of Labour

Employers must respond in writing to an employee's request either by providing an increase in pay or a clear explanation of why the employee's request is not being granted.

In responding to an employee's request organizations need to ensure they can defend their decisions regarding differences in pay rates based on seniority, merit/performance, level of skill, level of effort, level of responsibility, and level of authority.

Unionized child care organizations with a collective agreement that came into force prior to April 1, 2018, that contains a provision that permits differences in the rate of pay based on employment status will not be affected by this provision until their collective agreement expires on January 1, 2020.

Temp Agencies providing supply staff to child care organizations also face new requirements and obligations under the Equal Pay for Equal provisions. Temp agencies must ensure that supply employees are paid the same rate as full-time employees of the agency client when performing substantially the same job requiring the same skills, effort, and responsibility.

For more information and examples please review the Ministry's ESA guide on Equal Pay for Equal Work

www.ontario.ca/document/your-guide-employment-standards-act-0/equal-pay-equal-work

Please note our new Child Care Administrator's Human Resources Manual is now available for purchase, you can see a preview on our website www.tjsolutions.ca/order-from-us

Please feel free to email us with any questions.

Warm regards,

Joy & Terri

The information contained in this handout is intended as a general guide only and organizations must create their own policies. It is not intended to replace professional legal advice. If legal advice is required for a specific issue or situation, organizations should contact a lawyer. Please be advised that TJ Solutions does not give legal advice.

Joy Lerman & Terri Carr have worked as facilitator/trainers all over southern Ontario providing solutions in managing your child care organizations. Our interactive style provides workshops that are creative, dynamic, and energetic. Our goal is to make sure you walk away with tools you can use in your workplace.

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