

SUBPART 418-1 Child Day Care Centers (January 31, 2005)

Section 418-1.1 Definitions, Enforcement and Hearings.

The provisions of Part 413 of this Title apply to this Subpart

418-1.2 Procedures For Applying For And Renewing A License

(a) Applicants for a license must submit to the Office:

(1) a completed application, including required attestations, on forms furnished by the Office or approved equivalents. Such application and attestations must include an agreement by the applicant to operate the child day care center in conformity with applicable laws and regulations;

(2) certificate of occupancy or other documentation from the local government authority having jurisdiction for determining compliance with the New York State Uniform Fire Prevention and Building Code showing that the facility has been inspected and approved within the 12 months preceding the date of application for use as a child day care center, in accordance with the appropriate provisions of such Code;

(3) documentation from local zoning authorities or officials, where such authorities or officials exist, that a child day care center is a permitted use under any zoning code applicable to the area in which the child day care center is located;

(4) documentation from the local health office or the New York State Department of Health showing that the facility has been inspected and approved within the 12 months preceding the date of application;

(5) where a provider uses a private water supply, a report from a state licensed laboratory or individual, based on tests performed within the 12 months preceding the date of application, showing that the water meets standards for drinking water established by the New York State Department of Health;

(6) certification, on forms provided by the Office, that the building, its property and premises, and the surrounding neighborhood and environment are free from environmental hazards. Such hazards include, but are not limited to, dry cleaners, gas stations, nuclear laboratories or power plants, property designated as a federal superfund clean-up site, and any property with known contaminated ground or water supplies. Where the historical or current use of the building, its property and premises, or the surrounding neighborhood indicates that an environmental hazard may be present,

inspection or testing must be completed by the appropriate local official or authority to determine if such a hazard exists. Documentation of the inspection or testing must be appended to the statement required by this paragraph and include a statement from the appropriate local official or authority following this inspection and/or testing that the building, its property and premises, and the surrounding neighborhood meet applicable standards for sanitation and safety;

(7) documentation from service personnel licensed by the New York State Department of State to perform fire alarm systems maintenance, repair and testing which shows that fire alarm and detection systems have been inspected, tested and maintained in accordance with the applicable requirements of the New York State Uniform Fire Prevention and Building Code for use of the building as a child day care center;

(8) documentation from service personnel qualified to perform fire suppression systems testing showing that fire suppression equipment and systems have been tested and maintained in accordance with the requirements of the New York State Uniform Fire Prevention and Building Code for use of the building as a child day care center;

(9) documentation from an inspector from the New York State Department of Labor, or an insurance company licensed to write boiler insurance in New York State, showing that all steam or hot water boilers have been inspected and approved in accordance with the requirements of the New York State Department of Labor. For all other fuel burning heating systems and equipment, and boilers not subject to the New York State Department of Labor requirements, documentation of service by a heating contractor performed within the 12 months preceding the date of application;

(10) a diagram of the portion of the building to be occupied by the child day care center and all adjacent areas of such building, as required in section 418-1.3 of this Subpart;

(11) a description of program activities offered to meet the needs of children, as described in section 418-1.7 of this Subpart;

(12) a copy of the evacuation plan, as required in section 418-1.5 of this Subpart, specifying alternate means of egress;

(13) a health care plan developed in accordance with the requirements of section 418-1.11 of this Subpart;

(14) copies of sample menus for snacks and, where meals are provided, for meals, or a copy of the current letter of approval from the New York State Child and Adult Care Food

Program. Menus must cover a four week period and be reviewed and signed by a person qualified in nutrition, as required in section 418-1.12 of this Subpart;

(15) where meals are provided but are not prepared at the center, a description of food service arrangements;

(16) a sworn statement by the applicant indicating whether, to the best of the applicant's knowledge, the applicant has ever been convicted of a misdemeanor or a felony in New York State or any other jurisdiction, and fingerprint cards as required to comply with the requirements of section 413.4 of this Article;

(17) certification, on forms provided by the Office, of the status of the individual applicant's child support obligations or payments, in accordance with the requirements of Section 3-503 of the General Obligations Law;

(18) certification, on forms provided by the Office, that the child day care center is providing workers' compensation in accordance with the requirements of New York State Law;

(19) the Statewide Central Register clearance form necessary to complete required screening by the Statewide Central Register of Child Abuse and Maltreatment to determine if the applicant is the subject of an indicated report of child abuse or maltreatment;

(20) a description of specific procedures which will assure the safety of a child who is reported to the Statewide Central Register of Child Abuse and Maltreatment as well as other children provided care in the child day care center, as required in section 418-1.10 of this Subpart;

(21) a description of the procedure to be used to review and evaluate the background information supplied by applicants for employment and volunteer positions, as required in section 418-1.13 of this Subpart;

(22) copies of the child day care center's personnel policies and practices;

(23) a description of policies and practices regarding appropriate supervision of children as required in section 418-1.8 of this Subpart;

(24) a description of the schedule and content of training as required in section 418-1.14 of this Subpart, including use of both in-service training and outside training resources;

(25) a copy of a certificate of insurance from an insurance company showing the intent to provide general liability insurance to the child day care center upon licensure;

(26) when the child day care center is incorporated, a copy of the certificate of incorporation or an amendment thereto showing that the corporation has the authority to establish and operate day care centers and verification of the filing of such certificate. When a day care center is operated by a corporation, such corporation shall immediately notify the Office upon any transfer or reapportionment of corporate stock or any change in ownership of the corporation; and

(27) when the child day care center is owned by an individual, corporation, partnership or other entity using a business or assumed name, a copy of the certificate of doing business under an assumed name obtained from the county clerk.

(b) Child day care centers located in public school buildings currently used for elementary, middle or secondary education programs approved by the New York State Education Department are exempt from the requirements set forth in paragraphs (2)-(9) of subdivision (a) of this section. Each such program must submit a copy of the current certificate of occupancy issued by the State Education Department as part of the application. For those programs not issued such certificates of occupancy, the appropriate local equivalent, acceptable to the State Education Department, must be submitted.

(c) Applicants for a license must submit all the documentation required in subdivision (a) of this section within 90 days after the submission of the first piece of such documentation to the Office. An applicant who fails to submit all documentation within the 90 days will be deemed to have withdrawn such application.

(d) Applicants for a license may not be issued a license until an inspection of the child day care center has been conducted showing compliance with the requirements of this Subpart and the relevant provisions of the Social Services Law.

(e) Applicants for renewal of a license must submit to the Office at least 60 days in advance of the expiration date of the license the following:

(1) a completed application for renewal, including required attestations, on forms furnished by the Office, or approved equivalents. Such application and attestations must include an agreement by the applicant to operate the child day care center in conformity with applicable laws and regulations;

(2) certification, on forms provided by the Office, of the status of the individual applicant's child support obligations or payments, in accordance with the requirements of Section 3-503 of the General Obligations Law;

(3) certification, on forms provided by the Office, that the day care center is providing workers' compensation in accordance with the requirements of New York State Law;

(4) certification, on forms provided by the Office, that the building, its property and premises, and the surrounding neighborhood and environment are free from environmental hazards. Such hazards include, but are not limited to, dry cleaners, gas stations, nuclear laboratories or power plants, property designated as a federal superfund clean-up site, and any property with known contaminated ground or water supplies. Where the historical or current use of the building, its property and premises, or the surrounding neighborhood indicates that an environmental hazard may be present, inspection or testing must be completed by the appropriate local official or authority to determine if such a hazard exists. Documentation of the inspection or testing must be appended to the statement required by this paragraph and include a statement from the appropriate local official or authority following this inspection and/or testing that the building, its property and premises, and the surrounding neighborhood meet applicable standards for sanitation and safety; and

(5) documentation of inspections and approvals as set forth in section 418-1.15(c) of this Subpart.

(f) Applicants for renewal of a license may not be issued a license until an inspection of the child day care center has been conducted showing compliance with the requirements of this Part and the relevant provisions of the Social Services Law.

418-1.3 Building and Equipment

(a) Each applicant must submit to the Office a diagram of the proposed child day care center at the time of application for licensure.

(1) The diagram must be labeled with the planned occupancy or use of all areas of the building and all outside areas to be used or occupied by the child day care center. The diagram must show: room dimensions; the age group(s) using each room; the size of the group(s) using each room; kitchens and bathrooms for children and staff; exits; alternate means of egress; plumbing fixtures such as toilets, sinks and drinking fountains; and the outdoor play area showing its relationship to the building.

(2) Whenever change(s), addition(s) or expansion(s) are proposed which will affect, or reasonably may be expected to affect, those portions of the building designated for the care of children or for their egress in case of an emergency, the provider must receive written approval from the Office prior to initiating such change(s), addition(s), or expansion(s).

(b) Areas that will be used by the children must be well-lighted and well-ventilated. Heating, ventilation and lighting equipment must be adequate for the protection of the health of the children. A temperature of at least 68 degrees Fahrenheit must be maintained in all rooms to be occupied by children.

(c) A firm sanitary crib, cot, bed or washable padded mat of adequate size must be provided for all children requiring a rest period. Cribs, cots, beds, and/or mats must be at least two feet apart from each other. The resting/napping places must be located in safe areas of the center where there is no draft and where children will not be stepped on or block safe egress. Individual sanitary bed coverings must be available, as needed, for each child requiring a rest period.

(d) Separate quarters or areas apart from those of the older children must be provided for infants and toddlers. These must consist of play areas of at least 35 square feet per child where infants and toddlers may safely and comfortably sit, crawl, walk and play. There must be additional space for sleeping provided in accordance with the following:

(1) For infants, this additional space must contain a crib for each infant permitted by the authorized maximum capacity for this age group as shown on the license. Stackable cribs are prohibited.

(2) For toddlers, this additional space must be sufficient to accommodate individual cribs, cots or padded mats, for at least 1/3 of the center's authorized maximum capacity for this age group as shown on the license.

(e) Children must be accommodated in rooms having a minimum of 35 square feet for each child. Areas used for large motor activity, staff lounges, storage spaces, halls, bathrooms, kitchens and offices may not be included in calculating the 35 square feet per child requirement.

(f) There must be a separate quiet area, which can be adequately supervised, for children who become ill or who develop symptoms of illness.

(g) Toxic paints or finishes must not be used on room surfaces, furniture or any other equipment, materials or furnishings which may be used by children or are within their reach.

(h) Peeling or damaged paint or plaster must be repaired promptly. Concrete floors used by the children must be covered with appropriate material.

(i) School-age components of child day care centers must have facilities located in separate areas to avoid interference with the younger children's programs.

(j) Readily accessible outdoor play space which is adequate for active play must be provided.

(k) Convenient, adequate and sanitary toilet facilities must be provided for the children in a separate, properly ventilated room readily accessible to children. One sanitary toilet and one washbasin must be available for every group of 15 children, or part thereof.

(1) A functioning, sanitary shower or tub must be available when night care is provided.

(m) Adequate and safe water supply and sewage facilities must be provided and must comply with State and local laws. Hot and cold running water must be available and accessible at all times.

(n) Space must be provided so that children's personal items may be stored separately. Coat hooks must be spaced so that coats and other outer garments do not touch each other.

(o) All buildings used for day care centers must remain in compliance with the applicable provisions of the New York State Uniform Fire Prevention and Building Code. Any part of any building used as a day care center shall meet the requirements applicable under the New York State Uniform Fire Prevention and Building Code to a C6.1 or C6.2 occupancy classification, as appropriate to the ages of the children in care.

418-1.4 Fire Protection

(a) Suitable precautions must be taken to eliminate all conditions which may contribute to or create a fire hazard.

(b) Evacuation drills must be conducted at least monthly during various hours of operation of the child day care center. If evening and/or night care is provided, such drills must be conducted monthly during each shift of care in accordance with the recommendations of the local fire marshal or fire department. A record of these drills must be kept on file using forms furnished by the Office or approved equivalents.

(c) Fire detection, alarm and fire fighting equipment appropriate to the type of building construction, size, height and occupancy must be provided. Programs located in public school buildings inspected by the State Education Department are exempt from the requirements of subparagraphs (i) and (ii) of paragraph (1) of this subdivision.

(1) Such equipment must include at least:

(i) one fire extinguisher for every 3,000 square feet of space;

(ii) an automatic interconnected fire detection alarm system with:

(a) smoke-sensing type devices throughout exit ways, and

(b) heat-sensing type devices or a water sprinkler alarm system in furnace rooms and any other unsupervised spaces within the building which contain fire-hazardous materials;
and

(iii) manually activated fire alarm stations.

(2) All fire alarm and detection systems must be inspected, tested and maintained in accordance with the applicable requirements of the New York State Uniform Fire Prevention and Building Code. All such inspections, testing and maintenance must be conducted by service personnel licensed by the New York State Department of State to perform fire alarm systems maintenance, repair and testing. All program staff must be instructed in the function and operation of fire alarm and detection systems used in the child day care center.

(3) All fire suppression equipment and systems must be tested and maintained in accordance with the applicable requirements of the New York State Uniform Fire Prevention and Building Code. All such inspections, testing and maintenance must be conducted by service personnel qualified to perform fire suppression systems maintenance, repair and testing. Staff must be instructed in the function and operation of fire suppression equipment and systems used in the child day care center.

(d) Adequate means of egress must be provided. Children may be cared for only on such floors as are provided with readily accessible alternate means of egress to other floors, in the case of fire-resistant buildings, and to the outside in the case of non-fire-resistant buildings. Such means of egress must be remote from each other.

(e) All corridors, aisles, and approaches to exits must be kept unobstructed at all times.

(f) Exit stairways must be equipped with low railings for the use of the children.

(g) Steam or hot water boilers must be inspected and approved in accordance with the requirements of the New York State Department of Labor by an inspector from the New York State Department of Labor, or by an insurance company which is licensed to write boiler insurance in the State. All other fuel burning heating systems and equipment and boilers not subject to the New York State Department of Labor requirements must be serviced by a heating contractor once every 24 months.

(h) Rooms containing boilers, fuel burning furnaces or other fuel burning heating equipment must be constructed using a minimum of one-hour fire resistant materials or materials of a greater fire resistance when required by the New York State Uniform Fire Prevention and Building Code. Unless it is determined by the Office or local fire safety officials that the current heating equipment poses an imminent danger to the health and safety of children in care, those facilities which were licensed and operating on June 1, 2001 which are not in compliance with the requirement for one-hour fire resistant construction must make necessary changes in order to comply with the requirement no later than January 1, 2004. Upon a determination by the Office or local fire safety official that an imminent danger exists, such changes must be made immediately.

(i) Trash, garbage and combustible materials must not be stored in the furnace room or in rooms or outdoor areas adjacent to the facility that are ordinarily occupied by or accessible to children.

(j) The director or a designated qualified staff member must conduct monthly inspections of the premises to observe possible fire or safety hazards. Any such hazard must be corrected immediately. A record of all inspections and all corrections must be maintained at the program.

418-1.5 Safety

(a) Suitable precautions must be taken to eliminate all conditions in areas accessible to children which pose a safety or health hazard.

(b) The provider must submit a written plan for the emergency evacuation of children from the premises for each shift of care provided (day, evening, night), using a form furnished by the Office, or an approved equivalent form. Primary emphasis must be placed on the immediate evacuation of children. The plan, as approved by the Office, must be posted in a conspicuous place in the center. The approved emergency evacuation plan must describe the following:

- (1) how children and staff will be made aware of an emergency;
- (2) primary and secondary evacuation routes;
- (3) methods of evacuation, including where children and staff will meet after evacuating the building, and how attendance will be taken;
- (4) roles of staff; and
- (5) notification of authorities and the children's parents.

(c) Portable electric heaters or other portable heating devices, regardless of the type of fuel used, may not be used in child day care centers.

(d) Radiators and pipes located in rooms occupied by children must be covered to protect the children from injury.

(e) Porches, decks and stairs must have railings with a barrier extending to the floor or ground to prevent children from falling. Acceptable types of barriers include, but are not limited to, banisters, intermediate rails, and heavy screening.

(f) Child day care centers must provide and use barriers to restrict children from unsafe areas. Such areas include, but are not limited to, swimming pools, open drainage ditches, wells, holes, wood and coal burning stoves, fireplaces and permanently installed gas space heaters.

(g) The use of non-public swimming pools, spa pools and all fill-and-drain wading pools is prohibited.

(h) Public swimming pools and adjacent areas used by the children must be constructed, maintained, staffed and used in accordance with Chapter 1, subpart 6-1, of the New York State Sanitary Code, and in such a manner as will safeguard the lives and health of children.

(i) Protective caps, covers or permanently installed obstructive devices must be used on all electrical outlets that are accessible to children.

(j) All matches, lighters, medicines, drugs, cleaning materials, detergents, aerosol cans and other poisonous or toxic materials must be stored in their original containers. Such materials must be used in such a way that they will not contaminate play surfaces, food or food preparation areas, or constitute a hazard to children. Such materials must be kept in a place inaccessible to children.

(k) Indoor and outdoor plants which are hazardous to children must not be accessible to the children.

(l) Any pet or animal kept indoors or outdoors at the child day care center must be in good health, show no evidence of carrying disease, and pose no threat to children. This provision also applies to those pets or animals present at the child day care center which do not belong to the operator, employees or volunteers of the center.

(m) The child day care center must have immediate access to a minimum of one stationary single-line telephone for general use and emergencies. Emergency telephone

numbers for the fire department, local or state police or sheriff's department, poison control center, and ambulance service must be posted conspicuously on or next to each telephone with the capacity to make outside calls. Devices used for purposes of caller identification or call blocking shall not be used to block in-coming calls from parents or legal guardians of children in care, representatives of the Office or agents of the state or local government during the hours of operation of the child day care program.

(n) Materials and play equipment used by the children must be sturdy and free from rough edges and sharp corners.

(o) Outdoor equipment such as swings, slides and climbing apparatus must be installed and used in accordance with the manufacturer's specifications and instructions, be in good repair, and be placed in a safe location. Such equipment and apparatus may be used only by the children for whom it is developmentally appropriate.

(p) Clear glass panels must be marked clearly to avoid accidental impact. Glass in outside windows less than 32 inches above the floor level must be of safety grade or otherwise protected by use of barriers to avoid accidental impact.

(q) Where child care is provided above the first floor, windows on such floors must be protected by barriers or locking devices to prevent children from falling out of the windows.

(r) An operable flashlight or battery powered lantern must be kept in the child care area. Such equipment must be properly maintained for use in the event of a power failure.

(s) Every closet door latch must be constructed to enable children to open the door from inside the closet. Every bathroom door lock must be designed to permit opening of the locked door from the outside in an emergency. The opening device must be readily accessible to the staff.

(t) The following items must be used and stored in such a manner that they are not accessible to children: handbags, backpacks or briefcases belonging to adults; plastic bags; and toys and objects small enough for children to swallow.

(u) High chairs, when used, must have a wide base and be used only for children who are able to sit up independently. A safety strap must be fastened around children who are seated in high chairs.

418-1.6 Transportation

(a) The provider must obtain written consent from the parent for any transportation of the children in care at the child day care center provided or arranged for by the provider.

(b) A staff member must never leave a child unattended in any motor vehicle or other form of transportation.

(c) Each child must board or leave a vehicle from the curb side of the street.

(d) All children must be secured in safety seats or by safety belts as appropriate for the age of the child in accordance with the requirements of the Vehicle and Traffic Law before any child may be transported in a motor vehicle where such transportation is provided or arranged for by the provider.

(e) When transportation is provided by the child day care center, the driver of the vehicle may not be included in the staff/child ratio except when the only children being transported are enrolled in kindergarten or a higher grade.

(f) Any motor vehicle, other than a public form of transportation, used to transport children in care at the child day care center must have a current registration and inspection sticker and must be operated by a person who is at least 18 years of age and possesses a valid driver's license.

418-1.7 Program Requirements

(a) The child day care center must establish a planned program of activities which are appropriate for the children in care, and which encourage normal progress in the development of cognitive, social, emotional, physical and language skills.

(b) Children must be provided with a program of self-initiated, group-initiated and staff-initiated activities which are intellectually stimulating and foster self-reliance and social responsibility.

(c) A written daily schedule of program activities and routines which offers reasonable regularity in routines, including snack and meal periods, nap and rest periods, indoor and outdoor activities, and activities which provide children with opportunities for learning and self-expression in small and large groups is required. When night care is provided, this schedule must include a routine of good personal hygiene practices, including changing into night-clothes, brushing teeth, and washing before bed in the manner to be agreed between the parent and the provider.

(d) Children must receive instruction, consistent with their age, needs and circumstances, in techniques and procedures which will enable them to protect themselves from abuse and maltreatment.

(e) The child day care center must make a sufficient quantity and variety of materials and play equipment available to the children. Such materials and equipment must be

appropriate to the ages of the children and their developmental levels and interests, including children with developmental delays or disabilities, that promote the children's cognitive, educational, social, cultural, physical, emotional, language and recreational development.

(1) As age and development permit, children must be allowed freedom of movement and must be provided with an environment designed to develop such skills as crawling, standing, walking and running.

(2) Each classroom or area must be arranged to allow children to actively manipulate and utilize toys and equipment while interacting with peers and adults.

(3) The environment must be designed to provide children an opportunity to choose between quiet activities and active play.

(f) Climbing and large motor apparatus should be available either inside the child day care center or in the outdoor play space.

(g) Daily supervised outdoor play is required for all children in care, except during inclement or extreme weather or unless otherwise ordered by a health care provider. Parents may request, and providers may permit, children to remain indoors so long as required staff/child ratios are maintained.

(h) Except while sleeping, awaking or going to sleep, an infant must not be left in a crib, playpen or other confined space for more than 30 minutes at any one time. Other than at meals or snack time, a child must not be left in a high chair for longer than 15 minutes.

(i) Appropriate sleep, rest and quiet periods which are responsive to individual and group needs must be provided so that children can sit quietly, lie down to rest, or begin or continue their night's sleep. For children unable to nap, time and space must be provided for quiet play. Children must not be forced to rest for long periods of time. Sleeping arrangements for infants require that the infant be placed on his or her back to sleep, unless medical information is presented to the provider by the parent that shows that arrangement is inappropriate for that child.

(j) When a parent requests that an infant sleep on a cot or mat rather than in a crib, the sleeping arrangement must be made in writing between the parent and the provider.

(k) The child day care center must offer information about other community resources to families when they are in need of supportive social services not otherwise provided by the child day care center.

418-1.8 Supervision of Children

- (a) The child day care center must employ or have available staff who will promote the physical, intellectual, social, cultural and emotional well-being of the children.
- (b) The child day care center must provide supervision of the staff responsible for the care of children. Workloads and assignments must be arranged to provide consistency of care to children and to allow staff to fulfill their respective responsibilities.
- (c) Whenever the child day care center is in operation and the director is away from the premises, there must be a person designated to act on behalf of the director.
- (d) Children cannot be left without competent direct supervision at any time.
- (1) No person other than a director, head of group or assistant to the head of group may supervise a group independently even for brief periods of time, except in an emergency. No person under 18 years of age may be left alone to supervise a group of children at any time including in an emergency.
- (2) The minimum age of a staff person is 16 years.
- (3) A person who is qualified to perform the duties of an absent staff member must be provided when needed to comply with the applicable staff/child ratios.
- (e) When a child day care center is in operation, an adequate number of qualified staff must be on duty to insure the health and safety of the children in care. The minimum ratios of staff to children are as follows:

Minimum Staff/Child Ratios Based on Group Size for Infants, Toddlers and Preschoolers

AGE OF CHILDREN	STAFF/CHILD MAXIMUM RATIO(*)	GROUP SIZE(**)
under 6 weeks(***)	1:3	6
6 weeks to 18 months	1:4	8
18 months to 36 months	1:5	12
3 years	1:7	18
4 years	1:8	21
5 years	1:9	24

Minimum Staff/Child Ratios Based on Group Size for School-aged Children

AGE OF CHILDREN	STAFF/CHILD MAXIMUM RATIO(*)	GROUP SIZE(**)
through 9 years	1:10	20
10-12 years	1:15	30

(*) Staff/child ratio refers to the maximum number of children per staff person. (**) Group size refers to the number of children cared for together as a unit. Group size is used to

determine the minimum staff/child ratio based upon the age of the children in the group. (***) Such care is only permitted pursuant to the provisions of paragraph (17) of subdivision (a) of section 418-1.15 of this Subpart.

(f) For children over 18 months of age, the child day care center may determine the group placement for a child based on the child's developmental readiness, within three months before or after the child's birth date except that, with parental permission, and in consultation with Early Intervention or Special Education staff working with the family, the child day care center may exercise greater discretion in the placement of a child with a developmental delay or disability based on consideration of such factors as the child's developmental readiness, appropriateness of the classroom environment, the level of care the child requires and the needs of the other children in care.

(g) Children under three years of age may not participate in mixed age groups except that for limited periods of time at the beginning and end of the child day care center's daily operation, toddlers may be in a group with preschoolers. Infants may never be placed in mixed age groups. When toddlers are cared for in mixed age groups, the staff/child ratio and maximum group size applicable to children aged 18 months to 36 months must be followed. When children three years of age or older are cared for in mixed age groups, the staff/child ratio and maximum group size applicable to the majority of the children in the group must be followed, unless the difference in age between the youngest and oldest child in the group is more than two years, in which case the staff/child ratio and maximum group size applicable to children two years older than the youngest child in the group shall apply.

(h) No child can be released from the child day care center to any person other than his or her parent, a person currently designated in writing by such parent to receive the child, or another person authorized by law to take custody of a child. No child can be released from the child day care center unsupervised except upon written instruction of the child's parent. Such instruction must be acceptable to the child day care center and should take into consideration such factors as the child's age and maturity, proximity to his or her home, and safety of the neighborhood.

(i) Visitor control procedures.

(1) Each day care center shall require any and all visitors to the facility to:

(i) sign in upon entry to the premises;

(ii) indicate in writing the date of the visit and the time of entry to the facility;

(iii) clearly state in writing the purpose of the visit; and

(iv) sign out upon departure from the facility indicating in writing the time of departure.

(2) Each day care center shall establish such other rules and policies as are necessary to provide for monitoring and control of visitors to protect the health, safety and welfare of children in care. As part of such rules and policies, each day care center shall determine who shall be considered a visitor to the facility for purposes of this subdivision.

(j) Surveillance cameras may not be used as a substitute for competent direct supervision of children.

418-1.9 Discipline

(a) The child day care center must establish written disciplinary guidelines and provide copies of these guidelines to all staff and parents of children in care at the center. These guidelines must include acceptable methods of guiding the behavior of children. Discipline must be administered in such a way as to help each child develop self-control and assume responsibility for his or her actions through clear and consistent rules and limits appropriate to the ages and development of the children in care. The staff must use acceptable techniques and approaches to help children solve problems.

(b) Any discipline used must relate to the child's action and be handled without prolonged delay on the part of the staff so that the child is aware of the relationship between his or her actions and the consequences of those actions.

(c) Isolating a child in a closet, darkened area, or any area where the child cannot be seen and supervised by a staff member is prohibited.

(d) Where a child's behavior harms or is likely to result in harm to the child, others or property, or seriously disrupts or is likely to seriously disrupt group interaction, the child may be separated briefly from the group, but only for as long as is necessary for the child to regain enough self-control to rejoin the group. The child must be placed in an area where he or she is in the view of, and can be supervised and supported by, a staff member. Interaction between a staff member and the child must take place immediately following the separation to guide the child toward appropriate group behavior. Separation of a child from the group in a manner other than that provided for in this subdivision is prohibited.

(e) Corporal punishment is prohibited. For the purposes of this Subpart, the term corporal punishment means punishment inflicted directly on the body including, but not limited to, spanking, biting, shaking, slapping, twisting or squeezing; demanding excessive physical

exercise, prolonged lack of movement or motion, or strenuous or bizarre postures; and compelling a child to eat or have in the child's mouth soap, foods, hot spices or other substances.

(f) Withholding or using food, rest or sleep as a punishment is prohibited.

(g) Discipline must be administered by and supervised by the child day care center staff.

(h) Methods of discipline, interaction or toilet training which frighten, demean or humiliate a child are prohibited.

418-1.10 Child Abuse and Maltreatment

(a) Any abuse or maltreatment of a child, either as an incident of discipline or otherwise, is prohibited. A day care center must prohibit and may not tolerate or in any manner condone an act of abuse or maltreatment by an employee, volunteer or any other person under the provider's control. An abused child or maltreated child means a child defined as an abused child or maltreated child pursuant to section 412 of the Social Services Law.

(b) Screening requirements for child day care centers licensed by the Office are as follow:

(1) The child day care center must inquire of the Office whether any person who is actively being considered for employment, and any individual or any person who is employed by an individual, corporation, partnership or association which provides goods or services to the center, and who will have the potential for regular and substantial contact with the children who are cared for by the center, is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment. Each such center may inquire of the Office whether any current employee, or any person who is being considered for use as a volunteer or for hiring as a consultant and who has or will have the potential for regular and substantial contact with children being cared for by the center, is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment. An inquiry regarding any current employee may be made only once in any six month period.

(2) Prior to making any inquiry to the Office pursuant to paragraph (1) of this subdivision, the child day care center must notify, in the form prescribed by the Office, the person who will be the subject of the inquiry that an inquiry will be made to determine whether such person is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment.

(3) (i) Except as set forth in subparagraph (ii) of this paragraph, a child day care center may not permit a person hired by the center, or a person who is employed by an individual, corporation, partnership or association which provides goods or services to the center, to have contact with children in the care of the center prior to obtaining the result of the inquiry required by this subdivision.

(ii) An employee of a child day care center, or an employee of a provider of goods and services to the child day care center may have contact with children cared for by the center prior to the receipt by the center of the result of the inquiry required by this subdivision only where such employee is visually observed or audibly monitored by an existing staff member of the center. Such employee must be in the physical presence of an existing staff member for whom:

(a) the result of an inquiry required by Section 424-a of the Social Services Law has been received by the child day care center and the center hired the existing staff member with knowledge of the result of the inquiry; or

(b) an inquiry was not made because such staff member was hired before the effective date of Section 424-a of the Social Services Law.

(4) If an applicant, employee or other person about whom the child day care center has made an inquiry is found to be the subject of an indicated report of child abuse or maltreatment, such center must determine, on the basis of information it has available and in accordance with guidelines developed and disseminated by the Office, whether to hire, retain or use the person as an employee, volunteer or consultant or to permit the person providing goods or services to have access to children being cared for by the child day care center. Whenever such person is hired, retained, used or given access to children, such center must maintain a written record, as part of the application file or employment or other personnel record of such person, of the specific reason(s) why such person was determined to be appropriate and acceptable as an employee, volunteer, consultant or provider of goods or services with access to children being cared for by the center.

(5) If the child day care center denies employment or makes a decision not to retain an employee, not to use a volunteer or consultant, or not to permit a person providing goods or services to the center to have access to children who are being cared for by the center, such center must provide a written statement to the applicant, employee, volunteer, consultant or other such person, indicating whether the denial or decision was based in whole or in part on the existence of the indicated report, and, if so, the reasons for such denial or decision. If the denial or other decision is based in whole or in part on the

existence of an indicated report of child abuse or maltreatment, the notice of denial or decision must also include, in the form prescribed by the Office, written notification to the applicant, employee, volunteer, consultant or other person that:

(i) he or she has a right, pursuant to section 424-a of the Social Services Law, to request a hearing before the Office regarding the record maintained by the Statewide Central Register of Child Abuse and Maltreatment;

(ii) a request for such a hearing must be made within 90 days of the receipt of the notice indicating that the denial or decision was based on the existence of the indicated report; and

(iii) at any such hearing, the sole issue will be whether the applicant, employee, volunteer, consultant or other person who is the subject of the indicated report has been shown by a fair preponderance of the evidence to have committed the act or acts of child abuse or maltreatment giving rise to the indicated report.

(6) If in a hearing held pursuant to a request made in accordance with paragraph (4) of this subdivision and section 424-a of the Social Services Law, the hearing decision finds that there is not a fair preponderance of the evidence showing that the applicant, employee, volunteer, consultant or other person committed the act or acts upon which the indicated report is based, the Office must notify the child day care center which made the inquiry that, pursuant to the hearing decision the center's decision to deny the application, discharge the employee, not to use the volunteer or consultant or not to permit the person to have access to children being cared for by the center should be reconsidered. Upon receiving such notification from the Office, such center should review its denial or other decision without considering the indicated report.

(c) In accordance with the provisions of sections 413 and 415 of the Social Services Law, child day care center staff must report any suspected incidents of child abuse or maltreatment concerning a child receiving child day care to the Statewide Central Register of Child Abuse and Maltreatment, or cause such a report to be made, when such staff have reasonable cause to suspect that a child coming before them in their capacity as child day care center workers is an abused or maltreated child. This must be done in the following manner:

(1) Child day care center staff must report such information to the director of the program or his or her designee.

(2) The director of the child day care center, or his or her designee, is responsible for making or causing to be made an immediate report to the Statewide Central Register of

Child Abuse and Maltreatment by telephone, followed by a written report within 48 hours, in the form and manner prescribed by the Office, to the child protective service of the social services district in the county in which the child resides. If the staff becomes aware that the director or his or her designees has not made a report to the Statewide Central Register of Child Abuse and Maltreatment, then staff must report the alleged abuse or maltreatment directly to the Statewide Central Register of Child Abuse and Maltreatment.

(3) If the director of the child day care center is the person allegedly responsible for the alleged abuse or maltreatment, staff must report the alleged abuse or maltreatment directly to the Statewide Central Register of Child Abuse and Maltreatment.

(d) The director or operator of the child day care center is responsible for implementing procedures which ensure the safety and protection of any child named in a report of child abuse or maltreatment involving a situation which occurs while the child is in attendance at the center. Immediately after making or causing to be made a report pursuant to subdivision (c) of this section, the director or operator of the center must take such appropriate action as is necessary to ensure the health and safety of the children involved in the report and, as necessary, of any other children in the care of the center. The director or operator must also take all reasonable steps to preserve any potential evidence of abuse or maltreatment. Insofar as possible, any action taken under this subdivision must cause as little disruption as possible to the daily routine of the children in the center.

(e) In meeting his or her responsibilities under this subdivision of this section, the director or operator of the child day care center may, consistent with any appropriate collective bargaining agreements or applicable provisions of law, take one or more of the following actions with regard to staff of the center relevant to a report of child abuse or maltreatment involving a child while in attendance at the center:

(1) dismissal, suspension or transfer of any employee, volunteer or other person who is the subject of a child abuse or maltreatment report;

(2) increased supervision over a person who is the subject of a report;

(3) provision of instruction and/or remedial counseling to a person who is the subject of a report;

(4) initiation of appropriate disciplinary action where applicable; and/or

(5) provision of appropriate training to and/or increased supervision of staff and/or volunteers pertinent to the prevention and remediation of child abuse and maltreatment.

418-1.11 Health and Infection Control

(a) The provider must prepare a health care plan on forms furnished by the office, or approved equivalents. Such plan must protect and promote the health of children in a manner consistent with the health care plan guidelines issued by the office. The guidelines describe practices to promote the health of children and special considerations for the care of mildly and moderately ill children for programs that provide care for such children. The health care plan must be on site and available upon demand by a parent or guardian or the office. The health care plan must be followed by the provider. For programs offering care to infants and toddlers, care to mildly or moderately ill children, or the administration of medications, the health care plan must be approved by the program's health care consultant. Should the health care consultant determine after a visit to the day care program that the approved health care plan is not being reasonably followed by the provider, the health care consultant may revoke his or her approval of the plan. If the health care consultant revokes his or her approval of the health care plan, the health care consultant must immediately notify the provider and the provider must immediately notify the office. In that instance, the health care consultant may also notify the office directly if he or she so desires. The health care plan must describe the following:

(1) how a daily health check of each child will be carried out by a person who is competent to recognize symptoms of illness, communicable diseases and child abuse or maltreatment;

(2) which staff members are certified to administer medications. The plan must state that only a trained, designated staff person may administer medications to children, except in those programs where the only administration of medications offered will be the administration of over-the-counter topical ointments, including sunscreen lotion and topically applied insect repellent pursuant to paragraph (11) of subdivision (j) of this section. The designated staff person may only administer medications to children if the designated staff person is at least 18 years of age, possesses a current certification in first aid and cardiopulmonary resuscitation (CPR), and has completed the administration of medication training pursuant to paragraph (13) of subdivision (j) of this section;

(3) the designation of the health care consultant of record for programs offering:

(i) care to infants and toddlers,

(ii) care to mildly or moderately ill children, or

(iii) the administration of medications, except in those programs where the only administration of medications offered will be the administration of over-the-counter topical ointments, including sunscreen lotion and topically applied insect repellent pursuant to paragraph (11) of subdivision (j) of this section;

(4) the scheduling of visits by a health care consultant to day care center programs offering:

(i) care to infants and toddlers,

(ii) care to mildly or moderately ill children, or

(iii) the administration of medications, except in those programs where the only administration of medications offered will be the administration of over-the-counter topical ointments, including sunscreen lotion and topically applied insect repellent pursuant to paragraph (11) of subdivision (j) of this section.

Visits by the health care consultant to the above programs must occur at least once during each licensing period and include review of the health care policies and procedures, and review of documentation and practice demonstrating the program's ongoing compliance with the health care plan and policies;

(5) general training that will be provided to all staff on procedures to minimize infections and, if applicable, advanced training that will be provided to staff caring for mildly or moderately ill children;

(6) staff health policies and practices, including the exclusion criteria which apply to staff who care for children or prepare food;

(7) child health policies and practices, including the level of illness in children which the provider will accommodate, exclusion criteria for children, and, if applicable, the policy and procedure for the administration of medications;

(8) the specific procedures for obtaining emergency health care for children who require such care, including transportation and the supervision of children remaining in the child day care center;

(9) the contents of the first aid kit(s) and procedures for monitoring that such kit(s) are restocked when needed;

(10) the specific procedures which the provider will use to prevent the spread of infections, including handwashing and diapering techniques; safety precautions relating

to blood; sanitation of equipment and toys; and the observation of symptoms of illness in the children;

(11) the procedures for keeping a record of each child's illnesses, injuries and signs of abuse or maltreatment;

(12) the advance arrangements for the care of any child who has or develops symptoms of illness or is injured while in day care, including notifying the child's parent or guardian; and

(13) for providers caring for mildly or moderately ill children, how the provider will achieve consistency with those sections of the Office's health care plan guidelines which apply to the level of illness in children which the provider will accommodate.

(b) (1) Providers who care for infants and toddlers, or for mildly or moderately ill children, must confer with a health care consultant regarding the program's health policies and procedures. Health care consultants to the program must be familiar with the program's health care plan, must review and update such plan no less often than once every 24 months, and must approve and sign the health care plan prior to its submission to the Office.

(2) All providers who choose to administer medications to children must have a health care consultant of record. The provider must confer with a health care consultant regarding the program's policies and procedures related to the administration of medications. This consultation must include a review of the documentation that all staff authorized to administer medications have the necessary professional license or have completed the necessary training.

(c) Each employee and volunteer must submit a statement from a health care provider prior to beginning employment at the child day care center, and every two years thereafter. Such statement must give satisfactory evidence that the individual is physically fit to provide child day care, has no diagnosed psychiatric or emotional disorder which would preclude such individual from providing child day care, and is free from communicable disease. The medical statement also must include the results of a Mantoux tuberculin test which has been performed within the 12 months preceding the date of the statement.

(d) Consumption of, or being under the influence of, alcohol or controlled substances by staff of the child day care center is prohibited. Smoking in indoor areas, in outdoor areas in use by children, and in vehicles while children are being transported is prohibited.

(e) Other than children who are enrolled in kindergarten or a higher grade, no child may be accepted for care in a child day care center unless the provider has been furnished with a written statement signed by a health care provider stating that the child is able to participate in child day care, currently appears to be free from contagious or communicable diseases and is receiving health care, including appropriate health examinations in accordance with the American Academy of Pediatrics schedule of such care and examinations. The written statement from the health care provider must also state whether the child is a child with special health care needs and, if so, what special provisions, if any, will be necessary in order for the child to participate in day care. Where the written statement from the health care provider advises the day care provider that the child being enrolled is a child with special health care needs, the day care provider must work together with the parent and the child's health care provider to develop a reasonable health care plan for the child while the child is in the child day care program. The health care plan for the child must also address how the day care provider will obtain or develop any additional competencies that the day care provider will need to have in order to carry out the health care plan for the child. Such documentation must state that the child has received age-appropriate immunizations in accordance with New York State Public Health Law.

(1) Any child not yet immunized may be admitted provided the child's immunizations are in process, in accordance with the requirements of the New York State Department of Health, and the parent gives the provider specific appointment dates for subsequent immunizations.

(2) Any child who is not immunized because of the parent's genuine and sincere religious beliefs may be admitted if the parent furnishes the child day care center with a written statement to this effect.

(3) Any child who is missing one or more of the required immunizations may be admitted if a physician licensed to practice medicine in New York State furnishes the child day care center with a written statement that such immunizations may be detrimental to the child's health.

(4) With the exception of children meeting the criteria of paragraphs (2) or (3) of this subdivision, children enrolled in the child day care center must remain current with their immunizations in accordance with the current schedule for immunizations established by the New York State Department of Health.

(f) (1) The provider must obtain emergency health care for children who require such care and also must:

(i) obtain written consent from the parent or guardian at the time of the child's admission which authorizes the provider to obtain emergency health care for the child;

(ii) arrange for the transportation of any child in need of emergency health care, and for the supervision of the children remaining in the child day care center; and

(iii) in the event of an accident or illness requiring immediate health care, secure such care and notify the parent or guardian.

(2) Where the provider or an employee has been certified to administer medications in a day care setting in accordance with the requirements of paragraph (13) of subdivision (j) of this section, such provider or employee may administer emergency care through the use of epinephrine auto-injector devices when necessary to prevent anaphylaxis for an individual child but only when the parent or guardian and the child's health care provider have indicated such treatment is appropriate.

(g) The center must be equipped with a portable first aid kit which is accessible for emergency treatment. The first aid kit must be stocked to treat a broad range of injuries and situations and must be restocked as necessary. The first aid kit and any other first aid supplies must be kept in a clean container or cabinet not accessible to children.

(h) When a child has or develops a level of illness that is not accommodated in the provider's approved health care plan, the child must be provided with a place to rest quietly that is in view of, and under the supervision of, staff until the child is seen by a health care provider or is removed from the child day care center. In the event that a child has or develops any symptoms of illness, the provider is responsible for immediately notifying the parent.

(i) The provider must try to obtain a copy of a lead screening certificate for each child under the age of six years. If the parent does not have one, the provider may not exclude the child from child day care, but must give the parent information on lead poisoning and prevention, and refer the parent to their health care provider or the county health department for a lead blood screening test.

(j) The child day care center may administer medication or treatment only in accordance with the following:

(1) Policies regarding the administration of medications must be explained to the parent or guardian at the time of enrollment of the child in care. Parents or guardians must be made familiar with the policies of the day care provider relevant to the administration of medications.

(2) Nothing in this section shall be deemed to require any provider to administer any medication, treatment, or other remedy except to the extent that such medication, treatment or remedy is required under the provisions of the Americans with Disabilities Act.

(3) Nothing in this section shall be deemed to prevent a parent, guardian or relative within the third degree of consanguinity of the parents or step-parents of a child, even if such a person is an employee of the program, from administering medications to child while the child is attending the program even if the provider has chosen to not administer medications or if the staff person(s) designated to administer medications is not present when the child receives the medication. If the provider elects not to administer medications, the day care provider or an employee must still document the dosages and time that the medications were given to the child by the child's parent, guardian or relative within the third degree of consanguinity of the parents or step-parents of the child. If the only administration of medication in a day care program is done by a parent(s), guardian(s) or relative(s) within the third degree of consanguinity of the parents or step-parents of a child, the provider and employee(s) of the program do not have to complete the administration of medication training requirements pursuant to paragraph (13) of subdivision (j) of this section.

(4) Providers and employees may administer prescription and non-prescription (over-the-counter) medications for eyes or ears, oral medications, topical ointments and medications, and inhaled medications in accordance with the provisions of this subdivision. Providers and employees may not administer medications by injection, vaginally or rectally except as follows:

(i) in accordance with the provisions of paragraph (2) of subdivision (f) of this section;

(ii) for a child with special health care needs, where the parent, day care provider and the child's health care provider have agreed on a plan pursuant to which the provider may administer medications by injection, vaginally or rectally; or

(iii) where the provider or employee has a valid New York State license as a physician, physician's assistant, registered nurse, nurse practitioner, licensed practical nurse or advanced emergency medical technician.

(5) A day care provider who agrees to administer medications to a child must do so, unless they observe the circumstances specified by the health care provider, if any, under which the medication must not be administered. In such instances, the day care provider must contact the parent or guardian immediately.

(6) (i) Except as described in paragraphs (10), (11) and (12) of this subdivision, medication may be administered only upon written permission of the parent or guardian and written instructions from a health care provider in a language in which the day care provider is literate stating that the child day care provider may administer such medication or prescription and specifying the circumstances, if any, under which the medication or prescription must not be administered. Medication must be returned to the parent or guardian when it is no longer required by the child or, with the permission of the parent or guardian, be properly disposed of by the provider.

(ii) Where the day care provider has received written permission of the parent or guardian and written instructions from the health care provider authorizing administration of a specified medication if the day care provider observes some specified condition or change of condition in the child while the child is in care, the day care provider may administer the specified medication without obtaining additional authorization from the parent or guardian or health care provider.

(7) To the extent that such information is not included on the medication label pursuant to paragraph (8) of this subdivision, written instructions by the licensed authorized prescriber on the form provided by the Office or an equivalent form, must include the:

(i) Child's name;

(ii) Licensed authorized prescriber's name, telephone number, and signature;

(iii) Date authorized;

(iv) Name of medication and dosage;

(v) Frequency the medication is to be administered;

(vi) Method of administration;

(vii) Date the medication shall be discontinued or length of time, in days, the medication is to be given;

(viii) Reason for medication (unless this information must remain confidential pursuant to law);

(ix) Most common side effects or reactions; and

(x) Special instructions or considerations, including but not limited to possible interactions with other medications the child is receiving or concerns regarding the use of the medication as it relates to a child's age, allergies, or any pre-existing conditions.

(8) Medications must be kept in the original labeled bottle or container. Over-the-counter medication must be kept in the originally labeled container and be labeled with the child's first and last name. Prescription medications must contain the original pharmacy label that lists:

(i) Child's name;

(ii) Authorized prescriber's name;

(iii) Pharmacy name and telephone number;

(iv) Date prescription was filled;

(v) Name of the medication;

(vi) Dosage;

(vii) How often to give the medication; and

(viii) Date the medication shall be discontinued or length of time, in days, the medication is to be given.

(9) In the case of medication that needs to be given on an ongoing, long-term basis, the authorization and consent forms must be reauthorized at least once every six months. Any changes in the original medication authorization shall require a provider to obtain new instructions written by the licensed authorized prescriber and a change in the prescription.

(10) If a parent or guardian requests that the day care provider administer a prescription or orally administered over-the-counter medication but does not furnish the day care provider with written instructions from a health care provider or licensed authorized prescriber, the day care provider may administer such medication or prescription with the oral approval of the parent or guardian and upon obtaining verbal instructions directly from the health care provider or licensed authorized prescriber for that day only. The day care provider must document that the health care provider or licensed authorized prescriber gave verbal instructions and that the health care provider or licensed authorized prescriber was asked to send written instructions to the day care provider. If the medication is to be administered on subsequent days, written instructions must have been provided to the day care provider from the health care provider.

(11) The day care provider may administer over-the-counter topical ointments, including sunscreen lotion and topically applied insect repellent, upon the written instructions of the parent or guardian. Such administration must be consistent with any directions for use

noted on the original container, including but not limited to precautions related to age and special health conditions. With such written instructions, day care providers and employees may administer over-the-counter topical ointments and sunscreen lotion without receiving the training in administration of medications otherwise required pursuant to paragraph (13) of this subdivision.

(12)(i) If an infant develops symptoms which indicate a need for over-the-counter topical ointment while in care at the program, such ointment may be given under verbal instructions from the parent or guardian for that day only if the instructions received from the parent or guardian are consistent with any directions for use of the medication or ointment noted on the original container, including but not limited to precautions related to age and special health conditions.

(ii) If a child other than an infant develops symptoms which indicate a need for over-the-counter medication, including topical ointments, while in care at the program, such medication or ointment may be given under verbal instructions from the parent or guardian for that day only if the instructions received from the parent or guardian are consistent with any directions for use of the medication or ointment noted on the original container, including but not limited to precautions related to age and special health conditions.

(iii) For all children for whom the day care provider administers over-the-counter medications pursuant to this paragraph, the day care provider must document that the parent or guardian gave verbal instructions and approval. If the medication is to be administered on subsequent days, written instructions from the parent or guardian and, in the case of orally administered medications, a health care provider or licensed authorized prescriber, must be obtained.

(13) All day care providers and employees, except those excluded in subparagraph (iii) of this paragraph and except as provided in paragraphs (3) and (11) of this subdivision, who have agreed to administer medication must complete the office-approved medication administration training or an office-approved equivalent before administering medications to children in day care. The certification of training in the administration of medications to children in day care shall be effective for a period of three years from the date of issuance. The provider or employee must complete a recertification training approved by the office in order to extend the certification for each additional three year period. If, however, the provider or employee ceases to work in a day care program for a continuous period of one year, the certification shall automatically lapse. Where a certification lapses, the provider or employee may not be recertified unless the provider or employee completes the initial medication administration training or the recertification

training, as required by the office. Where enforcement action has been taken against the provider based on a failure by the provider or employee to comply with requirements for the administration of medications set forth in this section, the office may require retraining or may prohibit the provider or employee from being involved in the administration of medications.

(i) Providers or employees who will be responsible for administering medications must receive training in the methods of administering medications prior to administering any medications in a day care setting. In order to be trained in the administration of medications in a day care setting, a provider or employee must be literate in the language or languages in which health care instructions from parents and health care providers will be received. Upon completion of the training, the provider or employee must receive a written certificate from the trainer that indicates that the trainee has successfully completed this training program, as required, and demonstrated competency in the administration of medications in a day care setting. Persons who receive training in the administration of medications in day care settings pursuant to this section may not otherwise administer medications or represent themselves as being able to administer medications except to the extent such persons may be able to do so in accordance with the relevant provisions of the Education Law.

(ii) The training in the administration of medications must be provided by a health care provider who has been certified by the office to administer the office-approved curriculum. The training must be documented and must include, but need not be limited to, the following:

(a) training objectives;

(b) a description of the methods of administration including principles and techniques of application and dispensation of oral, topical, and inhalant medication, including the use of nebulizers, and the use of epinephrine auto-injector devices when necessary to prevent anaphylaxis in emergency situations with respect to the various age groups of children;

(c) administering medication to an uncooperative child;

(d) an evaluation of whether the trainee demonstrates competency in:

(1) understanding orders from the health care professional or licensed authorized prescriber;

(2) the ability to correctly carry out the orders given by the health care provider or licensed authorized prescriber;

- (3) recognition of common side effects of medications and ability to follow written directions regarding appropriate follow up action;
- (4) avoidance of medication errors and what action to take if an error occurs;
- (5) understanding relevant commonly used abbreviations;
- (6) maintaining required documentation including the parent or guardian's permission, written orders from health care professionals and licensed authorized prescribers, and the record of administration of medications;
- (7) safe handling of medications, including receiving medications from a parent or guardian;
- (8) proper storage of medications, including controlled substances; and
- (9) safe disposal of medications.

(iii) A person who can produce a valid New York State license as a physician, physician's assistant, registered nurse, nurse practitioner, licensed practical nurse or advanced emergency medical technician will not be required to attend the training required by this paragraph in order to administer medications in a day care program. Documentation establishing the person's credentials in one of the above fields will be required and a copy of the documentation must be provided to the Office.

(14) Medications must be kept in a clean area that is inaccessible to children. If refrigeration is required, the medication must be stored in either a separate refrigerator or a leak-proof container in a designated area of a food storage refrigerator, separated from food and inaccessible to children. Day care programs must comply with all Federal and State requirements for the storage and disposal of all types of medications, including controlled substances.

(15) At the time of administration, the staff must document the dosages and time that the medications are given to the child. All observable side effects must be documented and shared with the parent, guardian and, when appropriate, the child's health care provider. Documentation must be made if the medication was not given and the reason for such a decision. The parent or guardian must be notified immediately and the Office must be notified by the close of the following business day of any medication administration errors. Notification to the Office must be reported on a form provided by the Office or on an approved equivalent.

(16) No child under the care of a day care center will be allowed to independently administer medications without the assistance and direct supervision of staff that are certified to administer medications pursuant to this section. Any program that elects to offer the administration of medication to children where children who attend the program independently administer medications or where children assist in the administration of their own medications must comply with all the provisions of this section.

(k) Staff must thoroughly wash their hands with soap and running water at the beginning of the day, before and after the administration of medications, when they are dirty, after toileting or assisting children with toileting, after changing a diaper, before and after food handling or eating, after handling pets or other animals, after contact with any bodily secretion or fluid, upon moving to work with a new group of children, and after coming in from outdoors.

(1) Staff must ensure that children thoroughly wash their hands or assist children with thoroughly washing their hands with soap and running water when they are dirty, after toileting, before and after food handling or eating, after handling pets or other animals, after contact with any bodily secretion or fluid, and after coming in from outdoors. For diapered children, caregivers must ensure that adequate steps are taken to clean the child after each change of diaper. Staff must assist children in keeping clean and comfortable, and in learning appropriate personal hygiene practices.

(m) Safety precautions relating to blood must be observed by all staff coming into contact with blood, as follows:

(1) Disposable gloves must be immediately available and worn whenever there is a possibility for contact with blood, including but not limited to:

(i) changing diapers where there is blood in the stool;

(ii) touching blood or blood-contaminated body fluids;

(iii) treating cuts that bleed; and

(iv) wiping surfaces stained with blood.

(2) In an emergency, a child's well-being must take priority. A bleeding child must not be denied care because gloves are not immediately available.

(3) Disposable gloves must be discarded after each use.

(4) If blood is touched accidentally, the exposed skin must be thoroughly washed with soap and running water.

(5) Clothes contaminated with blood must be placed in a securely tied plastic bag and returned to the parent at the end of the day.

(6) Surfaces that have been blood stained must be cleaned and then disinfected with a germicidal solution.

(n) Sufficient and suitable clothing must be available so that children who dirty or soil their clothing may be changed. All such clothing must be returned to parents for washing.

(o) Infants must be kept clean and comfortable at all times. Diapers must be changed whenever wet or soiled. The diaper changing area must be as close as possible to a sink that is used exclusively by staff for diaper changing. This area or sink must not be used for food preparation. Soap and hot and cold running water must be available. The diaper changing area must be washed and disinfected with a germicidal solution after each use.

(p) The provider must use disposable diapers or arrange with the parent(s) or a commercial diaper service to provide an adequate supply of cloth diapers.

(1) When disposable diapers are used, soiled diapers must be disposed of immediately into an outside trash disposal, or placed in a tightly covered plastic-lined trash can in an area inaccessible to children until outdoor disposal is possible.

(2) Non-disposable diapers must not be laundered in the child day care center, and must be stored in a securely covered receptacle until returned to the diaper service. When parents provide non-disposable diapers, soiled diapers must be placed in a securely tied plastic bag and returned to the parent at the end of the day.

(q) Toilet facilities must be kept clean at all times, and must be supplied with toilet paper, soap and disposable towels accessible to the children.

(r) Toileting equipment, such as potty chairs, appropriate to the toilet training level of the children in the group must be provided. When more than one child in the center is being toilet trained, potty chairs must be emptied and sanitized with a germicidal solution after each use. If only one child in the center is being toilet trained, potty chairs must be emptied and rinsed after each use and sanitized with a germicidal solution daily. Potty chairs must not be washed out in a handwashing sink, unless that sink is washed and disinfected after such use.

(s) All rooms, equipment, surfaces, supplies and furnishings accessible to children must be cleaned and disinfected as needed to protect the health of children, and in a manner consistent with the health care plan guidelines issued by the Office. The premises must be kept free from dampness, odors, vermin, and the accumulation of trash.

(1) Equipment that is frequently used or touched by children on a daily basis must be cleaned and disinfected when soiled and at least once weekly.

(2) Carpets contaminated with body fluids must be spot cleaned.

(3) Extensive cleaning, such as shampooing carpets or washing windows and walls, must occur when children are not present.

(4)(i) Any application of pesticides (as the term pesticide is defined in section 33-0101 of the Environmental Conservation Law) shall be completed in accordance with the requirements of section 390-c of the Social Services Law and sections 33-1004 and 33-1005 of the Environmental Conservation Law.

(ii) In addition to the requirements of section 390-c of the Social Services Law, each day care facility must send a notice home with each child or otherwise provide notification to the parent of each child not less than forty-eight hours prior to the application of pesticides. Such notice must include:

(a) the location and specific date of the application of pesticides and may include two alternate dates in the event that an outdoor application cannot be made due to weather conditions;

(b) the pesticide product name and pesticide registration number assigned by the United States Environmental Protection Agency;

(c) the following statement: "This notice is to inform you of a pending pesticide application at this facility. You may wish to discuss with a representative of the day care facility what precautions are being taken to protect your child from exposure to these pesticides. Further information about the product or products being applied, including any warnings that appear on the label of the pesticide or pesticides that are pertinent to the protection of humans, animals or the environment, can be obtained by calling the National Pesticide Telecommunications Network Information line at 1-800-858-7378 or the New York State Department of Health Center for Environmental Health Info Line at 1-800-458-1158"; and

(d) the name of a representative of the day care facility and contact number for additional information.

(iii) Any day care provider that fails to send the appropriate notice of pesticide application as set forth in subparagraph (ii) of this paragraph shall, for a first such violation of this subdivision, be issued a written warning in lieu of penalty. For a second violation, such provider shall be subject to a penalty not to exceed one hundred dollars. For any subsequent violation, such provider shall be subject to a penalty not to exceed two

hundred fifty dollars for each violation. No penalty may be assessed by the Commissioner without affording the provider with notice and an opportunity for a hearing pursuant to section 413.5 of this Article.

(iv) Any finding by the Department of Environmental Conservation of a violation by the provider of the requirements set forth in sections 33-1004 or 33-1005 of the Environmental Conservation Law shall be deemed a safety hazard to children in care and a violation of this subdivision.

(5) Garbage receptacles must be covered, and cleaned as needed after emptying.

(6) Thermometers and toys mouthed by children must be washed and disinfected before use by another child.

(7) Individual drinking cups, disposable paper cups or bubbler drinking fountains of the angle jet type must be provided. The use of shared drinking cups is prohibited.

(8) Linens, blankets and bedding must be cleaned at least weekly and before use by another child. Cribs, cots, beds, mats and mattresses must be cleaned thoroughly between uses by different children and at least monthly.

(9) Either disposable towels or individual cloth towels for each child must be used. If individual cloth towels are used, they must be laundered daily. Sharing personal hygiene items, such as washcloths, towels, toothbrushes, combs and hairbrushes, is prohibited.

(10) After use, dishes and all utensils must be washed with soap and hot water, and rinsed in hot running water.

418-1.12 Nutrition

(a) The child day care center must provide plentiful and nutritious snacks to children. The center must ensure that each child in care for more than four hours a day receives a nutritious meal. Each child in care for more than 10 hours must receive a minimum of two nutritious meals. Food must be prepared and stored in a safe and sanitary manner and served at appropriate intervals.

(1) If the child day care center does not furnish meals, there must be adequate supplemental food available in the event that no meal is provided by the parent or if the meal provided by the parent is of inadequate nutritional value.

(2) Centers changing their meal policy must provide adequate notice to parents.

(b) Four weeks of current meal and snack menus, as applicable, must be reviewed for nutritional content, variety and quality at the time of initial application and once every 24 months by a federal Child and Adult Care Food program specialist responsible for reviewing and approving menus, or by a person who has a bachelor's or master's degree with a major in food and institutional management or a closely related field, has completed a dietician internship, or has been certified as a registered dietician or has an equivalent state certification. Current menus for each week must be posted in a place readily accessible to parents and the Office.

(c) Where meals are furnished by the child day care center, food preferences for personal, religious or medical reasons may be accommodated. If resultant meal patterns or serving sizes will not meet the child's nutritional needs, a medical statement must be obtained documenting the appropriateness of the variation.

(d) Where meals are furnished by the child day care center, the servings must be in portions suitable for the size and age of the children in care. There must be a sufficient amount of food available to children to permit second helpings.

(e) Children must be helped to gain independence in feeding themselves and should be encouraged to learn acceptable table manners appropriate to their developmental levels.

(f) Sufficient time, based on age and individual needs, must be allowed for meals so that children will not be hurried.

(g) Food service and storage, including refrigeration of milk and other perishable foods or formula, must comply with the requirements of Part 14 of the State Sanitary code.

(h) Safe drinking water must be available to children at all times and must be offered at intervals that are responsive to the needs of the individual children.

(i) Disposable cups and plates may be used if discarded after use. Plastic eating utensils may be used if such utensils are not easily broken by young children and are discarded after use. Styrofoam cups may not be used for infants or toddlers.

(j) Providers must obtain a written statement from the parent of each infant in care setting forth the formula and feeding schedule instructions for the infant.

(k) Where formula is required, such formula may be prepared and provided by the parent, or by a qualified, designated staff person when agreed to in writing by the parent.

(l) All containers or bottles of formula, breast milk or other individualized food items must be clearly marked with the child's complete name.

(1) Unused portions of bottles or containers from which children have been spoon-fed must be discarded after each feeding or placed in a securely tied plastic bag and returned to the parent at the end of the day.

(2) Heating formula, breast milk and other food items for infants in a microwave oven is prohibited.

(m) Every effort must be made to accommodate the needs of a child who is being breast-fed.

(n) Infants six months of age or younger must be held while being bottle-fed. Other infants must be held while being bottle fed until the infant consistently demonstrates the capability of holding the bottle and ingesting an adequate portion of the contents thereof. The propping of bottles is prohibited.

(o) Each infant and toddler must be removed from the crib, playpen or cot and held or placed in an appropriate chair for feeding.

418-1.13 Staff Qualifications

(a) Staff members must be qualified by training and experience to carry out their respective functions in the administration, operation and maintenance of the child day care center. These employees must be mature, of good character and possess suitable personal qualifications. Staff must be in good physical and mental health and have the energy and emotional stability necessary to fulfill the responsibilities of their positions.

(b) Child day care centers must review and evaluate the backgrounds of all applicants for employee and volunteer positions with the potential for regular and substantial contact with children, except for a parent of a child enrolled in the center who is applying to be a volunteer if such parent will not be counted in determining staff/child ratios and such parent will not be left unsupervised with children on a regular basis. All applicants whose backgrounds must be checked must be required to provide the following:

(1) a statement or summary of each applicant's employment history including, but not limited to, any relevant child-caring experience;

(2) the names, addresses and day time telephone numbers of at least three references, other than relatives, at least one of whom can verify employment history, work record and qualifications, and at least one of whom can attest to the applicant's character, habits and personal qualifications to be a child day care center staff member;

(3) a sworn statement by the applicant indicating whether, to the best of the applicant's knowledge, such applicant has ever been convicted of a misdemeanor or felony in New York State or any other jurisdiction; and

(4) the information necessary to determine whether the applicant is the subject of an indicated report of child abuse and maltreatment as required by section 418-1.10(b) of this Subpart.

(c) If an applicant discloses in the sworn statement furnished in accordance with paragraph (3) of subdivision (b) of this section that he or she has been convicted of a misdemeanor or felony, the child day care center must inform the Office and provide a copy of the statement to the Office so the Office may take appropriate action in conformance with the provisions of section 413.4 of this Article.

(d) Each child day care center must be staffed to perform administrative/fiscal management functions and, during all hours of operation, program supervision functions, including developing, directing and supervising daily activity programs for children. These functions may be performed by one individual or may be shared in any combination between two or more individuals.

(e) When an agency operates multiple licensed centers, the person performing the administrative/fiscal management functions may be shared across such centers. Each licensed center must have a staff person who meets the qualifications set forth in subdivision (g) of this section to perform program supervision functions for that center.

(f) In child day care centers where there are fewer than 45 children enrolled, a head of group or an assistant to the head of group may also perform administrative/fiscal management functions and/or program supervision functions, provided that the qualifications for such positions as set forth in subdivision (h) of this section have been met. In child day care centers where there are 45 or more children enrolled, the administrative/fiscal management functions and program supervision functions may not be performed by a head of group or an assistant to the head of group.

(g) The minimum education and experience qualifications for staff are as follows:

	Education		Experience
Person responsible for program supervision functions (Director)	Bachelor's degree including, or in addition to, 12 credits in Early Childhood, Child Development or related field	AND	One year full-time teaching experience in a child day care center, family or group family day care home or other early childhood program

		AND	One year of experience supervising staff
	OR		
New York State Children's Program Administrator Credential		AND	One year full-time teaching experience in a child day care center, family or group family day care home or other early childhood program
			AND
			One year of experience supervising staff
	OR		
Associate's degree in Early Childhood or related field with a plan of study leading to a Bachelor's degree		AND	Two years full-time teaching experience in a child day care center, family or group family day care home, or other early childhood program
			AND
			Two years of experience supervising staff
	OR		
Child Development Associate Credential with a plan of study leading to a Bachelor's degree		AND	Two years full-time teaching experience in a child day care center, family or group family day care home, or other early childhood program
			AND
			Two years of experience supervising staff
	OR		
Associates degree in Early Childhood or related field with a plan of study leading to a New York State Children's Program Administrator Credential		AND	Two years full-time teaching experience in a child day care center family or group family day care home, or other early childhood program
			AND

			Two years of experience supervising staff
Head of Group for preschoolers	Associate's degree in Early Childhood, Child Development or related field OR Child Development Associate credential, or, 9 college credits in Early Childhood, Child Development or a related field, with a plan leading to a Child Development Associate credential	AND	No additional experience necessary
Head of Group for infants/toddlers	(In addition to the above, 1 year of specific training and/or experience in infant or toddler care which may be demonstrated by obtaining an Infant Toddler Child Care credential)	AND	Two years experience related to caring for children
Head of Group for school-aged children	Associate's degree in Child Development, recreation or related field OR High School Diploma or its equivalent	AND	No addition experience required
Assistant to Head of Group (all age groups)	High School diploma or its equivalent	OR	Two years direct experience working with children under 13 years of age Substantial experience working with children under 13 years of age

(h) The provisions of this section notwithstanding, persons holding positions in a child day care center prior to the effective date of these regulations who met the qualifications which were in effect at the time they were hired may continue to be employed in such positions.

(i) No person other than a director, head of group or assistant to the head of group may supervise a group independently even for brief periods of time, except in an emergency. The minimum age of a staff person is 16 years. However, no person under 18 years of age may be left alone to supervise a group of children.

418-1.14 Training

(a) Each person responsible for developing, directing and supervising the daily activity programs for children (director) and each employee must complete a minimum of thirty (30) hours of training every two years. Fifteen (15) hours of such training must be received during the first six months of the program's first year of licensure or during the person's first six months of employment by the program. This initial fifteen (15) hours applies towards the total thirty (30) hour minimum requirement for each license period. Such training requirements shall also apply to any volunteer in such day care program who has the potential for regular and substantial contact with children. Training must address the following topics:

(1) principles of childhood development, including the appropriate supervision of children, meeting the needs of children enrolled in the program with physical or emotional challenges and behavior management and discipline;

(2) nutrition and health needs of children;

(3) child day care program development;

(4) safety and security procedures, including communication between parents and staff;

(5) business record maintenance and management;

(6) child abuse and maltreatment identification and prevention;

(7) statutes and regulations pertaining to child day care; and

(8) statutes and regulations pertaining to child abuse and maltreatment.

(b) Training received after the application has been submitted but before the application has been approved and the license granted may be counted towards the initial fifteen (15) hours required in subdivision (a) above.

(c) For the thirty (30) hours of training that must be received every two years after the first year of licensure, any person responsible for developing, directing, and supervising the daily activity programs for children who can demonstrate basic competency in a particular topic to the Office may determine in which of the specified topics he or she needs further study. The Office also may exempt any person responsible for developing, directing, and supervising the daily activity programs for children from participating in training on a particular topic upon demonstration of substantially equivalent knowledge or experience related to that topic. All persons with such exemptions must still complete a minimum of thirty (30) hours of training during each licensing period.

(d) Each person responsible for developing, directing, and supervising the daily activity programs for children, employee, and/or assistant of the day care center program must submit verification of completion of the training requirements to their program's designated licensing office on forms provided by the Office.

(e) At the time of admission, the director must furnish parents with appropriate instructional materials that will assist them in evaluating the facility, the program and the staff. Such material must include information concerning child abuse and maltreatment, and guidance on the steps they may take if they suspect their child has been abused or maltreated.

418-1.15 Management And Administration

(a) The child day care center must comply with the following standards:

(1) The child day care center must obtain a license from the Office and must operate in compliance with the regulations of the Office and all other applicable laws and regulations. No person or entity may operate a child day care center without a license from the Office;

(2) A provider who has been issued a license by the Office must openly display such license in the center for which it was issued and must provide upon request information concerning any waivers that have been approved by the Office;

(3) A new application for a license must be submitted to the Office when there is a change in the name, address or operator; when the operator will be providing an additional shift of care; when reinstatement of a withdrawn application is sought; or when a license is sought following the Office's revocation of, or denial of an application to renew, a license;

(4) The provisions specified on the license are binding and the child day care center must operate in compliance with the terms of the license. The number and age range of children specified thereon are the maximum number and age range of children who may be in the care of the child day care center at any one time;

(5) Information relating to an individual child is confidential and cannot be disclosed without written parental permission to anyone other than the Office, its designees or other persons authorized by law. Information relating to an individual child may be disclosed to a social services district where the child receives a day care subsidy from the district, where the child has been named in a report of alleged child abuse or maltreatment, or as otherwise authorized by law. Redislosure of confidential HIV-related information, as

defined in section 360-8.1 of this Title, concerning a child receiving child day care is not permitted except in a manner consistent with article 27-F of the Public Health Law;

(6) A child day care center may not refuse to admit a child to the program solely because the child is a child with a developmental delay or a disability or has been diagnosed as having human immunodeficiency virus (HIV), HIV-related illness or acquired immune deficiency syndrome (AIDS). Each such child must be evaluated by the provider to determine whether the child could be accommodated in the program if reasonable modifications are made to the premises and/or program. Nothing contained in this paragraph shall be deemed to require the provider to incur significant additional expenses to modify the premises and/or program to accommodate such a child;

(7) A child day care center must give the parent, at the time of admission of a child, a written policy statement including, but not limited to: the responsibilities of the program; the responsibilities of the parent; the policies of the child day care center regarding admission; the disciplinary policy; the program activities to be provided; a summary of the program's health care policies, including the level of illness the center will accommodate; actions the child day care center will take in the event the child is not picked up as scheduled; the food service arrangements; and instructional materials on the available procedures and legal remedies if they suspect their child has been abused or maltreated;

(8) (i) The parent of a child receiving care must have: unlimited and on demand access to such child; the right to inspect all parts of the building used for child day care or which could present a hazard to the health or safety of the child whenever the parent requests at any time during the hours of operation of the child day care center; unlimited and on demand access to the provider whenever such child is in care or during the normal hours of operation; and unlimited and on demand access to written records concerning such child except where access to such records is otherwise restricted by law;

(ii)(a) The parents of all children receiving care in a day care center equipped with video surveillance cameras installed for the purpose of allowing parents to view their children in the day care setting by means of the internet must be informed that cameras will be used for this purpose. All staff of the day care center must also be informed if video surveillance cameras will be used for this purpose.

(b) All parents of children enrolled in the day care center and all staff of the day care center must be made aware of the locations of all video surveillance cameras used at the day care center.

(c) Day care centers opting to install and use video surveillance equipment must comply with all State and federal laws applicable to the use of such equipment.

(d) Video surveillance cameras may not be used as a substitute for competent direct supervision of children.

(e) Day care centers opting to allow parents to view their children in the day care setting by means of the internet must use and maintain adequate internet security measures at all times. Such measures include but are not limited to: frequent changes of passwords; filtering measures that prohibit public access to or viewing of day care activities via the internet; and immediate corrective action in response to any report of abuse of the system or inappropriate access. Such centers must also advise the parents having access to views of the day care center through the internet of the importance of security in regard to such viewing and of the importance of the privacy rights of other children who may be viewed.

(f) Video surveillance cameras are permitted to transmit images of children in common rooms, hallways and play areas only. Bathrooms and changing areas must remain private and free of all video surveillance equipment.

(g) Day care centers that use video surveillance equipment must allow inspectors and other representatives of the Office to have access to such equipment and to have viewing privileges as required by the Office.

(9) The child day care center must post or display conspicuously in a place to which parents have free and daily access, the following:

(i) the Office's child day care center regulations;

(ii) the name(s), addresses and telephone numbers of person(s) with the legal responsibility and administrative authority for the operation of the child day care center; and

(iii) the address and telephone number of the appropriate regional office of the Office which may be contacted to lodge a complaint against the center for violations of statutory and regulatory requirements;

(10) The child day care center must admit inspectors and other representatives of the Office onto the grounds and premises at any time during the hours of operation of the center. Such inspectors and representatives must be given free access to the building or buildings used by the center, staff and children and any records of the center. A child day care center must cooperate with inspectors and other representatives of the Office in regard to any inspections or investigations that are conducted by the Office or its

representatives. A child day care center also must cooperate with local Child Protective Services' Staff conducting any investigation of alleged child abuse or maltreatment;

(11) The child day care center must comply with all applicable State and federal laws relating to equal employment opportunities;

(12) The child day care center must report to the Office: any change affecting, or which reasonably might be expected to affect, those portions of the building in which the program is located or which are used for the children's egress in the case of an emergency; any change of director; and any other change that would place the center out of compliance with applicable regulations;

(13) All staff of the child day care center must be familiar with the regulations governing such programs. Such regulations must be readily accessible to staff for reference purposes;

(14) The provider must immediately notify the Office upon learning of the death, serious injury or infectious illness of an enrolled child which occurred while the child was in care at the center or was being transported by the provider;

(15) Parents must be given the opportunity to discuss issues related to their children and the care of their children with an appropriate staff member or members. Such opportunities must occur at the time of enrollment and as frequently as needed thereafter, but at least annually;

(16) The indoor and outdoor areas of the child day care center where the children are being cared for must not be used for any other business or social purpose when children are present such that the attention of staff is diverted from the care of the children. When a child day care center is located in a multi-use building, those portions of the building designated for the care of children must be used exclusively for child day care during the hours that children are present;

(17) When a provider proposes to care for a child under the age of six weeks, prior approval must be obtained from the Office. In seeking such approval, the provider must furnish, either verbally or in writing, the following:

(i) identifying information related to the specific child who would receive care, including the parent's name and address, and the child's name, sex and age;

(ii) the extenuating circumstance necessitating the care; and

(iii) a description of what the provider will do to achieve consistency with the Office's guidelines for the care of children under the age of six weeks; and

(18)(i) Within five days after receiving the initial license and before actually commencing operation, the provider must, using a form specified by the Office for that purpose, notify the local police and fire departments of the municipality within which the day care center is located of the following:

- (a) the address of the child day care center;
- (b) the maximum capacity of the child day care center;
- (c) the age range of children that will be in care; and
- (d) the hours during which children will be in care.

(ii) If the local municipality does not have a police or fire department, the sheriff of the county within which the child day care center is located must be notified instead. The provider must notify the local police and fire departments or the county sheriff, as appropriate, if there is any change in any of the information required to be provided pursuant to subparagraph (i) of this paragraph.

(b) Conditions which apply to child day care center licensing are as follows:

(1) No license will be issued unless the provider is in full compliance with the regulations of the Office and all other applicable laws and regulations except where a waiver of one or more requirements of this Subpart has been approved in writing by the Office in accordance with section 413.5 of this Title;

(2) The effective period of the initial license for a child day care center and any subsequent licenses will be up to two years each so long as the provider remains in compliance with applicable laws and regulations during such periods;

(3) A license is not transferable to any other provider or location;

(4) A child day care center required to be licensed with the Office will not be exempt from this requirement through registration with another State agency or certification, registration or licensure by any local governmental agency or authorized agency; and

(5) Before denial of an application for a license or renewal of a license, the provider is entitled to a hearing before the Office pursuant to Part 413 of this Title.

(c) The provider must maintain on file at the child day care center, available for inspection by the Office or its designees at any time, the following records in a current and accurate manner:

- (1) a copy of the evacuation plan, as required in section 418-1.5 of this Subpart, specifying alternate means of egress;
- (2) an approved health care plan as required in section 418-1.11 of this Subpart;
- (3) a sample copy of all forms used in the child day care center;
- (4) the name, address, gender, and date of birth of each child; each child's parents' names, addresses, telephone numbers and place(s) at which the parents or other persons responsible for the child can be reached in case of an emergency;
- (5) the names and addresses of persons authorized to take the child(ren) from the child day care center;
- (6) daily attendance records;
- (7) children's health records, including parental consents for emergency medical treatment, evidence of health examinations and immunizations; any available results of lead screening; the name and dosage of any medications used by a child, the frequency of administration of such medications, and a record of their administration by child day care center staff; and a record of illnesses, injuries and any indicators of child abuse or maltreatment;
- (8) copies of the child day care center's personnel policies and practices;
- (9) copies of current staff health statements;
- (10) a description of the pattern of supervision of staff by the director or other responsible person, and procedures to assure adequate and appropriate supervision of employees and volunteers of the program;
- (11) personnel information including a list of all staff with job assignments and schedules; Statewide Central Register clearance forms; staff resumes; and other information required by section 418-1.13 of this Subpart;
- (12) when the child day care center is incorporated, the following additional documentation:
 - (i) a copy of the certificate of incorporation and any amendments thereto;

(ii) verification of filing of the certificate of incorporation and any amendments thereto with the Secretary of State; and

(iii) a current list of the names of the board of directors and their addresses, telephone numbers of the current principal officers and members, and the business and civic qualifications of all such individuals;

(13) when the child day care center is owned by an individual, corporation, partnership or other entity using a business or assumed name, a copy of the certificate of doing business under an assumed name obtained from the county clerk;

(14) a copy of a certificate of insurance from an insurance company showing the intent to provide general liability insurance to the child day care center upon licensure and a copy of the insurance policy;

(15) documentation from service personnel licensed by the New York State Department of State to perform fire alarm systems maintenance, repair and testing which shows that the fire alarm and detection systems have been inspected, tested and maintained during the current license period in accordance with the applicable requirements of the New York State Uniform Fire Prevention and Building Code;

(16) documentation from service personnel qualified to perform fire suppression systems maintenance, repair and testing showing that fire suppression equipment and systems have been tested and maintained during the current license period in accordance with the applicable requirements of the New York State Uniform Fire Prevention and Building Code;

(17) documentation from the local government authority having jurisdiction for determining compliance with the New York State Uniform Fire Prevention and Building Code showing that the facility has been inspected and approved once every 12 months during the current license period for compliance with the applicable fire safety provisions of the New York State Uniform Fire Prevention and Building Code;

(18) documentation showing inspection and approval of any steam or hot water boilers performed in accordance with the requirements of the New York State Department of Labor and service performed once every 24 months during the current license period on all other fuel burning heating systems and equipment and boilers not subject to the New York State Department of Labor requirements;

(19) where a provider uses a private water supply, a report from a state licensed laboratory or individual, based on tests performed within the 12 months preceding the

date of application for licensure or renewal, showing that the water meets standards for drinking water established by the New York State Department of Health;

(20) documentation from the local health department or the New York State Department of Health showing that the facility has been approved in accordance with the requirements of the New York State Department of Health;

(21) a description of specific procedures which will assure the safety of a child who is reported to the Statewide Central Register of Child Abuse and Maltreatment as well as other children provided care in the child day care center;

(22) a description of the procedure to be used to review and evaluate the background information supplied by applicants for employment and volunteer positions, as required in section 418-1.13 of this Subpart;

(23) a description of the schedule and content of training as required in section 418-1.14 of this Subpart, including use of both in-service training and outside training resources;

(24) a description of program activities offered to meet the needs of children, as described in section 418-1.7 of this Subpart;

(25) a description of policies and practices regarding appropriate supervision of children in conformance with section 418-1.8 of this Subpart;

(26) when meals are provided by the facility:

(i) evidence that four weeks of current menus for snacks and meals have been reviewed by a person qualified in nutrition, as required in section 418-1.12 of this Subpart; or

(ii) a copy of the current letter of approval of the food program issued by the federal child and adult care food program; or

(iii) a description of food service arrangements if meals are not prepared at the center;

(27) a copy of the notification form provided to the local police and fire departments or the county sheriff as required in paragraph (18) of subdivision (a) of this section; and

(28) a copy of the certification that the building, property and premises and the surrounding neighborhood and environment are free from environmental hazards, as required in paragraph (6) of subdivision (a) and paragraph (4) of subdivision (e) of section 418-1.2 of this Subpart.

(d) A child day care center located in a public school building currently used for an elementary, middle or secondary education program approved or inspected by the State

Education Department is exempt from the requirements set forth in paragraphs (14)-(19) of subdivision (c) of this section. Such program must maintain on file copies of the current certificate of occupancy issued by the State Education Department. If a program is not issued a certificate of occupancy, the appropriate local equivalent, acceptable to the State Education Department, must be maintained on file.

(e) Where multiple sites are operated by one organization or provider, records, other than those of children currently enrolled in the child day care center, may be retained at a central administrative location. The operator of these centers must make all such records available on site upon request by the Office or its designees.