

**BUREAU OF EARLY CHILDHOOD SERVICES**

**POLICY STATEMENT**

**ID NUMBER:** PS 96-10 (**Updated December, 2004**)

**TOPIC:** Presence of the On-Site Provider in FDC and GFDC Homes

**MODALITIES IMPACTED:** FDC and GFDC

**APPLICABLE REGULATIONS:** 416.15; 417.15

**CONTACT:** Sara S. Blake –Updated by Kathleen Pickel

**Phone:** (518) 474-9454

**EFFECTIVE:** Immediately December, 2004

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**THIS POLICY STATEMENT IS EFFECTIVE IMMEDIATELY AND CANCELS ALL PREVIOUS MEMOS OR STATEMENTS ON THIS TOPIC.**

The purpose of this policy statement is to clarify the role and obligations of the on-site provider in the family or group family day care homes. The following paragraphs define what is meant by "operator", "provider", and "on-site provider".

The Office's regulations at 18 NYCRR sections 413.2(b) define "child day care provider" as "any individual, association, corporation, partnership, institution, organization or agency whose activities include providing child day care or operating a facility where child day care is provided." This definition also encompasses the statutory definition of the term child day care provider in Section 390(1)(b) of the Social Services Law.

The term "operator" is defined in regulation at 18 NYCRR Section 413.2(d) as follows: the individual who owns a child care center or small day care center, school-age child care program, group family day care home or family day care home; or where a child day care center or small day care center, school-age child care program, group family day care home, or family day care home is not owned by an individual, the person with responsibility for oversight and direction of the center, program or home.

Therefore, the definition of "child day care provider" and "operator" refer to the individual or entity which either owns or has the legal responsibility for the operation of the day care program. This policy statement will refer to these individuals or entities which either own the day care

program or operate the day care program collectively as the "provider/operator".

The term "on-site provider" is not defined in the statute or regulations. However, the term will be used to define the person who has the on-site responsibility for providing care for children in a family or group family day care home, in the place of the provider/operator, in those instances where the provider/operator is not an individual, or where the provider/operator owns more than one site and is not on-site at the day care home providing care. While it is possible for one individual or entity to own multiple sites, it is **not** possible for the same individual to be the on-site provider for more than one site, except in those situations where the hours of operation of the sites do not overlap at any time.

The questions and answers below should guide your decisions when licensing or registering multiple family or group family sites that are operated by one individual or other entity.

**1. Who submits the application for registration or licensure, the Provider/Operator or the on-site provider?**

The applicant is the provider/operator. However, certain portions of the application that require information concerning the "provider" really require information concerning the on-site provider. These are:

- a. The health statement;
- b. The summary of training and experience;
- c. The list of references;
- d. The fingerprinting card;
- d. The criminal conviction statement; and
- e. The State Central Register of Child Abuse and Maltreatment Data Base Check form.

Where the applicant is not the on-site provider, the applicant should be advised to furnish the above listed information on the on-site provider. Regardless of who will be the on-site provider, the applicant must submit all portions of the application.

**2. Who must attend Family Day Care Health and Safety Training, the Provider/Operator or the on-site provider?**

The person who will be the primary on-site caregiver must complete the training approved by the

Office pertaining to the health and safety of children and must demonstrate basic competency with regard to the Office's health and safety standards.

**3. If the Provider/Operator will be operating multiple sites, must the SCR data base check, references, etc. be submitted with each application and must a health and safety training be attended prior to each application?**

It is the Bureau of Early Childhood Service's (Bureau) policy to request that applicants submit only those parts of the application which differ from previous applications. This means that the forms related to the provider need to be completed for each new on-site provider, but do not need to be resubmitted for previously cleared and approved provider/operators. In addition, because the information presented in a health and safety training remains the same, the Bureau does not require a provider/operator to attend multiple sessions. A copy of the original health and safety training certificate may be submitted with each application to satisfy the statutory requirement that such certification accompany each application.

**4. Can the person who operates multiple family or group family day care homes be the on-site provider?**

The Provider/Operator can be the on-site provider in only one program, except as specified below, provided that the Provider/Operator has the necessary qualifications, has submitted the necessary application package, and has completed the required health and safety training. An application should be submitted to the registrar or the regional office.

**5. Can one individual be the on-site provider in more than one program?**

Yes, **but only** if the hours of operation of the programs do not overlap at any time. In assessing whether the proposed on-site provider is appropriate, a licensor/registrar should remember that the underlying premise is that each program must have its own on-site provider. In those instances where multiple programs operate within a single-family residence, each program must have its own individual functioning as on-site provider. These programs are not permitted to share an on-site provider. [416.8(b), 417.8(c)]

**6. Can the on-site provider, the assistant, and/or the enrolled children be moved from one site to another?**

No. Each family or group family day care home, regardless of ownership or location, must be operated as a separate program. This includes those situations where multiple programs are

licensed or registered to operate in a single-family residence. The on-site provider is responsible for one FDC or GFDC home. If the on-site provider must be absent, then arrangements for a substitute must be made consistent with the Office regulations.

Children are only enrolled in one Family day care or group family day care home and are only to be cared for at that specific program site. At no time may children be moved to another program owned by the Provider/Operator without completing the enrollment process.

## **7. What information is included on the license or registration?**

The license or registration must be issued to the Provider/Operator. It should also specify the name of the on-site provider. The license or registration should include the following information:

- a. License Issued To (Individual or Corporate name with legal authority)
- b. To Do Business as (specify modality or type of care)
- c. To Be Known As (DBA, if appropriate)
- d. Located at (Street address, City, State, Zip code)
- e. Capacity
- f. Effective dates of the license and license ID number
- g. On-Site Provider (Individual's name)
- h. Approved Waivers
- i. Restrictions
- j. Limitations
- k. Pool approvals
- l. Authorization Status To Administer Medications
- m. Authorized Signature (Regional Office Manager or their Designee)

