

# BUREAU OF EARLY CHILDHOOD SERVICES

## POLICY STATEMENT

**ID NUMBER:** 97-6 (Updated December, 2004)

**TOPIC:** Home Schooling and Family Day Care Registration or Group Family Day Care Licensure

**MODALITIES IMPACTED:** Family Day Care; Group Family Day Care

**APPLICABLE REGULATIONS:** Parts 416 and 417

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**EFFECTIVE:** Immediately (Updated December, 2004)

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

This policy statement is issued to clarify the policy of the Bureau of Early Childhood Services regarding the issuance of a family day care registration or group family day care license to individuals who are also providing home instruction for their own children in accordance with the requirements of the State Education Department.

Title 18 of the New York State Code of Rules and Regulation (NYCRR) Sections 416.15(a) (16) and 417.15(a)(16) of the Office of Children and Family Services (OCFS) state that "[t]he indoor and outdoor areas of the home 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 provider's attention is diverted from the care of the children." While home instruction is neither a business nor a social activity, it is a regularly scheduled activity that may divert the provider's attention from the care of the day care children. Sections 416.15(a) and 417.15(a) of the OCFS regulations also require that children be directly supervised at all times. A provider engaged in home schooling may be unable to fulfill this requirement.

There is a great deal of flexibility afforded to home instruction by the State Education Department. Section 100.10 of the Regulations of the New York State Commissioner of Education governs home school instruction. This regulation addresses two general components

of home school instruction. First, it establishes the standard to be used by the superintendent of the school district in which the home-instructed student resides in determining whether the instruction being provided in the home is substantially equivalent to established curricula. Second, it requires parents providing home instruction to submit to the superintendent, the Individualized Home Instruction Plan (IHIP), which includes the syllabi, curriculum materials, and textbooks; the dates on which quarterly reports will be submitted to the superintendent; and the name of the instructor(s).

The regulation does not establish the specific form instruction should take, nor the hours during which instruction may be given. Parents may engage the services of a tutor to provide instruction for all or a portion of the home instruction program.

State law does not prohibit someone from becoming a family or group family day care provider solely because that person also provides home schooling. The home school instruction could be provided by someone other than the day care provider, at times other than when the day care children are present, or might be incorporated into the day care program in such a way that the two complement each other.

To determine whether it would be possible for an individual to provide day care in addition to home schooling, the registrar/licensor must review the curriculum and the hours of instruction for home school instruction. The registrar/licensor also must review the schedule established for the home in accordance with Part 416 or 417 of OCFS regulations, as applicable. This review will allow the registrar/licensor to determine whether the home instruction will interfere with the operation of the family or group family day care home.

If a registrar/licensor is aware that home instruction is provided or planned for any child of compulsory education age (age 6 and above), residing in the home where child day care is (or is proposed to be) located, the following documentation must be submitted by the applicant/provider:

1. A copy of the Individualized Home Instruction Plan (IHIP) for each child being instructed in the home where child day care is being provided. SED regulation 100.10(d) requires that this plan include the child's name, age and grade level; a list of the syllabi, curriculum materials and textbooks, or the plan of instruction to be used for each subject being taught; dates on which the parents' quarterly reports will be submitted to the school district; and the name(s) of the individual(s) providing instruction;
2. A copy of the most recent quarterly report submitted to the school district; and

3. A copy of the record of attendance.

If the applicant/provider is in the initial stages of obtaining approval from the school district to provide home instruction, the applicant/provider should submit a statement to the licensor/registrar which specifies:

1. The name, age and grade level of each child for whom home instruction will be provided;
2. The name(s) of the individual(s) who will be providing instruction;
3. The planned days of the week and hours of the day during which home instruction will be provided.

The review of this information should enable the licensor/registrar to determine the ages of the children being instructed at the home, clarify whether it is the applicant/provider who will be providing the instruction, and whether the instruction will coincide with the hours and days of child day care. These are the issues which need to be addressed to determine whether the home instruction will interfere with the provision of day care in the home.

Once this information is reviewed and a decision on whether home instruction will interfere with the provision of day care in the home may be made. Situations where home instruction and child day care could co-exist include the home-instructed student being engaged exclusively in research or independent study; receiving instruction from someone other than the day care provider; or participating in activities which mesh with the activities of the day care program. Examples of such activities include such things as specific projects which could occur on different age-appropriate levels, e.g. study of Native American crafts, or physical education activities.

However, if the plan maintained by the provider indicates that the child will be receiving individual instruction from the provider during the same hours and days as child day care, it would interfere with the provider's ability to focus attention on the day care children. A family day care registration or group family day care license should not be approved under these circumstances.

One additional question that arises related to the issue of home schooling and the operation of a family or group family day care home is:

**Are the home-schooled children residing in the family or group family day care home excluded from the capacity?**

