

*NYS Office of Children and Family Services
Bureau of Early Childhood Services*

Policy Statement

ID Number: 97-10 (Updated July 17, 2008)

Topic: Supervision Issues as they relate to Day Care Center Programs

Modalities Impacted: Day Care Center Programs

Applicable Regulations: Title 18 of the New York State Codes, rules and Regulations (NYCRR) § 418-1.6(e), 418-1.8(d), 418-1.8(e), and (f), 418-1.8 (g), 418-1.13(b)

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This policy statement is effective immediately and cancels all previous memos or statements on this topic.

Purpose

This policy statement addresses standards of supervision required of providers for children enrolled in day care center programs. This policy statement begins with guidelines for supervision as cited in various sections of Title 18 of the New York Codes, Rules and Regulations (18 NYCRR) which apply to day care centers. The regulations are then applied to issues relative to staff coverage for naptime, staff meetings, training, lunch breaks, transportation, field trips, mixing of age groups, and the use of 16 and 17 year old staff members to supervise children in care.

Section I Day Care Center Regulations Pertinent To Supervision

Supervision

418-1.8(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 to child ratios.

418-1.8(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:**

<u>AGE OF CHILDREN</u> <u>SIZE</u> (**)	<u>STAFF: CHILD</u> <u>RATIO</u> (*)	<u>MAXIMUM</u> <u>GROUP</u>
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:**

<u>AGE OF CHILDREN</u>	<u>STAFF:CHILD</u> <u>RATIO</u> (*)	<u>MAXIMUM</u> <u>GROUP SIZE</u>
(**)		
Through 9 years	1:10	20
10—12 years	1:15	30

(*) Staff to 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.**

Transportation

418-1.6(e) and (f)

(e) When transportation is provided by the child day care center, the driver of

the vehicle may not be included in the staff to 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.

Mixing groups at the end and beginning of day

418-1.8 (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 to 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 to 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 to child ratio and maximum group size applicable to children two years older than the youngest child in the group shall apply.

Volunteers in Ratio

418-1.13(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 to child ratios, and such parent will not be left unsupervised with children on a regular basis. All applicants whose backgrounds must be checked must provide the information required by this regulation.

Section II Application of Regulation By Topic Area

Young Staff Members

No one under 18 years of age may be left alone to supervise a group of children at any time, including emergency situations. The minimum age of a staff member is 16 years old; therefore, any staff person who is 16 or 17 years of age is included in the staff to child ratio, as stipulated in the regulations. Under no circumstances, however, can a 16 and 17 year old staff person be left unattended with a group of children. If an emergency occurs where the head of the group must leave the room, a director, additional staff member, or volunteer must be available to assist the 16 or 17 year old staff member with the group.

The following chart outlines the qualifications that young staff member's need for specific positions as outlined in 418- 1.13 (b).

<u>Age of Staff</u>	<u>Qualifications</u>	<u>Position</u>	<u>Counted in Ratio</u>	<u>Independently Supervise</u>
16 years old	No high school diploma and substantial experience with children under 3	Aide OR Volunteer	Yes	No
17 years old	High school diploma and substantial experience with children under 3	Aide OR Assistant to Head of Group	Yes	No
17 years old	No high school diploma and substantial experience with children under 3	Aide OR Volunteer	Yes	No
18 years old	No high school diploma and substantial experience with children under 3	Aide	Yes	Yes
18 years old	High school diploma and substantial experience with children under 3	Aide OR Assistant to Head of Group	Yes	Yes
18 years old	High school diploma and 2 Years of direct experience with children under 13	Aide OR Assistant to Head of Group OR Head of Group for School- Age Children	Yes	Yes

Naptime/ Staff Meetings/Trainings/ Lunch Breaks

Whether children are awake or asleep must not be a factor in determining the staff to children ratio. A sleeping child can awaken at any time. Emergencies, such as illness and fire, arise unexpectedly. Title 18 of the NYCRR, Section 418-1.7(i) requires day care centers to provide alternative activities for children who choose not to sleep. Therefore, planning staff to child ratios based on anticipated waking/sleeping activities does not meet the needs of children. In addition, infant room and toddler room staff must respond to the individual sleep needs, schedules, and developmental needs of the children in their assigned rooms. There is no basis for presuming that there will ever be a predictable period of time when the majority of infants or toddlers will be asleep. As a result, child to staff minimum ratios must strictly comply with the regulations. Many programs have worked out creative ways to provide coverage during staff lunches and breaks. These include: using administrative and support staff to cover a classroom; recruiting foster grandparents and other volunteers to supplement paid staff; and hiring a "floater" staff person who provides coverage during staff breaks.

Waiver Requests to Lower Staff to Child Ratios at Naptime

As a general rule, reducing the staff to child ratio during naptime is not in the best interest of children and is not acceptable. However, since the staff to child ratio are regulatory requirements and are not established by New York State Statute, it is permissible to apply for a waiver. In reviewing any waiver request, the age of the children in a classroom is especially significant in evaluating a waiver request seeking to lower minimum the staff to children ratio during naptime waiver requests to lower minimum ratios in infant groups must be denied. There is also be a presumption that toddlers have varied schedules and needs, however, OCFS will not outright prohibit waivers for lowered staff ratios for toddlers during naptime. A waiver request to lower staff ratios for toddlers at naptime must be critically examined with attention to the benefit of the children as well as the staff involved. The children's personal sleep habits, ages of the individuals in the group and behavioral needs must be evaluated as part of the waiver. If a child day care center can produce a convincing case that the toddlers in a specific room will not be mandated to adopt a naptime that is not their own and that their individual needs and group safety needs are being met with a lower ratio, OCFS will consider the waiver request for approval. The time period for which the plan is approved will depend on the information provided in the waiver request.

Transportation & Field Trips

Staff to child ratios established for in-center care as outlined in 18 NYCRR Section 418-1.8(e) shall be maintained in all transportation vehicles that the facility provides or arranges. While Office regulations do not specifically address supervision during transportation, the fact that the children are in the program's care while being transported means that all the Office regulations for their care remain in effect. 18 NYCRR section 418-1.8(d) requires that children have competent direct supervision at all times. This is particularly important during transportation since the primary responsibility of the driver is to drive safely. It is impossible for one person to be aware of traffic, signs, and lights

and to simultaneously provide competent direct supervision to the passengers. Children's fights, sudden health situations (for example seizures and vomiting) and traffic accidents require immediate action. Immediate action by the driver would be impossible without jeopardizing the safety of everyone in the vehicle. Therefore, when transporting children younger than school age, at least one additional staff member, and possibly more depending on the number of children being transported, must always be in the vehicle to supervise children and to assist in an emergency.

If a program submits a waiver request relative to supervision ratios during transportation, the Office must evaluate its merit. Waiver requests relative to staff to child ratios during transportation must include an alternate approach, which meets the intent of the regulations, and protects the health, safety and well-being of children. Factors to be considered in reviewing a waiver request include: the number and ages of children being transported, how they are being transported (in a van, car, bus, with or without seat restraints), and the duration of the ride.

When children are transported to an off-site field trip, staff to child ratios still apply as stated in 18 NYCRR section 418- 1.8 (e). During these trips, even if staff to child ratios are being met, volunteers and extra staff may be beneficial to have on-hand in case of emergencies (sicknesses, accidents, injuries, etc.) and to assist staff in assuring ratio is continually met during bathroom breaks, lunch breaks, group activities, etc., that can occur during an out-of-center visit.

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