

THE DIVISION OF CHILD CARE SERVICES

P O L I C Y S T A T E M E N T

ID NUMBER: 07-3

TOPIC: The Authority to Interview Children in Day Care Programs

MODALITIES IMPACTED: All Modalities

APPLICABLE REGULATIONS: None

CONTACT: Regional Office:

<http://www.ocfs.state.ny.us/main/beccs/regionaloffices.asp>

EFFECTIVE: Immediately, September 3, 2007

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

The purpose of this policy is to clarify the circumstances when a licensor/registrar or any Division of Child Care Service's staff person may interview a child who attends a day care program concerning issues under investigation by the New York State Office of Children and Family Services (OCFS).

Interview versus Conversation

Policies dictating a licensor's/registrar's actions in interviewing day care children are different than policies concerning conversations with day care children. It is therefore necessary to explain the difference between *interviewing* a child and having a *conversation* with a child in a day care program. The following describes the distinctions:

An interview with a child in day care by a licensor/registrar is a rare occurrence. An interview is unlikely to occur during a routine monitoring visit or inspection. It is a formal, planned meeting between a licensor/registrar and a day care child, or day care children wherein information is gathered for the purpose of investigating an event or happening at a day care program. The interview takes place away from the class or group (many times in the child's home). The choice of the location for an interview is often driven by the need for confidentiality and the child's comfort level with the location. The purpose of the interview is to gather information needed to make a decision or determination with regard to a complaint or inspection against the day care program.

A conversation between a child in day care and a licensor/registrar is a common occurrence. It is a casual, brief sharing of information, pleasantries or questioning (a question or two) between a licensor/registrar and a day care child. Conversations do not

include pre-selecting a child for questioning based on their knowledge of any incident or happening at the day care program. However, information shared by the child about their daily routine at day care may be used as part of the evaluation to determine if the program is in compliance with day care regulations. Information shared by the child may also be assessed to determine if an interview is needed. A conversation is brief and covers general topics about their experiences at day care. A child is not separated from their classmates, or group, nor is the child kept from participating in program activities during a conversation. Licensors/registrars are encouraged to converse with children about their day care activities and experiences during their on-site visits.

There will be occasions when a licensor/registrar has a conversation with a child in day care that prompts the licensor/registrar to suspect child abuse or maltreatment, or violations of regulation. When a licensor/registrar believes, based on a conversation with a child, that there may be benefits to interviewing the child, the licensor/registrar must end the conversation and immediately discuss next steps with one of the Division's regional office supervisors.

OCFS Authority to Interview Children in Day Care Programs

Child Protective Services (CPS) Investigations

All interviews held as a result of a **CPS** complaint and report must be conducted by the local Department of Social Service (LDSS) child protective investigator. Licensor's and registrars, who are mandated to conduct a collateral investigation, may ask to be present during the child's interview with LDSS CPS investigator(s). Licensors/registrars may also request that CPS include some of the licensor's/registrar's questions in the interview or request to take part in the interview. Licensors and registrars must maintain their own case notes which can be used if an enforcement hearing is scheduled to contest OCFS enforcement actions. LDSS CPS notes, on the other hand, may not be admissible at a hearing during certain stages of the CPS process.

Licensors/registrars may *only* interview day care children *without CPS present* on matters of alleged abuse and maltreatment when:

- The licensor has obtained the permission of the child's parent; **and**
- The licensor has coordinated their plan to interview the child with their CPS counterpart to confirm that the interview will not jeopardize a CPS investigation.

It is of critical importance that licensors/registrars and LDSS CPS staff communicate and share information during each investigation and to its mutual conclusion.

Non-CPS complaint investigations or inspections

There is no law prohibiting licensors/registrars from interviewing children concerning **non- CPS** complaints. There is also no law that mandates that OCFS obtain parental permission to interview a child attending a day care program. **OCFS policy, however, directs licensors/registrars to seek parental permission before an interview is conducted with their child.** The parental permission can be received verbally or in

writing. Verbal permissions should be documented in the file with the parent's name, date and time the permissions were granted. It is often beneficial to interview a child in the presence of the parent. The child's home setting and the presence of a parent often sets the stage for a more comfortable and secure interaction for the child with the interviewer.

In rare cases a child may be interviewed without a parent's consent but only with the permission of home office management and legal counsel (Bureau of Day Care Enforcement). In the event that an interview takes place without parental authorization, the licensor/registrar shall immediately inform the parent that the interview took place and offer the parent an opportunity to discuss the issues that were covered during the interview.



Approved by:
Suzanne Zafonte Sennett

Date: September 3, 2007

Signature:

A handwritten signature in black ink, appearing to read "Suzanne Zafonte Sennett". The signature is written in a cursive style with a large initial "S".