

ADMINISTRATIVE DIRECTIVE

NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES
40 North Pearl Street
Albany, New York 12243
Cesar A. Perales, Commissioner



TRANSMITTAL NO:

87 ADM-38

DATE:

October 14, 1987

DIVISION:

Family and Children Services

TO:

Commissioners of Social Services
Directors of Authorized Agencies
Family Day Care Licensing Agencies

SUBJECT:

Dual Certification of Family Day Care
and Family Foster Care Homes

SUGGESTED
DISTRIBUTION:

Directors of Social Services
Children's Services Staff
Foster Home Finding Staff
Day Care Home Finding Staff
Staff Development Coordinators

CONTACT PERSON:

All inquiries concerning this release should be directed to Fred Cantlo, Regional Office Director, Metropolitan Regional Office, (212) 488-3485; John O'Connor, Regional Director, Albany Regional Office, (518) 432-2751; Karen Schimke, Regional Director, Buffalo Regional Office, (716) 847-3145; Frank Petrus, Regional Director, Rochester Regional Office, (716) 238-8201; Jack Klump, Regional Director, Syracuse Regional Office, (315) 428-4301.

I. Purpose

The purpose of this directive is to advise of the provisions and implications of recent regulatory amendments to 18 NYCRR 417.4 and to describe the actions necessary

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Department Regs.	Social Services Law and Other Legal References	Manual References	Miscellaneous Reference
82 ADM 66		18 NYCRR	SSL 378		
86 ADM 32		417	390		
86 ADM 33		443			
86 ADM 39		444			

to implement those provisions. The amendments repeal a prohibition against certifying a family home as both a foster home and a day care home, and the amendments require that foster children under the age of six years be counted in determining the day care capacity of the home.

II. Background

These regulatory amendments were made in recognition of the burgeoning need for both foster care and day care providers and in response to requests from some local commissioners and authorized agency representatives for regulatory flexibility to allow them to dual certify willing families.

The prohibition against dual certification existed only in the Department's day care regulations, specifically in 18 NYCRR 417.4, subdivision (c) which has been repealed. There was no corresponding prohibition in the foster care regulations. While some may have believed that 18 NYCRR 444.5(b)(17) which prohibits foster parents from conducting "any business on the premises which might adversely affect the welfare of children" unless an exception is granted, constitutes a prohibition against day care in the foster home, it does not.

III. Program Implications

The new policy reflected in these amendments is permissive in that it allows the option of dual certification. However, once that option is selected there are requirements relative to combining home studies, providing supervision, screening through the State Central Register of Child Abuse and Maltreatment (SCR) and determining capacity. This directive sets forth those requirements.

The implementation of these amendments will open up day care slots in family homes currently certified for foster care and vice versa. According to those who requested the amendments there are a number of such families who are willing and waiting for the opportunity to provide the additional type of care. Of course, there is also the option to consider new applicants for certification as both foster care and day care providers.

IV. Required Action

A. Mandatory Provisions

In order to ensure that dual certified homes do not become overcrowded and that the homes will be appropriately evaluated, monitored and supervised, the following provisions will be applied:

1. All regulations which affect the approval of a foster home or family day care home must be complied with; however, when there are overlapping regulations between the family day care program and foster care program, compliance with the more stringent regulation will satisfy compliance with the overlapping regulation;
2. No dual certified home may serve more than six children for day care (including foster children and the provider's own children under six) except where there are school age children receiving day care services for part of the day; in that case, the home may provide care to two additional school age children, in accordance with the provisions of Section 390(6) of the Social Services Law;
3. The agency responsible for licensing dual certified homes will have the discretion to determine the number of children who may be cared for in a dual certified home up to the maximum set by regulation; the capacity of dual certified homes should be based upon the needs of the children being cared for, the preferences and abilities of the foster parent/day care provider as well as current statutory and regulatory requirements concerning the capacity of foster homes and family day care homes;
4. All regulatory requirements which apply to the training and supervision of foster homes and family day care homes and to the care and supervision of children in those homes, must be complied with;
5. In situations where two different agencies or units (one day care, one foster care) are involved, communication between the two prior to certification/approval and at the point of renewal will be required.

More regular communications are of course recommended.

B. Home Studies

1. Studies of homes already certified to provide foster care or day care.

In these situations the licensing/certifying agency must, upon receipt of an application for the additional

certification, review the existing home-study to determine the adequacy and recency of documentation relative to the new home study. In general, if the documentation is one year old or less and adequately addresses the regulatory requirements for the new home study, it should be accepted. If the home is certified by another agency, staff of that agency must be consulted about the home's suitability to provide the additional type of care and all relevant information about the home (including the home study, the references, and medical report) must be requested and reviewed prior to certification.

There is an important exception to the "one year old or less" rule: Regardless of how recently the original home-study and current certification were completed, upon receipt of the application for the additional certification, the applicant(s) must be screened through the SCR.

2. Concurrent home studies.

In situations where an applicant is seeking certification as both a day care and a foster care provider, the two types of applications must be received and reviewed by the licensing agency(ies).

A single screening with the SCR must be completed.

A medical examination of the applicant(s) must be completed, addressing both the family day care and foster care regulatory requirements.

Two licenses (certificates) must be issued, each specifying the capacity for the respective program.

C. Determining Capacity

Capacity must be based on the needs of the children to be cared for and the family's preference and capability to provide care and must not exceed the standards reflected in the following chart:

Maximum Capacities - Dual Certified Homes

<u>Foster Care</u>	<u>Day Care</u>
6	6 (or 5 if any child is under 3 years of age) plus 2 school aged children
less the # of provider's own children under 13 years of age	less the # of foster children under 6 years of age
less the # of full time day care children under age 6 (for each foster child under 6 years of age, i.e. the allowable number of foster children under 6 years of age is reduced one for one by the # of day care children under 6 years of age)	less the # of providers own children under 6 years of age
See Social Services Law, Section 378 and Department Regulation 444 for specific provisions	See Social Services Law, Section 390 and Department Regulation 417.4 for specific provisions

V. Systems Implications

A single screening with the SCR must be completed for applicants seeking concurrent certification as both a day care and a foster care provider. Agencies will insure that applicants complete one SCR Clearance Form (DSS-3370) identifying both clearance categories.

The completed SCR Clearance Form(s) should be sent to:

Services Information Systems
40 North Pearl Street
Mezzanine Level
Albany, New York 12243

VI. Additional Information

A. Renewal of Certification

As with certification home-studies (see IV), renewal of certification may occur simultaneously or at different points in time. The requirements set forth in section IV shall apply to the renewal process.

B. Supervision

Supervision and training shall be carried out as required for day care and foster care homes, pursuant to Department Regulation 18 NYCRR 417, 443, and 444.

C. Reimbursement of Dual Certified Providers

No changes are being made in the method of payment to providers as a result of this policy change. Districts should continue to pay their established rates for family day care and family foster care for children in day care and foster care, respectively. In addition, providers can continue to be reimbursed if they have to pay for babysitting/day care for foster children in their home as provided in 86 ADM 32. Such babysitting/day care must of course be provided to the foster child by someone other than the foster parent.

VII. Effective Date

This directive is effective November 1, 1987, retroactive to May 12, 1987, the effective date of the amendment to 18 NYCRR 417.4.


Joseph Semidei
Deputy Commissioner
Division of Family
and Children Services