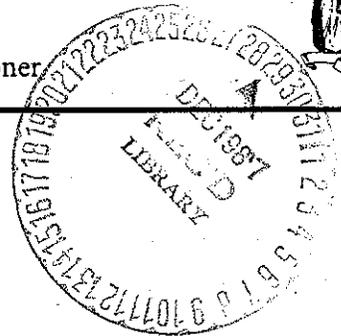


ADMINISTRATIVE DIRECTIVE

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



TRANSMITTAL NO: 87 ADM-53

DATE: December 22, 1987

DIVISION: Family and Children's Services

TO: Commissioners of Social Services
Directors of Agencies which Certify Family Day Care Homes

SUBJECT: Expanded Capacity for Certain Family Day
Care Homes

SUGGESTED DISTRIBUTION: Directors of Service
Family Day Care Licensing Staff
Staff Development Coordinators

CONTACT PERSON: Questions concerning this release should be directed to Fred Cantlo, Regional Director, Metropolitan Regional Office, telephone 212-488-3485; John O'Connor, Regional Director, Albany Regional Office, telephone 518-432-2751; Karen Schimke, Regional Director, Buffalo Regional Office, telephone 716-847-3145; Frank Petrus, Regional Director, Rochester Regional Office, telephone 716-238-8200; Jack Klump, Regional Director, Syracuse Regional Office, telephone 315-428-3234. Systems related questions should be directed to Joseph Capo, Bureau of Services Information Systems by calling toll-free 1-800-342-3727.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Department Regs.	Social Services Law and Other Legal References	Manual Reference	Miscellaneous Reference
	77-ADM 135	417.1 417.4(e) 417.6(d)	390.6 (Chapter 223 of the Laws of 1986)	 	12/3/86 Dear Commissioner Letter

I. Purpose

The purpose of this release is to advise social services districts and voluntary child care agencies which certify family day care homes of a change to the number of children a family day care provider is permitted to care for under certain circumstances. Chapter 223 of the Laws of 1986 provides for family day care homes to expand their capacity to serve up to eight children, if at least two of the children are of school age and will receive care primarily during non-school hours.

II. Background

Prior to the enactment of Chapter 223 of the Laws of 1986, Section 390.6 of the Social Services Law allowed up to a total of six children to be cared for in a family day care home. 18 NYCRR 417.4(e) further requires that children of the operator of a family day care home, who are under six years of age and are present in the home, are deemed children in the care of such home. This means the day care provider's own children who are under six must be counted toward the maximum total of six children.

As greater numbers of mothers enter the workforce the demand for day care services continues to grow and this increased demand is coupled with a more varied need which includes programs to meet the needs of so-called "latchkey" children before or after school hours while their parents are working. In fact it is estimated that from 100,000-300,000 school age children are left without adult supervision on a daily basis for several hours beyond school hours. In enacting Chapter 223 of the Laws of 1986 the legislative intent was to make more day care slots available for before and after school and allow such children to be cared for in a homelike setting.

III. Program Implications

Increasing the capacity of certain family day care homes will be one step in responding to the increasing and varying needs for day care described above. It is believed this expansion will not jeopardize the health or welfare of children receiving family day care for two principle reasons: first,

the additional child(ren) would be older and less dependent on the provider and would generally be there for relatively shorter portions of the day; second, those family day care providers who wish to be certified or issued a permit to provide care to an additional school age child or children must be approved to do so based on an assessment of their capabilities to handle the additional child(ren).

For the purposes of implementing Chapter 223 of the Laws of 1986, the following operational definitions are provided.

1) School age - Children are considered of school age if they attend kindergarten or a higher grade level and are under the age of fourteen.

2) Non-school hours - On days in which school is in session, this refers to time before the start of the child's school day and/or time after the end of the child's school day. In addition, this also refers to full days of care during school holidays, vacations, or other days during the school year when school is closed or not in session (e.g. snow days, conference days, etc.).

3) Summertime day care - School age children who are the seventh and eighth children in the family day care home may be cared for during the summer period when school is not in session only in the following circumstances: the school age children being considered for summer day care must be the same children who were cared for during the previous school year or are children who will be cared for in the day care home in the upcoming school year; the school aged children must also be attending a day camp or another form of regular summer day program or activity; summertime full-day family day care may not be provided for longer than two consecutive or four total weeks between school terms.

Family day care providers may be certified or issued a permit to care for up to eight children at any one time, if at least two of the children are of school age and receive family day care primarily during non-school hours. The maximum number of children to receive day care in a family day care home is subject to the following restriction: The family day care

provider's own children under six years of age are to be counted in determining the maximum total of six non-school age children regardless of whether or not they attend school. The family day care provider's own children age six and over are not be counted in determining the maximum total of two additional school age children that are allowed to be cared for. Pursuant to 18 NYCRR 417.6(d) a day care provider who cares for at least one child under the age of three and who is authorized to care for up to five children may care for up to two school age children, but the maximum number of children may not exceed seven.

A family day care home which is permitted to operate with an expanded capacity must comply with all standards contained in 18 NYCRR Part 417.

A determination must be made by the certifying agency that the provider can adequately provide care for the additional children. In making this determination the following factors should be considered:

- a) the physical and mental ability of the provider to adequately handle more than six children for part of the day on a regular basis and all day on a more sporadic basis;
- b) the ages of the children receiving day care in the home and the extent of any special problems or needs for closer supervision which may exist if these factors are known;
- c) the number, ages and degree of maturity of the provider's own children;
- d) the amount of space available in the home to accomodate the additional children;
- e) the proposed program for care and supervision. Such program shall be consistent with the needs of school age children including age appropriate toys, games, books, equipment and material and should allow school age children the opportunity to do homework in a suitable location.

The State Department of Social Services will apply the same factors when determining whether or not to issue a permit to family day care providers who request expanded capacity for school age children.

IV. Required Actions

Authorized agencies responsible for certifying family day care homes must establish during the certification process whether the proposed provider desires to care for up to two additional school age children. In those situations, where such request is made, or for already certified family day care homes that wish to expand their capacity the following procedures must be followed:

1) An assessment must be made which concludes that the provider is capable of adequately caring for the additional child(ren). The factors listed in Section III of this directive should be used in making this assessment.

2) A written determination must be placed in the provider's record that this conclusion has been reached. Minimally, the record must also include a statement that the home will be able to continue to comply with 18 NYCRR Part 417 with such expanded capacity.

3) Certificates must indicate that such home has an expanded capacity.

4) Providers who are certified must be sent a letter confirming their expanded capacity for additional school age children. This letter must state the requirement that the provider must also comply with 18 NYCRR Part 417 and outline the standards used for determining capacity and the circumstances under which care can be provided to school age children. A sample letter is provided in this directive as Attachment I.

5) Authorized agencies must inform each family day care provider that is certified as a family day care home with expanded capacity of the following:

It is the responsibility of a family day care provider with expanded capacity to notify each parent or guardian of a school age child who is or may be the seventh or eighth child to receive day care of the rules regarding the time frames and the circumstances in which family day care can be provided to such school aged children. Such notice must include the rules regarding day care during the summertime for such children.

V. Systems Implications

The Day Care Provider File has been revised to reflect the expanded capacity. Certificates reflecting these capacity changes should be processed in the prescribed manner.

VI. Additional Information

Chapter 223 of the Laws of 1986 is attached for your information. The regulatory amendment implementing this legislative change was filed on September 10, 1987. It is also attached for your information.

VII. Effective Date

This directive is effective January 1, 1988, retroactive to October 29, 1986, the effective date of Chapter 223 of the Laws of 1986.


Joseph Semidei
Deputy Commissioner
Division of Family
and Children Services

attachments

Attachment I Sample Letter to Certified
Family Day Care Provider with Expanded Capacity

Dear Family Day Care Provider:

In accord with the provisions of the licensing requirements established by the New York State Department of Social Services (Part 417) you are being certified to provide family day care in your home with an expanded capacity. The following terms and conditions apply to this category of family day care:

1) A family day care home is permitted to care for up to two additional school age children for a maximum total of eight children except that where there is at least one child under the age of three, the maximum total is seven children.

2) Children in grades kindergarten and above who are under the age of fourteen are considered school age.

3) Children of the family day care provider who are under six years of age must be counted toward the total of six non-school age children regardless of whether or not they attend school. Children of the family day care provider age six and over are not to be counted in determining the maximum total of two additional school age children.

4) Care for school age children may be provided before the start of the child's school day and/or after the end of the child's school day when school is in session. During the school year care may be provided for a full day when school is not in session.

5) Care for school age children who are the seventh and eighth children in the family day care home may be provided during the summertime only if the children were cared for during the previous school year or will be cared for during the upcoming school year and these children also attend a day camp or another form of regular summer day program or activity. Full day summertime care may be provided as long as it doesn't exceed two consecutive or four total weeks between school terms.

6) Family day care providers must notify each parent or guardian of a school age child who is or may be the seventh or eighth child receiving day care or potentially being considered for such care of the rules regarding the time frames and the circumstances in which family day care can be provided for school age children, especially the rules regarding summertime care.

7) The operator of a family day care home who is certified to operate with an expanded capacity must comply with the standards contained in New York State Department of Social Services Regulations Part 417.



STATE DEPARTMENT OF SOCIAL SERVICES

ALBANY, NEW YORK

Pursuant to the provisions of Sections 20(3)(d), 34(3)(f) and 390(6) of the Social Services Law, I, Cesar A. Perales, Commissioner of Social Services, do hereby amend Sections 417.1 and 417.6 of the Official Regulations of the State Department of Social Services, being Chapter II of Title 18 NYCRR, effective immediately upon filing with the Secretary of State.

Dated: September 10, 1987

Signed:

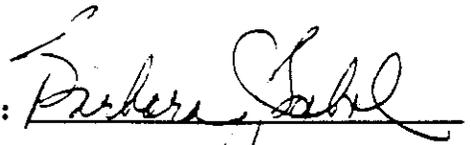


Executive Deputy Commissioner

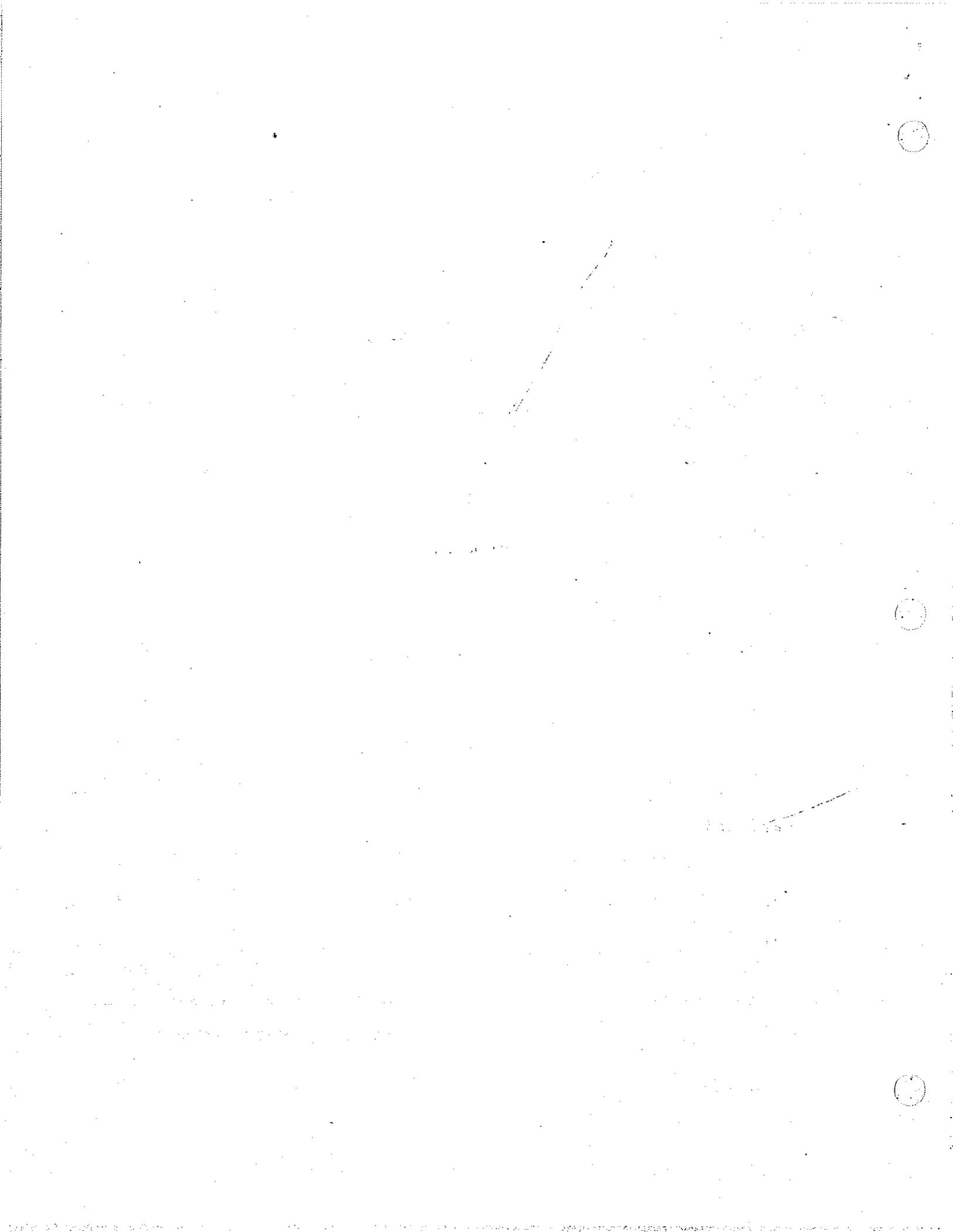
This is to certify that this is the original of an order of the State Department of Social Services, made on September 10, 1987 amending Sections 417.1 and 417.6 of the Official Regulations of the State Department of Social Services, being Title 18 NYCRR, the express terms of which were published in the New York State Register on June 17, 1987

Dated: September 10, 1987

Signed:



Executive Deputy Commissioner



Subdivision (b) of section 417.1 is amended to read as follows:

(b) As used in this Part, day care in a family home [shall mean] means day care of not more than six children provided in an individual's own home[.], except that as many as eight children may be cared for at any one time if at least two of the children are of school age and are receiving care primarily during non-school hours and the authorized agency which certified the provider, or the Department, if it issued a permit to the provider, has determined that the provider can adequately care for the additional children.

Subdivision (f) is added to section 417.6 to read as follows:

(f) When a school age child is accepted for family day as the seventh or eighth child in the home, the following provisions apply:

(1) School age children receiving day care services in a family day care home may receive such care for a full day on school holidays and vacations.

(2) During the summer period when school is not in session, such school age children may not receive day care in a family home except under the following circumstances:

(i) where day care is provided on a less than full day basis:

(a) the school age children being considered for such day care must be the same children who were cared for during the

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previous school year or are children who will be cared for in such home in the upcoming school year, and

(b) such children must be attending a day camp or another form of regular summer day program or activity.

(ii) where day care is to be provided on a full day basis:

(a) the conditions set forth in clause (a) of subparagraph (i) of this subdivision must be met, and

(b) the day care to be provided on a full day basis does not exceed two consecutive weeks or a total of four weeks between school terms during the summer time.

(Deleted material [bracketed]; new material underlined.)



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