Part 418-1

Child Day Care Centers

418-1.1 Definitions, Enforcement and Hearings
418-1.2 Procedures for Applying for and Renewing a License
418-1.3 Building and Equipment
418-1.4 Fire Protection
418-1.5 Safety
418-1.6 Transportation
418-1.7 Program Requirements
418-1.8 Supervision of Children
418-1.9 Behavior Management
418-1.10 Child Abuse and Maltreatment
418-1.11 Health and Infection Control
418-1.12 Nutrition
418-1.13 Staff Qualifications
418-1.14 Training
418-1.15 Management and Administration

Section 418-1.1 Definitions, Enforcement and Hearings.

The provisions of Part 413 of this Title apply to this Subpart.

418-1.2 Procedures For Applying For And Renewing A License

(a) Applicants for a license must submit to the Office:

(1) a completed application, including required attestations, on forms furnished by the Office or approved equivalents. Such application and attestations must include an agreement by the applicant to operate the child day care center in conformity with applicable laws and regulations;

(2) certificate of occupancy or other documentation from the local government authority having jurisdiction for determining compliance with the Fire Code and Building Code of New York State, or other applicable fire and building codes when the Fire and Building Code of New York State is not applicable, showing that the facility has been inspected and approved within the 12 months preceding the date of application for use as a child day care center, in accordance with the appropriate provisions of such code;

(3) documentation from local zoning authorities or officials, where such authorities or officials exist, that a child day care center is a permitted use under any zoning code applicable to the area in which the child day care center is located;

(4) documentation from the local health office or the New York State Department of Health showing that the facility has been inspected and approved within the 12 months preceding the date of application;

(5) where a program uses a private water supply, a report from a state licensed laboratory or individual, based on tests performed within the 12 months preceding the date of application, showing that the water meets standards for drinking water established by the New York State Department of Health;

(6) certification, on forms provided by the Office, that the building, its property and premises, and the surrounding neighborhood and environment are free from environmental hazards. Such hazards include, but are not limited to, dry cleaners, gas stations, nuclear laboratories or power plants, property designated as a federal superfund clean-up site, and any property with known contaminated ground or water supplies. Where the historical or current use of the building, its property and premises, or the surrounding neighborhood indicates that an environmental hazard may be present, inspection or testing must be completed by the appropriate local official or authority to determine if such a hazard exists. Documentation of the inspection or testing must be appended to the statement required by this paragraph and include a statement from the appropriate local official or authority following this inspection and/or testing that the building, its property and premises, and the surrounding neighborhood meet applicable standards for sanitation and safety;

(7) documentation from service personnel licensed by the New York State Department of State to perform fire alarm systems maintenance, repair and testing which shows that fire alarm and detection systems have been inspected, tested and maintained in accordance with the applicable requirements of the Fire Code and Building Code of New York State, or other applicable fire and building codes when the Fire and Building Code of New York State is not applicable, for use of the building as a child day care center;

(8) documentation from service personnel qualified to perform fire suppression systems testing showing that fire suppression equipment and systems have been tested and maintained in accordance with the requirements of the Fire Code and Building Code of New York State, or other applicable fire and building codes when the Fire and Building Code of New York State is not applicable, for use of the building as a child day care center;

(9) documentation from an inspector from the New York State Department of Labor, or an insurance company licensed to write boiler

insurance in New York State, showing that all steam or hot water boilers have been inspected and approved in accordance with the requirements of the New York State Department of Labor. For all other fuel burning heating systems and equipment, and boilers not subject to the New York State Department of Labor requirements, documentation of service by a heating contractor performed within the 12 months preceding the date of application;

(10) a diagram of the portion of the building to be occupied by the child day care center and all adjacent areas of such building, as required in section 418-1.3(a) of this Subpart;

(11) a description of program activities offered to meet the needs of children, as described in section 418-1.7(a) of this Subpart;

(12) a copy of the emergency plan and emergency evacuation diagram, as required in section 418-1.5(b) of this Subpart, specifying alternate means of egress;

(13) a health care plan developed in accordance with the requirements of section 418-1.11(a) of this Subpart;

(14) copies of sample menus for snacks and, where meals are provided, for meals, or a copy of the current letter of approval from the New York State Child and Adult Care Food Program. Menus must cover a four week period and be reviewed and signed by a person qualified in nutrition, as required in section 418-1.12(v) of this Subpart;

(15) where meals are provided but are not prepared at the center, a description of food service arrangements;

(16) a sworn statement by the applicant indicating whether, to the best of the applicant's knowledge, the applicant has ever been convicted of a misdemeanor or a felony in New York State or any other jurisdiction, and fingerprint images to comply with the requirements of section 413.4 of this Title;

(17) certification, on forms provided by the Office, that the applicant is in compliance with child support obligations or payments, in accordance with the requirements of Section 3-503 of the General Obligations Law;

(18) certification, on forms provided by the Office, that the child day care center is in compliance with workers' compensation in accordance with the requirements of New York State Law;

(19) (i) the Statewide Central Register database form necessary to complete required screening by the Statewide Central Register of Child Abuse and Maltreatment to determine if the applicant, for such license, is the subject of an indicated report of child abuse or maltreatment;

(ii) the forms necessary to check the register of substantiated category one cases of abuse or neglect maintained by the Justice Center for the Protection of Persons with Special Needs per Section 495 of the Social Services Law.

(20) a description of specific procedures which will assure the safety of a child who is reported to the Statewide Central Register of Child Abuse and Maltreatment as well as other children provided care in the child day care center, as required in section 418-1.10(d) of this Subpart;

(21) a description of the procedure to be used to review and evaluate the background information supplied by applicants for employment and volunteer positions, as required in section 418-1.13 of this Subpart;

(22) copies of the child day care center's personnel policies and practices;

(23) a description of policies and practices regarding appropriate supervision of children pursuant to section 418-1.8 of this Subpart;

(24) an outline of a plan for training as required in section 418-1.14 of this Subpart, including use of both in-service training and outside training resources;

(25) a copy of a certificate of insurance from an insurance company showing the intent to provide general liability insurance to the child day care center upon licensure;

(26) when the child day care center is owned by an individual, corporation, partnership or other entity using a business or assumed name, a copy of the certificate of doing business under an assumed name obtained from the county clerk; and

(27) a statement signed by the applicant or authorized representative of the applicant that the program is in compliance with all applicable statutes and regulations.

(b) Child day care centers located in public school buildings currently used for elementary, middle or secondary public education programs approved by the New York State Education Department are exempt from the requirements set

forth in 418-1.2(a)(2)-(9) of this Subpart. Each such program must submit a copy of the current certificate of occupancy issued by the State Education Department as part of the application. For those programs not issued such certificates of occupancy, the appropriate local equivalent, acceptable to the State Education Department, must be submitted.

(c) Applicants for a license must submit all the documentation required pursuant to section 418-1.2(a) within 90 days after the submission of the first piece of such documentation to the Office. Applicants who fail to submit all documentation within the 90 days will be deemed to have withdrawn such application.

(d) Applicants for a license may not be issued a license until an inspection of the child day care center has been conducted showing compliance with the requirements of this Subpart and the relevant provisions of the Social Services Law.

(e) Renewal. Applicants for renewal of a license must submit to the Office at least 60 days in advance of the expiration date of the license the following:

(1) a completed application for renewal, including required attestations, on forms furnished by the Office, or approved equivalents. Such application and attestations must include an agreement by the applicant to operate the child day care center in conformity with applicable laws and regulations;

(2) certification, on forms provided by the Office, of the status of the individual applicant's child support obligations or payments, in accordance with the requirements of Section 3-503 of the General Obligations Law;

(3) certification, on forms provided by the Office, that the program is in compliance with workers' compensation requirements in accordance with New York State Law;

(4) documentation of inspections and approvals as set forth in section 418-1.15(c) of this Subpart;

(5) documentation showing compliance with the training requirements of section 418-1.14 of this Subpart;

(6) certification, on forms provided by the Office, that the building, its property and premises, and the surrounding neighborhood and environment are free from environmental hazards. Such hazards include, but are not limited to, dry cleaners, gas stations, nuclear laboratories or power plants, property designated as a federal superfund clean-up site,

and any property with known contaminated ground or water supplies. Where the historical or current use of the building, its property and premises, or the surrounding neighborhood indicates that an environmental hazard may be present, inspection or testing must be completed by the appropriate local official or authority to determine if such a hazard exists. Documentation of the inspection or testing must be appended to the statement required by this paragraph and include a statement from the appropriate local official or authority following this inspection and/or testing that the building, its property and premises, and the surrounding neighborhood meet applicable standards for sanitation and safety;

(7) documentation from the local health office or the New York State Department of Health showing that the facility has been inspected and approved within the 12 months preceding the date of application for renewal;

(8) where a program uses a private water supply, a report from a state licensed laboratory or individual, based on tests performed within the 12 months preceding the date of application for renewal, showing that the water meets standards for drinking water established by the New York State Department of Health;

(9) documentation from service personnel licensed by the New York State Department of State to perform fire alarm systems maintenance, repair and testing which shows that fire alarm and detection systems have been inspected, tested and maintained during the current license period in accordance with the applicable requirements of the Fire and Building Code of New York State or other applicable fire and building codes when the Fire and Building Code of New York State is not applicable, for use of the building as a child day care center;

(10) documentation from service personnel qualified to perform fire suppression systems testing showing that fire suppression equipment and systems have been tested and maintained during the current license period in accordance with the requirements of the Fire and Building Code of New York State, or other applicable fire and building codes when the Fire and Building Code of New York State is not applicable, for use of the building as a child day care center;

(11) documentation from an inspector from the New York State Department of Labor, or an insurance company licensed to write boiler insurance in New York State, showing that all steam or hot water boilers have been inspected and approved during the current license period in accordance with the requirements of the New York State Department of Labor. For all other fuel burning heating systems and equipment, and

boilers not subject to the New York State Department of Labor requirements, documentation of service by a heating contractor performed within the 12 months preceding the date of application for renewal; and

(12) a copy of a certificate of insurance from an insurance company showing general liability insurance is provided to the program and a copy of the insurance policy.

(f) Applicants for renewal of a license may not be issued a license until an inspection of the child day care center has been conducted showing compliance with the requirements of this Subpart and the relevant provisions of the Social Services Law.

(g) Child day care centers located in public school buildings currently used for elementary, middle or secondary public education programs approved by the New York State Education Department are exempt from the requirements set forth in 418-1.2(e)(6)-(11). Each such program must submit a copy of the current certificate of occupancy issued by the State Education Department as part of the application. For those programs not issued such certificates of occupancy, the appropriate local equivalent, acceptable to the State Education Department, must be submitted.

418-1.3 Building and Equipment

(a) Each applicant must submit to the Office a diagram of the proposed child day care center at the time of application for licensure.

(1) The diagram must be labeled with the planned occupancy or use of all areas of the building and all outside areas to be used or occupied by the child day care center. The diagram must show: room dimensions; the age group(s) using each room; the size of the group(s) using each room; kitchens and bathrooms for children and staff; exits; alternate means of egress; plumbing fixtures such as toilets, sinks and drinking fountains; and the outdoor play area showing its relationship to the building.

(2) Whenever change(s), addition(s) or expansion(s) are proposed which will affect, or reasonably may be expected to affect, those portions of the building designated for the care of children or for their egress in case of an emergency, the licensee must receive written approval from the Office prior to initiating such change(s), addition(s), or expansion(s).

(b) Areas that will be used by the children must be well-lighted and well-ventilated. Heating, ventilation and lighting equipment must be adequate for the protection of the health of the children.

(c) Before any change is made, the Office must be notified and must approve the re-designation of a classroom to a different age group of children.

(d) A temperature of at least 68 degrees Fahrenheit must be maintained in all rooms to be occupied by children.

(e) A firm clean crib, cot, bed or washable padded mat of age appropriate size and construction must be provided for all children requiring a rest period.

(f) All cribs must be in compliance with the safety standards established by the Consumer Product Safety Commission. Stackable cribs are prohibited.

(g) Toxic paints or finishes must not be used on room surfaces, furniture or any other equipment, materials or furnishings which may be used by children or are within their reach.

(h) Peeling or damaged paint or plaster must be repaired.

(i) Concrete floors used by the children must be covered with appropriate material.

(j) School-age children must have separate areas to avoid interference with the younger children's programs.

(k) Readily accessible outdoor play space which is adequate for active play must be provided. Outdoor space may include public parks, school yards or public play areas. A written diagram outlining how children will safely travel to and from this location must be developed and approved by the Office.

(l) Toilet facilities and wash basins.

(1) Convenient, adequate and sanitary toilet facilities must be provided for the children in a separate, properly ventilated room readily accessible to children.

(2) One sanitary toilet must be available for every group of 15 children, not including infants, or part thereof.

(3) One wash basin must be available for every group of 15 children, including infants, or part thereof.

(4)The diaper changing area must be as close as possible to a sink with soap and hot and cold running water. This area or sink must not be used for food preparation.

(5) All day care centers licensed on or after the effective date of these regulations will be required to have two sinks in rooms serving infants.

(6) One of the required sinks will serve as a washbasin for bottles and dishes the other for diaper changing needs and hand washing.

(m) A functioning, sanitary shower or tub must be available when night care is provided.

(n) Adequate and safe water supply and sewage facilities must be provided and must comply with State and local laws. Hot and cold running water must be available and accessible at all times.

(o) All buildings used for day care centers must remain in compliance with the applicable provisions of the Fire Code and Building Code of New York State or other applicable fire and building codes when the Fire Code and Building Code of New York State is not applicable.

(1) Any part of any building used as a day care center shall meet the requirements applicable under the Fire Code and Building Code of New York State or other applicable fire and building codes as appropriate to the ages of the children in care.

(2) Buildings, systems and equipment must be kept in good repair and operate as designed.

(p) The building number of the day care program shall be conspicuously displayed and visible from the street.

(q) Separate quarters or areas apart from those of the older children must be provided for infants and toddlers. These must consist of play areas of at least 35 square feet per child where infants and toddlers may safely and comfortably sit, crawl, walk and play. There must be additional space for sleeping provided in accordance with the following:

(1) For infants, this additional space must contain a crib for each infant permitted by the authorized maximum capacity for this age group as shown on the license.

(2) For toddlers, this additional space must be sufficient to accommodate individual cribs, cots or padded mats, for at least 1/3 of the center's authorized maximum capacity for this age group as shown on the license.

(3) Preschool and school-aged children must be accommodated in rooms having a minimum of 35 square feet for each child.

(4) Areas used for large motor activity, staff lounges, storage spaces, halls, bathrooms, kitchens and offices may not be included in calculating the 35 square feet per child requirement.

(r) There must be a separate quiet area, which can be adequately supervised, for children who become ill or who develop symptoms of illness.

(s) Space must be provided so that children's personal items may be stored separately.

418-1.4 Fire Protection

(a) Suitable precautions must be taken to eliminate all conditions which may contribute to or create a fire hazard.

(b) Evacuation drills.

(1) Evacuation drills must be conducted at least monthly during various hours of operation of the child day care center.

(2) When conducting evacuation drills the exit route must be varied to ensure that all approved means of egress are practiced.

(3) When multiple shifts of care are provided, such drills must be conducted monthly during each shift of care.

(4) The program must maintain on file a record of each evacuation drill conducted, using forms furnished by the Office or approved equivalents.

(c) Fire detection, alarm and firefighting equipment appropriate to the type of building construction, size, height and occupancy must be provided, maintained and operate as designed.

(1) Such equipment must include at least:

(i) one fire extinguisher for every 3,000 square feet of space;

(ii) an automatic interconnected fire detection alarm system with:

(a) smoke-sensing type devices throughout exit ways, and

(b) heat-sensing type devices or a water sprinkler alarm system in furnace rooms and any other unsupervised spaces within the building which contain fire-hazardous materials; and

(iii) manually activated fire alarm stations.

(d) All fire alarm and detection systems must be inspected, tested and maintained in accordance with the applicable requirements of the Fire Code and Building Code of New York State or other applicable fire and building codes when the Fire Code and Building Code of New York State is not applicable.

(1) All such inspections, testing and maintenance must be conducted by service personnel licensed by the New York State Department of State to perform fire alarm systems maintenance, repair and testing.

(2) All program staff must be instructed in the function and operation of fire alarm and detection systems used in the child day care center.

(e) All fire suppression equipment and systems must be tested and maintained in accordance with the applicable requirements of the Fire Code and Building Code of New York State or other applicable fire and building codes when the Fire Code and Building Code of New York State is not applicable.

(1) All such inspections, testing and maintenance must be conducted by service personnel qualified to perform fire suppression systems maintenance, repair and testing.

(2) All staff must be instructed in the function and operation of fire suppression equipment and systems used in the child day care center.

(f) Adequate means of egress must be provided. Children may be cared for only on such floors as are provided with readily accessible alternate means of egress to other floors, in the case of fire-resistant buildings, and to the outside in the case of non-fire-resistant buildings.

(1) Designated means of egress must be remote from each other.

(2) All corridors, aisles, and approaches to exits must be kept unobstructed at all times.

(3) Exit stairways must be equipped with railings for the use of the children.

(g) Trash, garbage and combustible materials must not be stored in the furnace room or in rooms or outdoor areas adjacent to the facility that are ordinarily occupied by or accessible to children.

(h) The director or a designated qualified staff member must conduct monthly inspections of the premises to observe possible fire or safety hazards. Any such hazard must be corrected immediately.

(i) A record of all inspections and all corrections must be maintained at the program or at a central location available for review upon request.

(j) Steam or hot water boilers must be inspected and approved in accordance with the requirements of the New York State Department of Labor by an inspector from the New York State Department of Labor, or by an insurance company which is licensed to write boiler insurance in the State. All other fuel burning heating systems and equipment and boilers not subject to the New York State Department of Labor requirements must be serviced by a heating contractor once every 24 months.

(k) Rooms containing boilers, fuel burning furnaces or other fuel burning heating equipment must be constructed using a minimum of one-hour fire resistant materials or materials of a greater fire resistance when required by Fire Code and Building Code of New York State, or other applicable fire and building codes when the Fire Code and Building Code of New York State is not applicable.

418-1.5 Safety

(a) Suitable precautions must be taken to eliminate all conditions in areas accessible to children which pose a safety or health hazard.

(b) The program must submit a written Emergency Plan and Emergency Evacuation Diagram using forms furnished by the Office or an approved equivalent form. Primary emphasis must be placed on the safe and timely evacuation and relocation of children. The plan must account for the variety of needs of children, including those with disabilities.

(1) The plan, as submitted with the application or changed thereafter, must be reviewed with the parents of the children in the program and all staff that work in the program.

(2)The Emergency Evacuation Diagram, as approved by the Office, must be posted in a conspicuous place in every room.

(3) The Emergency Plan must include the following:

(i) how children and staff will be made aware of an emergency;

(ii) a designation of primary and secondary evacuation routes;

(iii) methods of evacuation, including where children and staff will meet after evacuating the building, and how attendance will be taken;

(iv) a plan for the safe evacuation of children from the premises for each shift of care provided (day, evening, night);

(v) the designation of primary and secondary emergency relocation sites to be used in the case of an emergency, which prohibits re-entry to the child care premises, and how the health, safety and emotional needs of children will be met in the event it becomes necessary to evacuate to another location;

(vi) a strategy for sheltering in place, and how the health, safety and emotional needs of children will be met in the event it becomes necessary to shelter-in-place;

(vii) notification of authorities and the children's parents; and

(viii) roles of staff.

(4) Each program must hold two shelter-in-place drills annually during which procedures and supplies are reviewed. Parents must be made aware of this drill in advance.

(5) The program must maintain on file a record of each shelter-in-place drill conducted, using forms provided by the Office or approved equivalents.

(6) Parents must be made aware of the primary and secondary relocation sites and any changes to the plan in advance. In the case that a program is directed to a different location by emergency services, the program must notify parents and the Office as soon as possible. In the event that relocation is required, a written notice must be placed on the main entry to the child care space unless an immediate threat precludes the program from doing so.

(7) Each program must have on site a variety of supplies including food, water, first aid and other safety equipment to allow for the protection of the health and safety of children in the event parents are unable to pick up children due to a local disaster. The plan must take into account a child's needs for an overnight stay. Food supplies must be non-perishable and of sufficient quantity for all children for an overnight stay. Programs that serve food daily and have a food supply stored on site for their daily operation or are co-located at a site with a cafeteria, pantry or eatery of some kind are not required to store emergency food or water supplies if they can show that they have access to and permission to use those foods in a declared emergency.

(8) An evacuation crib or other assistive device must be available and used for children unable to evacuate on their own or without assistance.

(9) All evacuation cribs or devices used to evacuate children must be of substantial construction and designed for evacuation.

(c) Portable electric heaters or other portable heating devices, regardless of the type of fuel used, may not be used in child day care centers.

(d) Radiators and pipes located in rooms occupied by children must be covered to protect the children from injury when the heating system is in use.

(e) Porches, decks or stairs with more than two steps must have railings with a barrier extending to the floor or ground to prevent children from falling. Acceptable types of barriers include, but are not limited to, banisters, intermediate rails, and heavy screening.

(f) Barriers must exist to prevent children from gaining access to unsafe areas. Such areas include, but are not limited to, swimming pools, drainage ditches, wells, ponds, or other bodies of open water, holes, wood and coal burning stoves, fireplaces, pellet stoves, permanently installed gas space heaters, or any other unsafe area.

(g) The use of pools that have not received a Department of Health permit to operate, spa pools and all fill-and-drain wading pools are prohibited.

(1) No child shall participate in aquatic activities including, fishing, boating, swimming or any other activity on a body of water without a certified lifeguard present.

(a) The certified lifeguard can be either a staff person from the day care center, or an employee of the venue.

(b) If provided by the center, the certified lifeguard must be certified for the body of water they are supervising children in or near.

(2) No child shall participate in activities at or near a body of water, without a person who is certified in cardio-pulmonary resuscitation and first aid present.

(3) Only those swimming pools and bathing beaches that have a valid permit to operate issued from the local health department having jurisdiction for the bathing facility or those operated by a government agency may be used.

(4) The program shall develop and implement a method to keep track of the location and maintain safety for all children during swimming and other off-site activities. The program shall establish and follow a written plan which details the system of supervising and checking swimmers. This includes a plan for children who are non-swimmers. In addition, a plan for a lost swimmer must be established.

(5) All staff attending the aquatic activity must review the aquatic activity plan before departing for the activity.

(h) Public swimming pools and adjacent areas used by the children must be constructed, maintained, staffed and used in accordance with Chapter 1, Subpart 6-1, of the New York State Sanitary Code, and in such a manner as will safeguard the lives and health of children.

(i) When swimming is included as part of the program activities each child shall have a signed statement of permission from the parent to participate.

(j) All field trips with an itinerary that includes an activity where emergency medical care is not readily available and/or an activity such as, but not limited to, wilderness hiking, rock climbing, horseback riding, bicycling, must be accompanied by a staff who possess a current first aid certificate and cardio-pulmonary resuscitation (CPR) certification.

(k) If off-site events are part of the program's activities, the child care program must develop and share with its program staff written plans that cover field trip events. The safety plan must at least include requirements set forth in 418-1.5(g), 418-1.6, and 418-1.8(o).

(l) Animals and pets.

(1) Any pet or animal kept indoors or outdoors at the child day care center must present no evidence of disease or parasites and pose no threat.

(2) All pets housed at or permitted to visit the center that require a license must be licensed.

(3) All required vaccines must be kept current.

(4) The license and record of vaccines must be available to the Office when requested.

(5) Animals posing a threat must be kept away from the child care center.

(6) The provisions of section 418-1.5(l) also apply to those pets or animals present at the child day care center that do not belong to the licensee, staff or volunteers of the center.

(7) Parents must be informed of pets that are regularly at the program.

(8) Reptiles and amphibians are not permitted at child care centers.

(m) Communication.

(1) The child day care center must have immediate access to a minimum of one landline telephone for general use and emergencies. A working mobile phone(s) is permitted for the purpose of promoting children's safety and ensuring the orderly operation of the program, but its use does not remove the requirement for a designated on-site landline telephone.

(2) 911 and the Poison control phone number must be posted conspicuously on or next to all center telephones.

(3) Devices used for purposes of caller identification or call blocking shall not be used to block in-coming calls from parents of children in care, representatives of the Office or agents of the state or local government during the hours of operation of the child day care program.

(n) Materials and play equipment.

(1) Materials and play equipment used by the children must be sturdy and free from rough edges and sharp corners.

(2) Play equipment must be installed and used in accordance with the manufacturer's specifications and instructions, be in good repair, and be placed in a safe location.

(3) Play equipment must be used in a safe manner.

(4) Play equipment and apparatus may be used only by the children for whom it is developmentally appropriate.

(5) All programs that substantially modify, or install new, outside play equipment must do so in accordance with the U.S. Consumer Product Safety Commission's Public Playground Safety Handbook.

(o) Clear interior or exterior glass doorways must be marked clearly to avoid accidental impact.

(p) Glass in outside windows less than 32 inches above the floor level must be of safety grade or otherwise protected by use of barriers to avoid accidental impact.

(q) Windows above the first floor that are accessible to children and present a fall hazard must be protected by permanent barriers or restrictive locking devices to prevent a window from opening fully thus preventing children from falling out the windows.

(r) An operable flashlight or battery powered lantern must be kept in each classroom. Such equipment must be properly maintained for use in the event of a power failure.

(s) Door latches, locks and covers.

(1) Every closet door latch that is accessible to children must be constructed to enable children to open the door from inside the closet.

(2) Every bathroom door lock must be designed to permit opening of the locked door from the outside in an emergency. The opening device must be readily accessible to the staff.

(3) Egress doors from the center must be able to be opened from the inside without using a key. Child protective door knob covers may not be used on egress doors.

(t) Operating carbon monoxide detectors and alarms must be located in accordance with applicable laws, and used in all programs where children nap.

(u) The use of trampolines by day care children is prohibited, except for small one person exercise trampolines.

(v) All matches, lighters, medicines, drugs, cleaning materials, detergents, aerosol cans and other poisonous or toxic materials must be stored in their original containers. Such materials must be used in such a way that they will not contaminate play surfaces, food or food preparation areas, or constitute a hazard to children. Such materials must be kept in a place inaccessible to children.

(w) Cleaning materials must be stored in their original containers unless the product's use or the program's health care plan indicates that the product be mixed with water before use. In this case, the container used for subsequent use of the mixed product must state the name of the cleaning material contained within. Cleaning materials must be used in such a way that they will not contaminate play surfaces, food or food preparation areas, or constitute a

hazard to children. Such materials must be kept in a place inaccessible to children.

(x) Firearms, shotguns and rifles are prohibited at the child care program, except that nothing in this section shall be construed to prohibit a police officer or peace officer, as those terms are defined in section 1.20 of the criminal procedure law, or a security guard, as defined in section 89-f of the general business law, from possessing a firearm, shotgun or rifle on the premises for the protection of the child care program. Each child care program shall post signs providing notification of such prohibition that read: "No firearms, shotguns or rifles are permitted on these premises." Such signs, not less than eight and one-half inches by eleven inches, shall be posted in a prominent manner and within reasonable distance of each entrance of the child care program. Such signs shall be distributed by the Office of Children and Family Services.

(y) Protective caps, covers or permanently installed obstructive devices must be used on all electrical outlets that are accessible to children.

(z) All window and door blind cords, ropes, wires and other strangulation hazards must be secured and inaccessible to children.

(aa) The following items must be used and stored in such a manner that they are not accessible to children: handbags, backpacks or briefcases belonging to adults; plastic bags; and toys and objects small enough for young children to swallow.

(ab) High chairs.

(1) High chairs, when used, must have a sturdy and steady base and be used only for children who are able to sit up independently.

(2) A safety strap must be fastened around children who are seated in high chairs.

418-1.6 Transportation

(a) The program must obtain written consent on forms furnished by the Office or approved equivalents from the parent of the child for any transportation of the children in care at the center, provided or arranged for by the program.

(b) When transportation is provided or arranged for by the program, parents must be informed when the person who or vendor that is providing transportation changes.

(c) Parents must be informed of and agree to a transportation plan before a child can be transported by the program.

(d) A child must never be left unattended in any motor vehicle or other form of transportation. The program must develop and follow procedures to guarantee no children are left alone on a bus, vehicle or other transportation modes without adult supervision at any time, including insuring all children have departed the vehicle.

(e) Each child must board or leave a vehicle from the curb side of the street.

(f) All children must be secured in child safety seats properly installed per manufacturers recommendations, or with safety belts, as appropriate for the age of the child in accordance with the requirements of the Vehicle and Traffic Law, before any child may be transported in a motor vehicle where such transportation is provided or arranged for by the program.

(g) Programs that offer transportation services either directly or by contract with a third party must ensure that drivers and vehicles meet all Department of Motor Vehicles and Department of Transportation requirements.

(h) Drivers must be 18 years of age or older and hold a current valid license to drive the class of vehicle they are operating.

(i) Any motor vehicle, other than a public form of transportation, used to transport children in care at the center must have a current registration and inspection sticker.

(j) Parents whose children receive transportation services must receive, at the time of enrollment of their children, a copy of the program's transportation plan. If the plan is amended, parents must receive a copy of the amended plan prior to its start date.

(k) No person transporting child care children shall operate a motor vehicle while using a mobile phone, or other electronic communication device, including hands-free devices. All communications made or received by the driver while the motor vehicle is in use for the transportation of child care children must be made from a legally permitted parked position off the road.

(l) The program must openly display its daily transportation schedules.

(m) When transportation is provided by the child day care center, the driver of the vehicle may not be included in the supervision ratio except when the only children being transported are enrolled in kindergarten or a higher grade.

418-1.7 Program Requirements

(a) A written daily schedule of program activities and routines is required.

(1) The program must establish and implement a daily schedule of program activities that offers reasonable regularity in routines, including snack and meal periods, nap and rest periods, indoor activities, outdoor play time and a variety of large muscle activities throughout the day. There must be physical activity, appropriate to the ages of the children in care, every day.

(2) When care is provided to infants less than six months of age, the daily schedule must include short supervised periods of time during which the awake infant is placed on his or her stomach, back or side allowing them to move freely and interact socially, thus developing motor skills and social skills.

(3) The daily schedule must include a routine of good personal hygiene practices, and when night care is provided, this includes changing into night clothes, brushing teeth, and washing before bed in the manner to be agreed between the parent and the program.

(b) Children must receive instruction, consistent with their age, needs and circumstances, in techniques and procedures that will enable them to protect themselves from abuse and maltreatment.

(c) Each program must provide a sufficient quantity and variety of materials and play equipment appropriate to the ages of the children and their developmental levels and interests, including children with developmental delays or disabilities, which promote the children's cognitive, educational, social, cultural, physical, emotional, language and recreational development.

(d) As age and development permit, children must be allowed freedom of movement and must be provided with an environment designed to develop such skills as crawling, standing, walking and running.

(e) Children must be provided an opportunity to choose between quiet activities and active play.

(f) Children must be provided with a program of self-initiated, group-initiated and teacher-initiated activities which are intellectually stimulating and foster self-reliance and social responsibility.

(g) Activities which provide children with opportunities for learning and self-expression in small and large groups is required.

(h) If television or other electronic visual media is used, it must be part of a planned developmentally appropriate program with an educational, social, physical or other learning objective that includes identified goals and objectives. Television and other electronic visual media must not be used solely to occupy time.

(1) Television and other electronic visual media must be turned off when not part of a planned developmentally appropriate program activity.

(2) Children must not watch television or other electronic visual media during meals.

(3) Television and other electronic visual media must be turned off while children are sleeping, and during established nap times. This is not to prohibit an individual from using electronic visual media for business purposes during sleep or nap time if all children are sleeping and its use does not interfere with the supervision of children.

(i) At the time of the child's admission to the program, the program must furnish parents with appropriate instructional materials that will assist them in evaluating the program, and its staff. Such materials must include information concerning child abuse and maltreatment, and guidance on the steps the parent may take if they suspect their child has been abused or maltreated.

(j) The child day care center must offer information about other community resources to families when they are in need of supportive social services not otherwise provided by the child day care center.

(k) Daily supervised outdoor play is required for all children in care, except during inclement or extreme weather or unless otherwise ordered by a health care provider. Parents may request and programs may permit children to remain indoors during outdoor play time so long as such children will be supervised in accordance with section 418-1.8 of this Subpart.

(l) Except while sleeping, awaking or going to sleep, an infant must not be left in a crib, playpen or other confined space for more than 30 minutes at any one time. Other than at meals or snack time, a child must not be left in a high chair for longer than 15 minutes.

(m) Children may not sleep or nap in car seats, baby swings, strollers, infant seats or bouncy seats unless otherwise prescribed by a health care provider. Should a child fall asleep in one of these devices, he or she must be moved to a crib/cot or other approved sleeping surface.

(n) For day and evening care, appropriate rest and quiet periods, that are responsive to individual and group needs, must be provided so that children can

sit quietly or lie down to rest.

(o) Other than for school age children, sleeping and napping arrangements must be made in writing between the parent and the program. Such arrangements shall include: the area of the program where the child will nap; whether the child will nap on a cot, mat, bed or a crib; and how the napping child will be supervised, consistent with the requirements of section 418-1.8 of this Subpart.

(p) Sleeping arrangements for infants require that the infant be placed flat on his or her back to sleep, unless medical information from the child's health care provider is presented to the program by the parent that shows that arrangement is inappropriate for that child.

(q) Cribs, bassinets and other sleeping areas for infants must not have bumper pads, toys, large stuffed animals, heavy blankets, pillows, wedges or infant positioners unless medical information from the child's health care provider is presented indicating otherwise.

(r) The resting/napping places must:

(1) be located in approved day care space;

(2) be located in safe areas of the program;

(3) be located in a draft-free area;

(4) be where children will not be stepped on;

(5) be in a location where safe egress is not blocked;

(6) allow a person to move freely and safely within the napping area in order to check on or meet the needs of children; and

(7) be at least two feet apart from each other.

(s) Individual clean bed coverings must be available, as needed, for each child requiring a rest period.

(t) Bedding, which is the removable and washable portion of the sleeping environment, must not be shared between children.

(u) Sleeping surfaces, including bedding, which is the removable and washable portion of the sleeping environment, must not come in contact with the sleeping surfaces of another child's rest equipment during storage. Mats and cots must be stored so that the sleeping surfaces do not touch when stacked.

(v) No crib, cot, bed or mat may be occupied by more than one child, nor by a child and any adult.

(w) Children unable to sleep during nap time shall not be confined to a sleeping surface (cot, crib, etc) but instead must be offered a supervised place for quiet play.

(x) Each classroom or area must be arranged to allow children to actively manipulate and utilize toys and equipment while interacting with peers and adults.

(y) Climbing and large motor apparatus should be available either inside the child day care center or in the outdoor play space.

(z) Infants must not be exposed to television and other electronic visual medias.

418-1.8 Supervision of Children

(a) Children cannot be left without competent supervision at any time. Competent supervision includes awareness of and responsibility for the ongoing activity of each child. It requires that all children be within a teacher's range of vision and that the teacher be near enough to respond when redirection or intervention strategies are needed. Competent supervision must take into account the child's age emotional, physical, and cognitive development.

(b) The child day care center must employ staff who will promote the physical, intellectual, social, cultural and emotional well-being of the children.

(c) The child day care center must provide supervision of the staff responsible for the care of children. Workloads and assignments must be arranged to provide consistency of care to children and to allow staff to fulfill their respective responsibilities.

(d) (1) No person other than a director, group teacher or assistant teacher may supervise a group independently even for brief periods of time, except in an emergency.

(2) No person under 18 years of age may be left alone to supervise a group of children at any time including in an emergency.

(e) A group teacher, meeting the qualifications of section 418-1.13, is required for every group of children.

(f) An additional group teacher or an assistant teacher is required when the number of children in the group dictate that a second teacher be present to meet the teacher/child ratio.

(g) Whenever the child day care center is in operation and the director is away from the premises, there must be a staff person designated to act on behalf of the director, who is knowledgeable about the programs operation and policies.

(h) A staff person who is qualified to perform the duties of an absent staff member must be provided when needed to comply with the applicable teacher/child ratios.

(i) In other than emergency situations such as illness or accident, parents must be notified in writing 2 weeks prior to any long-term absence of the teachers. This notice must include specific start and end dates of the absence and who will be taking the teacher's place in the day care program.

(j) When a child day care center is in operation, an adequate number of qualified teachers must be on duty to insure the health and safety of the children in care.

Minimum Supervision Ratios Based on Group Size for Infants, Toddlers and Preschoolers

AGE OF CHILDREN	TEACHER/CHILD MAXIMUM RATIO	MAXIMUM GROUP SIZE
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 Supervision Ratios Based on Group Size for School-aged Children

AGE OF CHILDREN	TEACHER/CHILD MAXIMUM RATIO	MAXIMUM GROUP SIZE
through 9 years	1:10	20
10-12 years	1:15	30

(k)The supervision ratios are as follows:

(1) for children under six weeks old who have been approved to attend day care by the office:

(i) there must be one teacher for every three children;

(ii) the maximum group size is six children.

(2) for children between ages six weeks old and 18 months old:

(i) there must be one teacher for every four children;

(ii) the maximum group size is eight children.

(3) for children between ages 18 months old and 36 months old:

(i) there must be one teacher for every five children;

(ii) the maximum group size is twelve children.

(4) for three year old children:

(i) there must be one teacher for every seven children;

(ii) the maximum group size is eighteen children.

(5) for four year old children:

(i) there must be one teacher for every eight children;

(ii) the maximum group size is twenty-one children.

(6) for five year old children:

(i) there must be one teacher for every nine children;

(ii) the maximum group size is twenty-four children.

(7) for a child of school-age through the age of nine years old:

(i) there must be one teacher for every ten children;

(ii) the maximum group size is twenty children.

(8) for children between the ages of ten years old and twelve years old:

(i) there must be one teacher for every fifteen children;

(ii) the maximum group size is thirty children.

(l) Group size and mixing different age children within groups.

(1) Group size refers to the number of children cared for together as a unit. Group size is used to determine the minimum teacher/child ratio based upon the age of the children in the group.

(2) Group size must be maintained in common areas of the day care center building and grounds.

(3) Groups of children may not be mixed together to use outdoor play areas, exercise areas, gym rooms or other common areas of the center unless, the space is large enough to accommodate multiple groups which must be kept separate.

(4) Any child who is 18 months or older who may not be developmentally ready to advance to the next age group setting may be retained for a period of up to three months.

(i) A written agreement concerning this retention between the parent and the center is required.

(ii) If this time period is expected to exceed three months, the center, in consultation with Early Intervention or Special Education staff and the parent, may exercise greater discretion in the placement of the child with a developmental disability or delay based on consideration of such factors as the child's developmental readiness, appropriateness of the classroom environment, the level of care the child requires and the needs of the other children in care.

(iii) A written assessment of the child's need for further retention must be kept on file.

(5) In consideration of a child's developmental readiness, appropriateness of the classroom environment, the level of care the child requires and the needs of the other children in care, the center may move a toddler to the next age group when that child is within three months of their third birthday.

(i) A written assessment of the child's developmental readiness is required to be kept on file.

(6) When preschool children ages three years to five years are cared for in one group throughout the day, the teacher to child ratio and maximum group size applicable to the age of the majority of children must be followed.

(7) Except for Office approved continuity of care classrooms, infants may never be mixed with other age groups.

(8) Except for Office approved continuity of care classrooms, children under three years of age may not participate in mixed age groups except for limited periods of time at the beginning and end of the child day care center's daily operation.

(9) When toddlers are cared for with preschool children in a mixed age group at the very beginning or very end of the day, the teacher/child ratio and maximum group size applicable to children aged 18 months to 36 months must be followed.

(10) When preschool children are cared for in school age groups at the very beginning or very end of the day, the teacher/child ratio and maximum group size applicable to the youngest child in the group must be followed.

(11) Day care centers that have been approved to operate a school-age children component in their day care center may only mix school age children with pre-school children at the very beginning of the day and the very end of the day. School age children may never be mixed with pre-school children for the entire period of time they are in care at the center.

(12) When school age children are mixed with pre-school children at the beginning and end of the day, toddlers may not be mixed in these groups. School age children may not be mixed with children under age three at any time.

(m) There must be a director, group teacher or assistant teacher supervising all applicants, volunteers and persons in the process of approval.

(n) The use of any type of personal electronic media device for social or entertainment purposes, including but not limited to, listening to music on headphones, playing screen games, surfing the internet, sending e-mails, or making personal calls while supervising children is prohibited. The use of mobile phones is permitted as necessary to promote the children's safety and ensuring the orderly operation of the program.

(o) The director must approve all plans for field trips, including the type of activity, development needs of children and whether there is the need for additional staff to provide adequate supervision. Such plans must take into consideration the developmental needs of the children.

(p) Releasing children from care.

(1) No child can be released from the child day care center to any person other than his or her parent, a person(s) currently designated in writing by such parent to receive the child, or another person authorized by law to take custody of a child.

(2) No child can be released from the child day care center unsupervised except upon written permission of the child's parent. Such permission must be acceptable to the child day care center and should take into consideration such factors as the child's age and maturity, proximity to his or her home, and safety of the neighborhood.

(3) When transportation is provided as a service by the program, no child can be released from the day care program directly to the child's home or other destination without first verifying that the parent or person(s) designated by the parent to receive the child is present at that destination to receive the child.

(q) Visitor control procedures.

(1) Each day care center shall require any and all visitors to the facility to:

(i) sign in upon entry to the premises;

(ii) indicate in writing the date of the visit and the time of entry to the facility;

(iii) clearly state in writing the purpose of the visit; and

(iv) sign out upon departure from the facility indicating in writing the time of departure.

(2) Each day care center shall establish written rules and policies as are necessary to provide for monitoring and control of visitors to protect the health, safety and welfare of children in care.

(r) Continuity of care. The continuity of care model requires that the center make every effort to establish and maintain a primary relationship between teachers and children and their respective families over a period of years. In the continuity of care model, infants/toddlers and their teachers stay together until all children in the group are thirty-six (36) months of age. The core concept in continuity of care is the practice that assigns a child to one teacher who becomes responsible for the child and for communication with the child's parents. The teachers must develop positive relationships with each child assigned to his/her care, tending to their physical and emotional needs and working together with a second group teacher or assistant teacher in the group who maintains this same relationship with another small number of children assigned to her/him. While

each teacher is assigned to a small number of children, both are also responsible as a back-up for each other's assigned children when a need arises to safeguard the health and safety of any child in the classroom.

(1) For purpose of maintaining a continuity of care model, centers may mix children six weeks of age to thirty-six months of age in one classroom, in compliance with the provisions of section 418-1.8(r) of this Subpart.

(2) The teachers assigned to the continuity of care classrooms must receive instruction regarding the concepts of continuity of care and develop positive relationships with each child assigned to his/her care, tending to their physical and emotional needs.

(3) In order that infants and toddlers develop consistent and significant positive relationships with teachers working in continuity of care classrooms, teachers must be assigned to that classroom and those children only, except that toddlers and their teacher participating in continuity of care classrooms may participate in the center's plans for supervision at the very beginning and very end of the daily operation as permitted per section 418-1.8(l) of this Subpart.

(4) Continuity of care teachers will be directly responsible for communication with the assigned children's parents.

(5) While each teacher working in a continuity of care classroom is assigned to a small number of children in the classroom, the teachers are also responsible as each other's back-up when a need arises to safeguard the health and safety of any child in the classroom.

(6) Parents of children who will be assigned to a continuity of care classroom must be informed by the program about this model of care and agree in writing to placing their child in the continuity of care group.

(7) The teacher/child ratio and maximum group size in continuity of care classrooms must be applicable to the youngest child in the group and consistent with section 418-1.8(k) of this Subpart.

(8) The center's continuity of care programming, furnishings, equipment and size shall meet the developmental appropriate needs of all the children in the room.

(9) All proposed models of continuity of care must be submitted to the Office for review and approval prior to implementation.

(s) Day care centers that do not offer care to infant and toddlers may enroll children who will turn three by December 1st of that same year if the day care center enrollment coincides with the start of the local public school year.

418-1.9 Behavior Management

(a) The program must establish and follow a written plan for behavior management that is acceptable to the office. This plan must include how the staff will approach challenging behaviors, help children solve problems and encourage acceptable behaviors.

(b) The staff must use acceptable techniques and approaches to help children solve problems.

(c) The program must provide copies of behavior management guidelines to all staff and parents of children in care at the program.

(d) Behavior management must promote self-esteem in children and guide children in such a way as to help each child develop self-control and assume responsibility for his or her actions through clear and consistent rules and limits appropriate to the ages and development of the children in care.

(e) Any discipline used must relate to the child's action and be handled without prolonged delay on the part of the staff so that the child is aware of the relationship between his or her actions and the consequences of those actions.

(f) Isolating a child in a closet, darkened area, or any area where the child cannot be seen and supervised by a teacher is prohibited.

(g) Where a child's behavior harms or is likely to result in harm to the child, others or property, or seriously disrupts or is likely to seriously disrupt group interaction, the child may be separated briefly from the group, but only for as long as is necessary for the child to regain enough self-control to rejoin the group. The child must be placed in an area where he or she is in the view of, and can be supervised and supported by, a teacher. Interaction between a teacher and the child must take place immediately following the separation to guide the child toward appropriate group behavior. Separation of a child from the group in a manner other than that provided for herein is prohibited.

(h) Physical restraint is prohibited. Physical restraint is the act of using force to extremely limit a child's body movements for a lengthy period of time. It involves holding a child against his/her will and putting pressure on the child's chest and/or extremities in an effort to significantly restrict his/her movement, thereby making it extremely difficult for a child to move. It may also involve holding a child flat on the ground and restricting his/her body from movement.

(i) Physical intervention is permitted. Physical intervention is the act of using bodily contact as a short-term immediate response to prevent children from incurring substantial or serious injury to themselves or injuring others. It may involve: picking a child up and moving him or her away from danger or conflict, holding the child's hands or gently touching the body to direct their movement, rocking a child to soothe them, blocking a child's path when they are about to injure themselves or others or destroy property. This technique allows the child to regain self-control as quickly and safely as possible. A consultation with a child's parent is required if the child is not receptive to physical intervention.

(j) Corporal punishment is prohibited. For the purposes of this Subpart, the term corporal punishment means punishment inflicted directly on the body including, but not limited to, physical restraint, spanking, biting, shaking, slapping, twisting or squeezing; demanding excessive physical exercise, prolonged lack of movement or motion, or strenuous or bizarre postures; and compelling a child to eat or have in the child's mouth soap, foods, hot spices or irritants or the like.

(k) Withholding or using food, rest or sleep as a punishment is prohibited.

(l) A child may only be disciplined by a director, group teacher or assistant teacher.

(m) Methods of discipline, interaction or toilet training which frighten, demean or humiliate a child are prohibited.

418-1.10 Child Abuse and Maltreatment

(a) Any abuse or maltreatment of a child is prohibited. A day care center must prohibit and may not tolerate or in any manner condone an act of abuse or maltreatment by an staff, volunteer or any other person. An abused child or maltreated child means a child defined as an abused child or maltreated child pursuant to Section 412 of the Social Services Law.

(b) Screening requirements for child day care centers licensed by the Office are as follow:

(1) (i) The child day care center must inquire of the Office whether any person who is actively being considered for employment, and any individual or any person who is employed by an individual, corporation, partnership or association which provides goods or services to the center, and who will have the potential for regular and substantial contact with the children who are cared for by the center, is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment. Each such center may inquire of the Office whether any current staff person, or any person who is

being considered for use as a volunteer or for hiring as a consultant and who has or will have the potential for regular and substantial contact with children being cared for by the center, is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment. An inquiry regarding any current staff person or volunteer may be made only once in any six month period.

(ii) The child day care center must check the register of substantiated category one cases of abuse or neglect maintained by the Justice Center for the Protection of Persons with Special Needs per Section 495 of the Social Services Law before determining whether to hire or otherwise allow any person as an employee, administrator, consultant intern, volunteer or contractor who will have the potential for regular and substantial contact with children cared for by the center.

(2) Prior to making any inquiries pursuant section 418-1.10(b)(1) the child day care center must notify, in the form prescribed by the Office, the person who will be the subject of the inquiries, that:

(i) an inquiry will be made to determine whether such person is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment, and

(ii) an inquiry will be made to determine whether such person is listed on the register of substantiated category one cases of abuse or neglect maintained by the Justice Center for the Protection of Persons with Special Needs per Section 495 of the Social Services Law.

(3) (i) Except as set forth in section 418-1.10(b)(3)(ii) a child day care center may not permit a person hired by the center, or a person who is employed by an individual, corporation, partnership or association which provides goods or services to the center, to have unsupervised contact with children in the care of the center prior to obtaining the result of the inquiries required by section 418-1.10(b).

(ii) A staff person of a child day care center, or an employee of a provider of goods and services to the child day care center may have contact with children cared for by the center prior to the receipt by the center of the result of the inquiries required by

section 418-1.10(b) only where such person, is in the physical presence of an existing staff member for whom:

(a) the result of an inquiry required by Section 424-a of the Social Services Law has been received by the child care program and the program hired the existing staff member with knowledge of the result of the inquiry; or

(b) an inquiry was not made because such staff member was hired before the effective date of Section 424-a of the Social Services Law.

(4) If an applicant, staff person or other person about whom the child day care center has made an inquiry, pursuant to 418-1.10(b)(1), is found to be the subject of an indicated report of child abuse or maltreatment, such center must determine, on the basis of information it has available and in accordance with guidelines developed and disseminated by the Office, whether to hire, retain or use the person as a staff, volunteer or consultant or to permit the person providing goods or services to have access to children being cared for by the child day care center. Whenever such person is hired, retained, used or given access to children, such center must maintain a written record, as part of the application file or employment or other personnel record of such person, of the specific reason(s) why such person was determined to be appropriate and acceptable as a staff person, volunteer, consultant or provider of goods or services with access to children being cared for by the center.

(5) If the child day care center denies employment or makes a decision not to retain a staff person, not to use a volunteer or consultant, or not to permit a person providing goods or services to the center to have access to children who are being cared for by the center, such center must provide a written statement to the applicant, staff person, volunteer, consultant or other such person, indicating whether the denial or decision was based in whole or in part on the existence of the indicated report, or existence on the register of substantiated category one cases of abuse or neglect maintained by the Justice Center for the Protection of Persons with Special Needs, and, if so, the reasons for such denial or decision.

(i) If the denial or other decision is based in whole or in part on the existence of an indicated report of child abuse or maltreatment, pursuant to an inquiry made under Section 418-1.10(b)(1)(i), the notice of denial or decision must also include, in the form prescribed by the Office, written notification to the applicant, staff person, volunteer, consultant or other person that:

(a) he or she has a right, pursuant to Section 424-a of the Social Services Law, to request a hearing before the Office regarding the record maintained by the Statewide Central Register of Child Abuse and Maltreatment;

(b) a request for such a hearing must be made within 90 days of the receipt of the notice indicating that the denial or decision was based on the existence of the indicated report; and

(c) at any such hearing, the sole issue will be whether the applicant, staff person, volunteer, consultant or other person who is the subject of the indicated report has been shown by a fair preponderance of the evidence to have committed the act or acts of child abuse or maltreatment giving rise to the indicated report.

(6) If in a hearing held pursuant to a request made in accordance with section 418-1.10(b)(5) and Section 424-a of the Social Services Law, the hearing decision finds that there is not a fair preponderance of the evidence showing that the applicant, staff person, volunteer, consultant or other person committed the act or acts upon which the indicated report is based, the Office must notify the child day care center which made the inquiry that, pursuant to the hearing decision the center's decision to deny the application, discharge the staff person , not to use the volunteer or consultant or not to permit the person to have access to children being cared for by the center should be reconsidered. Upon receiving such notification from the Office, such center should review its denial or other decision without considering the indicated report.

(c) In accordance with the provisions of Sections 413 and 415 of the Social Services Law, child day care center staff must report any suspected incidents of child abuse or maltreatment concerning a child receiving child day care to the Statewide Central Register of Child Abuse and Maltreatment, or cause such a report to be made, when such staff have reasonable cause to suspect that a child coming before them in their capacity as child day care center workers is an abused or maltreated child. This must be done in the following manner:

(1) Child day care center staff must personally make, or cause to be made, an immediate report to the Statewide Central Register of Child Abuse and Maltreatment by telephone, followed by a written report within 48 hours, in the form and manner prescribed by the Office, to the child protective service of the social services district in the county in which the child resides.

(2) After making the initial report, the reporting staff person must immediately notify the director or licensee of the center that the report was made.

(d) The director or licensee of the child day care center is responsible for implementing procedures which ensure the safety and protection of any child named in a report of child abuse or maltreatment involving a situation which occurs while the child is in attendance at the center. Immediately after making or causing to be made a report pursuant to section 418-1.10(c), the director or licensee of the center must take such appropriate action as is necessary to ensure the health and safety of the children involved in the report and, as necessary, of any other children in the care of the center. The director or licensee must also take all reasonable steps to preserve any potential evidence of abuse or maltreatment. Insofar as possible, any action taken under this subdivision must cause as little disruption as possible to the daily routine of the children in the center.

(e) In meeting his or her responsibilities pursuant to section 418-1.10, the director or licensee of the child day care center may, consistent with any appropriate collective bargaining agreements or applicable provisions of law, take one or more of the following actions with regard to staff of the center relevant to a report of child abuse or maltreatment involving a child while in attendance at the center:

(1) dismissal, suspension or transfer of any staff, volunteer or other person who is the subject of a child abuse or maltreatment report;

(2) increased supervision over a person who is the subject of a report;

(3) provision of instruction and/or remedial counseling to a person who is the subject of a report;

(4) initiation of appropriate disciplinary action where applicable; and/or

(5) provision of appropriate training to and/or increased supervision of staff and/or volunteers pertinent to the prevention and remediation of child abuse and maltreatment.

418-1.11 Health and Infection Control

(a) Child Enrollment Requirements.

(1) Other than children who are enrolled in kindergarten or a higher grade, no child may be accepted for care in a child care program unless the program has been furnished with a written statement signed by a health care provider verifying that the child is able to participate in child day care

and currently appears to be free from contagious or communicable diseases. A child's medical statement must have been completed within the 12 months preceding the date of enrollment.

(2) The written medical statement from the health care provider must also state whether the child is a child with special health care needs and, if so, what special provisions, if any, will be necessary in order for the child to participate in child day care. When the written statement from the health care provider advises the day care program that the child being enrolled is a child with special health care needs, the day care program must work together with the parent and the child's health care provider to develop a reasonable health care plan for the child while the child is in the child day care program. The health care plan for the child must also address how the day care program will obtain or develop any additional competencies that the staff will need to have in order to carry out the health care plan for the child.

(3) The program must keep documentation of immunizations the child has received to date, in accordance with New York State Public Health Law.

(4) Any child not yet immunized may be admitted provided the child's immunizations are in process, in accordance with the requirements of New York State Public Health Law, and the parent gives the program specific appointment dates for required immunizations.

(5) Any child who is not immunized because of the parent's religious beliefs may be admitted if the parent furnishes the program with a written statement to this effect.

(6) Any child who is missing one or more of the required immunizations may be admitted if a physician licensed to practice medicine furnishes the program with a written statement that such immunizations may be detrimental to the child's health.

(7) With the exception of children meeting the criteria of sections 418-1.11(a)(5) or (6) children enrolled in the child day care must remain current with their immunizations in accordance with the current schedule for required immunizations established in the New York State Public Health Law.

(8) The program must try to obtain a copy of a lead screening certificate for each child under the age of six years. If the parent does not have one, the program may not exclude the child from child day care, but must give the parent information on lead poisoning and prevention, and refer the parent to the child's health care provider or the local health department for a lead blood screening test.

(b) Staff and Volunteers Health Requirements.

(1) Staff and volunteers must each submit a medical statement on forms furnished by the Office or an approved equivalent from a health care provider:

(i) at the time of initial day care center application;

(ii) before such person has any involvement in child care work.

(2) A medical statement will be required when an event or condition reasonably calls into question a staff person or volunteer's ability to provide safe and suitable child care.

(3) Initial medical statements sent in with the application or as a result of a new hire must be dated within 12 months preceding the date of application or hiring date.

(4) The medical statement must give satisfactory evidence that the individual is physically fit to provide child day care and has no diagnosed psychiatric or emotional disorder which would preclude such individual from providing child day care.

(5) All staff and volunteers must be free from communicable disease unless his/her health care provider has indicated that the presence of the communicable disease does not pose a risk to the health and safety of the children in care.

(6) The initial medical statement for staff and volunteers must include the results of a Mantoux tuberculin test or other federally approved tuberculin test performed within the 12 months preceding the date of the application.

(7) After the initial medical statement, tuberculin tests are only required at the discretion of the staff person's or volunteer's health care provider or at the start of new employment.

(8) Consumption of, or being under the influence of alcohol by any staff person or volunteer is prohibited during child day care hours.

(9) Consumption of or being under the influence of an illegal drug by any staff person or volunteer is prohibited during child day care hours.

(10) Consumption of or being under the influences of a controlled substance by any staff person or volunteer is prohibited during day care hours, unless the controlled substance is prescribed by a health care

provider is being taken as directed, and does not interfere with the person's ability to perform his or her child day care functions.

(11) Smoking in indoor or outdoor areas in use by children and in vehicles when children are occupying the vehicles is prohibited.

(12) The director and all teachers must have knowledge of and access to children's medical records and all emergency information.

(c) The Health Care Plan.

(1)The licensee must prepare a health care plan on forms furnished by the Office. Such plan must protect and promote the health of children. The health care plan must be on site, followed by all staff and available upon demand by a parent or the Office. In those instances in which the program will administer medications, the health care plan must also be approved by the program's health care consultant unless the only medications to be administered are:

(i) over-the-counter topical ointments, lotions and creams, sprays, including sunscreen products and topically applied insect repellant; and/or

(ii) epinephrine auto injectors, diphenhydramine in combination with the auto injector, asthma inhalers and nebulizers.

(2) The health care plan must describe the following:

(i) how a daily health check of each child for any indication of illness, injury, abuse or maltreatment will be conducted and documented;

(ii) how a record of each child's illnesses, injuries and signs of suspected abuse or maltreatment will be maintained;

(iii) how professional assistance will be obtained in emergencies;

(iv) the advance arrangements for the care of any child who has or develops symptoms of illness or is injured, including notifying the child's parent;

(v) which designated staff will be administering medication; The plan must state that only a trained, designated staff person may administer medications to children, except in those programs in which the only administration of medications offered will be the administration of over-the-counter topical ointments, lotions,

creams, and sprays including sunscreen products and topically applied insect repellant.

(vi) the contents of the first aid kit;

(vii) that the trained designated staff may only administer medications to children if the designated staff is:

(a) at least 18 years of age,

(b) possesses a current certification in first aid and cardio-pulmonary resuscitation (CPR) appropriate to the ages of the children in care, and

(c) and has completed the Medication Administration Training (MAT) pursuant to section 418-1.11(e) or in the case of administering epinephrine auto injectors, Diphenhydramine in combination with the auto injector, asthma inhalers and nebulizers has received training on its use from the parent, health care provider or a health care consultant;

(viii) the designation of the health care consultant of record for programs, as indicated in section 418-1.11(c)(1) of this Subpart; and

(ix) when a health care consultant is required to approve a health care plan the schedule of visits by a health care consultant to programs administering medications, must occur at least once every two years and must include a review of the health care policies and procedures and a review of the documentation.

(d) Health Care Consultant.

(1) Programs must demonstrate to the health care consultant how medications are administered in the program. A program is not required to schedule a visit with a health care consultant or include a schedule of visits by a health care consultant in their health care plan when:

(i) only over-the-counter topical ointments, lotions, creams and sprays, including sunscreen products and topically applied insect repellant are administered; and/or

(ii) epinephrine auto injectors, diphenhydramine in combination with the auto injector, and asthma inhalers and nebulizers are the only medications administered in the program.

(2) Should the health care consultant determine, after a visit to the day care program, that the approved health care plan is not being reasonably followed by the program, the health care consultant may revoke his or her approval of the plan. If the health care consultant revokes his or her approval of the health care plan, the health care consultant must immediately notify the licensee and the licensee must immediately notify the Office, no longer than 24 hours later. In that instance, the health care consultant may also notify the Office directly if he or she so desires.

(3) A program authorized to administer medications, which has had the authorization to administer medications revoked, or otherwise loses the ability to administer medications, must advise the parent of every child in care before the next day the program operates that the program no longer has the ability to administer medications.

(4) A program, whose health care consultant terminates his or her relationship with the program, will be granted a 60 day-grace period to hire another health care consultant, obtain approval of a health care plan from the new health care consultant and submit the plan to the office without the child care program losing the ability to administer medications as long as:

(i) the former health care consultant did not revoke his or her approval prior to terminating the relationship with the child care program;

(ii) staff who have been trained in medication administration are available to continue administration of medications as per the health care plan;

(iii) the child care program follows the approved health care plan, as currently written, for the 60-day period;

(iv) the child care program notifies the Office, within 24 hours, of the termination of the relationship with the health care consultant; and

(v) the child care program has the newly hired health care consultant review and approve the health care plan and sends the signed approved health care plan to the Office before the sixty-day window expires.

(5) Once the sixty-day period has expired if no health care plan approval is issued, the child care program will be issued a new license, which will state that it is no longer able to administer medications other than over-the-counter topical medications and emergency medications.

(e) Training for the Administration of Medications.

(1) All staff except those excluded pursuant to sections 418-1.11(e)(5), 418-1.11(f), and 418-1.11(h)(5) of this Subpart who have agreed to administer medication must complete the Office-approved medication administration training or an Office-approved equivalent before administering medications to children in day care. The certification of training in the administration of medications to children in day care shall be effective for a period of three-years from the date of issuance. The staff must complete a recertification training approved by the Office in order to extend the certification for each additional three year period. Where a certification lapses, the staff may not be recertified unless the staff completes the initial medication administration training or the recertification training, as required by the office. Where enforcement action has been taken against the licensee based on a failure by the program to comply with requirements for the administration of medications set forth in section 418-1.11 the Office may require retraining or may prohibit a staff person from being involved in the administration of medications.

(2) Staff who will be responsible for administering medications must receive training in the methods of administering medications prior to administering any medications in a child day care setting. Upon completion of the training, the staff must receive a written certificate from the trainer that indicates that the trainee has successfully completed this training, as required, and demonstrated competency in the administration of medications in a day care setting.

(i) In order to be trained in the administration of medications in a day care setting, a staff person must be literate in the language or languages in which health care instructions from parents and health care providers will be received.

(ii) Persons who receive training in the administration of medications in day care settings pursuant to this section may not otherwise administer medications or represent themselves as being able to administer medications except to the extent such persons may be able to do so in accordance with the relevant provisions of the Education Law.

(3) The training in the administration of medications must be provided by a health care provider or registered nurse who has been certified by the office to administer the office approved curriculum.

(4) The training must be documented and must include, but need not be limited to the following:

(i) training objectives;

(ii) a description of the methods of administration including principles and techniques of application and dispensation of oral, topical, medication patches and inhalant medication, including the use of nebulizers, and the use of epinephrine auto-injector devices when necessary to prevent anaphylaxis in emergency situations with respect to the various age groups of children;

(iii) administering medication to an uncooperative child;

(iv) an evaluation of whether the trainee demonstrates competency in:

(a) understanding orders from the health care professional or licensed authorized prescriber;

(b) the ability to correctly carry out the orders given by the health care provider or licensed authorized prescriber;

(c) recognition of common side effects of medications and ability to follow written directions regarding appropriate follow-up action;

(d) avoidance of medication errors and what action to take if an error occurs;

(e) understanding relevant commonly used abbreviations;

(f) maintaining required documentation including the parent's permission, written orders from health care professionals and licensed authorized prescribers, and the record of administration of medications;

(g) safe handling of medications, including receiving medications from a parent

(h) proper storage of medications, including controlled substances; and

(i) safe disposal of medications.

(5) A person who can produce a valid New York State license as a physician, physician's assistant, registered nurse, nurse practitioner, licensed practical nurse or advanced emergency medical technician will not be required to attend the training required by section 418-1.11(e) of this Subpart in order to administer medications in a day care program. Documentation establishing the person's credentials in one of the above fields will be required and a copy of the documentation must be provided to the Office.

(f) Administration of Medication.

(1) Staff may administer medication only in accordance with the following:

(i) All programs that choose to administer medications other than epinephrine auto injectors, diphenhydramine in combination with the auto injector, asthma inhalers and nebulizers, topical ointments, lotions, creams and sprays to children must have a health care consultant of record and must address the administration of medications in the health care plan in accordance with the requirements of section 418-1.11 of this Subpart.

(ii) The program must confer with a health care consultant regarding the program's policies and procedures related to the administration of medications. This consultation must include a review of the documentation that all staff authorized to administer medications have the necessary professional license or have completed the necessary training.

(iii) Policies regarding the administration of medications must be explained to the parent at the time of enrollment of the child in care and when substantive changes are made thereafter. Parents must be made familiar with the policies of the day care program relevant to the administration of medications.

(iv) Nothing in section 418-1.11 shall be deemed to require any program to administer any medication, treatment, or other remedy except to the extent that such medication, treatment or remedy is required under the provisions of the Americans with Disabilities Act.

(v) Nothing in Subpart 418-1.11 shall be deemed to prevent a parent, or relative within the third degree of consanguinity of the parents or step-parents of a child, even if such a person is a staff person or volunteer of the program, from administering medications to a child while the child is attending the program even if the licensee has chosen not to administer medications or if the staff

designated to administer medications is not present when the child receives the medication.

(2) If the licensee elects not to administer medications, the staff must still document the dosages and time as per section 418-1.11(f)(9) of this Subpart that the medications were given to the child by the child's parent, or relative within the third degree of consanguinity of the parents or step-parents of the child.

(i) Relatives within the third degree of consanguinity administering medications to the child in day care must be at least 18 years of age, unless that relative is the parent of the child.

(ii) If the only administration of medication in a day care program is done by a parent, or relative within the third degree of consanguinity of the parents or step-parents of a child, the staff of the program do not have to complete the administration of medication training requirements pursuant to section 418-1.11(e) of this Subpart.

(3) No child in care will be allowed to independently administer medications, except for those medications administered pursuant to section 418-1.11(h)(6) of this Subpart, without the assistance and direct supervision of staff that are authorized to administer medications pursuant to section 418-1.11 of this Subpart. Any program that elects to offer the administration of medication to children when children who attend the program independently administer medications or when children assist in the administration of their own medications must comply with all the provisions of section 418-1.11 of this Subpart.

(4) Staff may administer prescription and non-prescription (over-the-counter) medications for eyes or ears, oral medications, topical ointments, creams, lotions, sprays and medication patches and inhaled medications in accordance with section 418-1.11 of this Subpart.

(5) Staff may not administer medications by injection, vaginally or rectally except as follows:

(i) where the staff has been certified to administer medications in a day care setting and the parent and the child's health care provider have indicated such treatment is appropriate and received instruction on the administration of the medication; or

(ii) for a child with special health care needs, where the parent, day care program and the child's health care provider have agreed on a

plan pursuant to which the staff may administer medications by injection, vaginally or rectally; or

(iii) where the staff has a valid license as a physician, physician's assistant, registered nurse, nurse practitioner, licensed practical nurse or advanced emergency medical technician.

(6) Staff authorized to administer medication who agrees to administer medications to a child must do so, unless they observe the circumstances, if any, specified by the health care provider or the medication label, under which the medication must not be administered. In such instances, the staff must contact the parent immediately.

(7) Permissions needed from parent and/or health care provider in order to administer medications.

(i) Over-the-counter products, including but not limited to over-the-counter topical ointments, lotions, creams, sprays, including sunscreen products and topically applied insect repellant can be administered by the program for one day only, with verbal permission of the parent. If an over-the-counter product is to be administered on a subsequent day or an ongoing basis, written permission from the parent must have been provided to the program.

(ii) For children less than eighteen months of age, prescription medications, oral over-the-counter medications, medicated patches, and eye, ear, or nasal drops or sprays, can be administered by the program for one day only, with verbal permission of the parent and verbal instructions directly from the health care provider or licensed authorized prescriber. If prescription medications, oral over-the-counter medications, medicated patches, and eye, ear, or nasal drops or sprays are to be administered on a subsequent day or an ongoing basis, written permission from the parent and written instructions from the health care provider must have been provided to the program prior to such administration.

(iii) For children eighteen months of age and older, prescription medications, oral over-the-counter medications, medicated patches, and eye, ear, or nasal drops or sprays, can be administered by the program for one day only, with the oral approval of the parent. If prescription medications, oral over-the-counter medications, medicated patches, and eye, ear, or nasal drops or sprays are to be administered on a subsequent day or an ongoing basis, written permission from the parent and written

instructions from the health care provider must have been provided to the program prior to such administration.

(iv) A staff person cannot administer medication to any child in care, if the parent's instructions differ from the instructions on the medication's packaging, until the program receives permission from a health care provider or licensed authorized prescriber on how to administer the medication.

(v) The program must immediately notify the parent if the program will not administer medication due to differing instructions related to the administration of medication.

(8) Staff who are authorized to administer medications must administer medication as follows:

(i) to the right child,

(ii) at the right dose,

(iii) at the right time,

(iv) with the right medication, and

(v) through the right route.

(9) (i) At the time of administration, the staff must document the dosages and time that the medications are given to the child.

(ii) All observable side effects must be documented and communicated to the parent, and when appropriate, the child's health care provider.

(iii) Documentation must be made if the medication was not given and the reason for such a decision.

(10) The parent must be notified immediately and the Office must be notified within 24 hours of any medication administration errors. Notification to the Office must be reported on a form provided by the Office or on an approved equivalent.

(11) For all children for whom the program administers over-the-counter medications pursuant to section 418-1.11(f) of this Subpart, the program must document that the parent or guardian gave verbal instructions and approval.

(12) Staff who are authorized to administer medications must be literate in the language for which the permissions and instructions for use are written.

(13) Medication must be returned to the parent or guardian when it is no longer required by the child or, with the permission of the parent or guardian, be properly disposed of by the program.

(14) Where the program has received written permission of the parent and written instructions from the health care provider authorizing administration of a specified medication if the staff observes some specified condition or change of condition in the child while the child is in care, the staff person may administer the specified medication, without obtaining additional authorization from the parent or health care provider.

(15) Prescription and over-the-counter medications must be kept in their original bottles or containers.

(16) Prescription medication labels must include the following information or be available through the licensed authorized prescriber on the form provided by the Office or equivalent form:

(i) Child's first and last name;

(ii) Licensed authorized prescriber's name, telephone number, and signature;

(iii) Date authorized;

(iv) Name of medication and dosage;

(v) Frequency the medication is to be administered;

(vi) Method of administration;

(vii) Reason for medication (unless this information must remain confidential pursuant to law);

(viii) Most common side effects or reactions; and

(ix) Special instructions or considerations, including but not limited to possible interactions with other medications the child is receiving, or concerns regarding the use of the medication as it relates to a child's age, allergies, or any pre-existing conditions.

(17) Medications must be kept in a clean area that is inaccessible to children.

(18) If refrigeration is required, the medication must be stored in either a separate refrigerator or a leak-proof container in a designated area of a food storage refrigerator, separated from food and inaccessible to children.

(19) Day care programs must comply with all Federal and State requirements for the storage and disposal of all types of medications, including controlled substances.

(20) In the case of medication that needs to be given on an ongoing, long-term basis, the authorization and consent forms for children 5 years of age or older must be reauthorized at least once every 12 months. Any changes in the medication authorization related to dosage, time or frequency of administration shall require a program to obtain new instructions written by the licensed authorized prescriber. All other changes to the original medication authorization require a change in the prescription.

(21) In the case of medication that needs to be given on an ongoing, long-term basis, the authorization and consent forms for children under the age of 5 years of age must be reauthorized at least once every six months. Any changes in the medication authorization related to dosage, time or frequency of administration shall require a program to obtain new instructions written by the licensed authorized prescriber. All other changes to the original medication authorization require a change in the prescription.

(22) Day care centers participating in the New York State Fluoride Tablet Program must remain in compliance with administration procedures, parental permissions, storage, labeling, dosage and frequency established by the Department of Health in conjunction with the attending health care provider. A person certified to administer medications in a day care program will administer all fluoride tablets. The Center may only dispense fluoride tablets while they hold a license that authorizes them to administer medications.

(g) Stocking medications.

(1) A child care program may keep a supply of over-the-counter medications at a program site to be used in the event that a child in the program develops symptoms while in care that indicate the need for over-the-counter medication.

(2) Child care programs that store and administer medication that is not labeled for a specific child must have an over-the-counter stock medication policy in place before beginning to store any over-the-counter medications. The over-the-counter stock medication's policy must address the safe storage and proper administration of the stored over-the-counter medication and must address the need for strict infection control practices as they pertain to stock medication.

(3) Stock medication must be kept in a clean area that is inaccessible to children and any stock medication must be stored separate from child specific medication.

(4) Stock medications must be kept in the original container and have the following information on the label or in the package insert:

(i) Name of the medication,

(ii) Reasons for use,

(iii) Directions for use, including route of administration,

(iv) Dosage instructions,

(v) Possible side effects and/or adverse reactions,

(vi) Warnings or conditions under which it is inadvisable to administer the medication, and

(vii) Expiration date.

(5) Child care programs that stock supplies of over-the-counter medication, which are not in single dose packaging, must provide a separate mechanism to administer the medication for each child that may need the medication. Once a device has been used for a specific child in care, that specific device must be disposed of or reused only for that specific child and must be labeled with the child's first and last name. The program must include the procedure in the over-the-counter stock medication policy for dispensing the stock medication from the container to the device, or directly administering to the child, without contaminating the stock medication.

(6) All stock medication must be administered using best practice techniques in accordance with the directions for use on the medication package.

(7) Day care centers may not stock prescription medication except for centers that participate in the New York State Fluoride Tablet Program, sponsored by the New York State Department of Health, will be permitted to stock prescription fluoride tablets.

(h) Emergency care and the Administration of Epinephrine, Diphenhydramine in combination with the auto injector, Asthma inhalers and Nebulizers.

(1) The program must obtain emergency health care for children who require such care and also must:

(i) obtain written consent at the time of admission from the parent which authorizes the program to obtain emergency health care for the child;

(ii) arrange for the transportation of any child in need of emergency health care, and for the supervision of the children remaining in the program;

(iii) in the event of an accident or illness requiring immediate health care, secure such care and notify the parent; and

(iv) advise a parent or the person authorized to pick up the child that day, of any developing symptoms of illness or minor injury sustained while child is in care.

(2) The program must be equipped with a portable first aid kit which is accessible for emergency treatment. The first aid kit must be stocked to treat a broad range of injuries and situations and must be restocked as necessary. The first aid kit and any other first aid supplies must be kept in a clean, covered container or cabinet inaccessible to children.

(3) Rectal thermometers may not be used.

(4) The program must provide a child who has or develops symptoms of illness a place to rest quietly that is in the view of, and under the supervision of staff until the child receives medical care or the parent or approved parental designee arrives. In the event that a child has or develops symptoms of illness, the program is responsible for immediately notifying the parent.

(5) When a program has not been authorized to administer medications in a day care setting in accordance with the requirements of section 418-1.11(f) of this Subpart, a designated staff person may administer emergency care through the use of epinephrine auto-injector devices, diphenhydramine, when prescribed in combination with the auto injector,

asthma inhaler and asthma nebulizer when necessary to prevent anaphylaxis or breathing difficulty for an individual child but only when the parent and the child's health care provider have indicated such treatment is appropriate. In addition:

(i) A written Individual Health Care Plan must be developed for the child;

(ii) The child's health care provider must issue a standing order and prescription for the medication;

(iii) The parent must approve, in writing, the administration of the medication as prescribed by the health care provider and keep medications current;

(iv) All staff administering an emergency medication pursuant to section 418-1.11(h) of this Subpart, must be instructed on its use; and, the instruction must be provided by the parent, the child's health care provider or a health care consultant;

(v) Staff who have been instructed on the use of the auto injector, diphenhydramine, inhaler or nebulizer must be present during all hours the child with the potential emergency condition is in care;

(vi) The staff person administering the auto-injector, diphenhydramine, asthma medication or nebulizer must be at least 18-years-old;

(vii) The program must immediately contact 911 after administration of epinephrine;

(viii) If an inhaler or nebulizer for asthma is administered, the program must call 911 if the child's breathing does not return to its normal functioning after its use; and

(ix) Storage, documentation of the administration of medication and labeling of the auto-injector, asthma inhaler and asthma nebulizer must be in compliance with section 418-1.11 of this Subpart.

(6) When a program is approved to administer an inhaler to a child with asthma or other diagnosed respiratory condition, or an epinephrine auto injector for anaphylaxis, a school-aged child may carry and use these devices during day care hours if the program secures written permission of such use of a duly authorized health care provider, parental consent and completes a special health care plan for the child.

(7) The special health care plan, parental consent and health care provider consent documenting permission for a school-age child to carry an inhaler or auto injector must be maintained on file by the program.

(i) Infection Control.

(1) Staff and volunteers must thoroughly wash their hands with soap and running water at the beginning of each day, before and after the administration of medications, when they are dirty, after toileting or assisting children with toileting, after changing a diaper, before and after food handling or eating, after handling pets or other animals, after contact with any bodily secretion or fluid, and after coming in from outdoors.

(2) Staff and volunteers must ensure that children thoroughly wash their hands or assist children with thoroughly washing their hands with soap and running water when they are dirty, after toileting, before and after food handling or eating, after handling pets or other animals, after contact with any bodily secretion or fluid, and after coming in from outdoors.

(3) Staff must assist children in keeping clean and comfortable, and in learning appropriate personal hygiene practices.

(i) Children in night care shall have a routine that encourages good personal hygiene practices.

(ii) Each child shall have an individual washcloth, towel and toothbrush. When evening or night care is provided each child shall have the opportunity to change into night clothes and wash before bed. The teacher will give each child a shower, bath, or sponge bath in a manner agreed between the parent and the program.

(iii) Either disposable towels or individual cloth towels for each child must be used. If individual cloth towels are used, they must be laundered daily.

(iv) Sharing personal hygiene items, such as washcloths, towels, toothbrushes, combs and hairbrushes, is prohibited.

(4) When soap and running water is not available, hand sanitizer may be used by children, staff and volunteers on visibly clean hands. Package directions must be followed including supervision of children so that ingestion does not occur.

(i) When soap and running water is not available and hands are visibly soiled, individual wipes may be used in combination with hand sanitizer.

(ii) The use of hand sanitizers on children under the age of two (2) years is prohibited.

(5) Safety precautions relating to blood must be observed by all staff and volunteers as follows:

(i) Disposable gloves must be immediately available and worn whenever there is a possibility for contact with blood, including but not limited to:

(a) touching blood or blood-contaminated body fluids;

(b) treating cuts that bleed; and

(c) wiping surfaces stained with blood; and

(d) changing diapers where there is blood in the stool.

(ii) In an emergency, a child's well-being must take priority. A bleeding child must not be denied care because gloves are not immediately available.

(iii) Disposable gloves must be discarded after each use.

(iv) If blood is touched accidentally, the exposed skin must be thoroughly washed with soap and running water.

(v) Clothes contaminated with blood must be placed in a securely tied plastic bag and returned to the parent at the end of the day.

(vi) Surfaces that have been blood stained must be cleaned and then disinfected with an Environmental Protection Agency (EPA) registered product that has an EPA registration number on the label.

(6) All rooms, equipment, surfaces, supplies and furnishings accessible to children must be cleaned and then sanitized or disinfected, using an EPA registered product, as needed to protect the health of children, and in a manner consistent with the health care plan guidelines issued by the Office.

(7) Equipment that is frequently used or touched by children on a daily basis must be cleaned and then sanitized or disinfected, using an EPA registered product, when soiled and at least once weekly.

(8) The premises must be kept clean and free from dampness, odors and the accumulation of trash.

(9) The premises must be kept free of vermin.

(10) Carpets contaminated with body fluids must be spot cleaned.

(11) Extensive cleaning, such as shampooing carpets or washing windows and walls, must occur when children are not present.

(12) Garbage receptacles must be covered, and cleaned as needed after emptying.

(13) Thermometers and toys mouthed by children must be washed and disinfected using an EPA registered product before use by another child.

(14) Individual drinking cups or disposable cups must be provided daily. Once a drinking cup or eating utensils have been used by a child they may not be used by another child unless they are washed first.

(15) Between uses, dishes and utensils must be washed with soap and hot water and rinsed in hot running water.

(16) Linens, blankets and bedding must be cleaned at least weekly and before use by another child. Cribs, cots, beds, mats and mattresses must be cleaned thoroughly between uses by different children and at least monthly.

(17) Sanitizers and disinfectants must be used as directed on the product label.

(18) Hygiene, diapering and toileting.

(i) Toilet facilities must be kept clean at all times, and must be supplied with toilet paper, soap and towels accessible to the children.

(ii) For diapered children, staff and volunteers must ensure that adequate steps are taken to clean the child after each change of diaper.

(iii) Children must be kept clean and comfortable at all times. Diapers must be changed when wet or soiled. The diaper changing area must be as close as possible to a sink with soap and hot and cold running water. This area or sink must not be used for food preparation. Diaper changing surfaces must be cleaned and

disinfected after each use with an Environmental Protection Agency (EPA) registered product that has an EPA registration number on the label.

(iv) The program must make arrangements with the parent to provide an adequate supply of disposable or cloth diapers. When cloth diapers are used they must be supplied by a parent or commercial diaper service.

(v) When disposable diapers are used, soiled diapers must be disposed of immediately into an outside trash disposal, or placed in a tightly covered plastic-lined trash can inaccessible to children until outdoor disposal is possible.

(vi) Non-disposable diapers must not be laundered in the program, and must be stored in a securely covered receptacle until returned to the diaper service. When parents provide non-disposable diapers, soiled diapers must be placed in a securely tied plastic bag and returned to the parent at the end of the day.

(vii) Toileting equipment, such as potty chairs, appropriate to the toilet training level of the children in the group must be provided.

(viii) When more than one child in the program is being toilet trained, potty chairs must be emptied, cleaned and then sanitized or disinfected after each use with an Environmental Protection Agency (EPA) registered product that has an EPA registration number on the label.

(iv) If only one child in the program is being toilet trained, potty chairs must be emptied and rinsed after each use and cleaned and then sanitized daily with a sanitizer or disinfectant with an Environmental Protection Agency (EPA) registered product that has an EPA registration number on the label.

(x) Potty chairs must not be washed out in a handwashing sink, unless that sink is cleaned, then sanitized or disinfected after such use.

(19) Sufficient and suitable clothing must be available so that children who dirty or soil their clothing may be changed. All such clothing must be returned to parents for washing or must be washed by the program.

(j) Pesticide use.

(1) Any application of pesticides (as the term pesticide is defined in Section 33-0101 of the Environmental Conservation Law) shall be completed in accordance with the requirements of Section 390-c of the Social Services Law and Sections 33-1004 and 33-1005 of the Environmental Conservation Law.

(2) In addition to the requirements of Section 390-c of the Social Services Law, each day care facility must send a notice home with each child or otherwise provide notification to the parent of each child not less than forty-eight hours prior to the application of pesticides. Such notice must include:

(i) the location and specific date of the application of pesticides and may include two alternate dates in the event that an outdoor application cannot be made due to weather conditions;

(ii) the pesticide product name and pesticide registration number assigned by the United States Environmental Protection Agency;

(iii) the following statement: "This notice is to inform you of a pending pesticide application at this facility. You may wish to discuss with a representative of the day care facility what precautions are being taken to protect your child from exposure to these pesticides. Further information about the product or products being applied, including any warnings that appear on the label of the pesticide or pesticides that are pertinent to the protection of humans, animals or the environment, can be obtained by calling the National Pesticide Information Center at 1-800-858-7378 or the New York State Department of Health Center for Environmental Health Info Line at 1-800-458-1158"; and

(iv) the name of a representative of the day care facility and contact number for additional information.

(3) Any day care program that fails to send the appropriate notice of pesticide application as set forth in section 418-1.11(j)(2) of this Subpart, for a first such violation, shall be issued a written warning in lieu of penalty. For a second violation, such program shall be subject to a penalty not to exceed one hundred dollars. For any subsequent violation, such program shall be subject to a penalty not to exceed two hundred fifty dollars for each violation. No penalty may be assessed by the Commissioner without affording the licensee with notice and an opportunity for a hearing pursuant to section 413.5 of this Title.

(4) Any finding by the Department of Environmental Conservation of a violation by the program of the requirements set forth in Sections 33-1004

or 33-1005 of the Environmental Conservation Law shall be deemed a safety hazard to children in care and a violation of section 418-1.11(j) of this Subpart.

(5) Day care centers are prohibited from using pesticides on playgrounds, turf, athletic or playing fields except when approved by the local health department, or for a county not having a health department, such authority as the county legislature shall designate, the commissioner of health or his or her designee, the commissioner of environmental conservation or his or her designee, or, in the case of a public school, the school board. The following are not included in the definition of "pesticide" for this provision only:

(a) the application of anti-microbial pesticides and anti-microbial products as defined by FIFRA in 7 U.S.C. Section 136(mm) and 136q(h)(2); or

(b) the use of an aerosol product with a directed spray, in containers of eighteen fluid ounces or less, when used to protect individuals from an imminent threat from stinging and biting insects, including venomous spiders, bees, wasps and hornets; or

(c) the use of non-volatile insect or rodent bait in a tamper resistant container; or

(d) the application of a pesticide classified by the United States Environmental Protection Agency as an exempt material under 40 CFR Part 152.25; or

(e) the use of boric acid and disodium octaborate tetrahydrate; or

(f) the use of horticultural soap and oils that do not contain synthetic pesticides or synergists.

418-1.12 Nutrition

(a) The program must provide sufficient and nutritious snacks to children.

(b) The program must ensure that each child in care for more than four hours a day receives a nutritious meal.

(c) Each child in care for more than ten hours a day must receive a minimum of two nutritious meals.

(d) Food must be prepared and stored in a safe and sanitary manner and served at appropriate intervals.

(e) If the program does not furnish meals, there must be adequate nutritious supplemental food available in the event that no meal is provided by the parent or if the meal provided by the parent is of inadequate nutritional value.

(f) Programs changing their meal policy must provide adequate notice to parents.

(g) Where meals are furnished by the program, food preferences for personal, religious or medical reasons may be accommodated. If resultant meal patterns or serving sizes will not meet the child's nutritional needs, a medical statement must be obtained documenting the appropriateness of the variation.

(h) Where meals are furnished by the child day care center, the servings must be in portions suitable for the size and age of the children in care including infants. There must be a sufficient amount of food available to children to permit second helpings of nutritious food.

(i) Children must be helped to gain independence in feeding themselves and should be encouraged to learn acceptable table manners appropriate to their developmental levels

(j) Sufficient time, based on age and individual needs, must be allowed for meals so that children will not be hurried.

(k) Perishable food and liquids including but not limited to, milk, breast milk and infant formula must be refrigerated.

(l) Safe drinking water must be available to children at all times and must be offered at intervals that are responsive to the needs of the individual children.

(m) Disposable cups, plates and utensils may be used if discarded after use. Plastic eating utensils may be used if such utensils are not easily broken by young children and are discarded after use. Styrofoam cups may not be used for infants or toddlers.

(n) If foods for older children are heated in a microwave, the food must be stirred and allowed to reach serving temperature before serving them to prevent burns from hot spots.

(o) A staff person or volunteer must not force or bribe a child to eat nor use food as a reward or punishment.

(p) Fluid milk, 100% juice and/or water, are the only beverages a program may provide to children in care.

(q) When milk is served as a beverage, low-fat or fat-free milk (1% fat or less) must be served to children two years of age or older.

(r) Programs that provide meals and/or snacks to infants and children must be in compliance with the USDA Child and Adult Food Program (CACFP) meal patterns.

(s) When provided by the parent, meals, snacks and beverages are not subject to the CACFP meal pattern or regulatory beverage standards.

(t) All children with dietary restrictions based on a child's medical condition or religious beliefs of the family are exempt from CACFP meal pattern requirements and/or beverage requirements in regulation when instructed in writing by the parent to the program.

(u) The center must share information on healthy food and beverage choices and the prevention of childhood obesity with the parent.

(v) Four weeks of current meal and snack menus, as applicable, must be reviewed for nutritional content, variety and quality at the time of initial application and once every 24 months by a Federal Child and Adult Care Food program specialist responsible for reviewing and approving menus, or by a person who has a bachelor's or master's degree with a major in food and institutional management or a closely related field, has completed a dietician internship, or has been certified as a registered dietician or has an equivalent state certification.

(w) The program must obtain a written statement from the parent of each infant in care setting forth the breast milk, formula and feeding schedule instructions for the infant and must be updated as changes are made.

(x) Where infant formula is required, such formula may be prepared and provided by the parent, or by a qualified, designated staff person when agreed to in writing by the parent.

(y) The program must develop a plan for introducing age appropriate solid foods in consultation with the parent.

(z) All containers or bottles of, breast milk, formula or other individualized food items must be clearly marked with the child's complete name.

(aa) Unused portions of bottles or containers from which children have been spoon-fed must be discarded after each feeding or placed in a securely tied plastic bag and returned to the parent at the end of the day.

(ab) Heating, breast milk, formula and other food items for infants in a microwave oven is prohibited.

(ac) All devices used to warm breast milk, formula or food for infants must be kept at a low temperature not exceeding 120°.

(ad) Staff and volunteers must not hold an infant while removing a bottle or infant food from the crock pot or other warming device.

(ae) All devices used for warming bottles or food must be kept out of reach of children.

(af) Every effort must be made to accommodate the needs of a child who is being breast-fed.

(ag) Infants six months of age or younger must be held while being bottle-fed. Infants older than six months must be held while being bottle fed until the infant consistently demonstrates the capability of holding the bottle and ingesting an adequate portion of the contents thereof.

(ah) The propping of bottles is prohibited.

(ai) Each infant and toddler must be removed from the crib, playpen or cot and held or placed in an appropriate chair for feeding.

(aj) Children may not be placed in the crib with a bottle, food or drink.

(ak) Current menus for each week must be posted in a place readily accessible to parents and the Office.

(al) Food service and storage, including refrigeration of milk and other perishable foods or formula, must comply with the requirements of Part 14 of the State Sanitary code.

418-1.13 Staff Qualifications

(a) Staff members must be qualified by training and experience to carry out their respective functions in the administration, operation and maintenance of the child day care center.

(1) Staff and volunteers must be mature, of good character and possess suitable personal qualifications.

(2) Staff and volunteers must be in good physical and mental health and have the energy and emotional stability necessary to fulfill the responsibilities of their positions.

(b) Child day care centers must review and evaluate the backgrounds of all applicants for staff 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 teacher/child ratios and such parent will not be left unsupervised with children. All applicants whose backgrounds must be checked are required to provide the following:

(1) a statement or summary of the applicant's employment history including, but not limited to, any relevant child-caring experience;

(2) the names, addresses and day time telephone numbers of at least three acceptable references, other than relatives, at least one of whom can verify employment history, work record and qualifications, and at least one of whom can attest to the applicant's character, habits and personal qualifications to be a child day care center staff member;

(3) a sworn statement by the applicant indicating whether, to the best of the applicant's knowledge, such applicant has ever been convicted of a misdemeanor or felony in New York State or any other jurisdiction and fingerprint images as required to comply with the requirements of 413.4 of this Title; and

(4) the information necessary to determine whether the applicant is the subject of an indicated report of child abuse and maltreatment as required by section 418-1.10(b)(1)(i) of this Subpart.

(5) the information necessary to determine whether the applicant is listed on the register of substantiated category one cases of abuse or neglect maintained by the Justice Center for the Protection of Persons with Special Needs, pursuant to Section 495 of the Social Services Law, as required by section 418-1.10(b)(1)(ii).

(c) If an applicant discloses in the sworn statement furnished in accordance with section 418-1.13(b)(3) that he or she has been convicted of a misdemeanor or felony, the child day care center must inform the Office and provide a copy of the statement to the Office so the Office may take appropriate action in conformance with the provisions of section 413.4 of this Title.

(d) Each center must have a staff person who meets the qualifications set forth in section 418-1.13(g)(1) to perform supervision functions for that center.

(e) In child day care centers where the licensed capacity is less than 45 children, a group teacher or assistant teacher may also perform administrative/fiscal management functions and/or supervision functions, provided that the qualifications for such positions as set forth in section 418-1.13(g)(1) have been met.

(f) In child day care centers where the licensed capacity is 45 or more children, the administrative/fiscal management functions and supervision functions may not be performed by a group teacher or assistant teacher.

	Education		**Experience**
Person responsible for program supervision functions (Director)	Bachelor's degree including, or in addition to, 12 credits in Early Childhood, Child Development or related field	AND	One year full-time teaching experience in a child day care center, family or group family day care home or other early childhood program AND one year of experience supervising staff in a child care program or a related field of work
	OR		
	New York State Children's Program Administrator Credential	AND	One year full-time teaching experience in a child day care center, family or group family day care home or other early childhood program AND one year of experience supervising staff in a child care program or related field of work
	OR		
	Associate's degree in Early Childhood or related field with a plan of study leading to: • a Bachelor's degree; or • a New York State Program Administration credential	AND	Two years full-time teaching experience in a child day care center, family or group family day care home, or other early childhood program AND Two years of experience supervising staff in a child care program or related field of work
	OR		
	Child Development Associate credential with a plan of study leading to • a Bachelor's degree; or • a New York State Children's Program	AND	Two years full-time teaching experience in a child day care center, family or group family day care home, or other early childhood program AND Two years of experience supervising staff in a child care program or related

	Administrator Credential		field of work
Group Teacher for preschoolers	Associate's degree in Early Childhood, Child Development or related field	AND	No additional experience necessary
	OR		
	Child Development Associate credential or other Office- recognized credential specific to the preschool developmental period.	AND	One year experience related to caring for children
	OR		
	9 college credits in Early Childhood, Child Development or a related field, with a plan of study leading to a: • Child Development Associate credential; or • Associate's Degree in Early Childhood, Child Development or a related field.	AND	Two years' experience related to caring for children
Group Teacher for infants/toddlers	Associate's degree in Early Childhood, Child Development or related field	AND	One year experience related to caring for infants and toddlers
	OR		
	• Infant and Toddler Child Care and Education credential; or • Infant Toddler Child Development Associate credential; or • other Office-recognized credential specific to the infant/toddler developmental period	AND	Two years' experience related to caring for children.
	OR		
	Child Development Associate credential	AND	Two years of experience caring for children, one on which must be related to caring for infants or toddlers

	OR		
	9 college credits in Early Childhood, Child Development or a related field, with a plan of study leading to: • Infant and Toddler Child Care and Education credential; or • Infant Toddler Child Development Associate credential; or • other Office-recognized credential specific to the infant/toddler developmental period; or • Associate's Degree in Early Childhood, Child Development or a related field;	AND	Two years' experience related to caring for children, one of which must be related to working with infants or toddlers
Group Teacher for school-age children	Associate's degree in Child Development, Elementary Education, Physical Education, Recreation or a related field	AND	No additional experience required
	OR		
	School-age Child care credential or other Office-recognized credential specific to the school-age developmental period.	AND	One year experience working with children less than 13 years of age.
	OR		
	High School Diploma or its equivalent	AND	Two years direct experience working with children less than 13 years of age.
Assistant teacher (all age groups)	High School diploma or its equivalent	OR	One year experience working with children less than 13 years of age

(g) Minimum education and experience qualifications:

(1) To be qualified as a director, a person must possess either:

(i) (a) a Bachelor degree, including or in addition to, 12 credits in Early Childhood, Child Development, or a related filed; and,

(b) one year full-time teaching experience in a child day care center, family or group family day care home or other early childhood program; and,

(c) one year of experience supervising staff in a child care program or a related field of work, or

(ii) (a) a New York State Children's Program Administrator Credential; and,

(b) one year full-time teaching experience in a child day care center, family or group family day care home or other early childhood program; and

(c) one year of experience supervising staff in a child care program or a related field of work, or

(iii) (a) an Associate's degree in Early Childhood or related field with a plan of study leading to:

(1) a Bachelor's degree, or

(2) a New York State Children's Program Administrator Credential, and

(b) two years full-time teaching experience in a child day care center, family or group family day care home, or other early childhood program; and

(c) two years of experience supervising staff in a child care program or a related field of work, or

(iv) (a) a Child Development Associate Credential with a plan of studying leading to:

(1) a Bachelor's degree or,

(2) a New York State Children's Program Administrator Credential, and

(b) two years full-time teaching experience in a child day care center, family or group family day care home, or other early childhood program, and

(c) two years of experience supervising staff in a child care program or a related field of work.

(2) To be qualified as a group teacher for a preschool class, a person must possess either:

(i) an Associate's degree in Early Childhood, Child Development or related field, or

(ii) (a) a Child Development Associate credential or other Office-recognized credential specific to the preschool developmental period, and

(b) one year experience related to caring for children, or

(iii) (a) 9 college credits in Early Childhood, Child Development or a related field, with a plan of study leading to:

(1) a Child Development Associate Credential, or

(2) an Associate's degree in Early Childhood, Child Development or related field; and

(b) two years' experience related to caring for children.

(3) To be qualified as a group teacher for an infant or toddler class, a person must possess either:

(i) (a) an Associate's degree in Early Childhood, Child Development or related field, and

(b) one year experience related to caring for infants and toddlers, or

(ii) (a) Infant and Toddler Child Care and Education Credential, or Infant Toddler Child Development Associate Credential, or other Office-recognized credential specific to the infant/toddler developmental period, and

(b) two years' experience related to caring for children, or

(iii) (a) Child Development Associate Credential, and

(b) two years' of experience caring for children, one of which must be related to caring for infants or toddlers, or

(iv) (a) 9 college credits in Early Childhood, Child Development or a related field, with a plan of study leading to:

(1) an Infant and Toddler Child Care and Education Credential, or

(2) an Infant Toddler Child Development Associate Credential, or

(3) other Office-recognized credential specific to the infant/toddler developmental period, or

(4) an Associate's Degree in Early Childhood, Child Development or a related field, and

(b) two years' experience related to caring for children, one of which must be related to working with infants or toddlers.

(4) To be qualified as a group teacher for a school age class, a person must possess either:

(i) an Associate's degree in Child Development, Elementary Education, Physical Education, Recreation or related field, or

(ii) (a) a School-age Child Care Credential, or other Office-recognized credential specific to the school-age developmental period, and

(b) one year experience working with children less than 13 years of age, or

(iii) (a) a High School Diploma or its equivalent, and

(b) two years direct experience working with children less than 13 years of age.

(5) To be qualified as an assistant teacher to any age class, a person must possess either:

(i) a High School Diploma, or its equivalent, or

(ii) one year of experience working with children less than 13 years of age.

(h) The provisions of section 418-1.13(g) notwithstanding, persons holding positions in a child day care center prior to the effective date of these regulations who met the qualifications which were in effect at the time they were hired may continue to be employed in such positions.

(i) No person other than a director, group teacher or assistant teacher may supervise a group independently even for brief periods of time, except in an emergency.

(j) The minimum age of a staff person is 16 years of age.

(k) All staff with plans of study, including plans of study permitted through a waiver request must register in New York's training registry for early childhood professionals. Progress on plans of study will be monitored by the Office through the New York Registry.

418-1.14 Training

(a) Before the Office issues an application for a day care center license, to a person or entity yet to hold a day care license or registration, the applicant must complete an Office approved orientation session.

(b) Each director and each staff person must complete a minimum of thirty (30) hours of training every two years. Such training requirements shall also apply to any volunteer in such program who has the potential for regular and substantial contact with children.

(c) Fifteen (15) of the required thirty (30) hours of training must be obtained during the first six months of the program's first year of licensure or during the person's first six months of employment by the program.

(1) This initial fifteen (15) hours applies toward the total thirty (30) hour minimum requirement for each two year period.

(d) The thirty (30) hours of required training must address the following topics:

(1) principles of childhood development, focusing on the developmental stages of the age groups for which the program provides care;

(i) Principles of childhood development include such things as meeting the physical, social and developmental needs of children, including those with special needs; behavior management and discipline; promoting play and physical activity; individual development variation and learning styles; infant and toddler brain development and cross cultural skills and knowledge.

(2) nutrition and health needs of infants and children;

(i) Nutrition and health needs of infants and children include such things as healthy menu planning, obesity prevention, benefits of and how to encourage breastfeeding for mothers returning to work, training in infectious diseases, cardio-pulmonary resuscitation(CPR), first aid, health and safety practices, preventive techniques in sudden infant death syndrome, medication administration training.

(3) child day care program development;

(i) Child day care program development topics include such things as the benefits of continuity of care practices, staff supervision and coaching, program variety and activity; infant, toddler, pre-school, and school age quality programming, promoting children's language development and social and emotional skills, and establishing nurturing, stimulating environments; rest time policies and procedures including meeting the needs of children who do not nap; hand washing; meeting the program needs of mixed age groups.

(4) safety and security procedures;

(i) Safety and security procedures include such things as communication between parents and staff , emergency preparedness and response practices and procedures, fire safety, pool and water sports safety, playground safety, supervising daily activities and family engagement techniques.

(5) business record maintenance and management;

(i) business record maintenance and management includes such things as training in New York State and Federal requirements as a business owner and employer, child day care record keeping and documentation requirements, time maintenance, organizational skills, scheduling and coverage, staff supervision and coaching.

(6) child abuse and maltreatment identification and prevention;

(i) child abuse and maltreatment identification and prevention includes such things as reporting protocol; how to make a report to the state central register; documenting incidents and daily health checks; child abuse policy/procedure including safety plan.

(7) statutes and regulations pertaining to child day care;

(8) statutes and regulations pertaining to child abuse and maltreatment;

(i) statutes and regulations pertaining to child abuse and maltreatment includes such things as Mandated Reporter training; responsibilities of a mandated reporter; and

(9) education and information on the identification, diagnosis and prevention of shaken baby syndrome.

(e) Training received after the application has been submitted but before the application has been approved and the license granted may be counted towards the initial fifteen (15) hours required in 418-1.14(c)**.**

(f) After satisfying all of the training requirements for a two year period, an individual can carry over all training hours earned within the last 90 days of the two year period, to count toward the training requirements for the next two year period.

(g) For the thirty (30) hours of training that must be received every two years, any person responsible for developing, directing, and supervising the daily activity programs for children who can demonstrate basic competency in a particular topic to the Office may determine in which of the specified topics he or she needs further study. The Office also may exempt any person responsible for developing, directing, and supervising the daily activity programs for children from participating in training on a particular topic upon demonstration of substantially equivalent knowledge or experience related to that topic. All persons with such exemptions must still complete a minimum of thirty (30) hours of training every two years.

(h) The program must submit verification of completion of the training requirements to their program's designated licensing office.

(i) All training that counts toward the required thirty hours of training must be approved by the Office of Children and Family Services as per office policies regarding training and trainers.

(j) Staff who will be responsible for administering medications must receive training pursuant to section 418-1.11(e) of this Subpart.

(k) All programs must have at least one staff person who holds a valid certificate in cardio-pulmonary resuscitation (CPR) and first aid on the premise of the program during the program's operating hours.

(l) Cardio-pulmonary resusication and first aid certificates must be appropriate to the ages of the children in care.

(m) The staff person who holds the valid certification in cardio-pulmonary resuscitation and first aid must have their certification available for review during their working hours at the program.

418-1.15 Management and Administration

(a) General licensing requirements.

(1) (i) Each child day care center must obtain a license from the Office. No person or entity may operate a child day care center without a license from the Office.

(ii) Each child day care center must operate in compliance with the regulations of the Office and all other applicable laws and regulations.

(2) Each child day care center that has been issued a license by the Office must openly display such license, along with any restrictions, limitations and waivers to the license, in the center for which it was issued.

(3) A new application for a license must be submitted to the Office when there is a change in the address or owner or when a license is sought following the revocation of or denial of an application to renew a license.

(4) The provisions specified on the license are binding and the child day care center must operate in compliance with the terms of the license. The number and age range of children specified thereon are the maximum number and age range of children who may be in the care of the child day care center at any one time.

(5) No license will be issued unless the program is in full compliance with the regulations of the Office and all other applicable laws and regulations except where a waiver of one or more requirements of this Subpart has been approved in writing by the Office in accordance with section 413.5 of this Title.

(6) The effective period of the initial license for a child day care center will be up to two years and any subsequent licenses will be up to four years each so long as the program remains in compliance with applicable laws and regulations during such periods.

(7) A license is not transferable to any other person, entity or location.

(8) A child day care center required to be licensed with the Office will not be exempt from this requirement through registration with another State agency or certification, registration or licensure by any local governmental agency or authorized agency.

(9) Before denial of an application for a license or renewal of a license, the licensee is entitled to a hearing before the Office pursuant to Part 413 of this Title.

(b) General operation requirements.

(1) Individual children must be cared for less than 24 hours a day. No teacher may work more than two consecutive shifts.

(2) The licensee must make a written request to the Office before providing an additional shift of care beyond what was specified and approved in the initial application.

(3) The licensee cannot provide an additional shift of care until the changes have been approved in writing by the Office.

(4) The staff and volunteers must be in good health and be of good character and habits.

(5) The submission of fraudulent or altered documents to the Office or its representatives is prohibited.

(6) Confidentiality.

(i) Information relating to an individual child is confidential and cannot be disclosed without written parental permission to anyone other than the Office, its designees or other persons authorized by law.

(ii) Information relating to an individual child may be disclosed to a social services district where the child receives a day care subsidy from the district, where the child has been named in a report of

alleged child abuse or maltreatment, or as otherwise authorized by law.

(iii) Redisclosure of confidential HIV-related information, as defined in section 360-8.1 of the Public Health Law, concerning a child receiving child day care is not permitted except in a manner consistent with Article 27-F of the Public Health Law;

(7) A child day care center may not refuse to admit a child to the program solely because the child has a developmental delay or a disability or has been diagnosed as having human immunodeficiency virus (HIV), HIV-related illness or acquired immune deficiency syndrome (AIDS). Each such child must be evaluated by the program to determine whether the child could be accommodated in the program if reasonable modifications are made to the premises and/or program. Nothing contained in section 418-1.11 shall be deemed to require the program to incur significant additional expenses to modify the premises and/or program to accommodate such a child.

(8) The parent of a child receiving care must have:

(i) unlimited and on demand access to such child;

(ii) the right to inspect all parts of the building used for child day care or which could present a hazard to the health or safety of the child whenever the parent requests at any time during the hours of operation of the child day care center;

(iii) unlimited and on demand access to the director and teachers whenever such child is in care or during the normal hours of operation; and

(iv) unlimited and on demand access to written records concerning such child except where access to such records is otherwise restricted by law.

(9) Electronic monitors and surveillance equipment.

(i) The parents of all children receiving care in a day care center equipped with electronic monitoring devices or surveillance cameras installed for the purpose of allowing parents to view their children in the day care setting by means of the internet must be informed that cameras will be used for this purpose. All staff of the day care center must also be informed if video surveillance cameras will be used for this purpose.

(ii) All parents of children enrolled in the day care center and all staff and volunteers of the day care center must be made aware of the locations of all video surveillance cameras used at the day care center.

(iii) Day care centers opting to install and use electronic monitoring devices or surveillance cameras must comply with all State and federal laws applicable to the use of such equipment.

(iv) Electronic monitoring devices or surveillance cameras may not be used as a substitute for competent direct supervision of children.

(v) Electronic monitoring devices or surveillance cameras are permitted to transmit images of children in common rooms, hallways and play areas only. Bathrooms and changing areas must remain private and free of all video surveillance equipment.

(vi) Day care centers that use electronic monitoring devices or surveillance cameras must allow inspectors and other representatives of the Office to have access to such equipment and to have viewing privileges as required by the Office.

(vii) Parents of children, staff and volunteers must be notified when electronic monitoring devices or surveillance cameras are used.

(viii) Day care centers opting to allow parents to view their children in the day care setting by means of the internet must use and maintain adequate internet security measures at all times. Such measures include but are not limited to: frequent changes of passwords; filtering measures that prohibit public access to or viewing of day care activities via the internet; and immediate corrective action in response to any report of abuse of the system or inappropriate access. Such centers must also advise the parents having access to views of the day care center through the internet of the importance of security in regard to such viewing and of the importance of the privacy rights of other children who may be viewed.

(10) (i) The child day care center must admit inspectors and other representatives of the Office onto the grounds and premises at any time during the hours of operation of the center. Inspectors and representatives of the Office must be given free access to the building or buildings used by the center, staff, volunteers and children and any records of the center.

(ii) A child day care center must cooperate with inspectors and other representatives of the Office in regard to any inspections or investigations that are conducted by the Office or its representatives.

(iii) A child day care center must cooperate with local Child Protective Services' Staff conducting any investigation of alleged child abuse or maltreatment.

(iv) No staff person or volunteer may place or attempt to place an Office representative, who is performing his/her role as such, in reasonable fear of physical injury.

(v) Any intentional display of physical or verbal force, which would give an Office representative reason to fear or expect bodily harm, is prohibited.

(vi) Intentional and wrongful physical contact with an office representative is prohibited.

(11) In hiring a director subsequent to issuance of a license, a program:

(i) must notify the Office immediately in writing when there is any change in director;

(ii) must submit to the Office within 15 days of the written notification of the change in director, the name of any new director and the supporting documentation needed to complete the approval process including:

(a) the forms necessary for the Office to inquire whether the applicant is the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment,

(b) the forms necessary to check the register of substantiated category one cases of abuse or neglect maintained by the Justice Center for the Protection of Persons with Special Needs pursuant to Section 495 of the Social Services Law,

(c) fingerprint images necessary for the Office to conduct a criminal history review,

(d) a sworn statement indicating whether, to the best of the applicant's knowledge, he or she has ever been convicted of

a misdemeanor or felony in New York State or any other jurisdiction, and

(e) three (3) acceptable references;

(iii) must obtain a medical statement before the person has any involvement with children in care, as required in section 418-1.11(b) of this Subpart;

(iv) may, during the Office's review of all documentation for any proposed director, continue to operate the program; and

(v) may not leave the proposed director in sole charge of or unsupervised with children until such time as the Office approves the proposed director.

(12) The child day care center must report to the Office:

(i) Immediately upon learning of a change that affects those portions of the building and property in which the program is operating or which are used for the children's egress in the case of emergency;

(ii) At least thirty days in advance of any proposed changes to the area used for child care;

(iii) Immediately or no later than the next day of business of the director’s resignation or termination;

(iv) immediately upon learning of any other change that would place the center out of compliance with applicable regulations;

(13) All staff and volunteers of the child day care center must be familiar with the Office regulations and policies governing such programs, and the child care center’s policies. Such regulations and policies must be readily accessible to staff and volunteers for reference purposes.

(14) The program must immediately notify the parent and Office upon learning of the death, serious incident, serious injury, serious condition, communicable illness, or transportation to a hospital, of a child which occurred while the child was in care at the program or was being transported by the program. A serious incident includes any event in which a child requires medical attention other than routine illness, is left without competent supervision for any period of time, or leaves the program without an approved teacher or designated person.

(15) Parents must be given the opportunity to discuss issues related to their children and the care of their children with the director, group teacher or assistant teacher. Such opportunities must occur at the time of enrollment and as frequently as needed thereafter, but at least annually.

(16) The indoor and outdoor areas of the child day care center where the children are being cared for must not be used for any non-child care activity or other business or social purpose when children are present such that the attention of staff is diverted from the care of the children.

(17) (i) Within five days after receiving the initial license and before actually commencing operation, the licensee must, using a form specified by the Office for that purpose, notify the local police and fire departments of the municipality within which the day care center is located of the following:

(a) the address of the child day care center;

(b) the maximum capacity of the child day care center;

(c) the age range of children that will be in care; and

(d) the hours during which children will be in care.

(ii) If the local municipality does not have a police or fire department, the sheriff of the county within which the child day care center is located must be notified instead. The licensee must notify the local police and fire departments or the county sheriff, as appropriate, if there is any change in any of the information required to be provided pursuant to section 418-1.15(b)(17)(i) of this Subpart.

(18) When the Office notifies the program that such a statement is required, the program must provide a statement from the appropriate local official or authority that the facility meets standards for sanitation and safety.

(19) The child day care center must comply with all applicable State and federal laws relating to equal employment opportunities.

(20) All day care centers that accept direct and indirect payments from a social services district, or a payment from a parent or caretaker, for providing subsidized child care must comply with all relevant requirements of the child care subsidy program and section 415.4(h) of this Title.

(21) A child day care center must give the parent, at the time of admission of a child, a written policy statement including, but not limited to:

(i) the responsibilities of the program;

(ii) the responsibilities of the parent;

(iii) the policies of the child day care center regarding admission and disenrollment policies;

(iv) how parents will be notified of accidents, serious incidents and injuries;

(v) the behavior management policy;

(vi) a summary of the program's evacuation plan including the primary and secondary evacuation sites,

(vii) the program activities to be provided;

(viii) a summary of the program's health care policies, including the level of illness the center will accommodate;

(ix) actions the child day care center will take in the event the child is not picked up as scheduled;

(x) the food service arrangements;

(xi) instructional materials on the available procedures and legal remedies if they suspect their child has been abused or maltreated;

(xii) how to access the regulations;

(xiii) contact information for the Office including the Child Care Complaint Line;

(xiv) transportation policy; and

(xv) information on healthy food and beverage choices and the prevention of childhood obesity.

(22) The child day care center must post or display conspicuously in a place to which parents have free and daily access, the following:

(i) the Office's child day care center regulations;

(ii) the name(s), addresses and telephone numbers of person(s) with the legal responsibility and administrative authority for the operation of the child day care center; and

(iii) the address and telephone number of the appropriate regional office of the Office which may be contacted to lodge a complaint against the center for violations of statutory and regulatory requirements;

(23) Upon termination or resignation of the director, an acting director must be immediately named by the licensee. The appointment of the acting director must be shared with the Office by the next day of business. A permanent director must be on-site within ninety days.

(24) When a day care center is operated by an entity other than a sole proprietor, such entity shall immediately notify the Office upon any transfer or reapportionment of stock or any change in ownership.

(25) When a child day care center is located in a multi-use building, those portions of the building designated for the care of children must be used exclusively for child day care during the hours that children are present.

(26) Each child day care center must be staffed to perform administrative/fiscal management functions and, during all hours of operation, program supervision functions, including developing, directing and supervising daily activity programs for children. These functions may be performed by one individual or may be shared in any combination between two or more individuals.

(27) When an agency operates multiple licensed centers, the person performing the administrative/fiscal management functions may be shared across such centers.

(28) Child day care programs must keep all records relevant to the current licensing period, and the immediately preceding licensing period.

(29) Mid-point requirements for four-year license holders. At the two-year calendar date in a four year licensing cycle, a program must be in compliance with the following mid-point requirements and be able to show proof of compliance to the Office when requested, as follows:

(i) proof of compliance with the training requirements of section 418-1.14;

(ii) where a program uses a private water supply, a report from a state licensed laboratory or individual, based on tests performed within the 12 months preceding the calendar date of the two-year mark in a four year license, showing that the water meets standards for drinking water established by the New York State Department of Health;

(iii) documentation from service personnel licensed by the New York State Department of State to perform fire alarm systems maintenance, repair and testing which shows that the fire alarm and detection systems have been inspected, tested and maintained during the current license period in accordance with the applicable requirements of the Fire and Building code of New York State or other applicable fire and building codes when the Fire and Building Code of New York State is not applicable, for use of the building as a child day care center;

(iv) documentation from service personnel qualified to perform fire suppression systems testing showing that fire suppression equipment and systems have been tested and maintained during the current license period in accordance with the requirements of the Fire Code and Building Code of New York State, or other applicable fire and building codes when the Fire and Building Code of New York State is not applicable, for use of the building as a child day care center; and

(v) documentation from an inspector from the New York State Department of Labor, or an insurance company licensed to write boiler insurance in New York State, showing that all steam or hot water boilers have been inspected and approved during the current license period in accordance with the requirements of the New York State Department of Labor. For all other fuel burning heating systems and equipment, and boilers not subject to the New York State Department of Labor requirements, documentation of service by a heating contractor performed within the 12 months preceding the date of application for renewal.

(30) When a program proposes to care for a child under the age of six weeks, prior approval must be obtained from the Office. In seeking such approval, the program must furnish, in writing, the following:

(i) identifying information related to the specific child who would receive care, including the parent's name and address, and the child's name, gender and age;

(ii) the extenuating circumstance necessitating the care; and

(iii) a description of what the program will do to achieve consistency with the Office's guidelines for the care of children under the age of six weeks; and

(c) The program must maintain on file at the child day care center, available for inspection by the Office or its designees at any time, the following records in a current and accurate manner:

(1) a copy of the evacuation plan, evacuation drills, and shelter-in-place drills conducted, on forms furnished by the Office or approved equivalents, as required in sections 418-1.4(b) and 418-1.5(b) of this Subpart;

(2) an approved health care plan on forms furnished by the Office, as required in section 418-1.11(c) of this Subpart;

(3) the name, address, gender, and date of birth of each child and each child's parents' names, addresses, telephone numbers and place(s) at which the parents or other persons responsible for the child can be reached in case of an emergency;

(4) the names and addresses of persons authorized to take the child(ren) from the child day care center;

(5) daily attendance records, which must be filled out at the time a child arrives and departs, and must include arrival and departure times;

(6) children's health records, including parental consents for emergency medical treatment, child’s medical statement and immunizations; any available results of lead screening; the name and dosage of any medications used by a child and the frequency of administration of such medications; and a record of their administration by child day care center staff; and a record of illnesses, injuries and any indicators of child abuse or maltreatment;

(7) copies of current staff and volunteers health statements;

(8) copies of the child day care center's personnel policies and practices;

(9) a description of program activities offered to meet the needs of children, as described in section 418-1.7(a) of this Subpart;

(10) a description of the procedure to be used to review and evaluate the background information supplied by applicants for employment and volunteer positions, as required in section 418-1.13 of this Subpart;

(11) personnel information including a list of all staff with job assignments and schedules; Statewide Central Register clearance results; Justice Center for the Protection of Persons with Special Needs background check forms; criminal history review information; staff resumes; medical statement, acceptable references and other information required by section 418-1.13 of this Subpart;

(12) a current daily schedule documenting the arrival and departure times of each staff person and volunteers;

(13) a description of the schedule and content of training as required in section 418-1.14 of this Subpart, including use of both in-service training and outside training resources;

(14) when the child day care center licensee is an entity other than a sole proprietorship, the following additional documentation:

(i) a copy of the certificate of incorporation, partnership agreement, or articles of organization and any amendments thereto;

(ii) verification of filing of the certificate of incorporation, partnership agreement, or articles of organization and any amendments thereto with the Secretary of State;

(iii) a current list of the names of the board of directors, partners or members and their addresses, telephone numbers of the current principal officers and members, and the business and civic qualifications of all such individuals;

(15) a copy of the notification form provided to the local police and fire departments or the county sheriff as required in section 418-1.15(b)(17)(i) of this Subpart;

(16) the napping agreement for each child in care;

(17) the transportation policy and written parental permission for the transportation of each child in care;

(18) written parental permission for aquatic activities and the plan which details the system of supervising and checking children who are swimming, pursuant to section 418-1.5 of this Subpart;

(19) current cardio-pulmonary resuscitation and first aid certificates as required pursuant to section 418-1.14 of this Subpart;

(20) a sample copy of all forms used in the child day care center;

(21) all records relevant to the current licensing period, and the immediately preceding licensing period;

(22) documentation from the local health department or the New York State Department of Health showing that the facility has been approved in accordance with the requirements of the New York State Department of Health;

(23) a description of specific procedures which will assure the safety of a child who is reported to the Statewide Central Register of Child Abuse and Maltreatment as well as other children provided care in the child day care center;

(24) a description of policies and practices regarding appropriate supervision of children in conformance with section 418-1.8 of this Subpart;

(25) a description of the pattern of supervision of staff by the director or other responsible person, and procedures to assure adequate and appropriate supervision of staff and volunteers of the program;

(26) when meals are provided by the facility:

(i) evidence that four weeks of current menus for snacks and meals have been reviewed by a person qualified in nutrition as being compliant with USDA Child and Adult Food Program meal patterns, as required in section 418-1.12(v) of this Subpart; or

(ii) a copy of the current letter of approval of the food program issued by the Federal Child And Adult Care Food Program; or

(iii) a description of food service arrangements if meals are not prepared at the center;

(27) when the child day care center is owned by an individual, corporation, partnership or other entity using a business or assumed name, a copy of the certificate of doing business under an assumed name obtained from the county clerk;

(28) a copy of a certificate of insurance from an insurance company showing the intent to provide general liability insurance to the child day

care center upon licensure and a copy of the insurance policy issued after licensure;

(29) where a program uses a private water supply, a report from a state licensed laboratory or individual, based on tests performed within the 12 months preceding the date of application for licensure, showing that the water meets standards for drinking water established by the New York State Department of Health;

(30) a copy of the certification that the building, property and premises and the surrounding neighborhood and environment are free from environmental hazards, as required in section 418-1.2(a)(6) and 418-1.2(e)(6) of this Subpart;

(31) documentation from service personnel licensed by the New York State Department of State to perform fire alarm systems maintenance, repair and testing which shows that the fire alarm and detection systems have been inspected, tested and maintained during the current license period in accordance with the applicable requirements of the Fire and Building Code of New York State;

(32) documentation from service personnel qualified to perform fire suppression systems maintenance, repair and testing showing that fire suppression equipment and systems have been tested and maintained during the current license period in accordance with the applicable requirements of the Fire and Building Code of New York State;

(33) documentation from the local government authority having jurisdiction for determining compliance with the Fire and Building Code of New York State showing that the facility has been inspected and approved once every 12 months during the current license period for compliance with the applicable fire safety provisions of the Fire and Building Code of New York State;

(34) documentation showing inspection and approval of any steam or hot water boilers performed in accordance with the requirements of the New York State Department of Labor and service performed once every 24 months during the current license period on all other fuel burning heating systems and equipment and boilers not subject to the New York State Department of Labor requirements;

(d) A child day care center located in a public school building currently used for an elementary, middle or secondary public education program approved or inspected by the State Education Department is exempt from the requirements set forth in sections 418-1.15(b)(29)(ii-v), and 418-1.15(c)(29 - 34). Such program must maintain on file copies of the current certificate of occupancy

issued by the State Education Department. If a program is not issued a certificate of occupancy, the appropriate local equivalent, acceptable to the State Education Department, must be maintained on file.

(e) Where multiple sites are operated by one organization, records, other than those of children currently enrolled in the child day care center, may be retained at a central administrative location. The organization of these centers must make all such records available on site upon request by the Office or its designees.