

3. A child care program operating within a geographic area, enclave or facility that is owned and/or operated by the Federal government;

4. A family day care home that is registered pursuant to the Family Day Care Provider Registration Law, N.J.S.A. 30:5B-16 et seq.; and

5. Programs that offer activities for children who attend at their own discretion on an "open door" basis, where there is no agreement, written or implied, between the program and the parent for the program to assume responsibility for the care of the child.

(d) The following programs are exempt from licensure pursuant to the laws specified in N.J.A.C. 10:122-1.1(a):

1. Programs operated by the board of education of a local public school district which is responsible for their implementation and management;

2. Programs operated by, and whose employees are paid by, a private school which is run solely for educational purposes. Such programs shall include kindergartens, pre-kindergarten programs or child care centers that are an integral part of a private educational institution or system offering elementary education in grades kindergarten through sixth, seventh or eighth;

3. Centers or special classes operated:

i. Primarily for religious instruction. To qualify for an exemption from licensing under this provision, a center or special class must:

- (1) Be an integral part of a bonafide church or religion;
- (2) Serve only children who are two years of age or older;

(3) Provide a program that is composed primarily of religious instruction in which the curriculum is related to religious themes, stories and/or teachings; and

(4) For children under six years of age, operate and provide religious instruction for not more than two hours on any day; or

ii. For the temporary care of children while persons responsible for such children are attending religious services. To qualify for an exemption from licensure under this provision, a center or special class must:

(1) Provide care only for the children of participants in religious services that are an integral part of a bonafide church or religion;

(2) Be arranged by and responsible to the church or religion; and

(3) Provide child care only for the duration of time the services are in progress;

4. Programs of specialized activities or instruction for children that are not designed or intended for child care purposes, including, but not limited to: Boy Scouts, Girl

Scouts, 4-H Clubs, and Junior Achievement; and single activity programs, such as: athletics, gymnastics, hobbies, art, music, dance and craft instruction, which are supervised by an adult, agency or institution. To qualify for an exemption from licensing under this provision, a program must:

i. Provide activities that are supervised on a full-time basis by an adult; and

ii. Provide only a single instruction or activity program. For children under six years of age, such single instruction or activity programs shall be limited to not more than two hours on any day;

5. Youth camps required to be licensed under the Youth Camp Safety Act of New Jersey, pursuant to N.J.S.A. 26:12-1 et seq. To qualify for an exemption from licensing under this provision, a program must have a valid and current license as a youth camp, issued by the New Jersey Department of Health. A youth camp sponsor who also operates a child care center shall also secure a license from the Bureau for the center;

6. Day training centers operated by or under contract with the Division of Developmental Disabilities within the Department of Human Services. To qualify for an exemption from licensing under this provision, a center must be operated and funded as a day training center by the Division of Developmental Disabilities, pursuant to N.J.S.A. 30:4-165.2 et seq.; and

7. Privately operated infant and preschool programs that are approved by the Department of Education to provide services exclusively to local school districts for handicapped children, pursuant to N.J.S.A. 18A:46-1 et seq.

Case Notes

Decision to terminate increasingly aggressive and unruly child from program at day care center was not unreasonable. *Mile Square v. M.G.*, 95 N.J.A.R.2d (DYF) 4.

10:122-1.3 Definitions of other terms

The following words and terms, when used in this manual, shall have the following meanings:

"Bureau" means the Bureau of Licensing, Division of Youth and Family Services, Department of Human Services.

"Chapter" means the rules contained in the Manual of Requirements for Child Care Centers, as specified in N.J.A.C. 10:122, which reflect provisions that constitute minimum baseline requirements below which no center that is subject to the authority of N.J.S.A. 30:5B-1 to 15 is legally permitted to operate.

"Child" means any person under 13 years of age.

"Denial of a license or a Certificate of Life/Safety Approval" means the withholding by the Bureau of an initial

license or Certificate of Life/Safety Approval, for which a center has applied.

“Department” means the New Jersey Department of Human Services.

“Director” means the on-site staff member responsible for the daily operation and management of the center.

“Division” means the Division of Youth and Family Services, Department of Human Services.

“Early childhood program” means a supervised group program serving six or more children under six years of age.

“Parent” means a birth or adoptive parent, legal guardian, or any other person having responsibility for, or custody of, a child.

“Person” means any individual, agency, corporation, company, association, organization, society, firm, partnership, joint stock company, the State or any political subdivision thereof.

“Refusal to renew a license or a Certificate of Life/Safety Approval” means the non-issuance of a license or a Certificate of Life/Safety Approval by the Bureau to a center after its existing license or Certificate of Life/Safety Approval has expired.

“Regular Certificate of Life/Safety Approval” or “Regular Certificate” means a document issued by the Bureau to a center that is eligible for such approval, indicating that the center is in full compliance with the provisions of this manual specified in N.J.A.C. 10:122-1.1(c).

“Regular license” means a document issued by the Bureau to a center indicating that the center is in full compliance with all applicable provisions of this manual.

“Revocation of a license or a Certificate of Life/Safety Approval” means a permanent removal of a center’s current license or Certificate of Life/Safety Approval to operate.

“School-age child care program” means a supervised group program serving six or more children under 13 years of age who are enrolled in a public or private school, when their classes are not in session. The term, school-age child care program, may also include programs that serve: kindergarten children before and/or after their regular school session; and pre-kindergarten children before and/or after their regular school session if the pre-kindergarten children attend the program for no more than three and a half hours.

“Shall” denotes a provision of this chapter that a center must meet to qualify for a license.

“Should” denotes a recommendation reflecting goals towards which a center is encouraged to work.

“Sponsor” means any person owning or legally responsible for operating a center.

“Staff member” or “staff” means any person(s) employed by or working for or at a center on a regularly scheduled basis. This includes full-time, part-time, voluntary, substitute, contract or consulting personnel, whether compensated or not.

“Suspension of a license or a Certificate of Life/Safety Approval” means a temporary removal of a center’s current license or Certificate of Life/Safety Approval to operate.

“Temporary Certificate of Life/Safety Approval” or “Temporary Certificate” means a document issued by the Bureau to a center that is eligible for such approval, indicating that the center is in substantial compliance with the provisions of this manual specified in N.J.A.C. 10:122-1.1(c), provided that no serious or imminent hazard affecting the children exists in the center.

“Temporary license” means a document issued by the Bureau to a center that is in substantial compliance with the applicable provisions of this manual, provided that no serious or imminent hazard affecting the children exists in the center.

10:122-1.4 Hours of care

(a) Centers operating during the normal waking hours shall not care for a child on a regular basis for more than 12 hours within a 24-hour period.

(b) Centers operating during the normal sleeping hours shall not care for a child on a regular basis for more than 16 hours within a 24-hour period.

SUBCHAPTER 2. LICENSING PROCEDURES

Cross References

See N.J.A.C. 10:122E-2.7, Disagreements regarding removal of foster children.

10:122-2.1 Application for a license

(a) No person shall operate a center without first securing a license from the Bureau. Any person who operates a center that does not have a valid license, or who uses fraud or misrepresentation in obtaining a license or who advertises or provides any service not authorized by a valid license, or who violates any other provision of the laws specified in N.J.A.C. 10:122-1.1(a), is guilty of a crime of the fourth degree, pursuant to N.J.S.A. 30:5B-13.

(b) A person applying for an initial license or renewal license to operate a center shall submit a completed application form to the Bureau at least 45 days prior to the

anticipated opening of the center or to the expiration of its existing regular license.

(c) An applicant for an initial or renewal license shall submit, with the completed application form, the specified licensing fee listed in the chart below, in the form of a check or money order made payable to the "Treasurer, State of New Jersey."

LICENSING FEES FOR CENTERS

Center's Licensed Capacity	Three Year Fee
6-15	\$100.00
16-30	125.00
31-60	150.00
61-100	175.00
101 and up	200.00

(d) In lieu of the fees specified in (c) above, an applicant for an initial or renewal license who operates a Head Start center, pursuant to 42 U.S.C. 9381 et seq., or a school-age child care program that does not charge a fee or require other compensation or services from parents, shall submit with the completed application form a \$100.00 licensing fee, in the form of a check or money order made payable to the "Treasurer, State of New Jersey."

(e) If the application is denied, or the center does not open, the Bureau will refund the licensing fee to the applicant.

(f) The licensing fee will not be refunded once the Bureau issues the center a license.

10:122-2.2 Issuance of a license

(a) The Bureau shall issue a regular license to a center that has achieved full compliance with all applicable provisions of this manual.

(b) If the Bureau determines that a center is in substantial compliance with, but does not meet all, applicable provisions of this manual, and provided that there is no serious or imminent hazard to the health, safety, well-being and development of the children, the Bureau shall issue a temporary license to the center and indicate in writing the steps the center must take to secure a regular license.

(c) A temporary license may be issued for a period not to exceed six months. The Bureau may issue as many temporary licenses as it deems necessary. However, a center shall not operate pursuant to temporary licenses for more than 18 months.

(d) Each licensing period, which may include the issuance of one or more temporary licenses and/or one regular license, shall be three years.

1. In determining the expiration date of the first regular license, the Bureau shall compute the three-year licensing period from the date of issuance of the first temporary or regular license.

2. In determining the expiration date of a renewal regular license, the Bureau shall compute the three-year licensing period from the date on which the center's previous regular license expired.

(e) The license shall be posted in a prominent location within the center.

(f) A center shall not make claims contrary to its license, either in advertising or in any written or verbal announcement or presentation.

(g) A facility or program caring for children shall not claim in advertising, or in any written or verbal announcement or presentation, to be a licensed center unless it has secured a license from the Bureau.

(h) A center shall not claim that it is licensed by any State department or agency other than the New Jersey Department of Human Services, or that it is accredited by any State department.

10:122-2.3 Location of a center

(a) The license shall be issued to a specific center sponsor at a specific location and shall not be transferable.

(b) When two or more buildings are, or will be, utilized to accommodate centers operated by the same sponsor, the sponsor shall apply to the Bureau for either:

1. A separate license for each center in each building; or
2. A single license covering all the buildings that comprise a single center, provided that:
 - i. The buildings are on the same or contiguous properties;
 - ii. The programs have the same director; and
 - iii. The Bureau determines that issuance of a single license would not be detrimental to the health, safety, well-being, and development of the children served.

(c) A center shall not be located near or adjacent to areas determined by the Bureau to be hazardous to the physical health and safety of the children.

(d) The requirements for co-location of a center within a multi-use building are as follows:

1. The sponsor of a center that is, or seeks to be, co-located in a multi-use building shall indicate on its application the nature of the co-location.
2. Prior to approving the site, the Bureau shall determine that the multi-use site does not pose a serious risk to the health, safety or well-being of the children.
3. The Bureau may require the center to:

- i. Operate in a separate room, floor and/or section of the building;
 - ii. Have or use a separate entrance and/or toilet facility; and/or
 - iii. Meet any other physical plant, staffing, program or other operational requirements that are deemed necessary to protect the children from serious risk of harm stemming from the co-location.
4. The sponsor of a center that has been approved to be located in a multi-use building shall notify the Bureau of any change in use by other occupants of the building, as specified in N.J.A.C. 10:122-3.2(a).

10:122-2.4 Denying, suspending, revoking or refusing to renew a license or a Certificate of Life/Safety Approval

(a) The Bureau may deny an application or suspend, revoke or refuse to renew a license or a Certificate of Life/Safety Approval for good cause, including the following, as applicable:

1. Failure or refusal to comply with all applicable provisions of the laws specified in N.J.A.C. 10:122-1.1(a) and of this manual;
2. Violation of the terms and conditions of a license or a Certificate of Life/Safety Approval;
3. Use of fraud or misrepresentation in obtaining a license or a Certificate of Life/Safety Approval or in the subsequent operation of the center;
4. Refusal to furnish the Division with files, reports or records, as required by this manual;
5. Refusal to permit an authorized representative of the Division to gain admission to the center and/or to conduct an inspection or investigation during the center's operating hours;
6. Any activity, policy or staff conduct that adversely affects or presents a serious hazard to the education, health, safety, well-being or development of a child attending a center, or that otherwise demonstrates unfitness by a sponsor or staff member(s) to operate a center;
7. Failure to provide developmental activities that meet the physical, social, emotional and cognitive needs of the children served;
8. Failure by the sponsor to secure and maintain on file criminal conviction disclosures, as specified in N.J.A.C. 10:122-4.1(b) and (c); or
9. A determination by the Division's Institutional Abuse Investigation Unit that children in the center are at risk of harm.

(b) The Bureau shall provide written notice to the sponsor if it intends to deny an application or suspend, revoke or refuse to renew a license or a Certificate of Life/Safety Approval. The notice shall specify the Bureau's reasons for such action.

(c) If the Bureau suspends a center's license or Certificate of Life/Safety Approval to prevent the imminent risk of harm to children served by the center, the Bureau may reinstate the suspended license or Certificate of Life/Safety Approval upon the center's compliance with all applicable provisions of this manual.

(d) If the Bureau denies an application or revokes or refuses to renew a center's license or Certificate of Life/Safety Approval, as specified in (a) above, the center shall be prohibited from reapplying for a license or a Certificate of Life/Safety Approval for one year from the date of the denial, revocation or refusal to renew. After the one-year period has elapsed, the center may submit to the Bureau a new application for a license or a Certificate of Life/Safety Approval.

(e) Each license and each Certificate of Life/Safety Approval issued by the Bureau to a center is the property of the State of New Jersey. If the Bureau suspends or revokes a license or a Certificate of Life/Safety Approval, the center shall return the license or Certificate of Life/Safety Approval to the Bureau immediately.

Amended by R.1995 d.87, effective February 6, 1995.
See: 26 N.J.R. 4139(a), 27 N.J.R. 499(c).

10:122-2.5 Administrative hearings

(a) Before the Bureau's decision to deny an application or suspend, refuse to renew or revoke a center's license or Certificate of Life/Safety Approval becomes effective, the Bureau shall afford the center an opportunity to request an administrative hearing, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) As long as the Division determines that the children are not at risk and no serious or imminent hazards exist, the Bureau may permit a center that has requested an administrative hearing, as specified in (a) above, to continue to operate until a final decision is rendered as a result of the hearing.

Amended by R.1995 d.87, effective February 6, 1995.
See: 26 N.J.R. 4139(a), 27 N.J.R. 499(c).

10:122-2.6 Complaints

(a) Whenever the Bureau receives a report questioning the licensing status of a program or center or alleging that a licensed center is violating provisions of this manual, the Bureau shall ensure that the allegation is promptly investigated to determine whether the complaint is substantiated.

(b) After the report of the investigation has been completed, the Bureau shall notify the sponsor in writing of the results of the investigation, pursuant to the State Public Records Law, N.J.S.A. 47:1A-1 et seq., except for any information not permitted to be disclosed pursuant to the State Child Abuse and Neglect Law, N.J.S.A. 9:6-8.10a.

(c) Whenever the Division, through its Bureau of Licensing, Institutional Abuse Investigation Unit or District Offices, conducts complaint investigations, the center shall cooperate with all Division investigators.

10:122-2.7 Public access to the Bureau's licensing records

Licensing files maintained by the Bureau are public records and shall be readily accessible for examination by any person, under the direction and supervision of the Bureau, except when public access to records is restricted, in accordance with the State Public Records Law or other applicable statutes.

10:122-2.8 Procedures for securing a Certificate of Life/Safety Approval

(a) A center that is eligible for a Certificate of Life/Safety Approval, as specified in N.J.A.C. 10:122-1.1(c), may apply for and secure such a Certificate from the Bureau by complying with all provisions of N.J.A.C. 10:122-2.1 through 2.8, except for 10:122-2.1(c) and (e); 10:122-5.1 through 5.3; and 10:122-7.5, 7.7 and 7.10.

(b) The applicant shall submit to the Bureau a \$100.00 fee in the form of a check or money order made payable to the "Treasurer, State of New Jersey," along with the completed application for a Certificate of Life/Safety Approval.

(c) When an applicant is the sponsor of a licensed child care center and seeks to operate a seasonal or short-term program, as specified in N.J.A.C. 10:122-1.1(c)1, at the same site, the applicant shall submit an application for a Certificate of Life/Safety Approval with no additional fee required. The sponsor shall receive a Certificate of Life/Safety Approval in addition to a license.

(d) The Bureau shall review the application form and accompanying materials and conduct an on-site inspection of the center to determine whether it meets all applicable provisions of this manual as specified in (a) above. If the center is found to be in full compliance, the Bureau shall issue a Regular Certificate of Life/Safety Approval to the center. If the center is found to be in substantial compliance, and provided that there is no serious or imminent hazard to the health, safety, well-being and development of the children, the Bureau shall issue a Temporary Certificate of Life/Safety Approval.

SUBCHAPTER 3. CENTER ADMINISTRATION

10:122-3.1 Administrative responsibility

(a) The sponsor shall be legally responsible and held accountable by the Bureau for the overall operation of the center and for ensuring the center's compliance with all applicable provisions of this manual.

(b) When the sponsor is an entity owned or operated by two or more individuals, the sponsor shall designate one of those individuals to represent the interests and act on behalf of the sponsor.

Case Notes

Parent's provocative, profane, and abusive behavior towards teachers and staff warranted termination of children from after care program. D.C. v. Seec, Inc., 95 N.J.A.R.2d (DYF) 9.

10:122-3.2 Reporting requirements

(a) The center shall notify the Bureau verbally of any of the following changes or events by the next working day after the center learns of their occurrence:

1. Injury or illness that results in the admittance to a hospital or death of a child, as specified in N.J.A.C. 10:122-7.10(b);
2. Occurrence of a reportable disease, as specified in N.J.A.C. 10:122-7.10(a);
3. Change in use by other occupants of a multi-use building in which the center is located, as specified in N.J.A.C. 10:122-2.3(d);
4. Permanent closing of the center;
5. Damage to the premises of the center caused by fire, accident or the elements;
6. Proposed use of emergency space including relocation or use of rooms not approved by local municipal officials or by the Bureau, as specified in N.J.A.C. 10:122-5.2(q); and
7. Any conviction(s) or guilty plea(s) of the sponsor, director or any staff member, as specified in N.J.A.C. 10:122-4.1(b)1 and (c)2.

(b) The center shall notify the Bureau verbally, within three working days, of any change(s) to the licensing information previously submitted to the Bureau on the completed application form, including, but not limited to, changes in location. The center shall notify the Bureau in writing within 30 calendar days of any such change(s).

10:122-3.3 Center records

(a) General requirements for center records are as follows:

1. The center's records shall be open for inspection by authorized representatives of the Bureau.

2. The center's records shall be open for inspection by authorized representatives of the Division's Institutional Abuse Investigation Unit (IAIU) and, provided that they may only secure information about children under the Division's supervision, Division caseworkers.

(b) Requirements for administrative records are as follows:

1. The administrative records specified in (b)2 and 3 below shall be maintained by the center until the end of the current licensing period.

2. The following records shall be maintained in files located either at a central administrative office or at the center:

i. Comprehensive general liability insurance, as specified in N.J.A.C. 10:122-3.4;

ii. A record of:

(1) Monthly fire drills, as specified in N.J.A.C. 10:122-5.2(m)3; and

(2) Training sessions for staff members on the use of fire extinguishers and fire alarms and evacuation procedures, as specified in N.J.A.C. 10:122-5.2(o); and

iii. If the center provides transportation:

(1) Vehicle insurance, as specified in N.J.A.C. 10:122-9.6; and

(2) Transportation records, as specified in N.J.A.C. 10:122-9.7.

3. The following records shall be maintained in files located at the center:

i. A current manual;

ii. The building's fire safety inspection certificate, as specified in N.J.A.C. 10:122-5.1(b);

iii. The center's certificate or statement of satisfactory health approval, as specified in N.J.A.C. 10:122-5.1(c);

iv. The Life/Safety and Program Inspection/Violation and Complaint Investigation Summary reports from the Bureau, as well as any letters of enforcement or other actions taken against the center, that cover the current licensing period;

v. The documents providing information to parents, as specified in N.J.A.C. 10:122-3.6(a) and 7.11;

vi. A record of each parent's signature attesting to the receipt of the Information to Parents document, as specified in N.J.A.C. 10:122-3.6(a) and (b);

vii. Documentation of the use of extermination services, if applicable, as specified in N.J.A.C. 10:122-5.2(a)7;

viii. Signed blanket permission slips for walks and signed individual permission slips for field trips, outings or special events involving transportation of children away from the center, as specified in N.J.A.C. 10:122-6.8(d) through (f);

ix. A written policy on the disciplining of children by staff members, as specified in N.J.A.C. 10:122-6.6(d);

x. A written policy on the release of children, as specified in N.J.A.C. 10:122-6.5(a);

xi. A written policy providing for the direct involvement of parents of enrolled children in the center's operation and activities, as specified in N.J.A.C. 10:122-6.8(h) and (i)1; and

xii. A written outline of the center's daily activities, as specified in N.J.A.C. 10:122-6.1(e).

(c) The requirements for staff records are as follows:

1. The staff records specified in (c)2 and 3 below shall be maintained by the center for one year after the staff member has stopped working at the center.

2. The following records for the sponsor, director and all staff members shall be maintained in files located either at a central administrative office or at the center:

i. Applications for employment, as specified in N.J.A.C. 10:122-4.1(b)1 and (c);

ii. References on the director and staff members, as specified in N.J.A.C. 10:122-4.1(b)2;

iii. Documentation of applicable education and experience, as specified in N.J.A.C. 10:122-4.5(a) through (d);

iv. A record of each staff member's signature attesting to the receipt of the policy statement on the disciplining of children by staff members, as specified in N.J.A.C. 10:122-6.6(e);

v. A record of each staff member's signature attesting to the receipt of the Information to Parents document, as specified in N.J.A.C. 10:122-3.6(b); and

vi. Health information for staff members, as specified in N.J.A.C. 10:122-7.4.

3. Staff attendance sheets, as specified in N.J.A.C. 10:122-4.4(b)3i, shall be maintained in files located at the center.

(d) The requirements for children's records are as follows:

1. For children currently enrolled in the center, the records for each child, as specified in (d)3i through vi below, shall be maintained in files located at the center.

2. For children no longer enrolled in the center, the records for each child, as specified in (d)3i through vi below, shall be maintained for one year in files located either at a central administrative office or at the center.

3. The following records shall be maintained for each child by the center:

i. A signed application for enrollment, as specified in N.J.A.C. 10:122-6.8(a)1;