

**CHAPTER 126A****DIVISION UTILIZATION OF  
FAMILY CHILD CARE PROVIDERS****Authority**

N.J.S.A. 30:4C-4(h).

**Source and Effective Date**

R.2012 d.058, effective February 13, 2012.  
See: 43 N.J.R. 364(a), 44 N.J.R. 674(a).

**Chapter Expiration Date**

Chapter 126A, Division Utilization of Family Child Care Providers, expires on February 13, 2019.

**Chapter Historical Note**

Chapter 126A, DYFS Utilization of Family Day Care Providers, was adopted as R.1990 d.223, effective May 7, 1990. See: 22 N.J.R. 13(a), 22 N.J.R. 1377(b).

Pursuant to Executive Order No. 66(1978), Chapter 126A, DYFS Utilization of Family Day Care Providers, was readopted as R.1995 d.277, effective April 4, 1995. See: 27 N.J.R. 432(a), 27 N.J.R. 1801(b). Pursuant to Executive Order No. 66(1978), Chapter 126A expired on April 4, 2000.

Chapter 126A, DYFS Utilization of Family Day Care Providers, was adopted as new rules by R.2000 d.316, effective August 7, 2000. See: 32 N.J.R. 985(a), 32 N.J.R. 2906(a).

Chapter 126A, DYFS Utilization of Family Day Care Providers, was renamed Division Utilization of Family Day Care Providers and readopted as R.2006 d.94, effective February 3, 2006. Subchapter 2, DYFS Funded Family Day Care Services Program Requirements, was renamed DYFS-Authorized Family Day Care Services Program Requirements by R.2006 d.94, effective March 6, 2006. See: 37 N.J.R. 3198(a), 38 N.J.R. 1321(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 126A, Division Utilization of Family Day Care Providers, was scheduled to expire on August 2, 2013. See: 43 N.J.R. 1203(a).

Chapter 126A, Division Utilization of Family Day Care Providers, was readopted as R.2012 d.058, effective February 13, 2012. As a part of R.2012, d.058, Chapter 126A, Division Utilization of Family Day Care Providers, was renamed Division Utilization of Family Child Care Providers; and Subchapter 2, DYFS-Authorized Family Day Care Services Program Requirements, was renamed DYFS-Authorized Family Child Care Services Program Requirements, effective March 19, 2012. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. GENERAL PROVISIONS****10:126A-1.1 Purpose and scope**

The purpose of this chapter is to outline the standards under which the Division of Youth and Family Services will authorize family child care services for a child receiving child welfare services, either directly or under a contract with a family child care provider. This chapter requires that any Division-authorized family child care services purchased by the Department of Human Services or its agents be provided by a family child care provider who meets the standards of and is registered in accordance with N.J.A.C. 10:126, Manual of Requirements for Family Child Care Registration. The standards set by this chapter are more stringent than those set by N.J.A.C. 10:126 for registered family child care providers in general because family child care is often utilized by the Division to relieve the effects of and prevent abuse or neglect or to provide supervision or relief needed by a child's family.

Amended by R.2006 d.94, effective March 6, 2006.  
See: 37 N.J.R. 3198(a), 38 N.J.R. 1321(a).

Rewrote the section so that the scope of the chapter refers to the Division as authorizing family day care and the "Department or its agents" as the purchaser of family day care.

Amended by R.2012 d.058, effective March 19, 2012.  
See: 43 N.J.R. 364(a), 44 N.J.R. 674(a).

Substituted "child" for "day" preceding "care" throughout and "Child" for "Day", and inserted "of Human Services".

**10:126A-1.2 Definitions**

The words and terms used in this chapter shall have the same meanings as defined in N.J.A.C. 10:126-1.2, Definitions, which is hereby incorporated into this chapter by reference.

Amended by R.2006 d.94, effective March 6, 2006.  
See: 37 N.J.R. 3198(a), 38 N.J.R. 1321(a).

Substituted "is" for "definitions are".

**SUBCHAPTER 2. DYFS-AUTHORIZED FAMILY CHILD  
CARE SERVICES PROGRAM REQUIREMENTS****10:126A-2.1 Eligible providers of DYFS-authorized  
family child care services funded by the  
Department of Human Services or its agents**

The Division shall utilize the services of only those family child care providers who meet the requirements of and are registered in accordance with the provisions of N.J.A.C. 10:126, Manual of Requirements for Family Child Care Registration.

Amended by R.2006 d.94, effective March 6, 2006.  
See: 37 N.J.R. 3198(a), 38 N.J.R. 1321(a).

Former section heading was "Eligible providers of DYFS funded family day care services".

Amended by R.2012 d.058, effective March 19, 2012.  
See: 43 N.J.R. 364(a), 44 N.J.R. 674(a).

Section was "Eligible providers of DYFS-authorized family day care services funded by the Department or its agents". Substituted "child" for "day" and "Child" for "Day".

### 10:126A-2.2 Maximum number of children

For any family child care provider who receives payment from the Department of Human Services or its agents, either directly or through contract, for family child care services for one or more children, as authorized by the Division, the maximum number of children cared for by the family child care provider shall not exceed five children at a time, regardless of fee-paying or non-fee-paying status. The total of five children shall include the provider's foster children and own children, only if the foster children or own children are age five or younger. No more than two of the total number of children cared for by the family child care provider shall be age 23 months or younger.

Recodified from N.J.A.C. 10:122B-1.3(a)4 (now expired).

See: 22 N.J.R. 13(a), 22 N.J.R. 1377(b).

Amended by R.2006 d.94, effective March 6, 2006.

See: 37 N.J.R. 3198(a), 38 N.J.R. 1321(a).

Substituted "Department or its agents" for "Division" and added ", as authorized by the Division".

Amended by R.2012 d.058, effective March 19, 2012.

See: 43 N.J.R. 364(a), 44 N.J.R. 674(a).

Substituted "child" for "day" throughout and inserted "of Human Services".

### 10:126A-2.3 Exception to maximum number of children

(a) The Director or designee may approve, in writing, the care of additional children over the maximum, by a family child care provider who receives payment from the Department of Human Services or its agents, as authorized by the Division, provided all of the following conditions are met:

1. A provider assistant, as defined in N.J.A.C. 10:126-1.2, is present in the home;
2. The limits set by N.J.A.C. 10:126-6.1, Maximum number of children, have not been exceeded; and
3. The approval, in writing, of the Director or designee has been obtained prior to the expansion beyond the limits set by this chapter, of the number of children receiving family child care who are authorized by the Division and funded by the Department of Human Services or its agents.

Amended by R.2006 d.94, effective March 6, 2006.

See: 37 N.J.R. 3198(a), 38 N.J.R. 1321(a).

In introductory paragraph (a) and (a)3, substituted "Director or designee" for "regional administrator" and rewrote the paragraphs to refer to the Division as authorizing family day care and the "Department or its agents" as the purchaser of family day care; also in introductory paragraph (a), substituted "a" for "the".

Amended by R.2012 d.058, effective March 19, 2012.

See: 43 N.J.R. 364(a), 44 N.J.R. 674(a).

In the introductory paragraph of (a) and in (a)3, substituted "child" for "day" and inserted "of Human Services".

### 10:126A-2.4 Use of family child care provider when child abuse or neglect is substantiated

(a) The Division shall stop using, and the Department of Human Services or its agents shall suspend payment to, a family child care provider for each child under the Division's supervision when the Department of Children and Families' child protection investigator:

1. Completes a child protection investigation of the provider or a family member; and
2. Makes a finding of substantiated in accordance with N.J.A.C. 10:129-5.3(a).

(b) When a family child care provider appeals the finding of substantiated, the Division shall not authorize use of the family child care provider for any child supervised by the Division until:

1. All appeals are completed; and
2. The finding of substantiated has been overturned.

Amended by R.2006 d.94, effective March 6, 2006.

See: 37 N.J.R. 3198(a), 38 N.J.R. 1321(a).

Former section heading was "Use of family day care provider when child abuse is substantiated"; in introductory paragraph (a), substituted "the Department or its agents shall suspend payment to," for "paying" and substituted "Department" for "Division"; in (a)1, substituted "protection" for "protective service".

Amended by R.2012 d.058, effective March 19, 2012.

See: 43 N.J.R. 364(a), 44 N.J.R. 674(a).

Section was "Use of family day care provider when child abuse or neglect is substantiated". In the introductory paragraph of (a), inserted "of Human Services" and "of Children and Families' child protection investigator", and substituted "child" for "day"; in (a)2, updated the N.J.A.C. reference; and in the introductory paragraph of (b), substituted "child" for "day" twice.