

**CHAPTER 126A**

**DIVISION UTILIZATION OF  
FAMILY DAY CARE PROVIDERS**

**Authority**

N.J.S.A. 30:4C-4.

**Source and Effective Date**

R.2006 d.94, effective February 3, 2006.  
See: 37 N.J.R. 3198(a), 38 N.J.R. 1321(a).

**Chapter Expiration Date**

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

**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: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 126A, Division Utilization of Family Day Care Providers, was scheduled to expire on August 2, 2011. See: 43 N.J.R. 364(a).

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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 day care services for a child receiving child welfare services, either directly or under a contract with a family day care provider. This chapter requires that any Division-authorized family day care services purchased by the Department or its agents be provided by a family day care provider who meets the standards of and is registered in accordance with N.J.A.C. 10:126, Manual of Requirements for Family Day Care Registration. The standards set by this chapter are more stringent than those set by N.J.A.C. 10:126 for registered family day care providers in general because family day 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.

**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 DAY  
CARE SERVICES PROGRAM REQUIREMENTS**

**10:126A-2.1 Eligible providers of DYFS-authorized  
family day care services funded by the  
Department or its agents**

The Division shall utilize the services of only those family day 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 Day 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".

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

For any family day care provider who receives payment from the Department or its agents, either directly or through contract, for family day care services for one or more children, as authorized by the Division, the maximum number of children cared for by the family day 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 day 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".

**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 day care provider who receives payment from the Department 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 day care who are authorized by the Division and funded by the Department 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".

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

(a) The Division shall stop using, and the Department or its agents shall suspend payment to, a family day care provider for each child under the Division's supervision when the Department:

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. 10:129A.

(b) When a family day care provider appeals the finding of substantiated, the Division shall not authorize use of the family day 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".