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Local Commissioners Memorandum

Transmittal:	01 OCFS LCM 11
To:	Local District Commissioners
Issuing Division/Office:	Development and Prevention Services
Date:	September 7, 2001
Subject:	Child Care: Revised Health and Safety Requirements for Legally-Exempt Family Child Care, Legally-Exempt In-Home and Legally-Exempt Group Child Care Providers
Contact Person(s):	George Ciezkowski (518) 474-9324
Attachments:	A: Enrollment Form for Provider of Legally-Exempt Family Child Care and Legally-Exempt In-Home Child Care B: Guide to Reviewing Enrollment Form for Provider of Legally-Exempt Family Child Care and Legally-Exempt C: Enrollment Form for Provider of Legally-Exempt Group Child Care D: Guide to Reviewing Enrollment Form for Provider of Legally-Exempt Group Child Care E: Model Letter and Resource Materials That Must Be Distributed to All Enrolled Providers F: Documentation of Legally-Exempt Status G: Permitted Working Hours for Minors Under 18 Years of Age H: List of Crimes Against Children and Violent and Other Serious Crimes I: Criminal History Evaluations for Legally-Exempt Providers J: Parental Acknowledgment K: Important Information When Caring for My Child(ren) L: Parental Responsibilities When Employing A Legally-Exempt In-Home Child Care Provider

Attachment Available On – Line: All attachments are available on-line

Purpose

The purpose of this memorandum is to inform social services districts of changes to child care subsidy regulations which establish basic health and safety standards for legally-exempt child care providers caring for children subsidized under the New York State Child Care Block Grant. This memorandum also details the requirements for social services districts to implement these new standards. Social services districts may propose requirements in addition to the State standards through amendments to their Consolidated Services Plan or Integrated County Plan.

This LCM supercedes 99 OCFS LCM-29, Child Care Health and Safety Requirements dated November 23, 1999 and 92 INF-29, Child Care: Parental Responsibilities When Employing an In-Home Child Care Provider dated April 13, 1992.

I. Background

Based on meetings with and letters received from social services districts and the New York Public Welfare Association (NYPWA), the regulations regarding health and safety requirements for legally-exempt providers initially filed on October 1, 1999, as well as the enrollment forms which were issued in 99 OCFS LCM-29, were revised. Regulations were adopted on a permanent basis on April 25, 2001.

Summary of Changes

The following outlines the changes to the health and safety requirements for legally-exempt child care providers.

- o Providers who are enrolled on or before March 30, 2000 must document compliance with the regulations before or as part of the next redetermination of eligibility for a child in the provider's care.
- o The enrollment form must be submitted to and reviewed by the district at least annually.
- o The number of required pages of the enrollment form has been reduced to five for legally-exempt family and in-home child care and to six pages for legally-exempt group child care. The forms were redesigned and reworded to make them more user friendly. Language used throughout the enrollment form has been simplified.
- o A physician's statement attesting to the physical and mental health of the provider and household members is no longer required. The provider must attest, on the revised Safety Checklist, that the provider and anyone who will assist them in providing care are physically able to provide care. In addition, the provider must attest that the provider, anyone assisting in the care of children, and all household members in the home where legally-exempt family child care is provided are free of communicable diseases. If the district has reasonable cause to suspect that the attestation of the provider is incorrect, the social services district may require the provider to submit a statement from a physician, physician's assistant or nurse practitioner verifying the health and physical condition of such individual(s).

- o The provider is no longer required to submit an attestation regarding indications of child abuse or maltreatment to the district. The provider will submit the written attestation **only** to the parent. The enrollment form includes a statement verifying that the provider has given this information in writing to the parent.
- o Employees, volunteers and persons residing in a legally-exempt family home are no longer required to submit separate attestations regarding criminal history. The provider must now attest to the criminal history on behalf of all employees, assistants, volunteers and household members age 18 years or older.
- o The crimes that create a presumption against enrolling a legally-exempt provider are expanded to include additional violent and other serious crimes. The guidelines for reviewing the criminal history of a legally-exempt provider are revised. These changes provide greater consistency with the new standards issued for licensed and registered providers. Additionally, a list of crimes against children is now provided as an aide for district use.
- o Documentation of legally-exempt status, which previously had been part of the enrollment form, has been deleted and is now a separate and optional form. This form is designed to assist the district in determining whether the provider is exempt from child day care licensing or registration requirements. The district may use the optional form or may use some other mechanism to determine whether the provider meets the definition of a legally-exempt program.
- o The requirements regarding smoking are modified to allow the provider to smoke outdoors in the presence of children. However, smoking is not allowed indoors while children are in care nor in vehicles while children are being transported.
- o The requirement for the home or facility to have "two means of egress" has been changed to "two separate and remote ways to escape in an emergency."
- o The revised enrollment form includes a telephone number of the Child and Adult Care Food Program (CACFP) for providers to call if they are interested in participating. The previous form directed districts to give the provider the address and phone number of the CACFP sponsor for their county.

Access To New Enrollment Forms

The redesigned enrollment forms and attachments to the LCM are in MICROSOFT WORD. Districts will be notified when forms will be available to request from the Bureau of Forms and Print Management on form OTDA-876 "Request for Forms or Publications". In the meantime, districts should reproduce the forms locally.

Districts can obtain an electronic version (in WORD 97) of the enrollment forms and attachments to the LCM in Microsoft Outlook. Network users should go to the Folder List and select: Public Folders, All Public Folders, the Statewide sub-folder, the OCFS sub-folder, the Child Care sub-folder and then the Subsidy sub-folder where the documents are filed.

The enrollment forms will be available in Spanish in the near future.

II. Program Implications

Providers who are enrolled on or before March 30, 2000 must document compliance with the revised health and safety regulations before or as part of the next redetermination of eligibility for a child in the provider's care. New providers that are not currently enrolled must comply with the new requirements before they can be enrolled.

Districts need to take the new enrollment requirements into account when determining the ability of public assistance applicants/recipients to begin a work activity. Clients who will be assigned to a work activity should be given the enrollment forms prior to their search for a child care provider. If child care is identified as a need of the client, this need should be addressed prior to assigning the client to an activity. Social services districts are required to notify clients about the client's responsibilities in locating a child care provider and about the client's right to be excused from a work activity if they are unable to find a child care provider that is appropriate, accessible, affordable and suitable. For information about the required client notice refer to 99 LCM-19, entitled Notice: DSS-4647: "Important Information About Child Care" dated August 27, 1999.

Definitions of Terms Used In This Release

"Parent" includes the child's parent, legal guardian, caretaker relative or any other person in loco parentis to the child.

"Person in Loco Parentis" means the child's guardian or caretaker relative or any other person with whom a child lives who has assumed responsibility for the day-to-day care and custody of the child.

"Family Share" means the amount the child's family is required to pay towards the cost of child care. This term was formerly referred to as the "parent fee".

"Legally-exempt Child Care Provider" includes legally-exempt family child care (formerly known as informal care provided outside the child's home), legally-exempt in-home child care and legally-exempt group child care as defined below.

Legally-exempt **family** child care means:

child care for one or two children provided outside the child's own home in a residence by a provider who is at least 18 years of age, or who is less than 18 years of age and meets the requirements for the employment of minors as set forth in Article 4 of the New York State Labor Law, and who is chosen and whose services are monitored by the child's parent;

child care for more than two children provided outside the child's own home in a residence by a provider who is at least 18 years of age, or who is less than 18 years of age and meets the requirements for the employment of minors as set forth in Article 4 of the New York State Labor Law, who provides such care for three hours or less per day and who is chosen

and whose services are monitored by the child's parent; or

child care provided outside the child's own home by a relative within the third degree of consanguinity of the parent(s) or step-parent(s) of the child or children except where such relative is a person legally responsible for, or the caretaker relative of, such child or children. Relatives within the third degree of consanguinity of the parent(s) or step-parent(s) of the child include: the grandparents of the child; the great-grandparents of the child; the great-great-grandparents of the child; the aunts and uncles of the child, including the spouses of the aunts and uncles; the great-aunts and great-uncles of the child, including the spouses of the great-aunts and great-uncles; the siblings of the child; and the first cousins of the child, including the spouses of the first cousins.

Legally-exempt **in-home** child care means:

child care furnished in the child's own home by a provider who is chosen and monitored by the child's parent and who is at least 18 years of age, or who is less than 18 years of age and meets the requirements for the employment of minors as set forth in Article 4 of the New York State Labor Law; provided, however, that the child's parent must provide the provider with all employment benefits required by State and/or federal law and must pay the provider at least the minimum wage set forth in Article 19 of the New York State Labor Law.

Legally-exempt **group** child care means:

child care provided by those providers, other than providers of legally-exempt family child care or in-home child care, which are not required to be licensed by or registered with the Office of Children and Family Services or licensed by the City of New York but which meet all applicable State or local requirements for such child care programs. Providers of legally-exempt group child care include, but are not limited to:

pre-kindergarten and nursery school programs for children three years of age or older, and programs for school-age children conducted during non-school hours, operated by public school districts or by private schools or academies which provide elementary or secondary education or both in accordance with the compulsory education requirements of the Education Law, provided that such pre-kindergarten, nursery school or school-age programs are located on the premises or campus where the elementary or secondary education is provided;

nursery schools and programs for pre-school-aged children operated by non-profit agencies or organizations or private proprietary agencies which provide services for three or less hours per day;

summer day camps operated by non-profit agencies or organizations or private proprietary agencies in accordance with Subpart 7-2 of the State Sanitary Code;

day care centers, family day care homes and other child care programs located on federal property which are operated in compliance with the applicable federal laws and regulations for such child care programs; and

day care centers, family day care homes and other child care programs located on tribal property which are operated in compliance with the applicable tribal laws and regulations for such child care program.

Additional Information About Legally-Exempt Providers

Where Care Can Be Provided

Legally-exempt family child care can be provided in a home other than the provider's own residence. For example, a provider may use a neighbor's home to operate a legally-exempt family child care program as long as the neighbor is not already operating any type of child care program in the home. The health and safety requirements apply to the home where care is being provided. Also, the attestations concerning indicated reports of child abuse and maltreatment, the health and communicable disease status and criminal convictions of the household members apply to the individuals residing in the home where care is being provided.

Two legally-exempt providers are not permitted to operate two separate programs in the same home. A provider cannot operate a legally-exempt child care program in a home that is registered as a family day care home or licensed as a group family day care home.

In-Home Care

If care is being provided in the child's own home, the provider can care for all of the children who live in that household regardless of the number of children living there. However, if a child (other than the provider's own child) not residing in the household is provided child care in the in-home situation, then the modality of care is no longer in-home but becomes family child care. The restrictions on the number of children in care for a legally-exempt family child care provider apply. Care is limited to a total of two children if care is provided for more than three hours a day or to more than two children if care is provided for three hours or less per day.

Relative/Non-relative Care

There are no restrictions on the number of children for which a relative can care as long as the relative is within the third degree of consanguinity of the parent or step-parent of each of the children in care. However, as soon as one non-relative child is in care, the maximum number of children cannot exceed eight. The provider cannot care for more than two children who are not related to the provider for more than three hours per day and still meet the definition of legally-exempt.

Members of the Public Assistance Unit

Members of the public assistance unit for the child or the custodial parent(s) or caretaker(s) of the child are not eligible to be paid as legally-exempt child care providers.

District Responsibilities

Each social services district must establish procedures for enrolling for payment purposes, under the New York State Child Care Block Grant subsidy program, providers of legally-exempt family child care, legally-exempt in-home child care or legally-exempt group child care. These enrollment procedures must:

- o collect information about the provider that is necessary to make payment and furnish information to the provider or recipient;
- o permit the provider to enroll with the district after selection by the recipient; and
- o facilitate appropriate and prompt payments.

Districts must use the enrollment forms issued in this release to collect information necessary for enrolling legally-exempt providers. These forms include the following:

- o Attachment A: Enrollment Form for Provider of Legally-Exempt Family Child Care and Legally-Exempt In-Home Child Care and Attachment B: Guide to Reviewing Enrollment Form for Provider of Legally-Exempt Family Child Care and Legally-Exempt In-Home Child Care.
- o Attachment C: Enrollment Form for Provider of Legally-Exempt Group Child Care and Attachment D: Guide to Reviewing Enrollment Form for Provider of Legally-Exempt Group Child Care.

Before making payment to a provider of legally-exempt child care, the district must review all information obtained from the provider and determine whether the following criteria are met:

- o the provider meets the definition of a provider of legally-exempt family child care, legally-exempt in-home child care or legally-exempt group child care;
- o all applicable health and safety requirements are met;
- o information regarding criminal convictions does not eliminate the provider from being eligible for payment under the New York State Child Care Block Grant; and
- o the provider and parent agree to abide by the conditions found in the Parent and Provider Certification section of the enrollment form.

If the district determines that the provider meets the above criteria, then the district must enroll the provider for the purpose of providing child care services to eligible families under the New York State Child Care Block Grant. If the district determines the provider is not exempt from child care licensing or registration requirements or is uncertain concerning the legally-exempt status of a provider, the district must notify the Regional Office of the Bureau of Early Childhood Services or the appropriate licensing or registration agency in the district.

Social services districts must inform all parents that they may select a legally-exempt provider. Districts must also inform parents about the requirements for legally-exempt providers and assist public

assistance applicants and recipients who need help in locating child care.

Parents on public assistance must be allowed reasonable time to locate a provider, and, for those parents who elect to use a legally-exempt child care provider, to submit enrollment forms before being required to begin a work activity. If given information concerning health and safety and the enrollment process for legally-exempt providers at initial application for public assistance, orientation, assessment and recertification, parents will be aware of the time considerations if they should select legally-exempt care as they start a job or a work activity. This information is especially critical for applicants who are required to seek employment even before they go to orientation or assessment. Also, all parents must be informed that if the parent uses a legally-exempt provider prior to enrollment and the district determines that the provider cannot be enrolled, the parent will be solely responsible for any child care costs incurred with that provider.

Districts should encourage parents to arrange ahead of time for a substitute provider in the event that their regular provider is unavailable. An enrollment form can be completed in advance for the substitute provider and kept in the client's file. A new enrollment form for the substitute provider will have to be completed annually.

Enrollment information must be updated and reexamined any time a change in circumstances occurs. This review of the change must be made to determine whether the provider can still be enrolled. A new enrollment form must be completed by the parent and provider and reviewed by the district at least annually.

Each social services district must maintain a current list of legally-exempt child care providers enrolled by the district. This list must contain the name and address and telephone number (if any) of each provider. Districts should have procedures in place to ensure that they do not continue to refer clients to a legally-exempt provider that is caring for the maximum number of children allowed or to make payments for children that are in excess of the allowable number for a legally-exempt child care provider.

Districts must provide newly enrolled legally-exempt providers with the informational and resource materials provided in Attachment E: Model Letter and Resource Materials That Must Be Distributed to All Enrolled Providers.

Enrollment Of Legally-Exempt Providers

In order to be enrolled with a social services district to provide child care services under the New York State Child Care Block Grant, the provider of legally-exempt child care and the parent of the child in need of child care must attest, in writing, that the provider meets the basic health and safety requirements established by the Office and any additional requirements approved in the district's Consolidated Services Plan or Integrated County Plan.

The new basic health and safety requirements and other information needed to enroll a legally-exempt provider are included in Attachment A: Enrollment Form for Provider of Legally-Exempt Family Child Care and Legally-Exempt In-Home Child Care Form and Attachment C: Enrollment Form for Provider of Legally-Exempt Group Child Care. Districts must follow the guidelines included as Attachments B and D to review the enrollment forms.

The enrollment form is comprised of several sections:

- o Provider information and status
- o Health and safety checklist
- o Criminal history certifications
- o Parent and provider certifications

Provider Information and Status

The district must determine whether the provider is legally-exempt from child day care licensing and registration requirements. The determination that the provider is not required to be licensed or registered is based on the number of children in care, the relationship of the children to the provider, the number of hours they are in care and where care is provided. These requirements are specified in the section of this LCM entitled "Definitions of Terms Used in This Release" and in the "Provider Status" section of Attachment B: Guide to Reviewing Enrollment Form for Providers of Legally-Exempt Family Child Care and Legally-Exempt In-Home Child Care and Attachment D: Guide to Reviewing Enrollment Form for Provider of Legally-Exempt Group Child Care.

An optional form, Attachment F: Documentation of Legally-Exempt Status, is provided for the district to obtain information on the key factors in determining whether the provider is legally-exempt. Districts have the option to use other methodologies for documenting that a provider is legally-exempt.

Providers who are under 18 years of age must be working in accordance with the labor standards for minors. A minor must complete and sign a separate attestation provided in Attachment G: Permitted Working Hours for Minors Under 18 Years of Age and must submit a copy of his or her working papers. A summary of New York State Labor Law relating to the employment of minors is also included in Attachment G.

Safety Checklist

The parent and provider must inspect the home or facility jointly using the Safety Checklist. There are two parts to the Checklist. The provider must meet all of the requirements in Part A and agree to all of the conditions in Part B before the provider can be enrolled. All statements in Part A must be answered "YES." A "NO" answer to any item in Part A and B precludes the provider from being enrolled until the item with the "NO" answer is corrected.

Most of the items on the Safety Checklist are self-explanatory. Additional clarification is provided for the following items:

Two means of escape: In Part A, there must be two ways out of the home that can be used in the event of an emergency. Both means of escape have to be remote from one another (separate and apart, not side-by-side or adjacent to one another along the same wall) and lead to an immediate escape. They do not have to be doors which immediately lead to the outdoors. Consideration must be given to the provider's ability (such as the provider's age and physical condition) to use the

alternate means of escape (e.g., a window leading to a fire escape or an emergency ladder that descends from a window) and to remove all children safely in an emergency. The number, age, and any handicapping condition of the children in care are also factors to be considered.

Provider health/physical condition: In Part A, the provider attests by checking the appropriate box that the provider and anyone assisting in the care of children are physically able to provide care. In addition, the provider must attest that the provider, all persons residing in the home (other than the child's own home) where legally-exempt care is given, all volunteers who are likely to have regular contact with the children and all employees are free of any communicable disease. The requirement that the provider submit a statement from a physician has been eliminated. However, if the district has reason to suspect that the information provided is incorrect, the district may require that the provider submit a statement from a physician, physician's assistant or nurse practitioner verifying the physical health and condition of the provider and anyone who is assisting in the care of the children.

Behavioral standards: The provider must agree to abide by the health and safety conditions in Part B in order to be enrolled by the district. Neither the parent nor the provider can be given a waiver of any of these requirements. For example, a parent who smokes may say that s/he does not care that the provider also smokes. However, smoking indoors while children are in care (or in a vehicle while children are being transported), is prohibited. Similarly, a provider who will not agree to abide by the prohibition against corporal punishment (i.e. "I just give them a swat on the behind"), is not eligible for enrollment. The examples of corporal punishment listed on the Checklist are not meant to be an exhaustive list and are cited to clarify and emphasize that such actions are unacceptable.

The Safety Checklist is to be completed by both the parent and provider as they inspect together the conditions in the home or facility. The Checklist includes standards for the physical environment to promote the health and safety of children (in a yes and no format) and behavioral standards that the provider must follow in order to be eligible for enrollment. The provider must meet all requirements and agree to abide by the health and safety conditions before they can be enrolled by the district.

The provider and parent must sign and date the Checklist attesting that the home or facility has been inspected with the parent, that all statements on the form are true and accurate, and that they agree with the conditional statements in Part B. Failure of the provider or parent to sign the Checklist precludes the provider from becoming enrolled.

Criminal Background

The enrollment form is revised to include a statement by the provider attesting to the criminal conviction history of the provider, employees of the provider, and any volunteers who have the potential for regular and substantial contact with children in care. The provider must ask all of the above individuals about their criminal history. Additionally, the provider of legally-exempt family child care must also do this for any household member 18 or older.

When the provider indicates that they or anyone for whom they are providing an attestation has been convicted of a crime, the provider must give the parent and the social services district true and accurate information, in writing, about the crime to enable the district and family to evaluate whether the criminal background poses an unreasonable risk to the safety or welfare of the child. Such information must

include the nature of the crime, the length of time which has elapsed since the conviction, the penalties imposed as a result of the conviction, and any evidence of rehabilitation. Sealed criminal convictions as a juvenile are not considered in the evaluation of an individual's criminal background. However, if there is independent knowledge of the events in question, for example the applicant recounts his history of fire setting or sexual abuse, that information could be used since it is separate and distinct from the sealed criminal record. The review would be based on the underlying facts of the activity and not the fact that the person was convicted.

A person who has been convicted of a felony or misdemeanor crime against children or a legally-exempt family child care provider who is providing care in a household (other than the child's own home) which includes an individual 18 years of age or older who has been convicted of a felony or misdemeanor crime against children can not be enrolled by the district. A legally-exempt child care program which includes a provider, employs an individual, or has a volunteer (who has the potential for regular and substantial contact with children) who has been convicted of a felony or misdemeanor crime against children can not be enrolled by the district. A list of crimes against children is included in Attachment H: List of Crimes Against Children and Violent and Other Serious Crimes.

A provider who has been convicted or a provider which employs an individual, uses a volunteer, or provides care in a home (other than the child's own home) in which there is a household member age 18 years or older who has been convicted of a violent or other serious crime (other than crimes against children) is considered by the Office of Children and Family Services to present an unreasonable risk to the safety or welfare of the child(ren) in legally-exempt care. A conviction for any of these crimes creates a strong presumption **against** enrolling the legally-exempt child care provider. A list of violent and other serious crimes is included in Attachment H: List of Crimes Against Children and Violent and Other Serious Crimes.

A provider convicted of a violent or other serious crime can request that the district consider and review any extenuating circumstances pertaining to the conviction and determine whether an exception could be made to the presumption against enrollment. This presumption could then be overcome **only** by the provider or individual involved demonstrating that some extraordinary circumstance related to the conviction justifies enrollment. The provider is responsible for supplying documentation that details the extenuating circumstances. Districts are not required to review extenuating circumstances concerning these convictions unless the parent indicates that s/he still wants to arrange care with the provider. The district must review the extenuating circumstances according to the guidelines in Attachment I: Criminal History Evaluations for Legally-Exempt Providers.

Additionally, the district must review all convictions of felonies or misdemeanor offenses other than those described above to determine whether to enroll a provider. All criminal convictions should be carefully reviewed using the guidelines provided in Attachment I: Criminal History Evaluations for Legally-Exempt Providers.

If the district discovers subsequent to the enrollment of the provider that the provider or an employee or volunteer or, in the case of legally-exempt family child care, a household member 18 years or older, provided false or misleading information concerning his or her criminal conviction record, the district must immediately terminate payment for child care services to the provider and may subject the provider to any appropriate legal action. The district, at its discretion, may re-enroll that provider if the true and accurate information about the individual's criminal record does not disqualify the provider from being enrolled and if the parent wants to continue to use the provider.

The parent who wishes to use a provider with a criminal conviction that the district determines can be enrolled must sign a statement acknowledging that the parent is fully informed of the criminal convictions record and has made the decision to place his or her child in the provider's care. A model acknowledgment form that the district may use for this purpose is provided as Attachment J: Parental Acknowledgment.

Parent and Provider Certifications

The parent and provider are required to certify the accuracy and truthfulness of the information on the form and to agree to certain notification requirements. Parents must also certify that they understand their responsibility regarding selection and monitoring of the provider and their agreement to pay any required family share. This provides further reinforcement of the parent's role in the selection and monitoring of these providers. Requiring parents to complete parts of the enrollment form with the provider allows parents to have a larger role in the monitoring of the quality of care being provided to their child.

Indicated Report of Child Abuse and Maltreatment

At the time of enrollment, the provider must furnish the child's parent/caretaker with a written statement indicating whether, to the best of his or her knowledge, the provider, employees, volunteers who have the potential for regular and substantial contact with the children, and, for legally-exempt family child care providers, household members age 18 years or older have been the subject of an indicated report of child abuse and maltreatment in New York State or any other jurisdiction. The provider must ask each of the above individuals about any indications of child abuse and maltreatment. If any of the above individuals has been the subject of an indicated report of child abuse and maltreatment, the provider must give true and accurate information, in writing, to the parent/caretaker concerning the indicated incident(s), the date(s) of the indication(s) and any other relevant information.

By signing the enrollment form, the provider is attesting to the fact that the provider has provided this information in writing to the parent and the parent is attesting to the fact that he or she has received it and has made a decision regarding the arrangement of care with this provider. The district is not required to collect the information or review the accuracy of this information.

Districts may inform parents that the district is prohibited by law from doing any of the following relative to child abuse and maltreatment information:

- o conducting a State Central Register data base check on a legally-exempt provider;
- o sharing any information with the parent concerning reports of child abuse and maltreatment without the permission of the legally-exempt provider; and
- o refusing to allow the parent to arrange care with a legally-exempt provider who has been the subject of an indicated report of child abuse and maltreatment.

There may be circumstances when the district is aware that the information the parent received from the provider regarding indicated reports of child abuse or maltreatment is inaccurate or false. The district must inform the parent that the provider cannot be enrolled until the provider gives correct information

to the parent. If the parent still wishes to use the provider, the district must contact and inform the provider that the provider must give a full and accurate account of the indicated report(s) to the parent. No action can be taken on the enrollment of the provider until the parent is given a correct written statement from the provider and makes a decision based on this information. If the parent still wants to arrange care with the provider after reviewing the corrected statement, the district must determine if the child would be at risk if placed with the provider. The district must inform the parent if the child would be at risk and that the district, as a mandated reporter, is required to file a report with the State Central Register should the parent place his or her child with this provider. Note that districts can act only on information they have legally obtained. Districts cannot seek out child protective information by conducting a State Central Register data base check or a review of local child protective records; and cannot provide confidential information to the parent without the provider's consent.

Legally-Exempt Group Child Care Providers

If the provider of legally-exempt group child care certifies that the provider is legally operating under the auspices of another federal, State or local government agency, then the provider does not have to attest that the requirements included on the Safety Checklist are met. The certification from the provider should include either a copy of a current permit or license from the agency or the provider's license or permit number. These providers do not have to complete the Safety Checklist but must complete all other sections of the enrollment form.

Legally-exempt group providers that are **not** operating under the auspices of another federal, State or local government agency must complete all parts of the enrollment form including the Safety Checklist. More detailed information regarding which legally-exempt group programs must complete the Safety Checklist are provided in Attachment D: Guide to Reviewing Enrollment Form for Provider of Legally-Exempt Group Child Care.

Some legally-exempt group child care providers may be caring for a number of children subsidized by the district. Rather than have the provider submit multiple enrollment forms, the district has the discretion to use some of the information on the enrollment form recently submitted by the provider. In all cases, Section I (rate charged and meal and snack arrangements) and Section V: Parent and Provider Certifications of the enrollment form must be completed by each family who has a subsidized child in care. However, Section II: Type of Program and Section IV: Criminal History Certification of the enrollment form may be completed once and copied for each subsidized parent.

Districts have the option to allow legally-exempt group providers that are caring for multiple children receiving child care subsidies to complete the Facility Safety Checklist by conducting a group walk-through with more than one parent at a time. If the provider completes the Facility Safety Checklist in this manner, they must attach a page listing the names and signatures of all parents who participated in the walk-through and who are attesting to the accuracy of the answers to the Checklist. This listing must include the parents' signatures and dates signed. The parent and provider must attest that all items in the Checklist are being met and will continue to be met before the provider can be enrolled.

Other Optional Forms

Attachment K: Important Information When Caring For My Child(ren) is an optional form. This form can be given to the parent to list information that a provider may need to know, such as emergency numbers, child's allergies, etc.

Suspension/Termination for Non-Compliance

If the district learns that an enrolled provider may not be in compliance with the health and safety requirements or with the provisions to provide accurate and true information, payment must either be suspended or terminated. The parent and provider must attest that the provider has taken corrective action and is now in compliance before payment can resume. The district may, at its discretion, take other steps to verify that the provider is in compliance or that corrective action has been or will be taken.

The decision to suspend versus terminate payment should be based on the nature of the non-compliance and the risk to the health and safety of the child in care. There are three issues districts need to assess in determining what action to take when they become aware that the provider is out of compliance.

- o Does the non-compliance pose an immediate threat to the safety of children?
- o Can the non-compliance be corrected?
- o Is there a history of non-compliance?

If the non-compliance poses an immediate threat to children, payments should be terminated. Examples of non-compliance with requirements which pose an immediate threat include, but are not limited to, the following:

- o a conviction for a felony or misdemeanor crime against children;
- o a conviction for a violent or other serious crime (refer to Attachment H) that would make the provider ineligible to be enrolled and the provider does not demonstrate extraordinary circumstance to justify enrollment;
- o lack of two separate and remote means of escape in an emergency;
- o lack of barriers around unsafe areas accessible to children;
- o locking devices on windows, if care is provided above the first floor;
- o the provider is not physically fit to provide care;
- o guns are not kept in a locked cabinet;
- o the provider has left the children unsupervised;
- o the provider has used corporal punishment on children in care;
- o hazardous materials are accessible to children; or
- o the provider is under the influence of drugs or alcohol.

Additionally, if a provider has a history of non-compliance, districts may choose to terminate rather than suspend payment.

If non-compliance can be fixed in a short period of time and does not pose an immediate threat to a child, the child may remain in care while payment is suspended as long as the provider and parent can attest to measures that will be taken to ensure the child's safety.

The significance of terminating versus suspending payment is the financial impact to the provider. In the case of suspensions, the provider would have a suspension of payment for the period of time in which they are out of compliance. Payment would resume when the provider comes into compliance and could cover the period in which the provider was out of compliance. In the case of a termination, a provider may be able to come back into compliance after payments were terminated and payments may resume for a subsequent period. **However, these payments cannot cover the period of non-compliance.**

Notification Requirements

If a provider does not meet the health and safety standards, the district must notify the parent that the provider is not eligible for enrollment. If the non-compliance can be corrected, the district must inform the parent that the provider cannot be enrolled and no payment can be made until the provider is in compliance.

If the non-compliance cannot be corrected as would be the case with certain criminal convictions, the district must notify the parent immediately that his or her child must be removed from the care of this provider. The district must assist parents who need help in locating another provider either directly or through referral to a child care resource and referral agency.

Districts are not required to notify the provider when they are not eligible for enrollment. However, those districts that wish to notify the provider as well as the parent may do so.

Denial of Enrollment

Providers of legally-exempt child care are neither applicants nor recipients of services, nor are they applying for a license or registration to operate a day care program. Therefore, they do not have a right to a fair hearing to appeal the decision of the district regarding denial of enrollment.

Additional Responsibilities When In-Home Providers Are Used

Social services districts must notify parents of the parent's responsibility to pay minimum wage and benefits to legally-exempt in-home providers. The benefits which must be provided to an in-home child care provider vary. Districts must distribute Attachment L: Responsibilities for Parents Who Choose to Employ a Legally-Exempt In-Home Child Care Provider to parents who indicate a desire to employ an in-home child care provider.

When calculating the cost of care for a legally-exempt in-home child care provider, additional costs

which the parent, as the employer, will accrue in order to provide benefits required by State and federal law should be added to the rate charged by the child care provider. Payment should then be made to the parent, allowing the parent to pay the legally-exempt in-home provider the rate charged and to apply the difference, if any, to the cost of applicable benefits. Social services districts must require parents to submit copies of tax report forms and/or insurance benefits when the cost of such benefits has been included in the calculation of cost of care and payment to the parent. When the total cost of care, including such benefits, exceeds the local market rate, it is the responsibility of the parent as the provider's employer to pay the difference between the applicable market rate and the cost of care.

Social services districts are **not** responsible for monitoring whether parents provide applicable benefits to legally-exempt in-home providers. Any determination regarding a provider's status as a legal or an illegal provider must be based on the provider's compliance with the applicable health and safety standards, **not** whether the parent is complying with federal and State law or regulations regarding wages and benefits.

Additional Local Health and Safety Standards

Districts have the flexibility to propose standards for legally-exempt providers in addition to those required by State law or regulation. Additional standards may address any of the areas covered on the enrollment form or may address areas outside the enrollment process.

Several districts have received approval for additional local standards. For example, one district received approval to conduct a review of information available to the county regarding the existence of any indicated report of child abuse and maltreatment after obtaining a release from the provider. Another district received approval for conducting local criminal history background checks and conducting announced and unannounced inspections of legally-exempt providers.

Districts may propose additional standards for legally-exempt child care providers by filing an amendment to the district Consolidated Services Plan or Integrated County Plan for approval by the Bureau of Early Childhood Services. A plan amendment requires a public notice with a comment period of 30 days. Additionally, the district must file a copy of the public notice along with a report of the results of the public comment.

Effective Date

Districts must begin to use these forms immediately.

Contact Person

If you have any questions regarding this release, please contact the Bureau of Early Childhood Services at telephone number (518)474-9324 or mail to:

Bureau of Early Childhood Services
Office of Children and Family Services
Riverview Center 6th Floor
52 Washington Street
Rensselaer, NY 12144

Roger Biagi
Executive Deputy Commissioner

**ENROLLMENT FORM FOR PROVIDER OF
LEGALLY-EXEMPT FAMILY CHILD CARE AND LEGALLY-EXEMPT IN-HOME CHILD CARE**

PARENT'S NAME: _____	CASE NUMBER: _____
ADDRESS: _____	
TELEPHONE: (____) _____	SOCIAL SECURITY NUMBER(Optional): _____ - _____ - _____

PROVIDER'S NAME: _____	DATE of BIRTH: ____/____/____*
ADDRESS WHERE CARE IS GIVEN: _____	
PROVIDER'S ADDRESS(If Different): _____	
TELEPHONE: (____) _____	SOCIAL SECURITY NUMBER: _____ - _____ - _____

* If provider is less than 18 years old, the Employment of Minors Form must be completed.

I. PROVIDER'S STATUS - PROVIDER: Check all statements and answers that apply:

1. I PROVIDE CARE IN THE CHILD'S HOME
2. I PROVIDE CARE IN MY OWN HOME (OR ANOTHER PERSON'S HOME) AND:
 - a) I am either the grandparent, great-grandparent, great-great-grandparent, aunt/uncle, great aunt/great uncle, brother/sister or first cousin of all the children in care; OR
 - b) I care for only 2 children (not counting my own children or any children older than 13 years); OR
 - c) I care for 3 or more children. However, I never have more than 2 children in care at the same time for more than three hours.
3. I PROVIDE CARE **OTHER** THAN CHOICES #1 or #2 ABOVE. (Attach an explanation)
4. I AM ON TEMPORARY ASSISTANCE, MEDICAL ASSISTANCE, OR FOOD STAMPS.
MY CASE # is: _____

HOW MUCH IS THE PROVIDER CHARGING FOR EACH CHILD?

<u>Child's Name</u>	<u>Date of Birth</u>	<u>Amount Charged (per hour/day/week)</u>
A) _____	_____	_____
B) _____	_____	_____
C) _____	_____	_____

I agree that the amount I am charging the parent signing this form is NOT MORE THAN the amount I am charging for other children of the same age.

WHO WILL SUPPLY MEALS AND SNACKS? Meals and snacks may be supplied either by the parent or by the provider. Check the box that states what you have agreed to. If you want information about how you can get money to help pay for meals and snacks, call the Child and Adult Care Food Program at 1-(800) 942-3858.

- The provider will supply snacks and meals.
- The parent will supply snacks and meals.
- Other – Explain: _____

II. HOME SAFETY CHECKLIST (Provider and parent should complete this form together)

A. THE PROVIDER MEETS THESE REQUIREMENTS BEFORE CARING FOR CHILDREN:

Yes No

The provider and all children have two separate & remote ways to leave the building in an emergency.

Rooms for children are well-heated, well-lighted and well-ventilated.

The home is free of unsafe areas (such as swimming pools, open drainage ditches, wells, holes, wood or coal burning stoves, fireplaces, and gas space heaters). If there are unsafe areas, sturdy barriers are in place around the unsafe areas that keep children from getting to them.

If child care is provided above the first floor, there are barriers or locks on the windows so children can not fall out.

The water supply is safe. There are working toilets. There is hot and cold running water all the time.

The provider, all volunteers who are likely to have regular contact with the children and all employees are physically able to provide child care and are free of any communicable disease. Additionally, all persons living in the home (other than the child's own home) are also free of any communicable diseases.

The home is free of any dangerous or unsafe conditions that could hurt a child. This includes:

- Knives and other sharp objects are out of the reach of children.
- Small rugs, runners, and electrical cords are held in place so a child won't trip.
- Electrical cords do not run under furniture or rugs and are out of the reach of small children.
- Extension cords are not overloaded.
- Any guns and other firearms are unloaded and stored in a locked drawer or cabinet and the key is kept in a safe place.
- Cords to window blinds and shades are out of the reach of children.
- Hot liquids are out of the reach of children.
- Small items that a child could choke on are out of the children's reach.

All matches, lighters, medicines/drugs, cleaning materials, detergents, aerosol spray cans and other poisonous or toxic materials are stored in their original containers. Care is taken so that they do not come in contact with children, where food is prepared, or otherwise be a danger to the children. All of these materials are stored safely away from the children.

Each child will receive meals and snacks according to what the parent and the provider have agreed.

Milk, formula and any food that goes bad if left out will be kept refrigerated.

If the provider cares for infants, formula, breast milk and other food items for infants will not be heated in a microwave oven.

The provider will always allow the custodial parent or caretaker to have access to his/her child in care, to the home while the child is in care, and to any written records concerning the child.

The provider will hold evacuation drills at least once a month with the children so they will know what to do in an emergency.

The provider has a working telephone OR can get to one very quickly in an emergency. Emergency telephone numbers for the fire department, local police or sheriff's department, poison control center and ambulance service are posted near the phone and are easy to see.

Yes No

If a child in care is under 5 years old, protective caps, covers or permanently installed safety devices are used on all electrical outlets that the child could reach.

Paint and plaster are in good repair so that there is no danger of children putting paint or plaster chips in their mouths or of it getting into food.

There is at least one operating smoke detector on each floor of the home. The provider will check regularly to make sure all detectors work.

The home has a portable first aid kit that is easy to get to in an emergency and is kept away from children in a clean container. It is stocked to treat common childhood injuries and problems. The provider will always replace things in the first aid kit as soon as possible after something has been used or is too old to be used.

The parent has given the provider signed proof from a doctor or other health care provider that: the child has received all of the immunizations appropriate for the child's age; OR that one or more of the immunizations would harm the child's health; OR the child's parent provides a statement saying that the child has not been immunized due to the parent's religious beliefs.

Stairs, railings, porches and balconies are in good repair.

B. THE PROVIDER AGREES TO THE FOLLOWING CONDITIONS:

The provider WILL NEVER use corporal punishment or let others use corporal punishment while children are in care. Corporal punishment means doing things directly to a child's body to punish them such as: spanking; biting; shaking; slapping; twisting or squeezing; making the child do physical exercises beyond what is normal; forcing the child to stay still for long periods of time; making the child stay in positions that hurt the child or are bizarre; bathing the child in unusually hot or cold water; and forcing the child to eat or have in the child's mouth soap, foods, hot spices or foreign substances.

The provider WILL NEVER use or be under the influence of alcohol or drugs while children are in care and will make sure that children do not have contact with people using drugs or alcohol while in care.

The provider WILL NOT smoke or allow smoking in indoor areas or cars or other vehicles when in use by children.

The provider WILL NEVER leave children alone or in the care of other people.

BY SIGNING THE HOME SAFETY CHECKLIST, THE PARENT AND PROVIDER AGREE THAT THEY HAVE INSPECTED THE HOME AND THAT ALL STATEMENTS ON THE FORM ARE TRUE AND ACCURATE.

Provider Name (Print) _____ Provider Signature/Date _____

Parent Name (Print) _____ Parent Signature/Date _____

III. CRIMINAL HISTORY CERTIFICATIONS - TO BE COMPLETED BY PROVIDER

I certify to the best of my knowledge and belief that I (Choose one):

- have been convicted of a crime in New York State or any other place.
- have *not* been convicted of a crime in New York State or any other place.

I certify to the best of my knowledge and belief that any person helping me to care for children *(Choose one)*:

- has been convicted of a crime in New York State or any other place.
- has *not* been convicted of a crime in New York State or any other place.

If care is provided in a home other than the child's own home, I certify to the best of my knowledge and belief that any person living in the home who is 18 years of age or older *(Choose one)*:

- has been convicted of a crime in New York State or any other place.
- has *not* been convicted of a crime in New York State or any other place.

I certify that I have asked each person living in the home (other than the child's own home) who is age 18 or over, each volunteer who is likely to have regular contact with children in care, and each employee if he or she has been convicted of a crime.

If I, or any other person listed below has been convicted of a crime, I or that other person will provide true and accurate information in writing to the parent(s) of the children I will be caring for and to the Department of Social Services concerning the crime(s), the date(s) of such convictions and any other relevant information.

I understand that I am not eligible to provide child care if I, or any other person listed below, has been convicted of a felony or misdemeanor against children.

I understand that I am not eligible to provide child care if I, or any such other person listed below, has been convicted of a violent or other serious crime unless extenuating circumstances relating to the conviction(s) exist.

I understand that I may request that the Department of Social Services review any extenuating circumstances to determine if an exception could be made to allow me to provide child care. If I request an exception, I will provide all documents or references required by the Department of Social Services.

List all individuals that will be helping to care for the children and, if care is provided in a home other than the child's own home, list all household members 18 or older.

Individuals caring for children: _____

Household members: _____

By signing this form the provider agrees that all statements are true and accurate

Provider Name (Print) _____ Provider Signature/Date _____

IV. PARENT AND PROVIDER CERTIFICATIONS

A. PROVIDER CERTIFICATIONS:

I will notify the Department of Social Services immediately if the hours of care, number of children in my care, or any information provided on the enrollment form or attachments changes.

I agree to collect the family share (fee) if instructed to do so by the Department of Social Services. I will immediately notify the Department of Social Services if the parent fails to pay the required family share. I agree to provide accurate attendance records as required by the Department of Social Services.

B. PARENT CERTIFICATIONS:

I understand that the Department of Social Services may not be able to pay a provider when the provider or any volunteer who is likely to have regular contact with my children, employee, or person living in the home (other than the child's own home) age 18 years or over has been convicted of a crime. If the Department of Social Services determines that payment can be made to the provider when there is a criminal conviction, I have the right and responsibility to decide whether I want to use this provider. I understand that I have the right to select another provider.

I will notify the Department of Social Services if the hours that I need care or other circumstances related to my need or eligibility for care change. I agree to pay my family share (fee) as directed by the Department of Social Services.

I certify that I have selected this provider to care for my child(ren). I understand that it is my responsibility to monitor the quality of care furnished to my child(ren).

I am aware that if I employ an **in-home** provider, I am responsible for paying this individual minimum wage and any other applicable benefits. When the total costs of child care (including benefits) exceed the amount that is paid by the Department of Social Services, I understand it is my responsibility to pay the difference.

C. PARENT AND PROVIDER CERTIFICATIONS:

We state that to the best of our knowledge and belief all statements made on this form and any attachments are accurate and true. We understand that providing false information may result in the termination of payments and legal action by the Department of Social Services.

We state that the parent has specifically asked the provider if the provider, volunteers who are likely to have regular contact with children in care, employees, or persons living in the home (other than the child's own home) age 18 years or over have been the subject of an indicated report of child abuse or maltreatment. The provider has asked volunteers who are likely to have regular contact with children in care, employees, or persons living in the home (other than the child's own home) age 18 years or over if they have been the subject of an indicated report of child abuse or maltreatment. The provider has given the parent true and accurate information in writing regarding any indications of child abuse or maltreatment. The parent has considered the information given on child abuse and maltreatment indications and is choosing this provider. The parent understands he or she has the right to select another provider.

We state that we completed the Home Safety Checklist together. We understand that payment cannot be made until items marked "No" on the Home Safety Checklist have been corrected. We agree to notify and provide documentation to the Department of Social Services when any item on the Checklist has been corrected or changed.

By signing this form, the parent and provider agree to all of the requirements listed above.

Parent Signature/Date _____ Provider Signature/ Date _____

Attachment B

GUIDE TO REVIEWING ENROLLMENT FORM FOR PROVIDERS OF LEGALLY-EXEMPT FAMILY CHILD CARE OR LEGALLY-EXEMPT IN-HOME CHILD CARE

The enrollment form must be completed and reviewed at least annually and at any other time when a change in circumstances warrants such review. The district dates the form at the top of the page. The purpose of the date is to assist in identifying when the annual renewal is due.

PARENT AND PROVIDER IDENTIFICATION:

The parent and the provider must complete basic identifying information. This section provides client identifying information: name, address, telephone number, case number and Social Security Number. The Social Security Number of the parent is optional. It also includes the name, address, telephone number and date of birth of the provider. The provider's Social Security Number may only be required if the social services district is making payments directly to the provider. If the social services district is making the payments for child care to the parent, the provider's Social Security Number can not be required and cannot be used as the reason to deny enrollment or payment of the provider.

Providers who are under 18 years of age must be working in accordance with the labor standards for minors. A minor must complete and sign a separate attestation, Employment of Minors, that is provided in Attachment G of the LCM and must submit a copy of his or her working papers. A summary of New York State Labor Law relating to the employment of minors is also included in Attachment G. Providers must be at least 14 years of age in order to comply with New York State Labor Law.

SECTION I: PROVIDER'S STATUS

In order to be enrolled, the provider must be legally-exempt from the licensing and registration requirements of the Office of Children and Family Services. The district must determine the status of the provider by obtaining information on where care is being given, how many children are in the care of the provider, and if any relationship exists between the provider and those children. Providers must check either Statement 1, 2 or 3 to indicate what type of care arrangement applies. The district must review and obtain any additional information as appropriate to determine whether the care being provided is legally-exempt from regulation.

In-home care (*Statement 1*)

If care is being provided in the child's own home, the provider can care for all of the children who live in that household regardless of the number of children living there. The number of children that can be in care is not limited as long as all the children reside in this household. However, if a child (other than the provider's own child) not residing in the household is provided child care in the in-home situation, then the care modality becomes a family child care arrangement. The restrictions on the number of children in care for a legally-exempt family child care provider apply. Care is limited to a total of two children or to more than two children if care is three hours or less per day.

Family child care (*Statement 2*)

If care is provided in the home of the provider or in another person's home, the provider must meet one of the requirements in Statements a, b or c in order to be enrolled.

- a. A provider of legally-exempt family child care can care for an unlimited number of children as long as **all** the children are related to the provider within the third degree of relationship. Relatives within the third degree of consanguinity of the parent(s) or step-parent(s) of the child include: the grandparents of the child; the great-grandparents of the child; the great-great-grandparents of the child; the aunts and uncles of the child, including the spouses of the aunts and uncles; the great-aunts and great-uncles of the child, including the spouses of the great-aunts and great-uncles; the siblings of the child; and the first cousins of the child, including the spouses of the first cousins. However, as soon as one non-relative child is in care, the maximum number of children cannot exceed eight. The provider cannot care for more than two children who are not related to the provider for more than three hours per day and still meet the definition of legally-exempt.
- b. When care is being provided for **more than three hours per day**, a provider of legally-exempt family child care may only care for one or two children. These hours need not be consecutive. For example, if three or more children go to a neighbor's home for one hour before school starts in the morning and for 2-1/2 hours after school in the afternoon, the provider cannot be considered legally-exempt and is required to be registered as a family day care provider or licensed as a group family day care provider. When care is provided for **three hours or less per day** a provider can care for any number of children.
- c. A provider of legally-exempt family child care may care for more than two children for some portion of the day as long as there are **never** more than 2 children in care **at the same time** for a period of time in excess of 3 hours a day.

In determining the number of children, the provider's own children and children age 13 years and over are not included in the count.

Other care (*Statement 3*)

The provider may be caring for children in situations that are not clearly specified in Statements 1 or 2. on the enrollment form. Such situations include the arrangement in which the provider is caring for one child in that child's own home and bringing another child into that home for care. The modality of child care in this situation is family child care and the provider must meet the requirements for that modality.

Additionally, the provider may be caring for a mix of relative and non-relative children and would not check Statements 1 or 2.

If Statement 3 is checked, the provider should attach an explanation of the care arrangement. The district should use Attachment F: Documentation of Legally-Exempt Status to determine whether the provider complies with the definitions of legally-exempt child care. If Attachment F: Documentation of Legally-Exempt Status is not used, the district must use some other means to determine the provider's legally-exempt status and document it in the case record. If the provider does not meet the definition, then the provider is not a legally-exempt child care provider.

Note that only one legally-exempt provider can operate in the same home at the same time. Also, a provider cannot operate a legally-exempt family child care home in a home that is a registered family day care home or a licensed group family day care home. Members of the public assistance unit for the child or the custodial parents are not eligible to be paid as legally-exempt child care providers.

Temporary Assistance (*Statement 4*)

Providers who are in receipt of public assistance (PA) (temporary assistance or safety net assistance), food stamps (FS) and/or medical assistance (MA) must furnish their case number. Since payments received for child care services must be budgeted as income for temporary assistance, safety net, food stamp and medical assistance recipients, districts are encouraged to develop procedures to alert the appropriate unit(s) whenever a recipient is enrolled as a provider of legally-exempt family child care or legally-exempt in-home child care.

HOW MUCH IS THE PROVIDER CHARGING?

The parents and provider must list the names of **ALL** the children (other than the provider's own children) who are, or will be, in the care of the provider. This includes all children in care, whether or not they receive a subsidy from the Department of Social Services. The parent and

provider must indicate the rate the provider charges for each child in care. The provider must also attest that s/he is not charging families who receive a child care subsidy more than the general public is charged by checking the box. **Regulations specify that child care subsidy payments for eligible families/children cannot exceed the amount the provider charges to the general public for equal care in the providing home.**

WHO WILL SUPPLY MEALS AND SNACKS?

To ensure that the children in care will receive meals and snacks, the provider must indicate who has the responsibility for providing the meals and snacks.

The enrollment form informs the provider that there is a program available to assist the provider in the cost of providing meals and snacks. The Child and Adult Care Food Program, administered by the New York State Department of Health, subsidizes the serving of nutritious foods in child care settings which mainly serve children from low income families. The provider may contact the toll free number listed on the enrollment form for more information.

SECTION II: HOME SAFETY CHECKLIST

This section is a home safety checklist that must be completed jointly by the provider and the parent. There are two parts to the Checklist. The provider must meet all of the requirements in Part A and agree to abide by all of the health and safety conditions in Part B before s/he can be enrolled. The statements in Part A must be answered "YES" in order for the provider to be enrolled. Payment cannot be authorized until all Checklist items marked "NO" have been corrected. The district may ask the provider and/or the parent to furnish documentation that needed corrections have been made.

Most of the items on the Home Safety Checklist are self-explanatory. Additional clarification is provided for the following items:

- Two means of escape: In Part A, there must be two ways out of the home that can be used in the event of an emergency. Both means of escape have to be remote from one another (separate and apart, not side-by-side or adjacent to one another along the same wall) and lead to an immediate escape. They do not have to be doors that immediately lead to the outdoors. Consideration must be given to the provider's ability (such as the provider's age and physical condition) to use an alternate means of escape (e.g., a window leading to a fire escape or an emergency ladder that descends from a window) and to remove all children safely in an emergency. The number, ages and any handicapping condition of the children in care are factors to be considered.
- Provider health/physical condition: In Part A, the provider attests that the provider and

anyone assisting in the care of children are physically able to provide care. In addition, the provider must certify that s/he, anyone assisting in the care of the children and all persons residing in the home are free of communicable disease. If the district has reason to suspect that the information provided is incorrect or incomplete, the district may require that the provider submit a statement from a physician, physician's assistant or nurse practitioner verifying the information.

- Behavioral standards: The provider must agree to abide by the health and safety conditions in Part B before they can be enrolled. Neither the parent nor the provider can be given a waiver of any of these requirements. For example, a parent who smokes may say s/he does not care that the provider also smokes. However, smoking indoors while children are in care, (or in a vehicle while children are being transported) is prohibited. Similarly, a provider who will not abide by the prohibition against corporal punishment (i.e., "I just give them a swat on the behind"), is not eligible for enrollment. The examples of corporal punishment listed on the Checklist are not meant to be an exhaustive list and are cited in order to clarify and emphasize that such actions are unacceptable.

The provider and parent must sign and date the Checklist attesting that the home has been inspected with the parent, that all statements on the Checklist are true and accurate, and that they agree with the conditional statements in Section B. Failure of the parent or provider to sign the Checklist precludes the provider from being enrolled.

SECTION III: CRIMINAL HISTORY CERTIFICATIONS

This section solicits information regarding whether the provider or any employee or volunteer has any criminal convictions in New York State or in any other jurisdiction. The provider must complete each statement for him/herself and on behalf of all volunteers who have the potential for regular and substantial contact with children in care and all employees by checking the appropriate box which provides accurate and correct information related to their specific situations. Additionally, the provider of legally-exempt family child care must also attest to the criminal convictions of household members age (18 years or over) of the home in which care is being provided (other than the child's own home). The provider must attest that s/he has specifically asked each volunteer, employee, and such household member if s/he has been convicted of a crime.

If the provider or any employee, volunteer, or household member has been convicted of a crime, additional information concerning the specifics of the crime, the date of conviction and other relevant information must be provided to both the parent and the social services district in writing. If the provider fails to furnish such information, the provider cannot be enrolled.

Sealed criminal convictions as a juvenile are not considered in the evaluation of an individual's

criminal background. However, if there is independent knowledge of the events in question, for example the applicant recounts his history of fire setting or sexual abuse, that information could be used since it is separate and distinct from the sealed criminal record. The review would be based on the underlying facts of the activity and not the fact that the person was convicted.

The district should review the criminal history presented by the provider according to the following:

1. A provider who has been convicted or a provider that employs an individual, uses a volunteer or provides care in a home (other than the child's own home) in which there is a household member age 18 years or older who has been convicted of a felony or misdemeanor **crime against children** cannot be enrolled. Refer to Attachment H for a list of these crimes.
2. A provider convicted or a provider which employs an individual, uses a volunteer or provides care in a home (other than the child's own home) in which a household member age 18 years or older who has been convicted of a **violent or other serious crime** is considered by the Office of Children and Family Services to present an unreasonable risk to the safety or welfare of the child(ren) in legally-exempt care. A conviction for any of these crimes creates a strong presumption **against** enrolling the legally-exempt provider in question. These crimes are listed in Attachment H to this LCM. A provider can request that the district consider and review any extenuating circumstances pertaining to the conviction and determine whether an exception could be made to the presumption against enrollment. This presumption could be overcome **only** upon a showing of some extraordinary circumstances justifying enrollment; and the provider is responsible for supplying documentation that details the extenuating circumstances. Districts are not required to review extenuating circumstances concerning these convictions **unless** the parent indicates that s/he still wants to arrange care with this provider. The district must review the extenuating circumstances according to the guidelines in Attachment I: Criminal History Evaluations for Legally-Exempt Providers. If the district determines that the conviction would not pose an unreasonable risk to the safety or welfare of the child and the parent still wishes to use the provider, the district must obtain a signed statement from the parent indicating that the parent is aware of the specific convictions(s) and still chooses this provider. A model acknowledgment form that the district may use for this purpose is provided as Attachment J: Parental Acknowledgment.
3. For **all other felony and misdemeanor convictions**, the district must evaluate whether the criminal background poses an unreasonable risk to the safety or welfare of the child(ren). The provider must furnish additional information needed to make an evaluation. Such information may include, but is not limited to: the nature of the crime, the penalties imposed as the result of the conviction, any evidence of rehabilitation, and the length of time that has elapsed since the conviction. The

information provided must be verified. Evaluations must be made in a manner consistent with the guidelines in Attachment I: Criminal History Evaluations for Legally-Exempt Providers.

The district must determine whether the specific conviction would eliminate the provider from being enrolled. If the district determines that the conviction would not pose an unreasonable risk to the safety or welfare of the child and the parent still wishes to use the provider, the district must obtain a signed statement from the parent (Attachment J: Parental Acknowledgment) indicating that the parent is aware of the specific convictions(s) and still chooses this provider. Districts are not required to review the criminal background of the provider, volunteers or employees unless the parent indicates that s/he still wants to arrange care with the provider.

The provider is required to sign and date this section. The provider cannot be enrolled if the provider refuses to sign or does not provide complete and accurate information as required.

SECTION IV: PARENT AND PROVIDER CERTIFICATIONS

This section specifies responsibilities and requirements with which providers and parents must comply.

Part A: The provider must certify that s/he will notify the social services district immediately of changes in the number of children in care or the number of hours that care is provided. In addition, the provider will maintain and submit accurate attendance records as required by the Department of Social Services. The provider also agrees to collect the family share (fee) if instructed by the social services district to do so and will inform the district if the parent fails to pay the required family share.

Part B: The parent must certify that s/he understands the social services district may not be able to pay a provider if the provider, any volunteer who has regular contact with their children or employee of the provider have been convicted of a crime. The social services district will evaluate and review the information pertaining to the criminal conviction(s) provided by the potential provider. If, as a result of the evaluation of the criminal conviction record by the social services district, it is determined that the provider can be enrolled, the parent has the right to decide if s/he wants to use this provider. The parent understands that s/he always has the right to select another provider.

The parent also certifies that s/he will notify the Department of Social Services if there is a change in the number of hours that care is needed or if any other circumstance changes that would affect his or her need for care or eligibility for child care services. The parent understands and agrees to pay the family share (fee) as directed by the Department of Social Services.

The parent certifies that s/he has selected the provider to furnish care to the children and assumes responsibility for monitoring the quality of care furnished to the children.

Part C: The parent and provider certify that the statements on the enrollment form and any attachments are accurate and true. They understand and acknowledge that providing false or inaccurate information could cause termination of payments and legal action by the Department of Social Services.

The parent and the provider certify that the parent has specifically asked the provider whether the provider, volunteers who have regular contact with the children in care and employees have been the subject of an indicated report of child abuse or maltreatment. The provider certifies that s/he has asked volunteers who are likely to have regular contact with the children in care and employees if they have been the subject of an indicated report of child abuse or maltreatment.

The provider certifies that s/he has given the parent true and accurate information **in writing** regarding whether the provider, volunteers and employees have been the subject of an indicated report of child abuse or maltreatment. The parent certifies that the information pertaining to child abuse and maltreatment indications has been considered before choosing the provider. The parent understands and acknowledges that s/he has the right to select another provider.

The parent and the provider certify that they completed the Home Safety Checklist together and that they understand that payment cannot be made until items marked "No" on the Checklist have been corrected. The parent and provider agree to notify and provide documentation to the Department of Social Services when any item on the Checklist has been corrected or changed.

Both the parent and the provider are required to sign and date this section attesting that they agree with the terms and conditions in this section. The provider cannot be enrolled if either the parent or provider refuses to sign or agree to the requirements.

INFORMATION ON REPORTS OF CHILD ABUSE AND MALTREATMENT

There may be circumstances when the district is aware that the information the parent received from the provider regarding indicated reports of child abuse or maltreatment is inaccurate or false. Note that districts can act **only** on information they have legally obtained. Districts cannot seek out child protective information by conducting a clearance and cannot provide confidential information to the parent without the provider's consent. The district must inform the parent that the provider cannot be enrolled until the provider gives correct information to the parent. If the parent wishes to use the provider, the district must contact and inform the provider that the provider must give a full account of the indicated report(s) to the parent. No action can be taken on the enrollment of the provider until the parent is given a correct written statement from the provider and makes a decision based on this information. If the revised statement leads the

district to conclude that the child would be at risk if placed with this provider, the worker must inform the parent of this conclusion and that the district, as a mandated reporter, would be required to file a report with the State Central Register should the parent place his or her child with this provider.

NOTIFYING PARENTS OF THE DENIAL OF ENROLLMENT

Districts must inform parents when the provider they have selected cannot be enrolled. The information must describe the reasons why the provider cannot be enrolled and indicate if the provider could be enrolled if corrective action is taken. For example, if a provider can not be enrolled due to the lack of smoke alarms, the parent must be informed that enrollment may be completed once smoke alarms are installed and operating. If the circumstances cannot be rectified (such as a provider with a conviction for a crime against children), the district must inform the parent that s/he has to find another provider. The district should offer assistance in locating another provider.

The information provided to the parent may be provided verbally or in writing. In either case, documentation must be in the case record regarding the information provided to the parent.

Districts are not required to notify providers of the decision regarding enrollment but may do so. Unlike licensed or registered providers who are being denied a permit to operate, legally-exempt providers that do not meet the health and safety standards are not being denied the ability to operate. Although they are denied child care subsidy funds, they are able to care for children from private pay parents. Legally-exempt providers do not have a right to a hearing on the denial of enrollment.

ENROLLMENT FORM: PROVIDER OF LEGALLY-EXEMPT GROUP CHILD CARE

PARENT'S NAME: _____	CASE NUMBER: _____
ADDRESS: _____	
TELEPHONE: (____) _____	SOCIAL SECURITY NUMBER(<i>optional</i>): _____ - _____ - _____
PROGRAM NAME: _____	
OWNER AND OPERATOR'S NAME: _____	DATE of BIRTH: ____ / ____ / ____ *
ADDRESS WHERE CARE IS GIVEN: _____	
PROVIDER'S ADDRESS(<i>If Different</i>): _____	
TELEPHONE: (____) _____	FEDERAL I. D. NUMBER(SSN): _____

** If provider is less than 18 years old, the Employment of Minors Form must be completed.*

I. HOW MUCH IS THE PROVIDER CHARGING FOR EACH CHILD(IN THIS CASE)?

<u>Child's Name</u>	<u>Date of Birth</u>	<u>Amount Charged (per hour/day/week)</u>
A) _____	_____	_____
B) _____	_____	_____
C) _____	_____	_____

I agree that the amount I am charging the parent signing this form is NOT MORE THAN the amount I am charging for other children of the same age.

WHO WILL SUPPLY MEALS AND SNACKS?

Meals and snacks may be supplied either by the parent or by the provider. Check the box that states what you have agreed to. If you want information about how your child care program can get money to help pay for meals and snacks, call the Child and Adult Care Food Program at (800) 942-3858.

- The provider will supply snacks and meals.
- The parent will supply snacks and meals.
- Other - Explain: _____

II. TYPE OF PROGRAM

PROVIDER: CHECK THE STATEMENT THAT DESCRIBES YOUR PROGRAM:

___ 1. This program is a nursery school, pre-kindergarten or day care program for children three years of age or older or a program for school-age children conducted during non-school hours, **operated by a public school district** that is providing elementary or secondary education or both in accordance with the compulsory education requirements of the NYS Education Law. The program is located on the same premises or campus where the elementary or secondary education is provided.

___ 2. This program is a nursery school that is **voluntarily registered with the NYS Education Department** and operated in accordance with Part 125 of its regulations. **Attach a copy of your registration.**

___ 3. This program is a summer day camp operated in accordance with Subpart 7-2 of the State Sanitary Code. **Attach a copy of your permit from the NYS Department of Health to operate a summer day camp.**

___ 4. This program is a day care center, family day care home or other child care program **located on federal or tribal property** and operated in compliance with applicable federal or tribal laws and regulations.

___ 5. This is a nursery school, pre-kindergarten or day care program for children three years of age or older or a program for school-aged children conducted during non-school hours, **operated by a private school or academy** which is providing elementary or secondary education or both in accordance with the compulsory education requirements of the NYS Education Law. The program is located on the same premises or campus where the elementary or secondary education is provided.

___ 6. This program is a nursery school or program for preschool-aged children **operated by a nonprofit agency or organization or a private proprietary agency** which is not voluntarily registered with NYS Education Department and which provides services to children for three or less hours per day.

___ 7. None of the above statements describe this program. If this is your answer, you may need to be licensed or registered. Until you are licensed or registered or can provide documentation that you are legally-exempt from licensing and registering requirements, the county department of social services cannot pay you to provide child care. For information about licensing, contact the Bureau of Early Childhood Services at 1-800-732-5207.

IF YOUR PROGRAM MEETS THE DEFINITION FOUND IN STATEMENTS 1, 2, 3, OR 4 ABOVE YOU DO NOT NEED TO COMPLETE SECTION III: FACILITY SAFETY CHECKLIST. YOU MAY GO TO SECTION IV: PROVIDER AGREEMENT.

IF YOUR PROGRAM MEETS THE DEFINITION FOUND IN STATEMENTS 5 OR 6, THEN YOU MUST COMPLETE SECTION III: FACILITY SAFETY CHECKLIST.

III. FACILITY SAFETY CHECKLIST (Provider and parent should complete this form together)

A. THE PROVIDER MEETS THESE REQUIREMENTS BEFORE CARING FOR CHILDREN:

Yes No

- | | | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | The provider and all children have two separate & remote ways to leave the building in an emergency. |
| <input type="checkbox"/> | <input type="checkbox"/> | Rooms for children are well-heated, well-lighted and well-ventilated. |
| <input type="checkbox"/> | <input type="checkbox"/> | The facility is free of unsafe areas (such as swimming pools, open drainage ditches, wells, holes, wood or coal burning stoves, fireplaces, and gas space heaters). If there are unsafe areas, sturdy barriers are in place around the unsafe areas that keep children from getting to them. |
| <input type="checkbox"/> | <input type="checkbox"/> | If child care is provided above the first floor, there are barriers or locks on the windows so children can not fall out. |
| <input type="checkbox"/> | <input type="checkbox"/> | The water supply is safe. There are working toilets. There is hot and cold running water all the time. |
| <input type="checkbox"/> | <input type="checkbox"/> | The provider, each volunteer who is likely to have regular contact with the children and each employee are physically able to provide child care and are free of any communicable disease. |
| <input type="checkbox"/> | <input type="checkbox"/> | The facility is free of any dangerous or unsafe conditions that could hurt a child. This includes: <ul style="list-style-type: none">• Knives and other sharp objects are out of the reach of children.• Small rugs, runners, and electrical cords are held in place so a child won't trip.• Electrical cords do not run under furniture or rugs and are out of the reach of small children.• Extension cords are not overloaded.• Any guns and other firearms are unloaded and stored in a locked drawer or cabinet and the key is kept in a safe place.• Cords to window blinds and shades are out of the reach of children.• Hot liquids are out of the reach of children.• Small items that a child could choke on are out of the children's reach. |
| <input type="checkbox"/> | <input type="checkbox"/> | All matches, lighters, medicines/drugs, cleaning materials, detergents, aerosol spray cans and other poisonous or toxic materials are stored in their original containers. Care is taken so that they do not come in contact with children, where food is prepared, or otherwise be a danger to the children. All of these materials are stored safely away from the children. |
| <input type="checkbox"/> | <input type="checkbox"/> | Each child will receive meals and snacks according to what the parent and the provider have agreed. |
| <input type="checkbox"/> | <input type="checkbox"/> | Milk, formula and any food that goes bad if left out will be kept refrigerated. |
| <input type="checkbox"/> | <input type="checkbox"/> | If the provider cares for infants, formula, breast milk and other food items for infants will not be heated in a microwave oven. |
| <input type="checkbox"/> | <input type="checkbox"/> | The provider will always allow the custodial parent or caretaker to have access to his/her children in care, to the facility while the child is in care, and to any written records concerning the child. |
| <input type="checkbox"/> | <input type="checkbox"/> | The provider will hold evacuation drills at least once a month with the children so they will know what to do in an emergency. |
| <input type="checkbox"/> | <input type="checkbox"/> | The provider has a working telephone OR can get to one very quickly in an emergency. Emergency telephone numbers for the fire department, local police or sheriff's department, poison control center and ambulance service are posted near the phone and are easy to see. |

Yes No

If a child in care is under 5 years old, protective caps, covers or permanently installed safety devices are used on all electrical outlets that children could reach.

Paint and plaster are in good repair so that there is no danger of children putting paint or plaster chips in their mouths or of it getting into food.

There is at least one operating smoke detector on each floor of the facility. The provider will check regularly to make sure all detectors work.

The facility has a portable first aid kit that is easy to get to in an emergency and is kept away from children in a clean container. It is stocked to treat common childhood injuries and problems. The provider will always replace things in the first aid kit as soon as possible after something has been used or is too old to be used.

The parent has given the provider signed proof from a doctor or other health care provider that: the child has received all of the immunizations they should have for the child's age; OR that one or more of the immunizations would harm the child's health; OR the child's parent provides a statement saying that the child has not been immunized due to the parent's religious beliefs.

Stairs, railings, porches and balconies are in good repair.

B. THE PROVIDER AGREES TO THE FOLLOWING CONDITIONS:

The provider WILL NEVER use corporal punishment or let others use corporal punishment while children are in care. Corporal punishment means doing things directly to a child's body to punish them such as: spanking; biting; shaking; slapping; twisting or squeezing; making the child do physical exercises beyond what is normal; forcing the child to stay still for long periods of time; making the child stay in positions that hurt the child or are bizarre; bathing the child in unusually hot or cold water; and forcing the child to eat or have in the child's mouth soap, foods, hot spices or foreign substances.

The provider WILL NEVER use or be under the influence of alcohol or drugs while children are in care and will make sure that children do not have contact with people using drugs or alcohol while in care.

The provider WILL NOT smoke or allow smoking in indoor areas or cars or other vehicles when in use by children.

The provider, volunteers, and employees WILL NEVER leave children alone or in the care of other people.

BY SIGNING THE FACILITY SAFETY CHECKLIST, THE PARENT AND PROVIDER AGREE THAT THEY HAVE INSPECTED THE FACILITY AND THAT ALL STATEMENTS ON THE FORM ARE TRUE AND ACCURATE.

Provider Name (Print) _____ Provider Signature/Date _____

Parent Name (Print) _____ Parent Signature/Date _____

IV. CRIMINAL HISTORY CERTIFICATIONS: TO BE COMPLETED BY PROVIDER

I certify to the best of my knowledge and belief that I (*Choose one*):

- have** been convicted of a crime in New York State or any other place.
- have not** been convicted of a crime in New York State or any other place.

I certify to the best of my knowledge and belief that any VOLUNTEER who is likely to have regular contact with children in care and any EMPLOYEE (*Choose one*):

- has** been convicted of a crime in New York State or any other place.
- has not** been convicted of a crime in New York State or any other place.

I certify that I have asked each volunteer who is likely to have regular contact with children in care and each employee if he or she has been convicted of a crime.

If I, or any other person listed below has been convicted of a crime, I or that other person will provide true and accurate information in writing to the parent(s) of the children I will be caring for and to the Department of Social Services concerning the crime(s), the date(s) of such convictions and any other relevant information.

I understand that I am not eligible to provide child care if I, or any other person listed below, has been convicted of a felony or misdemeanor against children.

I understand that I am not eligible to provide child care if I, or any such other person listed below, has been convicted of a violent or other serious crime unless extenuating circumstances relating to the conviction(s) exist.

I understand that I may request that the Department of Social Services review any extenuating circumstances to determine if an exception could be made to allow me to provide child care. If I request an exception, I will provide all documents or references required by the Department of Social Services.

List all **volunteers** who are likely to have regular contact with children in care and all **employees**.

BY SIGNING THIS FORM THE PROVIDER AGREES THAT ALL STATEMENTS ARE TRUE AND ACCURATE.

Provider Name (Print) _____ Provider Signature/Date _____

V. PARENT AND PROVIDER CERTIFICATIONS

A. PROVIDER CERTIFICATIONS:

I will notify the Department of Social Services immediately if the hours of care or number of children in my care changes.

I agree to collect the family share (fee) if instructed to do so by the Department of Social Services. I will immediately notify the Department of Social Services if the parent fails to pay the required family share. I agree to provide accurate attendance records as required by the Department of Social Services.

B. PARENT CERTIFICATIONS:

I understand that the Department of Social Services may not be able to pay a provider when the provider or any volunteer who is likely to have regular contact with my children or employee has been convicted of a crime. If the Department of Social Services determines that payment can be made to the provider when there is a criminal conviction, I have the right and responsibility to decide whether I want to use this provider. I understand that I have the right to select another provider.

I will notify the Department of Social Services if the hours that I need care or other circumstances related to my need or eligibility for care change. I agree to pay my family share (fee) as directed by the Department of Social Services.

I certify that I have selected this provider to care for my child(ren). I understand that it is my responsibility to monitor the quality of care furnished to my child(ren).

C. PARENT AND PROVIDER CERTIFICATIONS:

We state that to the best of our knowledge and belief all statements made on this form and any attachments are accurate and true. We understand that providing false or inaccurate information may result in the termination of payments and legal action by the Department of Social Services.

We state that the parent has specifically asked the provider if the provider, volunteers who are likely to have regular contact with children in care or employees have been the subject of an indicated report of child abuse or maltreatment. The provider has asked all volunteers who are likely to have regular contact with children in care and all employees if they have been the subject of an indicated report of child abuse or maltreatment. The provider has given the parent true and accurate information in writing regarding any indications of child abuse or maltreatment. The parent has considered the information given on child abuse and maltreatment indications and is choosing this provider. The parent understands he/she has the right to select another provider.

If the provider is required to complete the Facility Safety Checklist, we state that we have completed it together. We understand that payment cannot be made until items marked "No" on the Facility Safety Checklist have been corrected. We agree to notify and provide documentation to the Department of Social Services when any item on the Checklist has been corrected or changed.

By signing this form, the parent and provider agree to all of the requirements listed above.

Parent Signature/Date _____ Provider Signature/Date _____

Attachment D

GUIDE TO REVIEWING ENROLLMENT FORM FOR PROVIDERS OF LEGALLY-EXEMPT GROUP CHILD CARE

The enrollment form must be completed and reviewed annually and at any other time when a change in circumstances warrants such review. The district dates the form at the top of the page. The purpose of the date is to assist in identifying when the annual renewal is due.

PARENT AND PROVIDER IDENTIFICATION

The child's parent and the provider must complete the top of the form. This section provides client identifying information: name, address, telephone number, case number and Social Security Number. The Social Security Number of the parent is optional. It also includes the name of the program or facility and the name, address, telephone number, date of birth and federal identification number of the director/operator (provider). If the program does not have a federal identification number, the provider must include his or her Social Security Number.

SECTION I: HOW MUCH IS THE PROVIDER CHARGING?

The provider must list the names and dates of birth of the children in the parent's case for whom care is, or will be, provided and the amount charged per hour/day/week.

The provider must also agree (by checking the box provided) that they do **not** charge subsidized parents **more** than what they charge other parents with children the same age. **Regulations specify that child care subsidy payments for eligible families/children cannot exceed the amount the provider charges to the general public for equal care.**

WHO WILL SUPPLY MEALS AND SNACKS?

To ensure that the children in care will receive meals and snacks, the provider must indicate who has the responsibility for providing the meals and snacks.

The enrollment form informs the provider that there is a program available to assist the provider in the cost of providing meals and snacks. The Child and Adult Care Food Program, administered by the New York State Department of Health, subsidizes the serving of nutritious foods in child care settings which mainly serve children from low income families. The provider may contact the toll free number listed on the enrollment form for more information.

SECTION II: TYPE OF PROGRAM

In order to be enrolled, the provider must be legally-exempt from the licensing and registration requirements of the Office of Children and Family Services (or in New York City, the City of New York Department of Health). Programs that meet the criteria of one of the descriptive statements numbered 1 through 6 in this section are legally-exempt. If statement number 7 is checked, the district must contact the appropriate Regional Office of the Bureau of Early Childhood Services to verify that the provider is legally-exempt. Unless the Regional Office (or for New York City, the New York City Department of Health) determines that the provider is legally-exempt, the provider can not be enrolled.

SECTION III: FACILITY SAFETY CHECKLIST

Only the programs listed below must complete the Facility Safety Checklist. These programs meet the definitions found in statements number 5 or 6 in Section II of the enrollment form. (Programs meeting the definitions of the type of program found in statements number 1, 2, 3 and 4 are operating under the auspices and standards of other governing agencies and therefore do not have to complete the Facility Safety Checklist. These programs can skip to Section IV: Criminal History Certifications on the enrollment form).

- Nursery school, pre-kindergarten or day care program for children **three years of age or older** (or a program for school-aged children conducted during non-school hours), **operated by a private school or academy** which is providing elementary or secondary education or both in accordance with the compulsory education requirements of the NYS Education Law. The program is located **on the same premises** or campus where the elementary or secondary education is provided.
- Nursery school or program for preschool-aged children **operated by a nonprofit agency or organization or a private proprietary agency** which is **not** voluntarily registered with NYS Education Department and which provides services to children for **three or less hours per day**.

The Facility Safety Checklist, if required, must be completed jointly by the parent(s) and the provider. Social services districts have the discretion to allow legally-exempt group programs that are providing child care services to more than one family in receipt of a child care subsidy to complete the Checklist with a group of parents instead of individually. If the Checklist is completed in this manner, a list of the names and signatures of parents who participated in the group review and completion of the Checklist must be dated and attached to the enrollment form. The provider should sign and date the Checklist. Under the parent signature line, the provider should reference the attached list of parent names and signatures.

There are two parts to the Checklist. The provider must meet all of the requirements in Part A and agree to abide by all of the health and safety conditions in Part B before s/he can be enrolled.

The statements in Part A must be answered "YES" in order for the provider to be enrolled. Payment cannot be authorized until all Checklist items marked "NO" have been corrected. The district may ask the provider and/or the parent to furnish documentation that needed corrections have been made.

Most of the items on the Facility Safety Checklist are self-explanatory. Additional clarification is provided for the following items:

- Two means of escape: In Part A, there must be two ways out of the facility that can be used in the event of an emergency. Both means of escape have to be remote from one another (separate and apart, not side-by-side or adjacent to one another along the same wall) and lead to an immediate escape. They do not have to be doors that immediately lead to the outdoors. Consideration must be given to the provider's ability (such as the provider's age and physical condition) to use an alternate means of escape (e.g., a window leading to a fire escape or an emergency ladder that descends from a window) and to remove all children safely in an emergency. The number, ages and any handicapping condition of the children in care are factors to be considered.
- Provider health/physical condition: In Part A, the provider attests that the provider, all volunteers who are likely to have regular contact with the children and all employees are free of any communicable disease. In addition, the provider must attest that all persons assisting in the care of children are physically able to provide care. If the district has reason to suspect that the information provided is incorrect or incomplete, the district may require that the provider submit a statement from a physician, physician's assistant or nurse practitioner verifying the information.
- Behavioral standards: The provider must agree to abide by the health and safety conditions in Part B before they can be enrolled. Neither the parent nor the provider can be given a waiver of any of these requirements. For example, a parent who smokes may say s/he does not care that the provider also smokes. However, smoking indoors while children are in care, (or in a vehicle while children are being transported) is prohibited. Similarly, a provider who will not abide by the prohibition against corporal punishment (i.e., "I just give them a swat on the behind"), is not eligible for enrollment. The examples of corporal punishment that are included on the Checklist are not meant to be an exhaustive list and are cited in order to clarify and emphasize that such actions are unacceptable.

The provider and parent must sign and date the Checklist attesting that the facility has been inspected with the parent, that all statements on the Checklist are true and accurate, and that they agree with the conditional statements in Section B. Failure of the parent or provider to sign the Checklist precludes the provider from being enrolled.

SECTION IV: CRIMINAL HISTORY CERTIFICATIONS

This section solicits information regarding whether the provider or any employee or volunteer has any criminal convictions in New York State or in any other jurisdiction. The provider must complete each statement for him/herself and on behalf of all volunteers who have the potential for regular and substantial contact with children in care and all employees by checking the appropriate box which provides accurate and correct information related to their specific situations. The provider must attest that s/he has specifically asked each volunteer and employee if s/he has been convicted of a crime.

If the provider or any employee or volunteer has been convicted of a crime, additional information concerning the specifics of the crime, the date of conviction and other relevant information must be provided to both the parent and the social services district in writing. If the provider fails to furnish such information, the provider cannot be enrolled.

Sealed criminal convictions as a juvenile are not considered in the evaluation of an individual's criminal background. However, if there is independent knowledge of the events in question, for example the applicant recounts his history of fire setting or sexual abuse, that information could be used since it is separate and distinct from the sealed criminal record. The review would be based on the underlying facts of the activity and not the fact that the person was convicted.

The district should review the criminal history presented by the provider according to the following:

1. A person who has been convicted or a program that employs an individual or uses a volunteer who has been convicted of a felony or misdemeanor crime **against children** cannot be enrolled. Refer to Attachment H for a list of these crimes.
2. A person who has been convicted or a program which employs an individual or uses a volunteer who has been convicted of a violent or other serious crime is considered by the Office of Children and Family Services to present an unreasonable risk to the safety or welfare of the child(ren) in legally-exempt care. A conviction for any of these crimes creates a strong presumption **against** enrolling the legally-exempt program in question. These crimes are listed in Attachment H to this LCM. A provider can request that the district consider and review any extenuating circumstances pertaining to the conviction and determine whether an exception could be made to the presumption against enrollment. This presumption could be overcome **only** upon a showing of some extraordinary circumstances justifying enrollment; and the provider is responsible for supplying documentation that details the extenuating circumstances. Districts are not required to review extenuating circumstances concerning these convictions **unless** the parent indicates that s/he still wants to arrange care with this provider. If the district determines that the conviction would not pose an unreasonable risk to the safety or welfare of the child and the parent still wishes to use the provider, the district must obtain a signed statement from the parent indicating that the parent is aware of the specific convictions(s) and still chooses this provider. A model

acknowledgment form that the district may use for this purpose is provided as Attachment J: Parental Acknowledgment.

3. For all **other** felony and misdemeanor convictions, the district must evaluate whether the criminal background poses an unreasonable risk to the safety or welfare of the child(ren). The provider must furnish additional information needed to make an evaluation. Such information may include but is not limited to: the nature of the crime, the penalties imposed as the result of the conviction, any evidence of rehabilitation, and the length of time that has elapsed since the conviction. The information provided must be verified. Evaluations must be made in a manner consistent with the guidelines in Attachment I: Evaluating Legally-Exempt Providers with Criminal Conviction Records. Districts are not required to review the criminal background of the provider, volunteers or employees unless the parent, after being apprised of the convictions, indicates that s/he still wants to arrange care with the provider.

The district must determine whether the specific conviction would eliminate the provider from being enrolled. If the district determines that the conviction would not pose an unreasonable risk to the safety or welfare of the child and the parent still wishes to use the provider, the district must obtain a signed statement from the parent (Attachment J: Parental Acknowledgment) indicating that the parent is aware of the specific convictions(s) and still chooses this provider.

The provider is required to sign and date this section. Payment cannot be authorized if the provider refuses to sign or does not provide complete and accurate information as required.

SECTION V: PARENT AND PROVIDER CERTIFICATIONS

This section specifies responsibilities and requirements with which providers and parents must comply.

Part A: The provider must certify that s/he will notify the social services district immediately of changes in the number of children in care or the number of hours that care is provided. In addition, the provider will maintain and submit accurate attendance records as required by the Department of Social Services. The provider also agrees to collect the family share (fee) if instructed by the social services district to do so and will inform the district if the parent fails to pay the required family share.

Part B: The parent must certify that s/he understands the social services district may not be able to pay a provider if the provider, any volunteer who has regular contact with their children or employee of the provider have been convicted of a crime. The social services district will evaluate and review the information pertaining to the criminal conviction(s) provided by the potential provider. If, as a result of the evaluation of the criminal conviction record by the social services district, it is determined that the provider can be enrolled, the parent has the right to

decide if s/he wants to use this provider. The parent understands that s/he always has the right to select another provider.

The parent also certifies that s/he will notify the Department of Social Services if there is a change in the number of hours that care is needed or if any other circumstance changes that would affect his or her need for care or eligibility for child care services. The parent understands and agrees to pay the family share (fee) as directed by the Department of Social Services.

The parent certifies that s/he has selected the provider to furnish care to the children and assumes responsibility for monitoring the quality of care furnished to the children.

Part C: The parent and provider certify that the statements on the enrollment form and any attachments are accurate and true. They understand and acknowledge that providing false or inaccurate information could cause termination of payments and legal action by the Department of Social Services.

The parent and the provider certify that the parent has specifically asked the provider whether the provider, volunteers who have regular contact with the children in care and employees have been the subject of an indicated report of child abuse or maltreatment. The provider certifies that s/he has asked volunteers who are likely to have regular contact with the children in care and employees if they have been the subject of an indicated report of child abuse or maltreatment.

The provider certifies that s/he has given the parent true and accurate information **in writing** regarding whether the provider, volunteers and employees have been the subject of an indicated report of child abuse or maltreatment. The parent certifies that the information pertaining to child abuse and maltreatment indications has been considered before choosing the provider. The parent understands and acknowledges that s/he has the right to select another provider.

The final statement by the parent and the provider certifies that they completed the Facility Safety Checklist together and that they understand that payment cannot be made until items marked "No" on the Facility Safety Checklist have been corrected. The parent and provider agree to notify and provide documentation to the Department of Social Services when any item on the Facility Safety Checklist has been corrected or changed.

Both the parent and the provider are required to sign and date this section attesting that they agree with the terms and conditions in this section. The provider cannot be enrolled if either the parent or provider refuses to sign or agree to the requirements.

INFORMATION ON REPORTS OF CHILD ABUSE AND MALTREATMENT

There may be circumstances when the district is aware that the information the parent received from the provider regarding indicated reports of child abuse or maltreatment is inaccurate or false. Note that districts can act **only** on information they have legally obtained. Districts cannot seek out child protective information by conducting a clearance and cannot provide confidential

information to the parent without the provider's consent. The district must inform the parent that the provider cannot be enrolled until the provider gives correct information to the parent. If the parent wishes to use the provider, the district must contact and inform the provider that the provider must give a full account of the indicated report(s) to the parent. No action can be taken on the enrollment of the provider until the parent is given a correct written statement from the provider and makes a decision based on this information. If the revised statement leads the district to conclude that the child would be at risk if placed with this provider, the worker must inform the parent of this conclusion and that the district, as a mandated reporter, would be required to file a report with the State Central Register should the parent place his or her child with this provider.

NOTIFYING PARENTS OF THE DENIAL OF ENROLLMENT

Districts must inform parents when the provider they have selected cannot be enrolled. The information must describe the reasons why the provider cannot be enrolled and indicate if the provider could be enrolled if corrective action is taken. For example, if a provider can not be enrolled due to the lack of smoke alarms, the parent must be informed that enrollment may be completed once smoke alarms are installed and operating. If the circumstances cannot be rectified (such as a provider with a conviction for a crime against children), the district must inform the parent that s/he has to find another provider. The district should offer assistance in locating another provider.

The information provided to the parent may be provided verbally or in writing. In either case, documentation must be in the case record regarding the information provided to the parent.

Districts are not required to notify providers of the decision regarding enrollment but may do so. Unlike licensed or registered providers who are being denied a permit to operate, legally-exempt providers that do not meet the health and safety standards are not being denied the ability to operate. Although they are denied child care subsidy funds, they are able to care for children from private pay parents. Legally-exempt providers do not have a right to a hearing on the denial of enrollment.

Attachment E

Dear Child Care Provider:

Caring for someone else's children is a big responsibility. As a child care provider or operator of a program for children, you play an important role in the lives of the children and families for whom you provide care. It is critical that you provide an environment where the children in your care can be safe and healthy. We have put together the enclosed resource materials to help you create a safer, healthier place for children to play and grow. While this packet does not include everything it does provide basic information which we believe you will find helpful. Included are the following:

- **Emergency Phone List** – A list of important numbers for you to complete and post by each phone.
- **Exit Drills in the Home** – Tips for developing an emergency escape plan.
- **New York State Department of Health Immunization Schedule** – A list to help identify by children's ages what immunizations the children in you care should receive.
- **Where to Get Training and Technical Assistance** – A list of community resources available to assist you; and
- **Preventing Child Abuse and Maltreatment** – Guidance on what to do if you suspect that a child in your care is being abused or maltreated.

If you are providing care in your home, we encourage you to become a registered family day care provider. Although individuals caring for one or two children are not required to be regulated by New York State, they may register voluntarily. As a registered family day care provider, you will be able to increase your earning potential by caring for up to six children. Other benefits which may be available to you as a registered family day care provider include:

- United States Department of Agriculture (USDA) reimbursement;
- Access to liability insurance;
- Day Care start-up funding;
- Technical assistance, training and support services;
- Business-related tax deductions; and
- Membership in a family day care association.

In order to register, you will need to attend an orientation which explains the rules for operating a family day care home. You will be told at the orientation meeting where you can get help completing the process.

To learn more about how to become a registered family day care provider, please contact the Regional Office of the Bureau of Early Childhood Services for the county in which you live. For your convenience, a list of Regional Offices is enclosed.

EMERGENCY PHONE LIST

Address where phone is located: _____

Phone Number: _____

Directions/Landmarks to home where care is being provided: _____

Emergency Phone Numbers

Police: _____

Fire: _____

Ambulance: _____

Poison Control Center: _____

Doctor: _____

Child Abuse Hotline: 1-800-342-3720

Local Department of Social Services: _____

Parents' Phone Numbers: (home) _____

(work) _____

Always give this information in an emergency:

Your Name	Your Telephone Number
Exact Location	First Aid Already Given
The Type of Emergency	Your Address
Easy Directions/Landmarks	

****Do Not Hang Up Before the Other Person Hangs Up****

If you suspect a child has eaten or drunk a poisonous substance:

- ✓ Ask child if anything has been eaten or drunk.
- ✓ Ask child to show substance to you.
- ✓ Call Poison Control Center, emergency room or your doctor immediately.

A Poison Control Center typically asks for the following information:

- ✓ Age and weight of child.
- ✓ Amount of poison consumed
- ✓ How long ago the poison was consumed.
- ✓ Symptoms or condition of child. Type of poison consumed. **Take container, bottle or piece of the plant or other substance to the phone with you so that you can answer questions asked by the Poison Control Center.**

Exit Drills

Planning Your Escape

- Draw an outline for each floor in your home or apartment where bedrooms are located. Graph paper makes it easy. Dimensions don't need to be exact.
- Draw and label each bedroom showing important details, such as stairs, hallways, and roofs that can be used as a fire escape.
- Indicate a family meeting place
- Check each bedroom for the best emergency escape.
- Test windows. They should open easily and be large enough and low enough so children can open them.
- Check your smoke detector. If you don't have one, get one.

Finish Your Escape Plan

- Use black arrows to show the normal way out – the stairs or hall.
- Use colored arrows to show your emergency exit in case fire blocks your normal route.

The Family Meeting

Discuss these procedures with your family:

- Sleep with bedroom doors closed. This keeps heat and smoke out for a short time – the few extra minutes you may need to escape.
- Find a way for everyone to sound a family alarm. Blow a whistle, pound on walls, yell, etc.
- Don't waste time dressing or looking for valuables or pets. In a fire, seconds count and, as much as they mean to you, your life is more important.
- Roll out of bed and stay low. One breath of smoke or hot gases can kill you.
- Feel the door. If the door or door knob is hot, don't open it. Instead, use your second way out.
- Once outside, go to your family meeting place. Check to see if everyone is safe. Once you're out, stay out.
- Call the fire department from a neighbor's house. If you use a street alarm box, wait there to direct the fire department to the fire location.

The Drill

- Begin with everyone in bed.
- Sound the alarm. Press the smoke detector test button. Yell fire or use another signal.
- Roll out of bed, stay low and feel the door for heat.
 - First time: Use the normal exit. Brace your shoulder against the door and open it slowly, ready to shut it quickly if there is heat or smoke.
 - Second time: Pretend doors are hot. Everyone must use the second way out
- Gather at meeting place and check that everyone is out
- Designate someone to simulate calling the fire department.
- Talk about the drill. If necessary, make changes and rehearse them.
- Hold a monthly family escape drill. The more you practice, the better you will be able to act quickly, correctly and automatically in a fire.

Tips

- Be sure everyone has a second way out.
- Use escape ladders if necessary.
- Make sure devices open easily. In a fire you might not be able to find a key.
- If necessary, rearrange bedrooms to provide easier escape for children, elderly or disabled.
- Elevators should never be used.

New York State Recommended Childhood Immunization Schedule

An “X” means the child is due for an immunization

The age range in parentheses is the range of acceptable ages for vaccination.
Catch-up immunization can be done at any age.

Age	Birth	2 Months	4 Months	6 Months	12 Months	15 Months	4-6 Years	11-12* Years
Vaccine								
Hepatitis B	X (Birth-2 mo.)	X (1-4mo.)		X (6-18mo.)				X
Diphtheria, Tetanus, Pertussis		X	X	X		X (12-18 mo.)	X	X
Haemophilus Influenzae type B (Hib)		X	X	X		X (12-18 mo.)		
Polio		X (IPV)	X (IPV)		X (OPV 12-18 mo.)		X	
Measles, Mumps Rubella					X (12-15 mo.)		X	
Rotavirus		X	X	X				
Varicella (Chickenpox)					X 12-18 mo.)		X	X

*Children should see their health care provider at 11-12 years of age.

Source: New York State Department of Health, *Immunization Update*

WHERE TO GET TRAINING AND TECHNICAL ASSISTANCE

1. American Red Cross – In your role as a caregiver of children, it is important that you know correct actions to take in case of an emergency. Your local Chapter of the American Red Cross offers a variety of training programs, including First Aid and CPR, which can help you be better prepared to respond in an emergency situation.
2. Child Care Resource and Referral Programs (CCR&Rs) – CCR&Rs work to improve the quality of child care services by providing a broad range of support services to providers, including training, technical assistance and publicity. Some agencies coordinate USDA child care food programs as well. CCR&Rs also expand the supply of child care by recruiting and training new providers. The quality of child care services are also improved through CCR&Rs activities to provide consumer information and referral services on day care to all parents who need it.
3. Cooperative Extension – Your local Cooperative Extension office provide programs on a variety of topics such as child development, appropriate discipline, nutrition, health and safety which may assist you in your work as a caregiver of children.
4. Fire Department/Rescue Squads – Your local fire department can assist you in conducting a fire safety inspection and planning emergency evacuation routes.
5. Hospitals/Poison Control Center – Your local hospital may offer programs on topics such as preventing the spread of disease, first aid, CPR and poison prevention which help you provide a safer and healthier environment for the children in your care.
6. Libraries – Your local library may have, or can access, books, videos and other materials on a variety of topics which relate to the care of children and health and safety issues.
7. Public Schools/Continuing Education Programs – Your local school district may offer continuing education programs on topics that will improve your skills in caring for children.
8. Colleges and Universities – Your local community college as well as four- year colleges and universities in your area may offer courses which provide the opportunity for you to learn more about caring for children.
9. Local Health Department – Your local health department can provide you with information on a variety of topics including how to prevent the spread of diseases, immunization requirements and food storage.
10. Early Childhood Direction Center – The New York State Education Department administers a network of Early Childhood Direction Centers which provide information and referral services for parents and professionals of children with disabilities, birth to age five, or those at risk of developing a disability. Direction Centers assist parents and professionals in securing an appropriate combination of services in the community to address the child and family's needs. There are 15 Direction Centers throughout the State. To locate the Early Childhood Direction Center in your area, call the New York State Education Department at (518)474-1711.

Preventing Child Abuse and Maltreatment

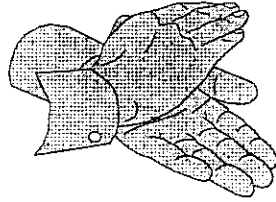
If you suspect that a child for whom you are caring is being abused or maltreated, you are encouraged to report your concern to the New York State Child Abuse and Maltreatment Register at 1-800-342-3720. In Onondaga County, call (315)422-9701, and Monroe County call (716)461-5609. These hotlines operate 24 hours a day, seven days a week.

The purpose of reporting is to identify suspected abuse and maltreatment of children as soon as possible, so that the children determined to be abused or maltreated can be protected from further harm. In addition, where appropriate, services can be offered to assist the families. The intervention of the appropriate local child protective service cannot begin until a report is made. By reporting you play a critical role in preventing any future abuse or maltreatment of the child.

If you want to learn more about how to identify possible child abuse and maltreatment, you may contact the Child Protective Unit of your county department of social services.

HANDWASHING

Most experts agree that the single effective practice that prevents the spread of germs in the child care setting is good handwashing by child care providers, children, and others. Some activities in particular expose children and providers to germs or the opportunity to spread them. You can stop the spread of germs by washing your hands and teaching the children in your care good handwashing practices.



When Hands Should Be Washed

Children:

- Upon arrival at the child care setting.
- Immediately before and after eating.
- After using the toilet or having their diapers changed.
- Before using water tables.
- After playing on the playground.
- After handling pets, pet cages, or other pet objects.
- Whenever hands are visibly dirty.
- Before going home.

Providers:

- Upon arrival at work.
- Immediately before handling food, preparing bottles, or feeding children.
- After using the toilet, assisting a child in using the toilet, or changing diapers.
- After contacting a child's body fluids, such as wet or soiled diapers, runny noses, spit, or vomit.
- After handling pets, pet cages, or other pet objects.
- Whenever hands are visibly dirty or after cleaning up a child, the room, bathroom items, or toys.
- After removing gloves used for any purpose.*
- Before giving or applying medication or ointment to a child or self.
- Before going home.

***If gloves are being used, hands should be washed immediately after gloves are removed even if hands are not visibly contaminated. Use of gloves alone will not prevent contamination of hands or spread of germs and should not be considered a substitute for handwashing.**

Rubbing hands together under running water is the most important part of washing away infectious germs. Pre-moistened towelettes or wipes and waterless hand cleaners should not be used as a substitute for washing hands with soap and running water. Towelettes should only be used to remove residue, such as food off a baby's face or feces from a baby's bottom during diaper changing. When running water is unavailable, such as during an outing, towelettes may be used as

a temporary measure until hands can be washed under running water. A child care provider may use a towelette to clean hands while diapering a child who cannot be left alone on a changing table that is not within reach of running water. However, hands should be washed as soon as diapering is completed and child is removed from the changing table. Water basins should not be used as an alternative to running water. If forced to use a water basin as a temporary measure, clean and disinfect the basin between each use. Outbreaks have been linked with sharing wash water and washbasins.

How to Wash Hands

Always use warm, running water and mild, preferably liquid soap. Antibacterial soaps may be used, but are not required. Pre-moistened cleansing towelettes do not effectively clean hands and do not take the place of handwashing.

Wet the hands and apply a small amount (dime to quarter size) of liquid soap to hands.

Rub hands together vigorously until a soapy lather appears and continue for at least 15 seconds. Be sure to scrub between fingers, under fingernails, and around the tops and palms of the hands.

Dry hands with a clean, disposable (or single use) towel, being careful to avoid touching the faucet handles or towel holder with clean hands.

Turn the faucet off using the towel as a barrier between your hands and the faucet handle.

Discard the used towel in a trash can lined with a fluid-resistant (plastic) bag. Trash cans with foot pedal operated lids are preferable.

Consider using hand lotion to prevent chapping of hands. If using lotions, use liquids or tubes that can be squirted so that the hands do not have direct contact with container spout. Direct contact with the spout could contaminate the lotion inside the container.

When assisting a child in handwashing, either hold the child (if an infant) or have the child stand on a safety step at a height at which the child's hands can hang freely under the running water. Assist the child in performing all of the above steps and then wash your own hands.

DIAPERING

Two different diaper-changing methods may be used to minimize the risk of transmitting infection from one child to another or to a provider. One method involves the use of gloves and the other does not. The method you select should be used consistently in your child care setting. Whichever method you choose, you should never wash or rinse diapers or clothes soiled with fecal material in the child care setting. Because of the risk of splashing, and gross contamination of hands, sinks, and bathroom surfaces, rinsing increases the risk that you, other providers, and the children would be exposed to germs that cause infection. All soiled clothing should be bagged and sent home with the child without rinsing (you may dump solid feces into a toilet). You need to tell parents about this procedure and why it is important.

The following recommended procedure notes additional steps to be included when using gloves. Gloves are not required, but some people prefer to use gloves to prevent fecal material from getting under their nails. Child care providers should keep their fingernails short, groomed, and clean. Using a soft nailbrush to clean under the nails during handwashing will remove soil under the nails. Always maintain a pleasant attitude while changing a child's diaper. Never show disgust or scold a child who has had a loose stool.

Regional Offices

<p>Carolyn Huffman, Regional Office Manager BUFFALO REGIONAL OFFICE Bureau of Early Childhood Services Office of Children & Family Services 295 Main Street – 8th Floor 838 Ellicott Square Building Buffalo, NY 14203 (716) 847 – 3828</p> <p>Counties Served: Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, Wyoming</p>	<p>Ella Renckert, Regional Office Manager ROCHESTER REGIONAL OFFICE Bureau of Early Childhood Services Office of Children & Family Services 259 Monroe Avenue – 3rd Floor Monroe Square Rochester, NY 14607 (716) 238 – 8531</p> <p>Counties Served: Chemung, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Wayne, Yates</p>
<p>Kathleen Caryl, Regional Office Manager SYRACUSE REGIONAL OFFICE Bureau of Early Childhood Services Office of Children & Family Services 2 Clinton Street – 3rd Floor – Suite 105 Syracuse, NY 13202 (315) 423 – 5488</p> <p>Counties Served: Broome, Cayuga, Chenango, Cortland, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence, Tioga, Tompkins</p>	<p>Mabel Leon, Regional Office Manager ALBANY REGIONAL OFFICE Bureau of Early Childhood Services Office of Children & Family Services 155 Washington Avenue Albany, NY 12210-2329 (518) 402 – 3038</p> <p>Counties Served: Albany, Clinton, Columbia, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Warren, Washington</p>
<p>Don Nolte, Director Bureau of Day Care New York City Department of Health 2 Lafayette Street – 22nd Floor New York, NY 10007 (212) 676 – 2444</p> <p>Counties Served: Bronx, Kings, Manhattan, Queens, Richmond</p>	<p>Frances Pena, Regional Office Manager YONKERS REGIONAL OFFICE Bureau of Early Childhood Services Office of Children & Family Services 525 Nepperhan Avenue – Room 205 Yonkers, NY 10703 (914) 376 – 8110</p> <p>Counties Served: Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester</p>
<p><u>Aurora Farrington, Regional Office Manager</u> LONG ISLAND REGIONAL OFFICE Bureau of Early Childhood Services Office of Children & Family Services Suffolk State Office Building 250 Veteran’s Highway Hauppauge, NY 11788 (631) 952 – 4900</p> <p>Counties Served: Nassau, Suffolk</p>	

DOCUMENTATION OF LEGALLY EXEMPT STATUS

This form is to be completed by the parent and provider. Information provided on this form will determine whether the provider is legally exempt from licensing or registration as a child day care provider.

1. **Who will be in care?** List the names and dates of birth of ALL THE CHILDREN the provider is watching (other than his/her own). Attach an additional page if needed.

Child's name _____ Date of Birth _____ Relationship to provider _____

- A) _____
 B) _____
 C) _____
 D) _____

2. **When is care needed?** For each day that care is needed, indicate what time the child (ren) will be dropped off and picked up. This information must be provided for all the children in care as listed in A through D, above and any attached pages. **The columns (A, B, C, D,) should match the children as listed in Question 1.**

	DROP-OFF TIME				PICK-UP TIME			
	A	B	C	D	A	B	C	D
Monday								
Tuesday								
Wednesday								
Thursday								
Friday								
Saturday								
Sunday								

We promise that this information is accurate.

 Provider's signature _____ Date

 Parent's signature _____ Date

Attachment G

EMPLOYMENT OF MINORS

This form must be completed for any provider who is under 18 years of age

Provider Name:

Date of Birth:

I DO NOT PROVIDE CHILD CARE WHILE SCHOOL IS IN SESSION

AND

WHEN SCHOOL IS IN SESSION (September Through June Except For Mid-School Year Vacations) ~~Check one:~~

_____ I am 14 or 15 years old and I work no more than 3 hours per day and no more than 18 hours per week while school is in session and I do not provide care between the hours of 7:00 PM and 7:00 AM.

OR

_____ I am 16 or 17 years old and I work no more than 4 hours per day and no more than 28 hours per week while school is in session and I do not provide care between the hours of 10:00 PM and 6:00 AM.

WHEN SCHOOL IS NOT IN SESSION (July And August And Mid-School Year Vacations) ~~Check one:~~

_____ I am 14 or 15 and I work no more than 8 hours per day and 40 hours per week. I do not provide care between 9:00 PM and 7:00 AM.

OR

_____ I am 16 or 17 and I work no more than 8 hours a day and 48 hours per week. I do not work between midnight and 6:00 AM.

Please attached a copy of your working papers.

BY SIGNING THIS FORM THE PROVIDER AGREES THAT ALL STATEMENTS ARE TRUE AND ACCURATE.

Provider's signature

Date

EMPLOYMENT OF MINORS

HOURS OF WORK

The limitations on the working hours of minors depend upon age, the type of work, and whether the minor is attending school. New York State sets some of the most stringent child labor laws in the country, which limit the number of hours that minors under 18 may work when school is in session. The State requires that 16 and 17 year-olds may not work past 10 P.M. on the night before a school day without written permission from the minor's parent and a certificate of satisfactory academic standing from their school.

Minors may not work during the hours when they are required to attend school.

When school is in session, generally from September to June, minors 14 and 15 years-old may not work in any occupation except farm labor and selling or distributing newspapers for:

- more than 3 hours on any school day
- more than 8 hours on a Saturday or a non-school day
- more than 18 hours in any week
- more than 6 days in any week.

However, if a 14 or 15 year-old minor is employed as part of any type of supervised work study or work experience program that is approved by the Commissioner of Education, the minor may work 3 hours on a school day and 23 hours a week, instead of 3 hours a day and 18 hours a week.

When school is in session, minors 16 and 17 years-old enrolled in a day school, other than a part-time or continuation school, may not work in any occupation (except farm work and selling or distributing newspapers):

- more than 4 hours on any day preceding a school day (M, T, W, Th.)
- more than 8 hours on Friday, Saturday, Sunday, or Holiday
- more than 28 hours in any week
- more than 6 days in any week.

However, students enrolled in a cooperative work experience program approved by the Department of Education may be employed up to a maximum of 6 hours on a day preceding a school day other than a Sunday or a holiday if these hours are in conjunction with the program. Any hours worked in such program shall be included when calculating the number of hours worked for the 4 hour maximum.

When school is not in session, and during vacations (school must be closed for the entire calendar week), minors under 18 generally may not work more than 8 hours a day, 6 days a week; minors 14 and 15 may not work more than 40 hours a week and 16 and 17 year-olds may not work more than 48 hours a week.

Federal legislation limits the work of 14 and 15 year-olds in firms engaged in interstate commerce to a maximum 3-hour day and 18-hour week when school is in session and to an 8-hour day and 40-hour week when school is not in session. (School must be closed for the entire calendar week.)

In school cafeterias, a minor who has an employment certificate may work during the lunch period at the school he or she attends.

On farms, 12 and 13 year-olds who have farm work permits to pick berries, fruits, or vegetables may not work more than 4 hours per day, before 9 a.m. or after 4 p.m. or when school is in session from the day after Labor Day to June 20th. From June 21st to Labor Day, they may work 4 hours per day between the hours of 7 a.m. and 7 p.m. There are no hour regulations for farm work that apply to minors 14 years of age or older.

When a minor is employed in two or more establishments in the same day or week, the total time of employment may not exceed the daily or weekly allowance for a single establishment.

NIGHTWORK RESTRICTIONS

In addition to the limitations on the number of hours minors may work in a day or a week, the law prohibits them from working before or after certain hours, depending on their age and occupation.

Minors under 16 may not work between 7 p.m. and 7 a.m. in most jobs, after Labor Day to June 20th, and between 9 p.m. and 7 a.m. from June 21st to Labor Day.

Newspaper carriers may not work between 7 p.m. (or 30 minutes prior to sunset, whichever is later) and 5 a.m. Minors engaged in street trades may not work between 7 p.m. and 6 a.m.

Minors 16 and 17 years old may not work between midnight and 6 a.m. when school is not in session (vacation). They may work after 10 p.m. up to midnight during the school year only with the written consent of a parent and a certificate of good academic standing from their school.

Parental Consent Forms may be obtained by an employer from the Division of Labor Standards office in your area. The Certificate of Satisfactory Academic Standing is issued by the school the minor attends.

POSTING PROVISIONS

The employer must make a schedule for all minors and post it in a conspicuous place. The schedule sets forth the hours minors start and end work and time allotted for meals. The hours of work can be changed, as long as the changes are posted on the schedule. Minors may work only on the days and at the times posted on the schedule. If minors are present at other times or if no schedule is posted, it is a violation of the child labor law.

Note: This summary of the laws governing the employment of minors has been taken from the main page of the New York State Department of Labor's Web site.

Attachment H

**List of Crimes Against Children and
Violent and Other Serious Crimes**

I. CRIMES AGAINST A CHILD

A provider who has been convicted or a provider that employs an individual, uses a volunteer or provides care in a home (other than the child's own home) in which there is a household member age 18 years or older who has been convicted of a felony or misdemeanor crime against children (or of an attempt to commit a felony or misdemeanor crime against children) cannot be enrolled.

Felonies

- 120.01 – Reckless Assault of a Child by a Child Day Care Provider
- 120.05 – Assault 2nd degree/Subdivision (8) relates to a child less than 11
Subdivision (9) relates to a child less than 14
- 120.12 – Aggravated Assault Upon a Person Less than 11
- 130.25 – Rape 3rd degree/subdivision (2) relates to child less than 17
- 130.30 – Rape 2nd degree
- 130.35 – Rape 1st degree/Subdivision (3) relates to a child less than 11
- 130.40 – Sodomy 3rd degree/Subdivision (2) relates to a child less than 17
- 130.45 – Sodomy 2nd degree/Relates to a child less than 14
- 130.50 – Sodomy 1st degree/Subdivision (3) relates to a child less than 11
- 130.65 – Sexual Abuse 1st degree/Subdivision (3) relates to a child less than 11
- 130.66 – Aggravated Sexual Abuse 3rd degree/Subdivision (1)(c) relates to a child less than 11
- 130.67 – Aggravated Sexual Abuse 2nd degree/Subdivision (1)(c) relates to a child less than 11
- 130.70 – Aggravated Sexual Abuse 1st degree/Subdivision (1)(c) relates to a child less than 11
- 130.75 – Course of Conduct Against a Child 1st degree
- 130.80 – Course of Conduct Against a Child 2nd degree
- 130.85 – Female Genital Mutilation
- 135.50 – Custodial Interference
- 135.55 – Substitution of Children
- 230.05 – Patronizing Prostitution 2nd degree/Relates to a child less than 14
- 230.06 – Patronizing Prostitution 1st degree/Relates to a child less than 11
- 230.30 – Promoting Prostitution 2nd degree/Subdivision (2) relates to a child less than 16

230.32 – Promoting Prostitution 1st degree/Relates to a child less than 11
235.21 – Disseminate Indecent Material to Minors 2nd degree
235.22 – Disseminate Indecent Material to Minors 1st degree
260.00 – Abandonment of a Child
260.06 – Non-support 1st degree
263.05 – Use of a Child in a Sexual Performance
263.10 – Promoting an Obscene Sexual Performance by a Child
263.11 – Possessing an Obscene Sexual Performance by a Child
263.15 – Promoting a Sexual Performance by a Child
263.16 – Possessing a Sexual Performance by a Child
265.14 –Criminal Sale of a Firearm with the Aid of a Minor
265.15 –Criminal Sale of a Firearm to a Minor

Misdemeanors

130.52–Forcible touching
130.55–Sexual abuse 3rd degree
130.60–Sexual abuse 2nd degree
135.45–Custodial interference
230.04–Patronizing a prostitute 3rd degree
260.03–Abandonment of a child; defense
260.05–Non-support of a child in the second degree
260.10–Endangering the welfare of a child
260.11– Endangering the welfare of a child; corroboration
260.15–Endangering the welfare of a child; defense
260.20–Unlawfully dealing with a child in the first degree
260.21–Unlawfully dealing with a child in the second degree
260.30–Misrepresentation by a child day care provider*
263.20–Sexual performance by a child; affirmative defense

*Two versions of 260.30 have been enacted.

II. VIOLENT CRIMES AND OTHER SERIOUS CRIMES

A conviction for any of these crimes creates a strong presumption against enrolling the legally-exempt provider. A provider convicted of a violent or other serious crime can request that the district consider and review any extenuating circumstances pertaining to the conviction and determine whether an exception could be made to the presumption against enrollment.

Any of the following Class A-1 felonies:

125.25 – Murder 2nd degree
125.27 – Murder 1st degree
135.25 – Kidnapping 1st degree
150.20 – Arson 1st degree

Any of the following Class B violent felonies:

125.20 – Manslaughter 1st degree
130.35 – Rape 1st degree
130.50 – Sodomy 1st degree
130.70 – Aggravated Sexual Abuse 1st Degree
130.75 – Course of Sexual Conduct Against a Child 1st degree
120.10 – Assault 1st degree
135.20 – Kidnapping 2nd degree
140.30 – Burglary 1st degree
150.15 – Arson 2nd degree
160.15 – Robbery 1st degree
265.04 – Criminal Possession of a Dangerous Weapon 1st degree
265.09 – Criminal Use of a Firearm 1st degree
265.13 – Criminal Sale of a Firearm 1st degree
120.07 – Gang Assault 1st degree
120.11 – Aggravated Assault on a Police Officer
215.17 – Intimidating a Witness or Victim 1st degree

Any of the following Class C violent felonies:

120.06 – Gang Assault 2nd degree
120.08 – Assault on a Police Officer
125.13 – Vehicular Manslaughter 1st
125.15 – Manslaughter 2nd
130.67 – Aggravated Sexual Abuse 2nd degree
140.25 – Burglary 2nd Degree
160.10 – Robbery 2nd degree
265.03 – Criminal Possession of a Weapon 2nd degree
265.08 – Criminal Use of a Firearm 2nd degree
265.12 – Criminal Sale of a Firearm 2nd degree
265.14 – Criminal Sale of a Firearm with the Aid of a Minor

Any of the following Class D violent felonies:

120.05 – Assault 2nd degree
120.25 – Reckless Endangerment
120.60 – Stalking 1st (eff. 12/1/99)
125.12 – Vehicular Manslaughter 2nd
130.65 – Sexual Abuse 1st degree
130.80 – Court of Conduct Against a Child 2nd degree
130.66 – Aggravated Sexual Abuse 3rd degree
265.02 – Criminal Possession of a Weapon 3rd degree (as defined in subdivisions 4, 5, 6, 7 and 8)
265.11 – Criminal Sale of a Firearm 3rd degree
215.16 – Intimidating a Witness or Victim 2nd degree

Any of the following Class E felonies:

- 125.10 – Criminally Negligent Homicide
- 120.55 – Stalking 2nd
- 130.53 – Persistent Sexual Abuse 4th
- 130.65(a) – Aggravated Sexual Abuse 4th
- 130.90 – Facilitating a Sex Offense with a controlled substance

Sex Offenses

- 130.25 – Rape 3rd degree
- 130.30 – Rape 2nd degree
- 130.35 – Rape 1st degree
- 130.40 – Sodomy 3rd degree
- 130.45 – Sodomy 2nd degree
- 130.50 – Sodomy 1st degree
- 130.53 – Persistent Sexual Abuse (eff. 2/1/01)
- 130.65 – Sexual Abuse 1st degree
- 130.65(a) – Aggravated Sexual Abuse 4th (eff. 2/1/01)
- 130.66 – Aggravated Sexual Abuse 3rd degree
- 130.67 – Aggravated Sexual Abuse 2nd degree
- 130.70 – Aggravated Sexual Abuse 1st degree
- 130.75 – Course of Sexual Conduct against a Child 1st degree
- 130.80 – Course of Sexual Conduct against a Child 2nd degree
- 130.85 – Female Genital Mutilation
- 130.90 – Facilitating a Sex Offense w/a controlled substance (eff. 2/1/01)
- 255.25 – Incest

Former Penal Law Offenses

- 70 – Abduction
- 1042 – Homicide
- 1044 – Murder 1st
- 1046 – Murder 2nd
- 1049 – Non-Negligent Manslaughter
- 1050 – Manslaughter 1st
- 1052 – Manslaughter 2nd
- 1053 – Vehicular Homicide
- 480 – Abandonment of Children
- 481 – Abandonment of Children under 14 years of age
- 483-a – Carnal Abuse of a Child
- 483-b – Carnal Abuse of a Child, 10 years of age and less than 16
- 484(c) – Employment of Children in Drug Traffic
- 240 – Assault 1st
- 242 – Assault 2nd
- 2124 – Robbery 1st
- 2126 – Robbery 2nd
- 2126 – Arson 1st
- 2126 – Arson 2nd

- 402 – Burglary 1st
- 403 – Burglary 2nd
- 2010 – Rape, 1st and 2nd (felony)
- 690 – Sodomy, Crime against Nature
- 1250 – Kidnapping
- 1110 – Incest
- 1400 – Maiming
- 1895 – Endangering Life by Maliciously Placing Explosives Near Building
- 1760 – Willfully Poisoning Food

*(Note: The list of Former Penal Law Offenses set forth above is not an all-inclusive list and is intended to include felony offenses which contain elements similar to the existing offenses referenced in this official list)

Drug-Related Offenses Within Five (5) Years

- 220.06 – Criminal Possession of a Controlled Substance 5th degree
- 220.09 – Criminal Possession of a Controlled Substance 4th degree
- 220.16 – Criminal Possession of a Controlled Substance 3rd degree
- 220.18 – Criminal Possession of a Controlled Substance 2nd degree
- 220.21 – Criminal Possession of a Controlled Substance 1st degree
- 220.31 – Criminal Sale of a Controlled Substance 5th degree
- 220.34 – Criminal Sale of a Controlled Substance 4th degree
- 220.39 – Criminal Sale of a Controlled Substance 3rd degree
- 220.41 – Criminal Sale of a Controlled Substance 2nd degree
- 220.43 – Criminal Sale of a Controlled Substance 1st degree
- 220.44 – Criminal Sale of a Controlled Substance in or near School Grounds
- 220.46 – Criminal Injection of a Narcotic Drug
- 220.55 – Criminally Using Drug Paraphernalia 1st degree
- 220.60 – Criminal Possession of Precursors of Controlled Substances
- 220.65 – Criminal Sale of a Prescription for a Controlled Substance
- 221.20 – Criminal Possession of Marijuana 3rd degree
- 221.25 – Criminal Possession of Marijuana 2nd degree
- 221.30 – Criminal Possession of Marijuana 1st degree
- 221.45 – Criminal Sale of Marijuana 3rd degree
- 221.50 – Criminal Sale of Marijuana 2nd degree
- 221.55 – Criminal Sale of Marijuana 1st degree

Attempts

A felony conviction for the attempt to commit any violent crimes and other serious crimes set forth above creates a strong presumption against enrolling the legally-exempt provider.

Attachment I

Criminal History Evaluations for Legally-Exempt Providers

Article 23-A of the New York State Correction Law was enacted to prevent unfair discrimination in the licensure and employment of a person previously convicted of one or more criminal offenses. In order to make a fair and accurate determination of the person's appropriateness to care for children, the local district will obtain pertinent documentation from the legally-exempt child care provider and may interview the provider as needed.

The district will review the criminal history record of the provider, volunteers with regular and substantial contact with the children in care, employees and, for providers of legally-exempt family child care (other than in-home care), household members age 18 years or older. If the conviction is for a **felony or misdemeanor crime against children** (refer to Attachment H), the provider cannot be enrolled. Therefore, a criminal evaluation does not need to be conducted. A conviction for a **violent and other serious crime** (refer to Attachment H) creates a strong presumption against enrolling the legally-exempt provider. A provider convicted of a violent or other serious crime can request that the district consider and review any extenuating circumstances pertaining to the conviction and determine whether an exception could be made to the presumption against enrollment. This presumption could be overcome only upon a showing of some extraordinary circumstances justifying enrollment.

For **all other felony and misdemeanor convictions** the district must evaluate whether the criminal background poses an unreasonable risk to the safety and welfare of the child (ren). The district is authorized to reject or terminate the enrollment of a legally-exempt provider based on the outcome of the criminal history evaluation. This document describes the procedure for conducting the evaluation, so that this determination can be made.

Failure to cooperate with the criminal history evaluation will result in a denial or termination of the enrollment of a legally-exempt provider. Without an evaluation, the district will be unable to accurately assess the safety of the children either in their care or planning to be in their care.

The following issues may be reviewed as part of the criminal history evaluation:

What is the nature of the crime committed? How serious is the crime? Did the crime involve any violence?

A felony is a more serious crime than a misdemeanor. Felonies are classified from "A" to "E", with an "A" felony being the most serious. The explanation offered by the provider and the underlying facts of the criminal act are important pieces of information that need to be collected. The district will want to read all the

background facts of the case and not just rely on the statutory definitions of the convictions themselves. Convictions of crimes as a juvenile (age 16 or less) are not allowed to be included in the evaluation of the criminal history. Sealed criminal convictions as a juvenile are not considered in the evaluation of an individual's criminal background. However, if there is independent knowledge of the events in question, for example the applicant recounts his history of fire setting or sexual abuse, that information could be used since it is separate and distinct from the sealed criminal record. The review would be based on the underlying facts of the activity and not the fact that the person was convicted.

Did the crime involve a serious lack of good judgement or character?

An examination of the circumstances involved in the crime and the degree with which the person used their judgement should be assessed. Some circumstances when reviewed in light of a person's age and experience are better explained and understood than others. For example, a shoplifting crime committed by a teenager may be viewed differently than a crime where physical injury is inflicted on an animal or other children.

How old was the person when the crime was committed, and how long ago was the crime committed?

A review of the criminal history record and the determination of what action should be taken will consider the age of the person at the time of the commission of the crime. Also considered is the passage of time since the last involvement with the criminal justice system.

Was there a pattern of crimes committed?

Examine whether there were similar crimes committed repeatedly over time and if the crimes became more serious over time.

Are there circumstances and/or factors that indicate the incident is likely to be repeated?

Does the individual verbalize the belief that s/he would do it again or minimize the importance of committing a crime?

The district should take into consideration the number of convictions. **Where there is more than one conviction, each conviction should be evaluated separately.** The district should also evaluate the total effect of more than one conviction in assessing the risk the individual might pose to children.

What is the individual's explanation for the crime?

A person's explanation of his or her behavior will give the district insight into what motivates the person to act and the person's judgement abilities. If an individual asserts that the charges have been "taken care of" or have "been dropped", ask the individual to submit copies of any documentation that would support the disposition of the case. This includes:

- court papers
- probation reports
- police reports
- an explanation, in writing, why they should be permitted to provide care to children.

Was the individual truthful when providing information about his or her criminal history?

The enrollment form informs the provider that failure to truthfully and accurately provide information may constitute grounds for denial or termination of enrollment or for legal action.

If a provider has been deceitful in filling out the enrollment form or an individual has been deceitful in providing information, the deceit should be seen as painting part of the picture in assessing their character and ability to care for children. An assessment of the person's explanation for not advising the district of the existence of a criminal history should be made part of the record. The person may have believed that a sealed record or an arrest disposed of by an Adjournment in Contemplation of Dismissal constitutes a non-conviction and therefore did not answer accurately to the criminal conviction inquiry.

Was there any jail time served or community service performed?

The extent of the sentence may also reflect the court's perception of the seriousness of the crime. Receiving the maximum or minimum sentence for a crime may become a part of the district's analysis of the case. The individual must provide information and documentation that court ordered obligations have been completed. This should be part of the assessment as it speaks to the integrity and reliability of the provider.

What were the efforts and success at rehabilitation?

Rehabilitation *may* include a **certificate of relief from disabilities**, and documentation of successful job performance. A certificate of relief from disabilities is a document issued by the court (which sentenced the applicant) to relieve a first offender of any forfeiture or disability or to remove any bar to employment automatically imposed by law by reason of his/her conviction.

The certificate may create the presumption of rehabilitation in regard to the offense specified in the document and only that offense. However, the district may find a person with such a certificate unfit for employment, when all relevant factors are considered. A certificate of relief of disabilities is not considered as applicable in regard to the categories of crimes against children and other violent crimes.

Conversely, not all first offenders will have received a Certificate of Relief from Disabilities. The criminal history background is then evaluated through other types of documentation noted below.

Performance evaluations and references for jobs held subsequent to the last conviction which indicate a successful record of employment, especially in positions similar to the position for which the person is applying, may be considered an indicator of rehabilitation.

A certificate of good conduct should also be considered in the evaluation process. A certificate of good conduct is issued to reduce a sentence due to good conduct and the efficient and willing performance of duties assigned to the person while incarcerated.

Are they able to articulate how their circumstances have changed since the crime was committed?

The person may be able to point out things such as continuing education, volunteer experiences, life experiences, references, or performance evaluations. Collect any documents that show evidence of rehabilitation.

What is the relationship (if any) between the crime and the responsibilities involved in caring for children?

For example, a conviction for embezzlement would bear a direct relationship to a job handling money, but would not necessarily be directly related to the duties of a provider working with children. Many charges will not be as clear as this example; it is understood that judgement and consultation will be necessary to make some of the more difficult assessments and recommendations.

Will this person be closely monitored or supervised, or will they be providing independent care to a group of children?

The fact that a volunteer may not be given the responsibility to independently care for children may be considered in the assessment process. However, if there is any chance (no matter how remote) that a person could be alone with a child, then the safety of the child must be considered to be the first priority.

Attachment J

Parental Acknowledgment

I _____ understand that the provider or an employee, volunteer, or person 18 years of age or older who resides in the home where care is given has been convicted of a crime. I have attached a copy of the information that was given me by the provider regarding this conviction(s).

I understand that I have the right to select another provider. If I need help locating another provider, I can request such help from the Department of Social Services. I hereby waive this right and, by signing this form, I am stating that I choose to have this provider care for my child.

Parent Name (Print Name)

Parent Signature

Date

Attachment K

IMPORTANT INFORMATION WHEN CARING FOR MY CHILD(REN)

Parent's name

Child(ren)'s name(s) and age(s):

Name

age

Name

age

Name

age

You can reach me at this phone number: _____

My child's doctor is: _____

Phone number: _____

Things you should know about my child(ren): (list any allergies, medical conditions, or anything else that will help your provider give your child the best care)

PARENTAL RESPONSIBILITIES WHEN EMPLOYING AN IN-HOME CHILD CARE PROVIDER

Minimum wage and other benefit levels are subject to change. The figures given below are in effect as of January 1, 2001. You must meet the following requirements when you employ an in-home provider.

1. Minimum Wage Requirement

When you have someone care for your child(ren) in your home you must pay your in-home child care provider no less than minimum wage. The federal minimum wage level is currently \$5.15 an hour for the first forty hours and \$7.72 per hour (time and one half) after forty hours.

2. Social Security Taxes (FICA)

The employer of an in-home child care provider is responsible for reporting and paying FICA each calendar quarter. FICA does not apply to wages paid to the employer's children under 21 years of age. However, FICA is applicable on wages paid to the employer's parents. As an employer, the child's parent must withhold 7.65% of the in-home child care provider's earnings and must contribute a matching amount for FICA. This 7.65% is a total of 6.2% for Social Security and 1.45% for Medicare. Earnings up to \$68,400 are eligible to be considered in 1998 and earnings \$72,600 will be eligible in 1999. For more information on FICA rate, forms, filing procedures, and general assistance, you may contact the Internal Revenue Service at 1-800-829-1040.

3. Federal Unemployment Tax (FUTA)

As an employer, you are required to make FUTA payments if you pay your in-home child care provider a total of \$1,000 or more in cash wages in any calendar quarter. This tax must be paid by you as the employer. It is not deducted from your in-home child care provider's wages. You must file a Form 940 or Form 940-EZ at the end of the year. Only the first \$7,000 of the wages are subject to FUTA. To calculate the amount of tax due, multiply \$7,000 by .008 if all applicable State and Federal unemployment insurance taxes have been paid. If not, the taxation rate increases to 6.2%. FUTA does not apply to wages paid to your parents, or your children under the age of 21. For more information on the FUTA rate, forms, filing procedures and general assistance, you may contact the nearest IRS office.

4. NYS Unemployment Insurance

If you pay your in-home child care provider a total of \$500 or more in a calendar quarter, you are required to provide Unemployment Insurance coverage. The employer contribution rate in New York State is 3.7% for 1998. For more information contact the nearest Unemployment Insurance office.

5. Workers' Compensation

When your in-home child care provider works 40 or more hours per week, you are responsible for providing Workers' Compensation coverage. This requirement does not apply to your children under the age of 21. You may not charge any part of the cost of Workers' Compensation to your in-home child care provider. This insurance may be purchased from any private company licensed to write such coverage in New York State from the State Insurance Fund, a State agency headquartered at 199 Church Street, New York, N.Y. 10007. When you have one domestic worker, workers' compensation coverage costs approximately \$376 per year. For more information, contact the nearest office of the Worker's Compensation Board.

6. Disability Benefits

When your in-home child care provider works 40 or more hours per week, you are responsible for providing Disability Benefits insurance. This requirement does not apply to your children under the age of 21. Insurance may be purchased from any insurance company authorized to write Disability Benefits insurance in New York State or from the State Insurance Fund. The rate for disability insurance is one half of the average weekly wage, as determined by the previous eight weeks, not to exceed \$170. The telephone number for the Workers' Compensation Board is 518-474-6674.

You may add the cost of these benefits to the rate charged by your in-home child care provider in order to calculate the full cost of your child care. You will need to tell the county department of social services how much your provider charges you and how much you are paying in addition to what your provider is charging you in order to cover minimum wage or other benefits. The county department of social services may be able to pay all or some portion of these benefits as long as the total cost of care does not exceed the local market rate. You are responsible for paying the difference between the total cost of care and the local market rate.