



Office of Children and Family Services



THE STATE EDUCATION DEPARTMENT /
THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

September, 2016

Dear Director:

School-Age Child Care (SACC) Programs Located in Public School Buildings

Welcome back to school! While you have been hard at work planning and preparing for the new school year, the New York State Office of Children and Family Services (OCFS), the New York City Department of Health and Mental Hygiene (NYCDOHMH), and the New York State Education Department (SED) have been collaborating with school-age child care advocates on an issue sometimes experienced by programs that operate in public school buildings. This issue relates to building and equipment concerns found in school-age child care programs operating in public school buildings.

OCFS is often asked why our inspectors cite school-age child care programs for violations found in school buildings. The answer lies in OCFS's role as the regulatory agency of child day care programs. As a regulatory agency, inspectors are tasked with inspecting for compliance with OCFS health and safety regulations. School-age child care programs are subject to the regulations of OCFS and, therefore, are responsible to remain in compliance with OCFS regulations regardless of the type of building from which a program operates. **Building safety standards are set in building code. Both schools and school-age child care programs are held to the same safety standards set by the same building code.** Because schools and OCFS inspect on different schedules, OCFS may identify issues that were not observed at the time of the annual school inspection.

School-age child care directors and school principals are on the front line in the role of identifying safety concerns in their program areas. OCFS relies on program directors and school principals to be vigilant in maintaining compliance with applicable fire and building codes. However, when systems set in place to correct violations fail to produce a desired outcome (i.e., fully implemented corrective action plans), OCFS, SED, and NYCDOHMH have committed to assist in problem resolution. Protocols for seeking assistance are included in this letter.

This letter describes the work and support that OCFS, SED, and NYCDOHMH are offering to school-age child care programs operating in public schools as it concerns building and equipment that fail to comply with the building code. To be sure that school-age child care program staff and school

administrators are fully informed, SED is sending this letter to school district principals and administrators who are co-located with school-age child care programs.

Checklist

OCFS recently streamlined the school-age child care director's monthly fire and safety checklist (**OCFS-6035**) to make it easier to use. Form OCFS-6035 may be used by directors to document required monthly inspections of the premises and to observe possible fire or safety hazards. OCFS has revised this form to help clarify the inspection focus and added a field that indicates that certain equipment or system inspections are performed by a third party. This checklist can be shared with your public school principal to initiate communication when building deficiencies are noted. The form can be found at the following URL: <http://ocfs.ny.gov/main/documents/docsChildCare.asp>.

Protocol to Contest a Violation

OCFS is aware that programs may sometimes disagree with the findings from a regulatory oversight visit. If an inspection has been performed at your program and you question or disagree with the licensor's/registrar's findings, you may follow the protocol described below:

1. Discuss the violation with your licensor or registrar. This can be done when you meet with the licensor/registrar at the conclusion of the inspection (during the exit interview), or with a follow-up call to the licensor/registrar at their office. Licensors and registrars are required to conduct exit interviews with the director or his/her designee.
2. If, after discussing the issue with the licensor/registrar, you want further examination of the violation, the licensor's/registrar's supervisor and/or the regional office manager/borough manager may be contacted. A listing of regional offices and the NYC borough offices can be found at: <http://ocfs.ny.gov/main/childcare/regionaloffices.asp> . Contact numbers are always printed on the program's registration and on all letters issued following inspections.
3. Most issues are resolved at the regional/borough office level. However, there may be circumstances in which you want to discuss the issue further. The next step would be to contact the OCFS Division of Child Care Services Home Office at (518) 474-9454 (upstate and Long Island programs) or the OCFS New York City Regional Office at (212) 383-1415 to ask for assistance in reviewing the matter. At this level, an OCFS representative may contact and discuss the issue with an SED code official to assist with resolution.

Website Disclaimer

To be clear, school-age child care programs are, and will remain, the registered entity responsible for the program's health and safety during program hours. However, recognizing that program directors and school principals work together on physical plant issues, for school-age child care programs located in public schools, OCFS will add a message to the OCFS website and to the posting of inspection history that informs the parents and others of the joint obligation of the school-age child care program and the school to address building safety.

This message will read as follows: *"This program is located in a public school and, therefore, the program may not be responsible for correcting the violation."*

How to Inform the School That a Violation Has Been Identified

Directors of school-age child care programs who may feel they lack leverage with school administrators in taking corrective action are encouraged to focus on the common ground they share in their commitment to keeping children safe. This common goal is key in building working relationships with each other to the benefit of the children they each serve.

It is important for the program director and the school principal to develop and maintain a good working relationship. Initiating and maintaining an open and ongoing dialogue with school officials creates the path by which to resolve fire and building code issues when they occur.

Additional suggestions:

- Engage in ongoing communication that is planned and recognized as important.
- Construct procedures for how best to communicate with each other.
- Initiate problem-solving for any issues that affect the school-age child care program.
- Be proactive: complete the required monthly inspection of your program space and identify possible fire or safety hazards.
- Discuss your findings with the school administrator.

Uncorrected Violations

OCFS, SED, and NYCDOHMH have developed a protocol to address building and equipment violations that remain uncorrected despite the diligence of program directors and school administrators. This model includes a number of progressive steps:

1. The school-age child care program director will notify the OCFS licensor/registrar of the uncorrected violation(s) and report to the licensor/registrar the actions taken to resolve the safety concerns.
2. The licensor/registrar will report this information to his/her supervisor/manager.
3. If the safety concern is one that cannot be resolved at the regional/borough office level, the manager or designee will inform OCFS Home Office or NYCDOHMH Home Office, as appropriate.
4. OCFS Home Office will contact SED to seek resolution. NYCDOHMH will work with NYC Department of Education to seek resolution.
5. Resolution will be shared with the school administrator and the school-age child care program director.

Town Hall Meetings

OCFS will be scheduling and hosting town hall meetings to discuss the issues and information offered in this letter and to begin the dialogue between all interested parties. The invitees will include: BOCES district superintendents, school superintendents, OCFS regional office and home office staff, directors of school-age child care programs operating in public schools, other school administrators, and advocates. The town hall meeting dates, times and places will be announced soon and information will be posted to the OCFS Child Care Home Page at: <http://ocfs.ny.gov/main/childcare/default.asp>.

Training

OCFS will begin an assessment of the training curriculum for its licensors, registrars and fire safety representatives related to fire and building safety. The intent is to increase consistency and educate staff about the challenges faced when school-age child care programs operate in a public school. In addition, SED will be examining its instruction to inspectors who conduct school building inspections.

We hope you find this information helpful as we continue to work jointly with the goal of supporting programs in the health and safety of children.

Sincerely,



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