



Office of Children and Family Services

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Governor

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Sheila J. Poole
Acting Commissioner

DIVISION OF CHILD CARE SERVICES POLICY STATEMENT

17-3

Inactive Status for Licensed and Registered Child Day Care Programs

ID NUMBER: 16-

TOPIC: Inactive Status for Licensed and Registered Child Day Care Programs

MODALITIES IMPACTED: All Licensed/Registered Modalities

APPLICABLE REGULATIONS: Title 18 of the New York State Code of Rules and Regulations §§:
413.3,
414.2, 414.14, 414.15,
416.2, 416.14, 416.15,
417.2, 417.14, 417.15,
418-1.2, 418-1.14, 418-1.15,
418-2.2, 418-2.14, 418-2.15

CONTACT: Regional Offices
<http://ocfs.ny.gov/main/childcare/regionaloffices.asp>

EFFECTIVE: IMMEDIATELY

THIS POLICY STATEMENT IS EFFECTIVE IMMEDIATELY AND CANCELS ALL PREVIOUS MEMOS OR STATEMENTS ON THIS TOPIC.

Inactive is a licensing/registration status established by the New York State Office of Children and Family Services (OCFS) to refer to programs that have requested, and been approved, to temporarily not operate their child day care program. The inactive status was instituted and is supported by OCFS to promote accuracy in referral lists and to meet the needs of the provider community. This status is reflected on the OCFS website and shared with child care resource and referral agencies.

Programs may request to become inactive under limited circumstances for a period of time not to exceed six months. OCFS may approve an extension beyond six months on a case-by-case basis with the submission of a new written request.

The status of inactive allows a program to remain licensed/registered and discontinue providing

child day care services. Reasons for becoming inactive include, but are not limited to: building renovations, maternity leave, family obligations/emergencies, and/or extended illness. Inactive programs are voluntarily ceasing the operation of the child care program and are not permitted to care for day care children while in inactive status. Voluntarily applying for inactive status is an alternative to voluntarily surrendering a license/registration, when a program is electing not to provide child care for a limited time under limited circumstances. A program that voluntarily surrenders its license/registration, must reapply for an initial license or registration to operate a licensed/registered child care program; whereas, an inactive program only needs to demonstrate regulatory compliance through a satisfactory inspection prior to resuming child care operations. The inactive status eliminates the need of a currently licensed/registered child care program to surrender its license/registration when it's reasonable to believe that the program will only be closed for a limited period of time due to a limited circumstance.

Programs must make their request to become inactive in writing to their regional office. All requests must include:

1. the date the program proposes to cease operating;
2. the reason the program is requesting inactive status;
3. a projected date the program will reopen; and
4. an acknowledgment that the program will not care for children until such time as a full inspection has been completed and the program receives written approval by OCFS to resume care.

OCFS will evaluate requests and make a determination whether or not to approve a program for inactive status. Written approval or denial of a request for inactive status will be sent from OCFS to the program. When a program has been approved for inactive status, the written approval will be posted next to the license/registration for the entire approved period of inactive status.

The approval of inactive status does not allow the program to avoid any OCFS enforcement actions in process, nor will the inactive status satisfy enforcement actions by OCFS. However, OCFS may consider approving an inactive status request during an enforcement action.

A program approved as inactive must submit a written request to the applicable regional office at least thirty days in advance of the date it wishes to resume providing child day care, unless the status of inactive was for less than 30 days. The program will remain in inactive status pending a full inspection by the licensor/registrar and a determination by OCFS of compliance with all licensing requirements, including training. OCFS may conduct inspections while a program is in inactive status. The program must cooperate with OCFS in the course of any inspection/investigation conducted while licensed/registered regardless of active or inactive status. If a program is found to be providing child day care while in an inactive status, the inactive status will be immediately revoked and OCFS will issue regulatory violations and take enforcement action, as appropriate.

The status of inactive does not change the dates of the licensing/registration period. Statutory training requirements must be completed on schedule regardless of the program's status as inactive.

Programs in existing inactive status prior to the effective date of this policy, #17-3, will be assessed for continued approval at the time of license renewal in accordance with the terms set forth herein.

Questions and Answers:

The following questions and answers provide further guidance on this issue.

Question: *What would a program need to do to change its status from licensed/registered to legally exempt?*

Answer: A program must surrender its license/registration in order to become a legally-exempt program at the same location. This means the program would need to reapply for a license/registration should it wish to reopen a licensed/registered child day care program in the future. Once a licensed/registered child care program surrenders its license/registration, any benefits associated with being a grandfathered program are also surrendered.

Question: *If a program is caring for children despite its inactive status and the licensor/registrar finds violations, will the program be cited?*

Answer: Yes, if a program provides care during the inactive period, all violations will be recorded and handled consistent with OCFS policy for active licensed/ registered programs. The program will immediately be taken out of inactive status, and the inactive agreement will become null and void.

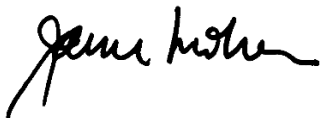
Question: *Must an inactive program continue to meet the training requirement listed in statute and regulation?*

Answer: Yes, an inactive program must be able to submit verification of the required training at the time of mid-point and renewal. All staff who remain in their roles during the inactive period must take the required training during that two-year period. If new staff is hired during the inactive status, they must meet the regulatory requirements for training in the first six months of employment date.

Question: *Can a program request to be inactive more than once during its years of operation?*

Answer: Yes, as long as the terms explained in this policy are followed, a program could request and be granted an additional time period as inactive.

Approved by:



Date: 4/11/17

Janice M. Molnar, Ph.D.
Deputy Commissioner