



August 30, 2017

Brian C. Ross, Esq.
Assistant Commissioner, Policy & Regulatory Development
Dept. of Children & Families
P.O. Box 729
Trenton, NJ 08625-0729

Dear Mr. Ross:

I am writing you on behalf of the New Jersey Child Care Association (NJCCA). We are an organization that represents private child care centers, preschools and early learning centers across the state.

NJCCA has heard from several members with regard to enforcement action taken against them under NJAC 3A:52-6.4 – “Rest and sleep requirements for early childhood programs”.

You should know that Inspectors from the Department of Children and Families, Office of Licensing are advising centers that allowing children four-years old and older to take a coordinated naptime is prohibited per the Child Care Manual.

Some centers have reached out to the Office of Licensing directly and been informed that enforcement action can and will be taken against centers that violate this unwritten policy. In our review of the regulations, both in the past and currently, NJCCA does not see any statutory or regulatory authority to enforce this policy.

NJCCA participated on the ad-hoc committee that reviewed these regulations before they were promulgated and had this issue been addressed specifically, we would have certainly opposed an overall prohibition.

We certainly understand that the Office of Licensing may have received complaints regarding prolonged naptimes in centers. Rather than a full-scale prohibition, it would have made sense to address complaints with the specific centers that may have an issue with elongated naps.

Since the prohibition of a coordinated naptime is not provided through statute or regulation, the enforcement of such can only be subjective and highly dependent

upon the inspector. Allowing subjective enforcement to continue is not in the best interests of parents and families that rely upon private child centers on a routine basis.

As such, we respectfully ask you review the Office of Licensing's current verbal advisements to centers with regard to naps for children four-years old and older for the purpose of providing an advisory opinion on how centers should adhere to this policy.

You should also be aware that some parents may prefer that their four-year old child take a nap as part of their school day. What is the department's recommendation with regard to these requests? Should the center advise parents that the State of New Jersey has prohibited this practice?

Additionally, please be advised that regulations treat age groups as absolutes. By this, we mean that children won't necessarily change classrooms based upon birthdays, so it is easily feasible that a classroom contains both three-year olds and four-year olds at the same time. In this case, is half the class eligible for a coordinated nap, and the other half prohibited from participating?

Finally, as you see, this issue has several different ramifications that need to be vetted and properly articulated to the regulated community. We ask that the Department of Children and Families refrain from taking enforcement action on these matters until such time as a uniform policy can be formulated. We emphasize that the regulated community cannot depend upon the administrative rules in these case, because they are silent as to the policy that is being implemented by DCF.

On behalf of NJCCA, I thank you for your anticipated review of these concerns. If you need to contact me, I can be reached at (609) 223-2223, or via e-mail at curt@nj-cca.org.

Sincerely,


Curt Macysyn
NJCCA Executive Director

c. Antoinett Mahan, Director, OOL