

SUBCHAPTER F**Private Schools****PART**

- 125** Voluntary Registration of Nonpublic Nursery Schools and Kindergartens
126 Licensed Private Schools, Registered Business Schools and Computer Training Facilities

PART 125**VOLUNTARY REGISTRATION OF NONPUBLIC NURSERY SCHOOLS AND KINDERGARTENS**

(Statutory authority: Education Law, § 207)

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Historical Note

Part (§§125.1-125.5) repealed, new (§§ 125.1 125.10) filed Nov. 27, 1970.

§ 125.1 General.

(a) As used in this Part, *school* means a nonpublic nursery school or kindergarten organized for the purpose of educating a group or groups of six or more children less than seven years of age, under the supervision of qualified teachers, providing an adequate program of learning activities and maintaining good standards of health and safety.

(b) A school shall be registered by the department upon the submission of satisfactory evidence that it meets the standards set forth in this Part and receives approval after onsite visitation. Registration shall be valid for a period of five years, subject to revocation for cause.

(c) Consultants shall make annual visits to schools.

Historical Note

Sec. repealed, new filed Nov. 27, 1970.

§ 125.2 Building and facilities.

(a) *Classrooms.* (1) Classrooms shall be on the first or second floor of a building or be directly accessible by elevator.

(2) No classroom floor shall be more than four feet below ground level.

(3) Classrooms shall have a minimum of 35 square feet of floor space per child (exclusive of cloakroom, isolation room, toilets, kitchens, halls, porches and storage space).

(4) A minimum temperature of 68 degrees, measured three feet above the floor, shall be maintained in each room used by children.

(5) The building and rooms occupied by the school shall be clean, sanitary and dry.

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(6) All concrete floors used by children shall be covered with an appropriate material.

(7) Classrooms shall be well ventilated.

(8) There shall be a minimum of 30 foot-candles of light in all parts of a classroom.

(9) To prevent glare, electric light bulbs shall be shielded in a method acceptable to the department.

(b) *Eating and rest facilities.* (1) Space used for eating shall be clean.

(2) There shall be no more than eight children at one table at one time during lunch.

(3) Asanitary cot shall be provided for each child who spends more than four hours per day at the school. Sanitary, individual bed covering sufficient to maintain adequate warmth shall be provided.

(4) There shall be at least two feet between cots at resting time.

(c) *Sanitary facilities.* (1) There shall be at least one flush toilet (open seat), stationary washbowl and a low mirror for each group of 15 children. If these facilities are not child-size, low platforms or steps shall be available.

(2) Separate toilet facilities shall be provided for staff and employees in schools that provide a lunch program for children.

3) A sink with running water shall be in or readily available to every classroom.

(4) Individual drinking cups, disposable paper cups or bubbler fountains of the angle jet type shall be provided.

(5) Provision shall be made for the proper washing of dishes and cooking utensils.

(6) Adequate accessories, including paper towels, soap and wastepaper containers, shall be provided to promote health and personal cleanliness.

(7) Garbage receptacles shall be of adequate size, covered, emptied daily and cleansed after emptying. Trash or garbage shall not be stored in rooms ordinarily occupied by children, in outdoor play areas or in accesses thereto.

(8) A constant supply of hot water shall be available.

(9) The use of common washcloths, towels, combs and hairbrushes is prohibited.

(10) Sufficient and suitable clothing shall be available so that children may receive a change if needed. All such clothing shall be thoroughly washed after each use.

(d) *Outdoor play area.* (1) There shall be at least 200 square feet of outdoor play area per child. Less than 200 square feet per child may be permitted upon submission of evidence of careful spacing of equipment and limitation of use to small groups at one time.

(2) Outdoor play area shall be easily accessible to the classroom and toilet facilities. It shall be free of hazards, well drained and enclosed by perpendicular wooden or wire fencing, a low wall or dense shrubbery.

(e) *Plans.* Sketches with dimensions of floor plans, including an indication of exits, lavatory facilities and outdoor space shall be sent to the office of the chief school officer of the school district in which the school is located.

(f) *Approval of plans to change facilities.* There shall be no construction, addition, substantial modification or change in occupancy of buildings or parts of buildings used or to be used in the operation of a school unless plans and designs of changes have been approved in writing by the department.

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Historical Note

Sec. repealed, new added filed Nov. 27, 1972. Substituted new (e) 1970, amd. filed May 4, 1972 eff. May 24, 1972.

§ 125.3 Fire and safety regulations.

(a) *Inspections.* Registered schools shall be subject to inspections and recommendations of the New York State Division of Fire Safety, Office of Local Government, 155 Washington Avenue, Albany, New York 12210.

(b) *Heating equipment.* (1) Furnaces shall be enclosed in rooms of fire resistant construction, including walls, ceiling, door frames and self-closing door of at least one hour rating. No flammable materials shall be stored in the furnace room.

(2) Direct-fired or electric space heaters shall not be used in rooms used by children.

(3) All flammable materials and any items that may be harmful to children shall be kept in locked cabinets.

(c) *Exits and stairs.* (1) Each floor used by children shall have two means of exit remote from each other, immediately accessible from all rooms.

(2) In schools with three or more classrooms, all outside exit doors shall open outward and shall be lockable from the outside only.

(3) All stairs used by children shall be constructed of fire-resistive material or finished with fire retardant materials or coatings, shall be in good repair, and equipped with hand rails of suitable height and circumference for young children.

(4) There shall be no storage of flammable materials under stairs.

(5) Fire escapes shall be of stair-step construction and approaches to them shall be in good repair, readily accessible and free of obstructions.

(d) *Fire equipment.* (1) Fire detection, fire alarm and fire fighting equipment, including an adequate number of fire extinguishers, appropriate to the type of building and occupancy, shall be provided. Fire protection equipment throughout unsupervised spaces within the building, including storerooms, boiler rooms and exit ways shall include an automatic fire detection alarm system of the heat or smoke sensing type or automatic sprinkler system.

(2) All fire detection, fire alarm and fire fighting equipment shall be tested once a month and maintained in good working condition. Staff shall be instructed in their functioning and operation.

(e) *Evacuation.* (1) A written plan shall be developed for immediate evacuation of all children from premises in case of fire and for a subsequent roll call. All staff shall be trained as to their responsibilities in an emergency.

(2) Fire drills shall be held in accordance with the provisions of section 807 of the Education Law and in no event less than once each month. A record of these drills shall be maintained.

(3) The school shall be equipped with a telephone for use in an emergency. The telephone number of the fire department affording protection shall be conspicuously posted at the telephone.

(f) *Reports.* (1) The school shall maintain up-to-date copies or photostats of fire and health permits, certificate of occupancy and a zoning permit when required by a zoning ordinance of the community in which the school is located. If the school is located in New York City, a current copy of its day care permit shall be maintained on file at the school in lieu of the other reports required by this paragraph.

(2) Registered schools shall file copies of an annual fire inspection report to the New York State Division of Fire Safety, Office of Local Government, 155 Washington Avenue, Albany, New York 12210, by December 1 on forms provided by that office, as required by Education Law, section 807-a. Each registered school shall maintain on file at the school a copy of its annual fire inspection report.

(3) Schools in cities where the population is 125,000 or more according to the last census shall also file reports as indicated in subdivision (f) (2) above.

(g) Other *safety standards.* (1) Safeguards shall be provided to protect children against injury on account of low windows, exposed pipes, hatchways and window wells.

(2) Peeling or damaged paint or plaster shall be repaired.

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(3) Paint containing lead shall not be used on walls, window sills, beds, toys or any equipment accessible to children.

(4) A first-aid kit shall be provided. It shall be kept in a clean container, out of reach of young children.

(5) Adequate protection against insects shall be maintained.

(6) Windows and doors shall be openable and equipped with safety devices. Effective means of eliminating insects shall be provided.

(7) Appropriate telephone numbers and instructions for obtaining police and medical assistance shall be posted near the telephone.

(8) Any pet or animal on the premises indoors and outdoors shall be in good health, properly cared for and suitable for young children.

(h) *Transportation.* (1) All vehicles used for the transportation of children to and from school must conform to the Public Service Law, section 61, subdivision 14.

(2) Safety procedures concerning the arrival and departure of children must be acceptable to the department.

Historical Note

Sec. repealed, new added filed Nov. 27, 1970; amd. filed May 4, 1972 eff. May 24, 1972.
Substituted new (f)(1), (g)(4) and (g)(6).

§ 125.4 Education equipment.

(a) *Indoors.* Learning centers in a classroom shall include areas for block building, housekeeping, water play, creative arts, painting and clay and collage, science and nature study, cooking and music. There shall be adequate books and pictures, puzzles, games and small manipulative materials.

(b) *Outdoors.* Outdoor equipment shall include permanent, well-anchored structures for climbing and dramatic play. There shall be movable equipment, wheel toys, tricycles, wagons, trucks, building equipment, ladders, sawhorses and a shed or area to store this equipment.

Historical Note

Sec. repealed, new added filed Nov. 27, 1970.

§ 125.5 Health.

(a) *Sanitation.* Schools shall comply with all sanitation requirements of local and State departments of health.

(b) *Physical examinations.*

(1) At least thirty days prior to admission to school, each child shall have a completed physical examination by a physician, including an appropriate vision screening, audio testing, laboratory tests as indicated and a dental examination. A written statement signed by the examining physician shall be furnished to the school.

(2) All children shall have a yearly physical examination by a physician and a dental examination by a dentist.

(3) A detailed cumulative medical record shall be kept of all examinations, illnesses, accidents and any treatment given to a child.

(4) A daily health check of each child shall be made by the teacher or another responsible person who is familiar with the child and is trained to recognize symptoms of illness and communicable disease.

(5) No medication shall be administered to children except by order of a physician.

(c) *Arrangements for emergency care.* In preparation for illness or accident the school shall:

(1) have parents' telephone number easily accessible;

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(2) have a doctor on call;

(3) have an automobile available to take child to a hospital;

(4) have first aid materials easily available;

(5) have a room available for isolation of child until parent arrives;

(6) allow no child to return until the school has the doctor's assurance that the child is free of a communicable disease and is ready to resume activities.

(d) *Permission to provide emergency treatment.* Schools shall have on file written permission from the parents or guardians for the care of any child who has or develops symptoms of illness or is injured. Such statements shall include notification of the child's parents, guardian or other person having legal custody, and provision for emergency medical care or first aid. If a child should have or develops symptoms of illness, he shall be isolated from the other children until he is seen by a physician or removed from the school. In the event of an accident or illness requiring immediate medical care, the director of the school or other person in charge shall be responsible for securing such care and notifying the parents, guardian or person having legal custody of the child. There shall be an understanding with such person or persons that an ill child shall be removed as soon as possible upon the request of the school and shall not be readmitted until it is determined upon physician's assurance that he is free from communicable or contagious disease.

(e) *Nutrition.* (1) Schools that operate a program of less than three hours shall provide snacks.

(2) Schools with programs of more than three hours shall provide snacks and lunch.

(3) Schools that provide lunch shall consult with a dietitian to insure adequate and nutritional food.

(4) When lunches are served, menus shall be prepared in advance, dated and posted in a conspicuous place for parents and visitors to see.

(f) *Balanced activities.* A registered school shall include balanced activities with quiet and vigorous pursuits, indoor and outdoor play, acceptable to the department.

(g) *Staff.* All staff shall have a regular physical examination by a physician. All staff shall have a chest x-ray biennially.

Historical Note

Sec. repealed, new added filed Nov. 27, 1970.

§ 125.6 Staff requirements.

(a) *Educational director.* (1) The educational director shall hold a New York State certificate or its equivalent in (i) early childhood education (nursery, Kindergarten and primary grades), or (ii) nursery-kindergarten, or (iii) elementary education N-6 or K-6 with specialized preparation for teaching in early childhood grades, or (iv) shall present evidence of substantially equivalent instruction and experience,

(2) The educational director shall, in addition to the above qualifications, give evidence of instruction and/or experience in supervision and administration.

(b) *Group teacher.* (1) Except as indicated below a group teacher in nursery schools and/ or kindergartens shall be certified as indicated in subdivision (a) (1) above.

(2) A graduate of a community college who has majored in nursery education and has had three years experience as a nursery school group assistant may serve as a group teacher in the nursery school, provided that prior to employment each year he shall send to the office of the chief school officer of the school district in which the school is located each of the following:

(i) An original or copy of a record of a college or university indicating current matriculation as a part-time student specializing in early childhood education in a program leading to a bachelor's degree and/or certification.

(ii) An original or copy of a program or record of a college or university providing detailed information regarding courses necessary for completion of the program leading to a degree and/or certification as indicated in subdivision (a) (1) above.

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(iii) Annually a study plan on a form provided by the bureau of child development and parent education showing the titles of courses to be taken in the ensuing year, periods of time of such study, and the institution or institutions offering the courses.

(iv) Official college transcripts yearly indicating courses completed.

(3) Individuals who do not qualify under subdivision (a) (1) above but have had a minimum of 10 years experience as a nursery school teacher and a minimum of 20 hours of credit in early childhood education in an approved teacher education institution may serve as a group teacher in the nursery school provided that he shall send to the office of the chief school officer of the school district in which the school is located a study plan each year on a form provided by the bureau of child development and parent education.

(c) *Group assistant.* A group assistant shall be a graduate of a two year program in a community college with a major in nursery education or shall have had substantially equivalent instruction and experience.

(d) *Group aide.* A group aide shall have at least a high school diploma or the equivalent.

(e) *Consultants.* Schools shall have available professional consultants for help with children and families who have special needs.

(f) *Official College transcripts.* Educational directors, group teachers, group assistants or group aides who do not hold one of the certificates described above, shall have institutions on the college level send official transcripts directly to the office of the chief school officer of the school district in which the school is located.

(g) *Study Plans.* Those educational directors, group teachers, group assistants or group aides not fully certified shall give evidence in writing yearly of plans for professional improvement, including course titles, sponsors and proposed dates, on forms to be provided by the bureau of child development and parent education. These plans shall be approved by the executive officer of the school, and sent to the office of the chief school officer of the school district in which the school is located.

Historical Note

Sec. repealed, new filed Nov. 27,1970; amd. filed May 4,1972 eff. May 24,1972. Amended (b)(2)-(3), (f) and (g).

§ 125.7 Teacher-pupil ratio.

(a) *Supervision.* In a school there shall be more than one adult available to any group at all times.

(b) *Class size.* There shall be an enrollment of not less than six pupils in a group in any one session of either nursery school or kindergarten.

(c) *Staffing.* (1) Nursery school.

(i) There shall be no more than 20 children in one group in one room.

(ii) For three-year-olds, the ratio of children to adults shall not be greater than 8:1, with a qualified teacher in attendance at all times.

(iii) For four-year-olds, the ratio of children to adults shall not be greater than 10:1, with a qualified teacher in attendance at all times.

(2) Kindergarten.

(i) There shall be no more than 22 children in one group in one room.

(ii) For five-year-olds, the ratio of children to teachers shall not be more than 15:1, with a qualified teacher in attendance at all times.

(3) Day care center. If a school is in session more than six hours a day, the rules and regulations of the Department of Social Services regarding ratio of children to child care staff shall be followed (18 NYCRR 451.8).

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Historical Note

Sec. filed Nov. 27, 1970.

§ 125.8 Educational program.

(a) *Curriculum and school year.* (1) Each school shall submit evidence that it will maintain a curriculum and an educational program based on and adapted to the ages, interests and needs of the children.

(2) The term and hours of each kindergarten shall be substantially equivalent to those established by the school district in which it is located; kindergarten groups shall meet not less than five half-days a week. Nursery school groups shall meet at least two half-days a week.

(b) Activities. Children shall have opportunity to choose and become involved in learning activities. These activities shall include:

- (1) manipulation of different materials, objects and textures;
- (2) dramatic play activities;
- (3) creative arts activities;
- (4) large muscle activities;
- (5) participation in discussions and simple games;
- (6) exposure to literature;
- (7) participation in music;
- (8) science experiences; and
- (9) short trips to the neighborhood.

(c) Each school shall provide evidence of positive parent collaboration in the education of their children.

Historical Note
Sec. filed Nov. 27, 1970.

§ 125.9 Admission to kindergarten.

A kindergarten shall not admit a child who is younger than the age of entrance into the public schools established by the school district in which that child resides.

Historical Note
Sec. filed Nov. 27, 1970; amds. filed: April 28, 1980; Dec. 21, 1984 eff. Jan. 16, 1985.

§125.10 Registration and reports.

(a) *Registration.* (1) A school may be registered as a nursery school and/or kindergarten. A school which includes both a nursery school and kindergarten, if it seeks registration, must apply for registration to include both nursery school and kindergarten. A registered school which initiates instruction on either level for which it is not registered shall, within 10 days thereof, make application for extension of its registration to such other level. Registration of such school at the original level shall be terminated at the end of the school year in which application for such extension is made, unless a school qualifies for such extension.

(2) Formal application for registration shall be made on forms provided by the department. The department reserves the right to ask for any additional information necessary to determine the eligibility of the school for registration. Application blanks shall be sent to the Chief, Bureau of Child Development and Parent Education, State Education Department, Albany, NY 12234.

(3) Change of ownership of a school nullifies its registration and, if the school is to be registered, the new owner must make formal application.

(4) Each school shall obtain written approval before increasing the enrollment of any group or of the school at any time beyond the maximum number stipulated by the department.

(5) Prior written approval shall be obtained concerning changes in the educational director and group teachers of a school.

(b) Reports. (1) Registered schools shall file an annual report with the department at a time determined by the department. Failure to file the completed annual report within 30 days of the date requested will terminate registration for the school.

(2) *Advertising.*

(i) Copies of all advertising, literature, catalogs, brochures, pamphlets and circulars shall be maintained by the school in its files.

(ii) Any advertising or soliciting which misleads or tends to mislead the public shall be grounds for forfeiture of registration.

(3) Within 10 days after any changes in its location, ownership or policies, a registered school shall report such changes to the department.

Historical Note

Sec. filed Nov. 27, 1970; amd. filed May 4, 1972 eff. May 24, 1972. Amended (b)(2)(i).