

OCFP Office of Child and Family Policy	Policy Interpretation	
	Index No: 2014.01	Issuance Date: May 6, 2014
	Origin of Request: Central Office of Licensing	
	Distribution: Department and POS Staff	
	Key Words: 89 IAC 406, Licensing Standards for Day Care Homes; 89 IAC 408, Licensing Standards for Group Day Care Homes.	
	Approved by: <i>Robbie Gregg</i>	

Question: Is it a licensing violation for a concealed carry permit holder to have a handgun on the premises of a licensed day care home?

Applicable To: Department and POS staff

Policy Citations:

The Firearm Concealed Carry Act

Section 65. Prohibited areas.

- (a) A licensee under this Act shall not knowingly carry a firearm on or into:
 - (2) Any building, real property, and parking area under the control of a pre-school or child care facility, including any room or portion of a building under the control of a pre-school or child care facility. Nothing in this paragraph shall prevent the operator of a child care facility in a family home from owning or possessing a firearm in the home or license under this Act, if no child under child care at the home is present in the home or the firearm in the home is stored in a locked container when a child under child care at the home is present in the home.

(Source: Public Act 098-0063)

Section 406.6 General Requirements for Day Care Homes

- a) The physical facilities of the home, both indoors and outdoors, shall meet the following requirements for safety to children.
 - 16) *Handguns are prohibited on the premises of the day care home except in the possession of peace officers or other adults who must possess a handgun as a condition of employment and who reside in the day care home.*



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- 17) *Any firearm, other than a handgun in the possession of a peace officer or other person as provided in subsection (a)(16), shall be kept in a disassembled state, without ammunition, in locked storage in a closet, cabinet, or other locked storage facility inaccessible to children.*
- A) *Ammunition for such firearms shall be kept in locked storage separate from that of the disassembled firearms, inaccessible to children.*
- B) *The operator of the home shall notify the parents or guardian of any child accepted for care that firearms and ammunition are stored on the premises. The operator shall also notify the parents or guardian that such firearms and ammunition are locked in storage inaccessible to children. (Section 7 of the Act) Such notification need not disclose the location where the firearms and ammunition are stored.*

(Source: Amended at 36 Ill. Reg. 13388, effective August 15, 2012)

Section 408.30 General Requirements for Group Day Care Homes

- s) *Handguns are prohibited on the premises of the group day care home except in the possession of peace officers or other adults who must possess a handgun as a condition of employment and who reside in the group day care home.*
- t) *Any firearm, other than a handgun in the possession of a peace officer or other person as provided in subsection (s), shall be kept in a disassembled state, without ammunition, in locked storage in a closet, cabinet, or other locked storage facility inaccessible to children.*
- 1) *Ammunition for such firearms shall be kept in locked storage separate from that of the disassembled firearms, inaccessible to children.*
- 2) *The operator of the group home shall notify the parents or guardian of any child accepted for care that firearms and ammunition are stored on the premises. The operator shall also notify the parents or guardian that such firearms and ammunition are in locked storage inaccessible to children (Section 7 of the Act). Such notification need not disclose the location where the firearms and ammunition are stored.*

(Source: Amended at 37 Ill. Reg. 19149, effective November 30, 2013)

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Discussion:

Day care providers have informed Department licensing staff that some concealed carry instructors have stated that a concealed carry permit will allow day care home operators to carry a handgun in their licensed day care home. One licensing representative reported hearing this himself while attending the required concealed carry permit training conducted by an off-duty Illinois State Police deputy

While the Concealed Carry Act, in Section 65(a)(2), generally prohibits anyone from carrying a handgun in and around child care facilities, it specifically states that it does not prohibit any day care home owners from having a handgun in their own home, under limited circumstances. The Child Care Act prohibits most licensed day care home owners from having a handgun in their homes. This is not legislative disharmony, since each statute maintains its internal integrity. The cited provision in the Concealed Carry Act merely provides an exception to its own general prohibition of carrying handguns in and around child care facilities. It is self-referential and does not imply granting day care home operators the absolute, unfettered right to carrying a handgun in their homes. It simply clarifies that its specific prohibition in that paragraph does not apply to the owner of the day care home.

The Child Care Act, Part 406, Licensing Standards for Day Care Homes, and Part 408, Licensing Standards for Group Day Care Homes, provide the definitive answer on whether licensed day care home operators may have guns in the day care home.

Those provisions of these licensing standards that prohibit hand guns on the premises of day care homes and group day care homes remain in effect, regardless of whether a licensee has been granted a concealed carry permit. The cited subsections of these licensing standards state that handguns are prohibited on the premises of the day care home, except in the possession of peace officers or other adults who must possess a handgun as a condition of employment and who reside in the home.

The Department's position is that a licensee or household member may obtain a concealed carry permit issued by the Illinois State Police, but, per current licensing standards and the Child Care Act, may not have a handgun on the premises. If a licensee or household member is granted a concealed carry permit, they must continue to store the handgun somewhere off of the premises and are not allowed to carry the handgun while transporting any

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child enrolled in the daycare home, or while otherwise in the presence of day care children.

Response: **Unless he or she is a peace officer or other adult residing in the home, who must possess a handgun as a condition of employment, it is a licensing violation for a concealed carry permit holder to have a handgun on the premises of a licensed day care home.**

This policy interpretation is made under the provisions of the cited licensing standards in 89 Illinois Administrative Code and the Child Care Act of 1969 [225 ILCS 10] in effect on its issuance date. This policy interpretation, in whole or in part, is invalid if it conflicts with statutory or licensing standards changes that are made subsequent to its issuance date.