

TITLE 89; SOCIAL SERVICES
CHAPTER III; DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER d: LICENSING ADMINISTRATION

PART 379
DUAL JURISDICTION

Section

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Authority Note: Implementing the Child Care Act (Ill. Rev. Stat. 1979, Ch. 23, Sec. 2211 et seq.) and the Illinois Constitution, Article VII, Section 6 and authorized by Section 5001 et seq.) of an Act Creating the Illinois Department of Children and Family Services (Ill. Rev. Stat. 1979, Ch. 23, Sec. 5001 et seq.)

Section 379.1 Purpose

The purpose of these rules is to clarify the authority of the Department of Children and Family Services to license and regulate child care facilities when another governmental unit enacts local licensing or regulatory ordinances.

(Filed May 26, 1981, Effective June 5, 1981)

Section 379.2 Definitions

"Child care facility" means persons or corporations who provide care for children not related to the operator of the facility for all or part of the day away from the child's home. These facilities are specifically identified by type in The Child Care Act (Illinois Revised Statutes, Chapter 23, Section 2211 et seq.).

"Dual jurisdiction" means those situations in which governmental units, other than the State of Illinois, enact laws which affect the facilities licensed and regulated by the Department of Children and Family Services.

"Home rule" refers to the powers described in Article 7, Section 6 of the Illinois Constitution of 1970. Home rule governmental units are specifically empowered to legislate in designated areas, including licensing.

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Section 379.3 Regulation By Other Governmental Units

- a) The Department of Children and Family Services will attempt to cooperate with other governmental units to assure that child care facilities are available throughout the state and to protect the health and safety of children in such facilities. Such cooperation will include working with home rule and other local governments to promote consistency and reasonableness of licensing standards.

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- b) When both the Department of Children and Family Services and a non-home rule unit exercise jurisdiction in determining whether a child care facility will operate, the Department's regulatory powers take precedence over any local enactments.
- c) The Department of Children and Family Services and home rule units may exercise concurrent jurisdiction in determining whether a child care facility is permitted to operate. Regulations enacted by home rule units should be reasonable, consistent with uniform state (i.e. The Department of Children and Family Services) standards and accomplish and execute the full purposes and objectives of the Illinois legislature to provide services to children and their families as described in the Department of Children and Family Services Enabling Act, Ill. Rev. Stat., Ch. 23, s 5001 et. seq. (1979) and in the Child Care Act, Ill. Rev. Stat., Ch. 23, s 2211 et seq. (1979).
- d) When a home rule unit exercises its powers and enacts regulations which result in denial of the local license to a facility meeting Department of Children and Family Services licensing standards, attempts shall be made to negotiate a resolution acceptable to the Department, the facility, and the home rule community.

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Section 379.4 Issuance of State Licenses

State licenses will be issued to child care facilities when state established standards for licensure have been met.

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