



**Department of  
Early Education and Care**  
THE COMMONWEALTH OF MASSACHUSETTS

**Family Child Care Licensing**

**TECHNICAL ASSISTANCE:      Determining capacity**

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- Family Child Care is now defined as the regular care of children younger than 14 years of age or 16 years old if they have special needs. This means that all children up to the age of 14 years old (16 if they have special needs) count and are regulated in FCC homes.
- There are no longer separate categories of Family Child Care, i.e. FCCP and LFCC. However, the requirements of experience and additional pre-service training for increased capacity still exist. Family Child Care Educators now will have a license capacity of 6 or 8 or 10. (This is the maximum number of children allowed for that type of care.)
- A provider/educator's capacity now reflects the TOTAL number of children including their own "participating" children who count in his/her capacity that may be present at one time.
- A FCC Educator with a capacity of "6" can care alone for 3 children under the age of 2 years so long as at least one of the three is 15 months and walking unassisted. (If there are more infants, or more than 3 under 2 years, a second Educator must be present.) "Walking unassisted" means that the child is capable of walking without holding hands or needing assistance in exiting the home.
- A FCC Educator with a capacity of "8" children can have a total of 8 children who count in the capacity in care including her own "participating" children, however, 2 of the 8 children must be School Aged. A School Aged child is a kindergarten child or a child who is attending a public or approved private elementary school. FCC Educators with a capacity of "8" can also care alone for 3 children under the age of 2 years so long as at least one of the three is 15 months and walking unassisted.
- FCC Providers with a capacity of "10" children must work with a second Educator at any time there are more than 6 pre-school aged children. A FCC Educator with a capacity of 10 can care for up to 8 children by her/himself if two of the children are school-aged. The second Educator can be another Provider, a Certified Assistant, or a Regular Assistant.
- The regulations regarding the number of children under the age of 2 years and Staff Ratios allowed in all FCC homes is located in a chart in the regulations under Regulation 7.10(4). This chart makes clear how many educators must be present for the number of children under the age of 2 years old.

## How do provider's own children count?

- What is a "Participating Child"?
  - A provider's own child who is counted in FCC License capacity.
- A provider's own child who is 10 years old or older does not count unless they are homeschooled.
- A provider's own child who is under the age of 5 years old counts whenever they are on the premises.
- A provider's own child who is 5 years old, but younger than 10 years old and is enrolled in school full-time, and in the home less than 3 consecutive hours during the child care day does not count during the school year. (The 5 year old child who may be attending ½ day kindergarten can be counted as a school aged child for a FCC provider with a capacity of "8", but is still a participating child.)
- A provider's own school aged child/ren who are under the age of 10 years old and home during the summer months do count in a provider's capacity. Provider must adjust enrollment accordingly.
- Provider's own children who are home schooled count in the capacity regardless of their age.
- Every person under the age of 14 years old who does not live in the residence counts when they are present.
- During overnight care, every person under the age of 18 years who is present counts in the capacity.