



BULLETIN

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R.C. 2136

To the Members of the Board

**RE: New York Workers Compensation
Child Day Care Centers – Classification Procedure**

The Rates Committee has adopted, and the New York State Insurance Department has approved, effective October 1, 2007 for new and renewal business, a change to the classification procedure for child day care centers.

Child day care centers, pre-schools and nursery schools include employees engaged in both professional and non-professional activities. These centers generally provide care for younger children with a structured approach to learning in addition to providing day care to the child. Early social skills, language skills and early reading are taught. Other activities include singing, dancing and storytelling. Some centers may provide before and after-school care programs. Child day care centers usually serve meals and provide rest areas, but do not provide overnight sleeping accommodations. Medical related services are not provided other than limited first-aid treatment.

Currently, in New York, professional employees are assigned to Code 8868- School- Professional Employees & Clerical which includes, but is not limited to, teachers, teachers' aides, and administrators. The non-professional employees includes, but is not limited to drivers, cooks and maintenance workers and are assigned to Code 9101- School- All Other Employees & Drivers. In other jurisdictions, specific classifications have been established for these centers. The professional employees of day care centers are assigned to Code 8869 and the non-professional employees are assigned to Code 9059.

A review was undertaken by the Rating Board which segregated employers identified as day care centers from the remainder of Code 8868 and from Code 9101 to determine whether separate and distinct classifications could be established specifically for child day care centers. The review revealed that there would be minimal impact on each of these codes if the child day care center employees were removed from Codes 8868 and 9101.

Based upon this review, Code 8869 will be established for the professional employees of child day care centers and Code 9059 will be established for the non-professional employees of these centers. Code 8869 will be established using the rate for Code 8868 and Code 9059 will be established using the rate for Code 9101 until both codes establish their own experience.

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On-site day care for the children of their employees may be provided by some companies. To be consistent with other jurisdictions, employer-operated child day care centers will be assigned to the governing classification of the employer and not to Code 8869.

Attached for your reference are Pages C-18, C-18a, C-18b, C-25, C-25a, C-25b and C-67 of the Classification section and Page D-36 of the Digest of Rulings and Interpretations section of the New York Workers Compensation and Employers Liability Insurance Manual that show the revised classification phraseologies for child day care centers.

Please note that, while only clerical employees are currently included in Code 8868, both clerical employees and salespersons will be included under Code 8869.

Printed manual pages will be distributed as soon as they become available.

Very truly yours,

Monte Almer

President

**CD:tg
Encl.**

CEMENT or Concrete **DISTRIBUTING TOWER INSTALLATION**, repair or removal **5403**
Not applicable to contractors who erect, repair or remove concrete or cement distributing towers as an incidental part of their construction work. When so performed, such operations shall be included in the classification with which such work is associated.

CEMENT or Concrete **WORK—FLOORS, DRIVEWAYS**, yards or sidewalks—& **Drivers** **5221**
Not available for division of payroll with Code 5222 "Concrete Construction in connection with Bridges or Culverts." Self-bearing floors, airport runways, warming aprons, street or road construction to be separately rated.

CEMETERY OPERATION & Drivers **9220**

CHAIN MFG.—FORGED **3110**

CHARCOAL MFG. & Drivers **1470**
Includes distillation of alcohol, mfg. of creosote from wood tar or acetates.

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CHAUFFEURS & Helpers NOC—commercial **7380**
Subject to the standard exception manual rule.

CHEESE or Butter **MFG. & Route Salespersons, Route Supervisors, Drivers** **2070**

CHEMICAL BLENDING or **MIXING NOC—ALL OPERATIONS—& Drivers** **4828**
Shall not be assigned to a risk engaged in the manufacture of chemicals.

CHEMICAL MFG. NOC—ALL OPERATIONS—& Drivers **4829**
Includes blending or mixing. Shall not be assigned to a risk that is engaged exclusively in the blending or mixing of chemicals. The following is a partial list of chemical manufacturing processes contemplated by Code 4829: alcoholysis; alkylation; amination; calcination; carboxylation; compression of gases; distillation; esterification; halogenation; nitration; oxidation; reduction; sulphonation.

CHEWING GUM MFG. **2041**
Applies to, but not limited to, the manufacturing of candy bars, chocolate bars, chewing gum, glaceed fruit, jellybeans, lollipops, licorice, breath mints and taffy.
Includes mfg. from cocoa beans.

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CHILD DAY CARE CENTERS
Applies to facilities that offer day care services for children. These centers predominantly provide day care for younger children with a structured approach to learning social skills, language skills and early reading. Activities include singing, dancing and storytelling. Some facilities may also provide before and after-school care programs.

Not applicable to elementary schools that provide day care services at the same location.

PROFESSIONAL EMPLOYEES & Clerical, Salespersons **8869**

ALL OTHER EMPLOYEES & Drivers **9059**

CHIMNEY CONSTRUCTION—not metal

5000

Includes foundation and applies to stone, brick or concrete chimneys. Also includes guniting and lining operations.

CHOCOLATE, Candy, or Cocoa MFG.

2041

Applies to, but not limited to, the manufacturing of candy bars, chocolate bars, chewing gum, glaceed fruit, jellybeans, lollipops, licorice, breath mints and taffy.

Includes mfg. from cocoa beans.

CIGARETTE, Cigar or Tobacco MFG.

2172

Includes the rehandling and warehousing of prepared tobacco.

Reserved for future use

DANCE CLUB, Bar, Lounge, Nightclub or Tavern—including entertainers and/or musicians **9074**
Applies to the operation of a bar, dance club, lounge, nightclub or tavern where the gross receipts of alcoholic beverages exceed 50% of the total receipts of food and non-alcoholic beverages.

Refer to Section III of the Digest of Rulings and Interpretations to determine the application of the appropriate restaurant and/or bar classification.

★ **DAY CARE CENTERS—CHILDREN**

Applies to facilities that offer day care services for children. These centers predominantly provide day care for younger children with a structured approach to learning social skills, language skills and early reading. Activities include singing, dancing and storytelling. Some facilities may also provide before and after-school care programs.

Not applicable to elementary schools that provide day care services at the same location.

PROFESSIONAL EMPLOYEES & Clerical, Salespersons **8869**

ALL OTHER EMPLOYEES & Drivers **9059**

DEBRIS REMOVAL – construction or erection **5610**

Applies to specialty contractors engaged in removing construction or erection debris provided they are not engaged in construction or erection operations. Code 5610 also applies to debris removal employees of a construction or erection contractor provided that the payroll for the cleaners, timekeepers and watchguards is greater than all other payroll of the employer subject to construction or erection classifications at the same job or location. Code 5610 can be applied to debris removal employees that are working on different floors of the job site that have already been completed by the tradespersons or to debris removal employees after the tradespersons left for the day provided their payroll meets the criterion.

Timekeepers and watchguards employed by construction or erection contractors are present during the construction or erection operations. Watchguards also work nights, weekends and holidays to assure that vandalism and theft does not occur.

This code does not apply to cleaner/debris removal employees working in conjunction with the tradespersons. Such employees are considered laborers and subject to the same classification as the tradesperson.

The removal of debris left by a demolition contractor, shall be classified as Code 6217 "Excavation NOC & Drivers."

DECORATING & Drivers **9539**

Applies to interior or exterior work, including the hanging of flags or bunting for conventions or celebrations.

DECORATING or Painting **NOC & Drivers** **5474**

Includes incidental shop operations. Also includes the painting of metal storage tanks, fire escapes, staircases, balconies, shutters, window frames or sash.

Painting ship hulls, metal structures over two stories in height or bridges to be separately rated.

DENTAL LABORATORY **4692**

DENTIST & Clerical **8832**

Employees engaged in any type of service in or about premises, other than premises used for professional purposes, are to be separately rated.

DERRICK or Oil Rig **ERECTION** or **DISMANTLING**

Applies to rigs or derricks of metal, the construction of foundations or structures and the installation of equipment. **5057**

Applies to rigs or derricks of wood, the construction of foundations or structures and the installation of equipment. **5403**

DETECTIVE or Patrol **AGENCY & Drivers** **7723**

Includes the operation of armored car services, watchmen, guards or patrol officers engaged in safeguarding property not owned or operated by the insured. Police officers, sheriffs, strike breakers or strike guards to be separately rated as Code 7720 "Police Officer & Drivers."

DETINNING **3372**

Includes incidental mfg. of tin or tin compounds.

Effective October 1, 2007

★ **DEVELOPMENTAL ORGANIZATIONS—incl. workshop—ALL EMPLOYEES & SALESPERSONS, DRIVERS** 8864

Applicable to organizations that are engaged in providing services to individuals who are mentally, physically and emotionally challenged. A broad range of services such as clinical, educational, counseling and recreational are provided. These organizations have workshops that train individuals in various types of tasks to educate and prepare them for employment or future placement at residential facilities.

Group homes, halfway houses, temporary shelters and independent supportive living homes shall be separately rated as Code 8865 "Homes for the Mentally Impaired – All Employees – & Clerical" provided there is no nursing or medical personnel on staff.

DIAMOND CUTTING or Polishing 3384

DIAPER SERVICE & Route Salespersons, Drivers 2594

Includes the rental and cleaning of diapers.

DIE CASTING MFG. 1925

Shall not be assigned to a risk engaged in operations described by another classification unless the operations subject to Code 1925 are conducted as a separate and distinct business.

DIKE or Revetment CONSTRUCTION—ALL OPERATIONS to completion—& Drivers 6005

Applies to river work only. Pile driving to be separately rated as Code 6003.

DISTILLATION—wood—& Drivers 1470

Includes distillation of alcohol, mfg. of creosote from wood tar or acetates.

Reserved for future use

**NEW YORK WORKERS COMPENSATION
AND EMPLOYERS LIABILITY MANUAL**

4th Reprint

Effective October 1, 2007

C-67

POWER PLOW or Traction Engine MFG.

3507

PRECIOUS STONE SETTING

3384

PRECISION MACHINED PARTS MFG. NOC

3629

Applies to manufacturers of parts for arms, aircraft or similar apparatus. Shall not be assigned to a risk engaged in operations described by another classification unless the operations subject to Code 3629 are conducted as a separate and distinct business. This classification shall apply only to risks where the plans or specifications require that not less than 50% of all machining operations performed by the risk shall be held to final tolerances of .001" or closer.

May be used only upon specific assignment by the Rating Board.

★ **PRE-SCHOOLS**

Applies to facilities that offer day care services for children. These centers predominantly provide day care for younger children with a structured approach to learning social skills, language skills and early reading. Activities include singing, dancing and storytelling. Some facilities may also provide before and after-school care programs.

Not applicable to elementary schools that provide day care services at the same location.

PROFESSIONAL EMPLOYEES & Clerical, Salespersons

8869

ALL OTHER EMPLOYEES & Drivers

9059

PRINTING

4299

Includes incidental assembling, stapling or binding of circulars, pamphlets or catalogues. Artists or designers, engaged exclusively in creative work or original design, proofreaders, editors, clerical office employees or pre-press operators using desktop computers to be separately rated as Code 8810 "Clerical Office Employees." Reporters, advertising or circulation solicitors to be separately rated as Code 8742 "Salespersons—outside."

Refer to Code 8012 for quick print shops and Code 8016 for photocopy shops.

PRINTING or Bookbinding MACHINERY MFG.

3548

PROJECTILE or Shell MFG.—See "EXPLOSIVES"

PUBLIC LIBRARY or MUSEUM:

PROFESSIONAL EMPLOYEES—includes attendants and ushers

8838

ALL OTHER EMPLOYEES & Drivers

9101

PUBLIC LIVERY—See "TAXICAB or Livery SERVICE—PUBLIC"

PULP MFG.—CHEMICAL process

4207

Logging or lumbering to be separately rated as Code 2702.

PULP MFG.—GROUND WOOD process

4263

Logging or lumbering to be separately rated as Code 2702.

PUMP MFG.

3612

Foundry operations to be separately rated.

Section II***Effective October 1, 2007*****1st Reprint****Dam Construction** (continued):

Elevator Installation	5160
Iron, Steel, Brass, Bronze or Aluminum Items NOC—construction or installation	GC
Machinery, Valves or Mechanical Equipment NOC—installation	3724
Masonry—brick, stone or rubble	5022
Roads—permanent—earth excavation, etc	5507
Roads—permanent—paving, etc.	5506
Roofing of Permanent Buildings or Structures	5545-5547
Steel Erection—structural—(not otherwise classified)	5040
Surface Dressing, Seeding, Sodding or Planting	0042
Test Boring or Hole Drilling—(not otherwise classified)	GC

In the foregoing listing the abbreviation "GC" usually means that the work described should be assigned to the governing classification. There may be some instances, however, where such work is purely incidental to some other classification and in such cases such other classifications should be applied rather than the governing classification for the job.

★ **Day Care Centers for Children:**

Teachers or Professional Employees incl. Clerical Office Employees & Salespersons	8869
All Other Employees & Drivers	9059

Dealers: *See also Section III—Store Classifications—Interpretations*

Cinders—incl. drivers	8232
Clothing-making sample dresses or cutting cloth for own product—actual manufacturing done by outside contractors	2501
Fertilizer—in bags—wholesale—incl. drivers	8215
Hair or Feather—baled—wholesale	8103

Junk and Scrap Dealers

Risks dealing in paper stock, rags, bottles, bones, rubber stock, iron or steel scrap, non-ferrous scrap or any combination thereof shall be classified as follows:

1. If at least 80% of the total weight of all materials handled is comprised of paper stock, rags, bottles, bones or rubber stock, the risk shall be assigned to Code 8264 "Paper Stock or Rag Dealer."
2. If at least 80% of the total weight of all materials handled is comprised of iron or steel scrap, the risk shall be assigned to Code 8265 "Iron or Steel Scrap Dealer."
3. If the risk handles exclusively iron, steel and non-ferrous metal scrap and the iron or steel scrap comprises less than 80% of the total weight of all materials handled, the risk shall be assigned to Code 8500 "Metal Scrap Dealer."

Continued on the next page.