

Exemptions Tip Table

Virginia Code § [22.1-289.030 C 1](#) requires certain exempt child day programs to file with the Superintendent annually and prior to beginning operation of a program a statement indicating the intent to operate; the exemption from § [22.1-289.030 B](#) that the program meets; and certification that the program has disclosed in writing to the parents or guardians of the children in the program that it is exempt from licensure.

Prior to submitting the filing, please use the following tool to assess your program to determine if an exemption may apply and, if so, which exemption. Your program must satisfy all criteria for meeting the exemption. If you answer ‘NO’ to any of the criteria within a specific exemption, the program must meet a different exemption listed in § [22.1-289.030](#) or obtain a license prior to beginning operation. Questions may be directed to the general email address for exemptions at cclexemptions@doe.virginia.gov.

<i>Program</i>	<i>Criteria</i>
<i>If the program meets ALL of the criteria for any of the program types in Subsection A below, it is NOT considered a child day program, and no further action is needed.</i>	
Single Focus Instructional Program (22.1-289.030 A.1)	<ul style="list-style-type: none"> • Does the program offer instruction in only one subject area? (<i>Examples include computer science, archaeology, sports clinics, and music</i>) • Does the program only serve children aged 6 and older? • Is the maximum time children are allowed to attend no more than 25 days in any three-month period? <p><u>Note:</u> Programs that simply change focus areas would not qualify for this exemption.</p>
Instructional Program or Recreational Activity with Limited Hours (22.1-289.030 A.2)	<ul style="list-style-type: none"> • Is the maximum time that a child under age 6 may attend 6 hours per week? • Is the duration of any class or activity 1.5 hours or less for any children under age 6? • Is the maximum time that a child over 6 may attend 6 hours per week when school is in session and 12 hours per week when school is not in session? <p><u>Note:</u> Competition, performances, and exhibitions related to the instructional program or recreational activity do not count toward the weekly hours.</p>

Program	Criteria
Private School Instructional Program and School-Sponsored Extracurricular Activities (22.1-289.030 A.3)	<ul style="list-style-type: none"> • Is the program offered by a private school? • Does the program only serve school-age children? <p>AND</p> <ul style="list-style-type: none"> • Does the instructional program satisfy compulsory attendance laws or provide services under the Individuals with Disabilities Act (IDEA)? <p>OR</p> <ul style="list-style-type: none"> • Is the program a school-sponsored extracurricular activities focused on single interests such as music, sports, drama, civic service, or foreign language?
Public School Instructional Program and School- Sponsored Extracurricular Activities (22.1-289.030 A.4)	<ul style="list-style-type: none"> • Is the program offered by a public school? • Does the program only serve children preschool-age or older? <p>AND</p> <ul style="list-style-type: none"> • Does the instructional program satisfy compulsory attendance laws or provide services under Individuals with Disabilities Act (IDEA)? <p>OR</p> <ul style="list-style-type: none"> • Is the program a school-sponsored extracurricular activities focused on single interests such as music, sports, drama, civic service, or foreign language?
Early Intervention Program (22.1-289.030 A.5)	<ul style="list-style-type: none"> • Does the program only serve children birth through 3 years of age? • Are children eligible for the program through Individuals with Disabilities Act (IDEA) Part C? • Do children hold Individual Family Service Plans (IFSPs)? • Is the program administered by the Virginia Department of Behavioral Health and Development Services (VDBHDS) and Medicaid? • Is the maximum time children are allowed to attend 6 hours per week?

Program	Criteria
Competitive Sports (22.1-289.030 A.6)	<ul style="list-style-type: none"> • Does the program include competitive sports practices and competitions? <p>OR</p> <ul style="list-style-type: none"> • Is the program an organized sports league?
Religious Instruction Program (22.1-289.030 A.7)	<ul style="list-style-type: none"> • Is the program religious instruction such as a Sunday school, vacation Bible school, Bar Mitzvah or Bat Mitzvah class? <p>OR</p> <ul style="list-style-type: none"> • Is the program a religious institution nursery offered during religious service or activity while parents or guardians or their designees are onsite to attend such services and activities?
Private School Summer Instructional or Athletic Program (22.1-289.030 A.8)	<ul style="list-style-type: none"> • Is the program held during the summer? • Is the program an extension of an accredited private elementary, middle, or high school program (§ 22.1-19)? • Is the program administered by the Virginia Council for Private Education?
Program	Criteria
<p><i>If the program meets ALL of the criteria for any of the program types in Subsection B below, the program may be exempt from licensure, and filing is required. Programs exempt under §§ 22.1-289.030 B 1 and B 5 have a separate filing process than other programs exempt under 22.1-289.030 B.</i></p>	
Religiously Exempt Child Day Center (22.1-289.030 B.1)	<ul style="list-style-type: none"> • Does the program meet the exemption requirements in § 22.1-289.031 of the Code of Virginia?
Come and Go Program (22.1-289.030 B.2)	<ul style="list-style-type: none"> • Does the program only serve school-age children? • Does the program have a written policy that is given to and signed by the children’s parents that children are free to enter and leave freely from the premises without permission?
Short Term Program (22.1-289.030 B.3)	<ul style="list-style-type: none"> • Does the program operate a maximum of 20 program days in the calendar year? • If serving children under age 6, does the program operate no more than two consecutive weeks without a break of at least a week?

Program	Criteria
Child Minding Service (Commercial or Recreational) (22.1-289.030 B.4)	<ul style="list-style-type: none"> • Is the program held onsite at a commercial or recreational establishment? • Do children attend for a maximum of 3 hours per day? • Can parents or guardians be easily contacted and resume responsibility for the child within 30 minutes? • Are the parents or guardians of the children receiving or providing services or participating in activities offered by the establishment?
Certified Preschool or Nursery School Program (22.1-289.030 B.5)	<ul style="list-style-type: none"> • Does the program meet all of the exemption requirements in § 22.1-289.032 of the Code of Virginia?
Local Government Recreational Program (22.1-289.030 B.6)	<ul style="list-style-type: none"> • Is the program offered by local government? • Is the program staffed by local government employees? • Does the program only serve school-age children? <p><u>Note:</u> These programs are subject to the local government’s safety and supervisory standards</p> <ul style="list-style-type: none"> • <i>Pursuant to 22.1-289.030 C.1 the local government or a representative from the local government operating the program must file the exemption with the Department of Education.</i>
Local School Division Program (22.1-289.030 B.7)	<ul style="list-style-type: none"> • Is the program offered by a local school division? • Does the program operate no more than 4 hours per day on full instructional days? • Does the program only operate more than 4 hours per day on shortened instructional days or noninstructional days? • Is the program staffed by local school division employees? • Is the program attended by children at least 3 years old? • Are the children enrolled in public school or preschool program within the school division? <p><u>Note:</u> These programs are subject to the local school division’s safety and supervisory standards</p> <ul style="list-style-type: none"> • <i>Pursuant to 22.1-289.030 C.1 the local school division or a representative from the local school division operating the program must file the exemption with the Department of Education.</i>

Program	Criteria
Child Minding Services (Business) (22.1-289.030 B.8)	<ul style="list-style-type: none"> • Is the program held onsite at a business where the parent or guardian is employed? • Does the program operate no more than 8 hours per day? • Is the maximum number of children in care at any one time 4 children? • Are the parents or guardians of the children in care an employee, onsite, and able to resume responsibility for the child within 30 minutes?
Private School Extended Care (22.1-289.030 B.9)	<ul style="list-style-type: none"> • Is the private school accredited and in good standing with the Virginia Council for Private Education? • Does the program operate no more than 4 hours per day? • Is the program staffed by the private school's employees, and attended by school-age children who are enrolled in the accredited private school? <p><u>Note:</u> These programs are subject to safety and supervisory standards established by the Virginia Council for Private Education.</p>
Military Child Day Program (22.1-289.030 B.10)	<ul style="list-style-type: none"> • Does the program only serve dependent children of military personnel? <p>AND</p> <ul style="list-style-type: none"> • Is the program located on a military base or federal property? <p>OR</p> <ul style="list-style-type: none"> • Is the program certified as a family child care provider by a branch of the Armed Services of the United States?