



Office of Child Care Health and Safety

Frequently Asked Questions about New Child Care Legislation August 2023

Overview

Each year, Virginia’s General Assembly works to review, debate, and pass bills that will become new laws for the Commonwealth. Once those bills are enacted, or signed by the Governor, they become laws, typically on July 1 of each year. This document is intended to answer frequently asked questions (FAQs) related to new child care laws that went into effect on July 1, 2023. This FAQ is not intended to be comprehensive and does not provide information on all laws related to child care. For more comprehensive information, please see the “Communications” section below.

Communications

The Office of Child Care Health and Safety (OCCHS) at the Virginia Department of Education (VDOE) e-mailed the following legislative implementation memos to registered providers on June 20, 2023:

- [Memo to Licensed Family Day Homes, Licensed Family Day Systems, Center-Based and Home-Based Programs Participating in the Child Care Subsidy Program, and Voluntarily Registered Family Day Homes](#)
- [Memo to Filing Exempt Child Day Programs](#)
- [Memo to Religiously Exempt Child Day Centers](#)
- [Memo to Certified Preschools](#)
- [Memo to Licensed Child Day Centers](#)

Each memo covers the legislation relevant to the provider type. All of the memos are available to the public under “Archive of Notices Sent to Providers” on the [What’s New](#) page of the [Childcare VA](#) website.

In addition, OCCHS hosted a webinar for providers on June 22, 2023. The webinar provided an overview of each new law and updates on the implementation of legislation from previous years. [Click here to view the ECCE Provider Legislative Lunch and Learn](#) on the [Childcare VA](#) website.

Virginia Department of Education
Office of Child Care Health and Safety

Frequently Asked Questions about New Child Care Legislation
August 2023

Questions about Drinking Water Lead Testing

1) Where can I find more information about the drinking water lead testing law?

This law passed in the 2022 General Assembly and implementation is underway. [Click here to view the law in the Code of Virginia § 22.1-289.057](#). This law is designed to keep young children safe from lead exposure through testing of drinking water in certain child day programs.

Virginia Department of Health (VDH) is currently building out a system for monitoring and compliance. Over the next several months, providers can expect that:

- OCCHS will share more information with providers when the process for testing and reporting has been finalized with VDH.
- OCCHS will notify providers before Licensing Inspectors begin monitoring for compliance.
- OCCHS will work with VDH to provide technical assistance to providers as the state works to implement this legislation.

2) Does § [22.1-289.057](#) apply if your water is from the city or county?

Yes. The Code applies to the drinking water outlets at certain regulated programs. The outlets that need testing are those known to be or visibly used for consumption (such as a water fountain, kitchen, or classroom sink taps) regardless of whether the originating source of the water is city/county/well.

3) If an agency operates a school-age child care program within a public school, which entity is responsible for the lead testing? How often is it required?

§ [22.1-289.057](#) requires the following entities to comply with the law:

- Licensed Child Day Programs
- Any program described in subdivision A 4, B 1, or B 5 of § [22.1-289.030](#) that serves preschool-age children

Different legislation, § [22.1-135.1](#), requires each school board to develop plans for testing and remediation in its school buildings. The K-12 law was passed in 2020.

Child day programs located within public school buildings are encouraged to collaborate with your host school's facilities representative to ensure they are aware of both laws. Over the coming months, VDH and OCCHS will provide more information regarding the steps to ensure compliance.

Virginia Department of Education
Office of Child Care Health and Safety

Frequently Asked Questions about New Child Care Legislation
August 2023

Stock Epinephrine Law

1) Where can I find more information about the stock epinephrine law?

This law originally passed in the 2022 General Assembly. In 2023, the General Assembly amended the law and implementation is underway. [Click here to view the law in the Code of Virginia § 22.1-289.059](#). This law is designed to provide life-saving medication for young children with undiagnosed allergies.

This law requires the Board of Education to amend regulations to require specific programs to implement policies for the possession and administration of epinephrine. VDOE has initiated the regulatory process to amend current regulations to comply with the Code.

VDOE is partnering with VDH to build out a system for training providers, distributing epinephrine, and monitoring compliance. Over the next several months, providers can expect that:

- OCCHS will update relevant providers when the regulations have been amended.
- OCCHS will update relevant providers when the process for training and obtaining epinephrine has been finalized with VDH.
- OCCHS will notify providers before Licensing Inspectors begin monitoring for compliance.
- OCCHS will work with VDH to provide technical assistance to providers as the state works to implement this legislation.

2) Does the stock epinephrine law apply to Family Day Homes?

Yes. This legislation requires the Board of Education to amend regulations to require each family day home provider or at least one other caregiver employed by the provider to be trained in the administration of epinephrine and to notify the parents of each child who receives care in the family day home whether the provider stores an appropriate weight-based dosage of epinephrine in the residence or home in which the family day home operates. VDOE will share resources for training and obtaining epinephrine when they are available.

3) Our program has a no-medication policy. Can we opt out of this law?

No. This legislation requires licensed child day centers and centers that are approved subsidy vendors to implement the policies as required by this legislation, to train staff in the administration of epinephrine, and to stock the appropriate weight-based dosage of epinephrine. This legislation requires licensed family day homes to train providers in the administration of epinephrine and to notify parents whether the program stocks epinephrine. VDOE will share resources to providers for training and obtaining epinephrine when they are available.

Virginia Department of Education
Office of Child Care Health and Safety

Frequently Asked Questions about New Child Care Legislation
August 2023

4) *If we don't have any children with allergies, will we still have to obtain stock epinephrine?*

Yes. The intent of this law is to provide life-saving medication for children who have not yet been diagnosed with life-threatening allergies.

5) *Since epinephrine is a prescribed medication, how will programs obtain the medication?*

This law refers to stock epinephrine. “Stock epinephrine” is epinephrine that is not prescribed to an individual. VDOE is working with VDH to establish a process for procuring stock epinephrine for child day programs. A process is currently in place for public schools mandated to stock epinephrine and VDOE anticipates a similar process. VDOE will share information about the process for obtaining epinephrine when it is available.

6) *Will all centers need staff with Medication Administration (MAT) training?*

The law requires the Board of Education to amend its regulations, and the amended regulations will require the Department of Education to provide information and guidance about the required training. VDOE will share information about required training when it is available.

7) *If we serve multiple age ranges, will we be required to obtain different doses of epinephrine?*

Child day centers affected by this law and the associated amended regulations will be required to stock the appropriate weight-based doses of epinephrine. The weight-based dose appropriate for infants is different than the weight-based dose for larger children.

8) *If an organization operates within a public school, which entity is responsible for implementing this law?*

§ [22.1-289.059](#) requires the following entities to comply with the law:

- Licensed Child Day Centers
- Licensed Family Day Homes
- Center-Based and Home-Based Programs Participating in the Child Care Subsidy Program
- Voluntarily Registered Family Day Homes

Different legislation, § [22.1-274.2](#), requires each school board to develop plans for training, obtaining, and administering epinephrine in K12 settings.

Child day programs located within public school buildings are encouraged to collaborate with your host school’s health care representative to ensure they are aware of both laws. Over the

Virginia Department of Education
Office of Child Care Health and Safety

Frequently Asked Questions about New Child Care Legislation
August 2023

coming months, VDH and OCCHS will provide more information regarding the steps to ensure compliance.

Religiously Exempt Child Day Programs

1) Where can I find information about which new laws apply to Religiously Exempt Child Day Programs?

Information specific to laws that impact Religiously Exempt Child Day Programs is provided in more detail in the [Legislative Implementation Memo sent on June 20, 2023](#).

2) Does § [22.1-289.059](#) regarding stock epinephrine apply to Religiously Exempt Child Day Centers?

No. Religiously Exempt Child Day Centers are not required to take action under this law, unless they are also approved subsidy vendors.

3) Does § [22.1-289.057](#) regarding potable/drinking water lead testing apply to Religiously Exempt Child Day Centers?

Yes. Religiously Exempt Child Day Centers are required to take action under this law. VDH is currently building out a system for monitoring and compliance. OCCHS will share more information with providers when the process for testing and reporting has been finalized with VDH.

Exemptions from Licensure

1) We are a private school. It is unclear to me whether “school-age” includes our Junior Kindergarten students.

The Code of Virginia defines “school-age” as “children eligible to attend public school, age five or older by September 30 of that same year.”

For questions specific to your program, please contact your licensing inspector or email cclexemptions@doe.virginia.gov.

2) We are a private school with a Religiously Exempt Child Day Center. What do I need to know about private school exemptions in § [22.1-289.030](#)? Must we be accredited with VCPE?

Religiously Exempt Child Day Centers operate under [§ 22.1-289.031](#). VCPE accreditation is not required for Religiously Exempt Child Day Centers. There are no changes to § 22.1-289.031.

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Virginia Department of Education
Office of Child Care Health and Safety

Frequently Asked Questions about New Child Care Legislation
August 2023

- 3) *Why are private schools limited to four hours of programming when the public school exemption hours were expanded?*

Exemptions from licensure have evolved over time. Leading up to General Assembly each year, advocates engage with legislators on the issues that are important to them and legislators determine which bills to sponsor. During the 2023 General Assembly session, patrons (legislators) sponsored different bills that they wanted to see become law. The bills that passed the General Assembly and were enacted (or signed by the Governor) became law on July 1, 2023. For more information on how bills become laws, visit <https://viriniageneralassembly.gov/>.