



COMMONWEALTH of VIRGINIA

DEPARTMENT OF EDUCATION

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**Office of Child Care Health and Safety
Frequently Asked Questions-Exemptions from Licensure
Updated on July 25, 2023**

All exemptions from licensure for child day programs are described in the Code of Virginia, [§ 22.1-289.030](#). Section 22.1-289.030 A lists programs that are not child day programs and are not required to be licensed. Section 22.1-289.030 B lists programs that are identified as child day programs that are not required to be licensed if all the requirements set forth in the exemption are met. Please review § 22.1-289.030 of the Code to determine if an exemption applies since some requirements only apply to certain programs.

General Questions

Question: Where can I find out more about exemptions from licensure?

Response: The Code of Virginia defines a “child day program” as “a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.” Child day programs are required to be licensed or to meet (and if applicable, to file for) an exemption from licensure. The laws regarding exemptions can be found at [§ 22.1-289.030](#). The [VDOE Childcare VA](#) website has an [Exempt Filing](#) page with additional information about the process for filing for an exemption from licensure.

Question: How do I know if I qualify for an exemption?

Response: In Virginia, child day programs are defined as a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 years for less than a 24-hour period. Child day programs are required to be licensed or meet an exemption in [§ 22.1-289.030](#) of the Code of Virginia. Please review the information in the Code to determine if your program(s) may meet an exemption. To see if your program is exempt from licensure, review the [Exemptions Tips Table](#) on the [Exempt Filing](#) page to determine if your program is exempt from licensure.

If you believe the program meets an exemption, please file a Statement of Exemption [here](#). If the program does not meet an exemption, the program may be required to be licensed. More information on licensure may be found at [ChildCareVA.com](#).

If after review of the information on exemptions you have questions, email any questions to ccl exemptions@doe.virginia.gov. If you have questions about the licensure process, please reach out to your regional [Office of Child Care Health and Safety](#).

Question: What is the process to file for an exemption with the Superintendent?

Response: A Statement of Exemption must be submitted to the Department prior to beginning operation and annually thereafter. The Statement of Exemption can be found on the Department's website at <https://www.childcare.virginia.gov/providers/program-types/exempt-filing>.

The Statement of Exemption requests the following information:

- Identifying information such as the program's name, physical address, mailing address, phone number, email address, the name of the sponsoring organization, and a designated contact person;
- Program information such as the capacity, age range of children served, and hours of operation;
- Which exemption the program meets; and
- Acknowledgements and certifications that the program meets the requirements of the Code of Virginia.

If assistance is needed to determine if your program meets an exemption, please send the details of your program to ccl exemptions@doe.virginia.gov and specify the exemption that you think your program meets.

Question: Who do I contact if I have questions regarding exemptions?

Response: If you have questions regarding exemptions, please contact the VDOE team at ccl exemptions@doe.virginia.gov.

Question: What happens after I file an exemption?

Response: After an exemption is filed, the information is reviewed by VDOE to ensure that the information provided meets the requirements in [§ 22.1-289.030](#) of the Code of Virginia and the requirements of the selected exemption. VDOE staff will reach out if additional information is needed. After the filing is processed, a confirmation email will be sent to the identified contact person for the program. The email will include a filing number and instructions for annual filing.

Question: Does VDOE approve exemptions?

Response: VDOE does not approve exemptions. VDOE reviews information provided by programs claiming an exemption to ensure that filing information meets the requirements of the selected exemption. VDOE inspects exempt programs if there is a complaint and reviews all Code requirements for the exemption as part of the inspection.

Question: I want to start a summer camp. Am I required to be licensed or can my program be exempt?

Response: Child day programs are defined as a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 years for less than a 24-hour period. A summer camp would be subject to licensure if the program is considered a child day program. If the summer camp is subject to licensure, the program must become licensed, operate as a program described in subsection A of [§ 22.1-289.030](#), or meet an exemption in subsection B of [§ 22.1-289.030](#) of the [Code of Virginia](#). If you believe the program meets an exemption, please file a Statement of Exemption [here](#). More information on licensure may be found at ChildCareVA.com.

If after review of the information on exemptions you have questions, please email ccl exemptions@doe.virginia.gov. If you have questions about the licensure process, please reach out to your regional [Office of Child Care Health and Safety](#).

Question: What does it mean to be subject to licensure?

Response: Any program that meets the definition of a child day program and does not meet an exemption

found in [§ 22.1-289.030](#) of the Code of Virginia, is required to be licensed and must obtain the appropriate license from the Superintendent prior to beginning operation.

Question: What does it mean to be exempt from licensure?

Response: The Code of Virginia allows certain child day programs to be exempt from licensure, meaning that they can legally operate without a license. However, certain exempt programs must file an exemption with the Superintendent before beginning operation and annually thereafter.

Question: Does the funding source for my program determine whether the program is exempt or required to be licensed?

Response: No. If the program meets the definition of a child day program and does not meet an exemption found in [§ 22.1-289.030](#) of the Code of Virginia, the program is subject to licensure and must obtain the appropriate license from the Superintendent prior to beginning operation.

Question: Is there a limit on the number of children that a child day program, exempt from licensure can have in care at one time?

Response: It depends on the exemption that the child day program meets. For example, the approved capacity for child day programs exempt under [§§ 22.1-289.030](#) B1 and B5 is based on the requested capacity and the occupancy load permitted by the building official. Child day programs exempt under § 22.1-289.030 B8 are limited to no more than four children at any given time. VDOE does not limit the capacity for exempt programs falling under §§ 22.1-289.030 B2, B3, B4, B6, B7 or B9, but programs are responsible for adhering to any capacity restrictions put in place by local ordinances or the building official.

Question: How were existing exemptions from licensure established?

Response: All exemptions listed in [§ 22.1-289.030](#) of the Code of Virginia have resulted through legislation passed through General Assembly.

Question: Can I apply for licensure even if I meet an exemption?

Response: Yes. Any child day program can apply for licensure; however, as an applicant for licensure, your program will be required to comply with the [Standards for Licensed Child Day Centers](#). For example, a child day program that previously allowed school age children to freely come and go from the program will no longer be permitted to allow this practice once licensed because licensing standards do not allow a child to leave the center unsupervised.

Question: If I operate an exempt program, can I operate another exempt program at the same location?

Response: Yes, if the programs are separate and distinct programs with dedicated personnel and space for each program at the same location, you may operate more than one exempt program. A separate Statement of Exemption must be filed for each program prior to beginning operation and annually thereafter.

Question: May a child day program, exempt from licensure receive child care subsidy funding?

Response: Only certain child day programs exempt from licensure are eligible to apply to become approved subsidy vendors. Child day programs exempt from licensure interested in participating in the Virginia Child Care Subsidy Program must review the steps to apply as a vendor at the [Child Care VA website](#).

Question: Will anyone from the Office of Child Care Health and Safety with VDOE visit my program?

Response: Upon receipt of a complaint, Office of Child Care Health and Safety (OCCHS) staff will inspect your facility to determine compliance with [§ 22.1-289.030](#) of the Code of Virginia.

Question: Our agency operates child day programs at multiple locations; are we required to file for exemption for each location?

Response: Exemptions are site specific; therefore, if your agency operates at multiple locations and meets an exemption found in [§ 22.1-289.030](#) of the Code of Virginia, your agency will need to submit a Statement of Exemption for each location.

Question: My agency applied for and was awarded a 21st Century Grant, but my agency does not provide the actual care to children. Is my agency responsible for meeting and filing for an exemption found in § 22.1-289.030 of the Code of Virginia or applying for licensure as a child day program?

Response: No. Not all 21st Century Grant recipients operate child day programs. We are aware that many 21st Century Grant recipients have partnered with other organizations to provide services. The agency or organization offering the program that is responsible for the supervision, protection and well-being of a child under the age of 13 during the absence of a parent or guardian is responsible for meeting and filing an exemption found in [§ 22.1-289.030](#) of the Code of Virginia or applying for licensure.

Question: My program was a previously licensed program that now operates under an exemption rather than as a licensed center. Why do I no longer have a Fieldprint ID with the Virginia Department of Social Services Office of Background Investigations?

Response: Fieldprint codes are only assigned to programs that are required to obtain fingerprints under Virginia law. Because your organization chose to surrender your license and operate as a child day program exempt from licensure under [§ 22.1-289.030 B](#), your agency no longer has a Fieldprint code. Child day programs exempt from licensure under § 22.1-289.030 B (excluding religiously exempt child day centers and certified preschools) are not required to obtain background checks pursuant to [§ 22.1-289.035](#) of the Code of Virginia. If you wish to complete fingerprint national background checks for your employees, or if you are required to obtain such clearances for accreditation purposes, you will need to obtain fingerprints directly through the [Virginia State Police](#) using form SP-325 or by establishing an account directly with Fieldprint.

Question: Who can I contact if I have additional questions related to exempt programs?

Response: Please email ccl exemptions@doe.virginia.gov.

Who can I contact if I have questions related to applying for licensure?

Response: If you are interested in obtaining licensure, please contact your regional [Office of Child Care Health and Safety](#).

§ 22.1-289.030 A

Question: I operate a program described in § 22.1-289.030 A of the Code. Do I need to file an exemption with VDOE?

Response: The Code of Virginia, [§ 22.1-289.030 A](#) identifies programs that are not considered child day programs based on the specifics of the program. Programs that do not meet the definition of a child day program are not subject to licensure or required to file an exemption.

Question: Our agency operates exempt from licensure under Virginia Code 22.1-289.030 A 2. We were invited to apply for the Child Care Provider Grant Program and need a Child Care license-exempt letter. Can you guide us on obtaining a license-exemption based on this code?

Response: Programs that operate under subsection A of § 22.1-289.30 are not considered child day programs. The Department does not have oversight of or issue letters to programs operating under subsection A.

§ 22.1-289.030 B2

Question: I want to file an exemption under § 22.1-289.030 B2, but parents must provide a list of authorized individuals allowed to pick up their child. Does this meet the requirements of the exemption?

Response: No. Subsection B2 of 22.1-289.030 of the Code requires that children must be free to enter and leave the premises without permission. This includes not requiring authorization for the child to leave with certain individuals.

§ 22.1-289.030 B3

Question: I operate a licensed child day center and would like to add an exempt program for an age group not covered by my license that only operates during spring and winter break. Is this prohibited?

Response: No. A licensed program may also operate an exempt program. However, the provider is encouraged to discuss modifying the current license with their assigned licensing inspector.

§ 22.1-289.030 B4

Question: I operate a small fitness gym and provide onsite care for children of participants. Do I need to file an exemption if the parents are in a room across from where the children are located and can see into the room?

Response: Yes. If another individual, other than the parent will be responsible for the supervision of the child for any duration, an exemption is required. Programs offering a child minding service for parents who are on-site participating in or offering services at the establishment and can resume responsibility for their child within 30 minutes may file under the exemption in [§ 22.1-289.030 B4](#).

§ 22.1-289.030 B6

Question: If a Parks and Recreation entity operates several summer programs with varying themes, can one exemption be filed for all the programs?

Response: The Code of Virginia requires an exemption to be filed for each program that operates separately and distinctly. For example, if the entity offers several camps which requires separate sign-up or registration, the programs are considered separate and distinct. However, if one group of children move throughout the program to different themed camps and only one sign-up or registration is required, this is considered one program and only one exemption filing is required.

§ 22.1-289.030 B7

Question: We are a nonprofit offering the program within a public school building and the school division is our co-applicant for the 21st Century Grant. Can we file for the school division exemption found in § 22.1-289.030 B7 of the Code of Virginia?

Response: No. The exemption must be filed by the local school division or a representative of the local

school division. In order to meet the exemption under [§ 22.1-289.030 B7](#), the child day program must be offered by a local school division, operated for no more than four hours per day on full instructional days or for more than four hours per day on shortened instructional days or noninstructional days, staffed by local school division employees, attended by children who are at least three years of age and are enrolled in public school or a preschool program within such school division and subject to safety and supervisory standards established by the local school division offering the program.

Question: Our program is offered by the local school division but is not located within a public school building; do we still meet the exemption for local school divisions under § 22.1-289.030 B7 of the Code of Virginia?

Response: Yes. There is nothing prohibiting a local school division from offering such programming at a location outside of a public school building. The school division must file an exemption under [§ 22.1-289.030 B7](#) if all requirements are met. A private entity or organization offering an offsite program may not file for exemption under § 22.1-289.030 B7.

Question: If a program is operating under the school division exemption found in § 22.1-289.030 B7 of the Code of Virginia, can vendors and outside staff work in the program or does that make the program no longer exempt?

Response: There is nothing prohibiting a local school division from partnering with outside entities to provide enrichment/supplemental support, but the program must also be staffed by local school division employees that are responsible for the supervision, protection, and well-being of children in care during the operating hours of the program.

Question: My organization and the school are co-applicants for the 21st Century grant. Who is responsible for filing the exemption?

Response: Requirements for programs exempt from licensing and the requirement to file with the Superintendent are not dependent on the applicant or grantee status of the 21st Century grant. The exemption applies to the entity identified in the exemption and this entity is responsible for ensuring that the requirements of the Code are met. For example, the exemption in [§ 22.1-289.030 B7](#) applies to the local school division and the local school division, or a representative of the local school division must file the exemption, even if the local school division has partnered with another agency to operate the program and carry out the requirements of the grant. Pursuant to § 22.1-289.030 B7, the program is still required to be staffed by local school division employees.

Question: The local school division operates an academic program for students in the morning and an after school program is offered during the afternoon under the 21st Century grant funds. Can the school file for an exemption for each program offered under § 22.1-289.030 B7 if the programs are separate and distinct?

Response: Yes. If a local school division offers two programs that operate separately, each has its own service arrangement for children in care, and the two distinct programs meet the requirements of the exemption [§ 22.1-289.030 B7](#), the school division may file the exemption for both programs.

Question: My program wants to apply for the exemption in § 22.1-289.030 B7 but we take field trips that extend beyond the four hours per day of operation allowed by the Code. Is this permitted?

Response: Programs that file an exemption under [§ 22.1-289.030 B7](#) must meet all the requirements during operation. In order to meet the exemption under § 22.1-289.030 B7, the child day program must be offered by a local school division, operated for no more than four hours per day on full instructional days or for more than four hours per day on shortened instructional days or noninstructional days, staffed by local school division employees, attended by children who are at least three years of age and are enrolled in public school or a preschool program within such school division and subject to safety

and supervisory standards established by the local school division offering the program. Therefore, the program hours, which would include field trips, are limited to a maximum of four hours per day on full instructional days and are not limited on shortened instructional days or noninstructional days.

§ 22.1-289.030 B8

Question: My business provides child care service to employees for eight to nine hours per day. I have 15 employees that work carrying shifts. Can I enroll all the children if no more than 4 attend at one time?

Response: Yes. There is no maximum enrollment requirement. The maximum capacity at any given time may not exceed four.

Question: Are employees required to remove their child from care on their breaks if they remain on the premises?

Response: No. Children of employees may remain in care if the parent is on the premises and can resume responsibility for the child's supervision within 30 minutes.

§ 22.1-289.030 B9

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

Response: 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 email ccl exemptions@doe.virginia.gov.

Question: Our private school enrolls children ages four to five in our school-age private kindergarten program. We would like to provide license exempt care for before and after school to these children. Is this allowed?

Response: No. All children attending the exempt program under § 22.1-289.030 B9, must be of compulsory school age which is defined in the Code of Virginia as five by September 30th of the attending year.