

**REPORT OF THE VIRGINIA
DEPARTMENT OF SOCIAL SERVICES**

**Child Day Programs Exempt
from Licensure
(SJR 63, 2016)**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 14

**COMMONWEALTH OF VIRGINIA
RICHMOND
2016**



COMMONWEALTH of VIRGINIA
DEPARTMENT OF SOCIAL SERVICES
Office of the Commissioner

Margaret Ross Schultze
COMMISSIONER

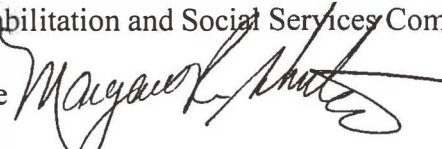
December 1, 2016

MEMORANDUM

TO: The Honorable Terence R. McAuliffe
Governor of Virginia

The Honorable Robert D. Orrock, Sr.
Chairman, House Health, Welfare and Institutions Committee

The Honorable Bryce E. Reeves
Chairman, Senate Rehabilitation and Social Services Committee

FROM: Margaret Ross Schultze 

SUBJECT: Report on Child Day Programs Exempt from Licensure

I am pleased to submit the attached report on child day programs exempt from licensure. It was prepared pursuant to Senate Joint Resolution No. 63 (2016). Please contact me should you have any questions.

MRS:kc

Attachment

Preface

This report is submitted pursuant to Senate Joint Resolution No. 63 of the 2016 Session of the General Assembly (Appendix A), which directs the Virginia Department of Social Services to study child day programs exempt from licensure through a comprehensive review of the current 14 categories of exemption found in § 63.2-1715 of the Code of Virginia and make recommendations on whether those categories should remain exempt, and whether modifications are necessary to protect the health and well-being of children receiving care in such programs. The resolution also directs the Department to consider whether modifications to health and safety requirements for licensed child day centers are necessary.

The Virginia Department of Social Services (VDSS) contracted with Gramercy Research Group to facilitate and conduct this study. This report summarizes the findings from an electronic survey and meeting discussions and provides recommendations based on those data. The report was accomplished with input from a workgroup comprised of relevant stakeholders. Staff from the Department's Division of Licensing - Children's Programs provided assistance and support to the workgroup.

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Executive Summary

This report is submitted pursuant to Senate Joint Resolution No. 63 of the 2016 Session of the General Assembly, which directs the Virginia Department of Social Services (Department) to study child day programs exempt from licensure through a comprehensive review of the current 14 categories of exemption found in § 63.2-1715 of the Code of Virginia (Code) and recommendations on whether those categories should remain exempt, and whether modifications are necessary to protect the health and well-being of children receiving care in such programs. The resolution also directs the Department to consider whether modifications to health and safety requirements for licensed child day centers are necessary.

Recommendations

1. The Code should be amended to specify what is not considered a “child day program” and remove non-child day programs from the list of exemptions in the Code.

A child day program is defined in § 63.2-100 of the Code 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.”

The following exemptions should be removed from the current list of exemptions in § 63.2-1715 of the Code because they do not meet the definition of a child day program, reducing the current list of exemptions from 14 to six:

- a. A program of instructional experience in a single focus activity, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.
- b. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation.
- c. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended, wherein no child attends for more than a total of six hours per week.
- d. Practice or competition in organized competitive sports leagues.

- e. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes and child minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services.
- f. A program of instructional or athletic experience operated during the summer months by, and as an extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 and administered by the Virginia Council for Private Education.
- g. Instructional programs offered by private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.
- h. Instructional programs offered by public schools that serve preschool-age children or that satisfy compulsory attendance laws, or the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

2. The exemptions recommended to be removed from § 63.2-1715 of the Code should be revised and rewritten as a list of programs that do not meet the definition of a child day program.

The stakeholder group was undecided about where such a listing should reside. If this listing is made, clarifications are recommended. The revisions below show added text as underlined and removed text as stricken.

- a. Programs of religious instruction such as to include, but not be limited to, Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah ~~classes, and child minding services provided.~~ This includes nurseries offered by religious institutions to allow parents or guardians their designees who are on site to attend worship or instructional services religious services and related activities, provided for the duration of a specified service or activity.

The recommendation to remove child minding services was the result of discussion within the group and a need to clarify that Sunday schools, vacation Bible schools, Bar Mitzvah, Bat Mitzvah, and nurseries are not considered child care, according to the definition of ‘child day program’ found in § 63.2-100 of the Code.

- b. Instructional programs offered by private schools that serve school-age children and satisfy compulsory attendance laws or provide services under the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

This recommendation adds clarification that private schools that serve school-age children as part of instructional programs offered by the school are not child care programs. This clarification was added to mirror the language in the exemption language for instructional programs offered by public schools.

- c. Instructional programs offered by public schools that serve preschool-age children or that satisfy compulsory attendance laws, or provide services under the Individuals with Disabilities Education Act, as amended, and or programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

3. The Code should be amended as follows to revise the remaining list of exemptions in § 63.2-1715.

The revisions below show added text as underlined and removed text as stricken.

A. The following child day programs shall not be required to be licensed:

- 1) A child day center that has obtained an exemption pursuant to § 63.2-1716.
- 2) A program where, by written policy given to and signed by a parent or guardian, school-aged children are free to enter and leave the premises without permission ~~or supervision, regardless of (i) such program's location or the number of days per week of its operation; (ii) the provision of transportation services, including drop-off and pick-up times; or (iii) the scheduling of breaks for snacks, homework, or other activities.~~ A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure. Such program must have obtained exemption pursuant to a new Code section which has basic health and safety requirements.
- 3) A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week. Such program must have obtained exemption pursuant to a new Code section which has basic health and safety requirements.
- 4) Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian ~~(i) is not an on-duty employee, except for part-time employees working less than two hours per day;~~ (i) can be contacted and can resume responsibility for the child's supervision within 30 minutes, and (ii) is receiving or providing services or participating in activities offered by the establishment. Such programs must have obtained exemption pursuant to a new Code section which has basic health and safety requirements.

- 5) A certified preschool or nursery school program operated by a private school that is accredited by a statewide accrediting organization recognized by the Board of Education or accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education; the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission that complies with the provisions of § 63.2-1717.
 - 6) A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by the local governments.
4. **The Code should be amended to require exempt programs to register with the Department. The Department will develop the registration process.**
 5. **The Code should be amended to require exempt programs to post signage, on the premises where services are being delivered, regarding their program's exemption status. Posting language should indicate the program is not licensed, is not inspected by the Department, and only self-certifies basic health and safety requirements.**
 6. **The Code should be amended to require basic health and safety standards for all exempt programs. Basic health and safety standards to protect the well-being of infants and children are recommended for exempt programs that do not have existing health and safety standards under an oversight organization.**

The following basic health and safety standards are recommended:

- a. At least one staff member with current CPR/First Aid certification shall remain on the premises when children are present or at other locations where children are present at all times.
- b. All staff shall have background checks. Depending on the type of program, the background check may be more or less stringent. Because of the differences in programs, the type, extent, and frequency of background checks would need to be determined.
- c. The program shall maintain daily attendance records that document the arrival and departure of all children served.
- d. The program shall have an emergency preparedness plan in place.
- e. The program shall follow existing Virginia laws regarding transportation of children.

7. The Code should be amended in § 63.2-1716 for religious exempt programs, as follows.

The revisions below show added text as underlined and removed text as stricken.

- a. At least one staff member with current CPR/First Aid certification shall remain on the premises when children are present or at other locations where children are present at all times.
 - b. The child day center employs supervisory personnel according to the following ratio of staff to children:
 - 1) One staff member to four children from zero to twenty-four months.
 - 2) One staff member to ~~ten~~ eight children from ages twenty-four months to thirty-six months ~~years~~.
 - 3) One staff member to ten children from ages thirty-six months to five years.
 - 4) One staff member to eighteen children from five years to nine years.
 - 5) One staff member to twenty ~~five~~ children ~~ages six years and older~~ from nine years to twelve years.
 - c. Adherence to safe sleep practices for infants as recommended by the Department.
- 8. Pursuant to the authority provided in Section C of 63.2-1716, the Department should begin inspecting religious exempt child day centers for compliance with the health and safety requirements in § 63.2-1716 of the Code.**
- 9. The Department should develop a system for tracking aggregate data on child injuries and deaths at licensed, regulated, and exempt child day programs.**
- 10. The Department should clarify the categories of child day programs and revise descriptions about exemptions and licensure so that parents and the general public are better informed about the different categories of child care, and which programs have Department oversight.**

Child Day Program Licensure Exemption Study

Introduction

The Virginia Department of Social Services (Department) is tasked with protecting vulnerable populations, which includes ensuring the safety of children receiving care in child day programs. Child day programs include family day homes and child day centers. The Department licenses child day centers, unless an exemption in § 63.2-1715 of the Code of Virginia (Code) is met. Currently, § 63.2-1715 of the Code lists 14 categories of exemption from licensure for child day programs. Two of the programs listed in § 63.2-1715 of the Code are unlicensed but regulated by the Department, meaning they have a Code section that specifies program requirements (religiously exempt child day centers, § 63.2-1716 of the Code, and certified preschools, § 63.2-1717 of the Code). These two types of programs are also required to annually request an exemption from the Department. The other 12 categories of exemption are currently unlicensed, unregulated, and unregistered meaning they are not required to report operation to, nor are they regulated by, the Department. Unlicensed and unregistered programs are not required to follow any basic health and safety standards, including background check requirements. A review of child day programs exempt from licensure is necessary to ensure the continued protection of children receiving care in such programs.

The health and safety requirements of current licensing standards were reviewed and incorporated into the recommendations for basic health and safety requirements for exempt programs. The regulation, *Standards for Licensed Child Day Centers*, 22VAC40-185, is currently being revised to add additional health and safety requirements through the regulatory process. There are no recommendations made in this report to revise health and safety requirements for licensed child day centers.

This report on the study of and recommendations for modifications to existing exemption categories in § 63.2-1715 of the Code was prepared pursuant to Senate Joint Resolution No. 63 of the 2016 Session of the General Assembly (Appendix A). A workgroup was utilized in preparing this report (Appendix J). The Department contracted with Gramercy Research Group to facilitate and conduct this study.

Types of Child Day Programs

A child day program is defined in § 63.2-100 (Appendix B) of the Code 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 either family day homes or child day centers. Specific definitions of these programs are found in § 63.2-100 of the Code (see Appendix C for more detailed descriptions).

This study focuses on child day centers exempt from licensure, as child day centers are the primary child day programs that use the exemptions in § 63.2-1715 of the Code (Appendix D).

Types of Child Day Centers

Child day centers can be further broken down into:

Licensed: Licensed Child Day Centers

Licensed programs are licensed by the Department's Division of Licensing - Children's Programs. Licensed programs have regulations and Code sections that specify program requirements.

Regulated (not licensed): Regulated programs vary in their requirements. These programs are not licensed by VDSS, but do receive oversight in certain areas and are required to certify exemption status with the Department annually. Religious exempt child day centers follow requirements found in § 63.2-1716 (Appendix E) of the Code, and certified preschools follow requirements found in § 63.2-1717 (Appendix F) of the Code.

While regulated (not licensed) programs have a regulation or Code section that specifies program requirements, the Division of Licensing - Children's Programs does not typically inspect religious exempt child day centers and certified preschool programs unless there is a complaint. In the event of a complaint, the Department may only hold the program accountable for requirements found in the Code.

Requirements found in § 63.2-1716 of the Code specify that religious exempt child day centers are to have tax exempt status; to have routine inspections by the local health department and/or local fire marshal; to adhere to specified ratios of staff to children; to certify that persons in supervisory positions be free from disabilities that would prevent them from caring for children; and to certify compliance with regulations related to background checks, reporting of suspected cases of child abuse and neglect, and laws related to driver's licenses and vehicle inspections. Religious exempt centers are required to have written statements or policies, which can be determined at the discretion of each individual religious exempt child day center, regarding physical facilities, enrollment capacity, food services, health requirements, and health and safety standards for children. Requirements for religious exempt child day centers do not extend beyond what is included in § 63.2-1716 of the Code. The Department is unable to address health and safety issues that are not specifically listed in the Code. As a result, there is no recourse when health and safety concerns such as an absence of safe sleep practices for infants, staff qualifications, training, and emergency procedures, are present in religiously exempt programs.

With regard to health and safety requirements found in § 63.2-1717 of the Code, certified preschools must provide documentation of compliance with applicable laws and regulations pertaining to food services, health and sanitation, water supply, building codes, and the Statewide Fire Prevention Code or the Uniform Statewide Building Code; program capacity; pupil-teacher ratios; public liability insurance (if any); and requirement of criminal record checks for all employees of the preschool or other school employees who have contact with the children enrolled in the preschool program. Requirements for certified preschools do not extend beyond what is included in § 63.2-1717 of the Code. The Department is unable to address health and safety issues that are not specifically listed in the Code. In addition, while there may be health

and safety requirements set forth in accreditation requirements for private schools, the Department does not have the authority to enforce the terms of accreditation. As a result, there is no recourse when health and safety concerns such as an absence of staff qualifications, training, building maintenance, hazardous substances, and emergency procedures are present in certified preschools.

Approved Child Care Programs

In addition to programs licensed and regulated by the Department, Virginia also has approved child care programs, which are programs regulated by an entity other than the Department. These programs include certain northern Virginia localities - Arlington, Alexandria and Fairfax that have the authority to approve by local ordinance certain family day homes and child day centers. These programs must be licensed by the Department if they meet Code requirements for licensure.

Unlicensed and Unregistered Child Day Care Programs

The Division of Licensing - Children's Programs does not inspect unlicensed and unregistered programs unless there is an allegation of an illegal operation. Unlicensed and unregistered programs do not register with the Department which means the Department does not know how many programs operate outside of the threshold for licensure. Unlicensed and unregistered programs do not currently have requirements for background checks, training/orientation for staff, or any health and safety requirements.

Research

Other States

Information comparing the 14 existing licensure exemption categories found in § 63.2-1715 of the Code to other surrounding states was obtained through an internet search. Comparison states include North Carolina, South Carolina, Maryland, West Virginia, Delaware, New Jersey, Ohio, Kentucky, Tennessee, Georgia, and Washington DC. A listing of websites pertaining to child care exemptions for each of the surrounding states can be found in the reference list.

Among the 12 states reviewed (including Virginia), the number of exemptions ranged from 5 to 14; Virginia and Georgia were the only states with 14 exemptions. The most common exemptions identified in surrounding states were for:

- Instructional programs with a single focus (e.g., computer science, sports clinics, music), 10 states
- Instructional programs offered by private schools, 10 states
- Instructional programs offered by public schools, 11 states
- Programs of religious instruction (e.g., vacation bible school, Sunday school), 11 states
- Child-minding services offered in commercial or recreational establishments when parents are receiving services on the premises, 9 states

Only three states, including Virginia, have a specific exemption for “come and go” programs where school-aged children are free to enter and leave the premises without permission. Only three states, including Virginia, have a specific exemption for instructional or recreational activities or classes lasting less than six hours weekly. Virginia was one of only three states that specified an exemption for early intervention programs for children eligible under the Individuals with Disabilities Education Act. Only four states, including Virginia, exempted preschool or nursery school programs operated by a private school.

Only three of the states reviewed had a formal registration process for all exempt programs—Delaware, Georgia, and Tennessee.

Delaware

Child care programs in Delaware that meet the definition of exemptions as defined under “Regulations and Exemptions” on the State of Delaware website must obtain an Exemption Letter from the Office of Child Care Licensing as proof of their status as an “Exempt” program. Such a letter verifies that the program is not providing “unlicensed care”, which is a violation of Delaware Code and regulations. To receive an Exemption Letter, the owner or governing body of the facility must complete an application and provide information on:

1. Program name and location and contact information;
2. Program information, including days and hours of operation, ages of children to be served, whether parents will remain onsite, whether fees will be charged, whether the program is “drop-in”, the number of employees and volunteers, and the type of background check performed;
3. Program services that will be offered;
4. An explanation of why a licensing exemption applies to the program;
5. A schedule of the themes/interest areas for the weeks of operation; and
6. A daily activity schedule with times per day for a 2-week period.

Georgia

In Georgia, programs providing group care for children, not operated in a residence, may apply for exemption from licensure by completing an application that provides the following required information:

1. Program name and location: the actual site address and county, phone number, website, if applicable, and e-mail address.
2. Contact information for the person available to answer questions or provide additional information; must include a current and valid e-mail address.

3. Program ownership – check one type of ownership and include the legal name of the owner, which would be one of the following: the name of the individual owner, the partners' names, the corporation name, the LLC name, or the association name; if government-owned and operated, include the name of the government agency or department.
4. Months, days and hours of operation; ages of children served; specific dates of operation for the next 12 months.
5. Sample copy of the form parents will sign indicating they have been advised and understand the program is not licensed and that informs parents whether or not the program carries liability insurance.
6. Copies of printed materials that support and verify the information on the application, such as written policies, advertisements, flyers, brochures, parent handbooks, etc.
7. Notarized Affidavit of Verification (signature)

In addition, license exempt programs operating on the same property where a licensed child care program operates must provide:

1. Site plan showing the location of the building(s), parking, and outdoor play area; and
2. Floor plan showing the rooms designated for each program (licensed and proposed exempt programs), toileting facilities, entrances and exits.

Tennessee

In § 71-3-503 in the 2010 Code of Tennessee, “A child care agency claiming an exemption pursuant to this section may submit to the department's licensing director, or designee, a sworn, written request for exemption in such manner and form as the department may require. The request shall provide a detailed description of the operation of the program or activity, the program's or activity's purpose and the applicant's basis for claiming an exemption. The department shall provide a written response to the exemption request stating the reasons the exemption was granted or denied.”

In addition, casual care operations defined as “operations consisting of places or facilities operated by any person or entity that provides child care, at the same time, for a minimum of five (5) children, but less than fifteen (15) children, who are not related to the primary caregiver, during short periods of time that do not exceed ten (10) hours per week or six (6) hours per day for any individual child while the parents or other custodians of the children are engaged in short-term activities, not including employment of the parent or other custodian of the child” are required to do the following to register for exemption:

“These operations shall register with the department their intent to conduct casual care of children, and, as evidence of their exempt status, these operations shall maintain records that include, at a minimum, the children's names, ages, addresses, dates and times of attendance, the parents' or custodians' names, addresses, and intended whereabouts while the children are in care, and the telephone numbers of persons to contact in the event of an emergency. All records shall be made available at any time to any authorized representative of the department.”

Private or parochial kindergartens, Parents' Day Out or similar programs, and casual care programs are required to post a sign stating, “This facility is not required to be licensed by the state as a child care agency.” Additional requirements for notification about exemption status are as follows:

“When a parent, custodian or guardian initially registers a child with an exempt program under subdivisions (a) (4), (a) (7) and (a) (10), which is required to post a sign pursuant to this subsection (b), the parent, custodian or guardian shall sign a form indicating that the parent, custodian or guardian has been advised and understands that the program is not licensed and is not required to be licensed by the state as a child care agency. The same language that is required to be placed on the sign shall be printed on such form at least in 16-point type with a signature line for the parent, custodian or guardian immediately following such language. The signed form shall be maintained with the records of the exempt entity.”

Two additional states—Maryland and South Carolina—have a formal registration process only for religious exempt programs.

Overall, it was difficult to draw conclusions from research of other states because of the wide degree of differences in the approach to the administration of child day programs and the varying ways in which child care is defined; however, definitions of and registration requirements for exempt child day programs in other states may be useful references for revising definitions and requirements in Virginia.

Child Day Program Licensure Exemption Survey

A 54-question online survey (Appendix H) was administered to relevant stakeholders in Virginia regarding concerns and suggestions about the current 14 exemptions to licensure for child day programs found in § 63.2-1715 of the Code as they relate to the safety and well-being of children. Stakeholders were identified by the Department and through suggestions from other stakeholders. Potential survey respondents received an initial letter from the Department describing the licensure exemption study and requesting stakeholder participation in the online survey. Stakeholders received an invitation to complete the online survey and a survey link via email. The survey remained opened from August 2 – 21, 2016. Reminders were sent to stakeholders to increase survey participation. Those who did not respond to email requests to complete the survey were contacted via telephone and offered extended time to complete the survey or opportunities for one-on-one conversations to provide input.

The full, detailed Survey Exemption Data Summary Report is included in Appendix I. Responses were received from 17 representatives from 15 stakeholder organizations. Most respondents reported general familiarity with the existing exemptions. The majority of respondents thought that exempt child day programs should be subject to all (33%) or some (40%) of the same requirements as licensed programs; 27% of respondents did not think exempt programs should be subject to the same requirements. Responses to questions about potential edits to individual exemptions were mixed, and are included in the detailed summary report.

Stakeholder Meetings

An initial meeting was held with Department staff on July 26, 2016, which provided background on the current licensure exemptions and issues and concerns about these exemptions. Three meetings with stakeholders were held on August 24, 2016, August 31, 2016, and September 7, 2016. Although all stakeholders were invited to all meetings, the members that attended each meeting varied (Appendix J). Additional stakeholders, not present during any of the stakeholder meetings, were contacted between meetings for one-on-one interviews at the request of stakeholders present during meetings. Although all additional stakeholders were contacted via telephone and email, most did not respond to requests for input. The research team also participated in one stakeholder group's conference call that focused specifically on the exemption related to local government programs.

During meetings, interviews, and conference calls, stakeholder organizations had strong opinions that reflected their personal interests and their organizations. Discussion topics were often driven, influenced by, and dependent upon which stakeholder groups were at the meeting. General discussion topics focused on a need to explore potential revisions to the current exemptions to better protect the safety and well-being of children; whether the current definition of "child day program" as written in the Code was clear; whether certain programs included in the list of exempt child day programs should be considered child care programs; specific suggestions for deleting or rewording existing exemptions; and whether a basic set of health and safety standards was needed for exempt programs.

The main overarching themes that emerged from the discussions were:

- There is a need for a primary focus on the safety and well-being of children, regardless of whether or not the specific program is exempt.
- There is a need to more clearly define child day program, and to eliminate from exemption those programs that do not meet the definition of child day program.
- There is a need to identify a basic set of health and safety standards for infants and children that should be required of all exempt programs and that can be included in the Code and requirements of the Department.

Recommendations

The following recommendations are the result of the research conducted and discussions with stakeholders that participated in the meetings, interviews, and conference calls. The study group was unable to reach consensus in determining which, if any, of the exemptions should be

modified to protect the health and safety of the children receiving care in exempt child day centers. Stakeholders shared strong opinions and agendas in each of the meetings. At least two organizations strongly opposed the entire study because they felt that the focus of the study should be on unlicensed family day homes and not the exempt child day centers and, therefore thought that current exemptions did not need revision.

1. The Code should be amended to specify what is not considered a “child day program” and remove non-child day programs from the list of exemptions in the Code.

A child day program is defined in § 63.2-100 of the Code 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.”

A revision of the definition of “child day program” defined in § 63.2-100 of the Code would be problematic because of the potential for unintended consequences, as the definition is used throughout the Code and in regulations. However, the group recommended that changes be made within the exemption to reflect what is not considered a child day program and, therefore, removed from § 63.2-1715 of the Code, and not required to be licensed or exempt.

The following exemptions should be removed from the current list of exemptions in § 63.2-1715 of the Code because they do not meet the definition of a child day program, reducing the current list of exemptions from 14 to six:

- a. A program of instructional experience in a single focus activity, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.
- b. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation.
- c. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended, wherein no child attends for more than a total of six hours per week.
- d. Practice or competition in organized competitive sports leagues.

- e. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes and child minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services.
- f. A program of instructional or athletic experience operated during the summer months by, and as an extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 (Appendix G) and administered by the Virginia Council for Private Education.
- g. Instructional programs offered by private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.
- h. Instructional programs offered by public schools that serve preschool-age children or that satisfy compulsory attendance laws, or the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

2. The exemptions recommended to be removed from § 63.2-1715 of the Code should be revised and rewritten as a list of programs that do not meet the definition of a child day program.

The stakeholder group was undecided about where such listing should reside. If this listing is made, clarifications are recommended. The revisions below show added text as underlined and removed text as stricken.

- a. Programs of religious instruction ~~such as to include, but not limited to,~~ Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, ~~and child minding services provided.~~ This includes nurseries offered by religious institutions to allow parents or guardians their designees who are on site to attend worship or instructional services religious service and related activities, provided for the duration of a specified service or activity.

The recommendation to remove child minding services was the result of discussion within the group and a need to clarify that Sunday schools, vacation Bible schools, Bar Mitzvah, Bat Mitzvah, and nurseries are not considered child care, according to the definition of 'child day program' found in § 63.2-100 of the Code.

- b. Instructional programs offered by private schools that serve school-age children and satisfy compulsory attendance laws or provide services under the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

This recommendation adds clarification that private schools that serve school-age children as part of instructional programs offered by the school are not child care programs. This clarification was added to mirror the language in the exemption language for instructional programs offered by public schools.

- c. Instructional programs offered by public schools that serve preschool-age children or that satisfy compulsory attendance laws, or provide services under the Individuals with Disabilities Education Act, as amended, ~~and~~ or programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

3. The Code should be amended as follows to revise the remaining list of exemptions in § 63.2-1715.

The general consensus of the stakeholder group was to narrow the list of exemptions to the six exemptions listed below. Some exemptions have been reworded and reflect discussion within the group. Any specific concerns regarding individual exemptions are noted. The exemptions removed from the list are listed in Recommendation 1 above.

The Code should be amended as follows to revise the wording of the remaining exemptions in § 63.2-1715. The revisions below show added text as underlined and removed text as stricken.

A. The following child day programs shall not be required to be licensed:

- 1) “A child day center that has obtained an exemption pursuant to § 63.2-1716.”

Opinions regarding whether and how to revise this exemption varied and included the following suggestions:

- The exemption should be removed.
 - The exemption should remain the same.
 - Additional health and safety requirements should be added, such as but not limited to child-to-staff ratios, safe sleep practices, and first aid/CPR training.
- 2) “A program where, by written policy given to and signed by a parent or guardian, school-aged children are free to enter and leave the premises without permission ~~or supervision, regardless of (i) such program's location or the number of days per week of its operation; (ii) the provision of transportation services, including drop-off and pick-up times; or (iii) the scheduling of breaks for snacks, homework, or other activities.~~ A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure. Such programs must have obtained exemption pursuant to a new Code section which has basic health and safety requirements.” (see Recommendation 6)

There was consensus that this exemption should be removed as there is evidence this exemption is being misused by programs that do not allow children to enter and leave without supervision. However, it was later determined that some programs are using this exemption for its intended purpose and it was agreed to add basic health and safety requirements (see Recommendation 6). Due to the misuse of this exemption, it is recommended it be reworded for clarity, but the group could not reach a specific recommendation regarding rewording.

- 3) A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week. Such programs must have obtained exemption pursuant a new Code section which has basic health and safety requirements. (see Recommendation 6)
- 4) Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) ~~is not an on-duty employee, except for part-time employees working less than two hours per day~~, can be contacted and can resume responsibility for the child's supervision within 30 minutes, and (ii) is receiving or providing services or participating in activities offered by the establishment. Such programs must have obtained exemption pursuant to a new Code section which has basic health and safety requirements. (see Recommendation 6)
- 5) A certified preschool or nursery school program operated by a private school that is accredited by a statewide accrediting organization recognized by the State Board of Education or accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education; the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission that complies with the provisions of § 63.2-1717.

One group suggested that edits were needed in the list of accrediting organizations in this exemption, but this was not the consensus of the stakeholder group.

- 6) A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by the local governments.

4. The Code should be amended to require exempt programs to register with the Department. The Department will develop the registration process.

Religious exempt programs (a child day center that has obtained an exemption pursuant to § 63.2-1716) and certified preschools (a child day center that has obtained an exemption pursuant to § 63.2-1717) are currently required to register with the Department.

In efforts to identify exempt programs and which exemptions are currently being used, the following exempt programs should be required to register with the Department.

- A program where, by written policy given to and signed by a parent or guardian, school-aged children are free to enter and leave the premises without permission and does not assume responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed.
- A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week.
- Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, except for part-time employees working less than two hours per day, (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes, and (iii) is receiving or providing services or participating in activities offered by the establishment.
- A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by the local government.

A specific system for registration can be based on models from surrounding states that currently require exempt programs to register such as Delaware, Georgia, and Tennessee.

5. The Code should be amended to require exempt programs to post signage, on the premises where services are being delivered, regarding their program's exemption status. Posting language should indicate the program is not licensed, is not inspected by the Department and only self certifies basic health and safety requirements.

Specific wording for signage and a process for notifying parents, guardians, or their designees regarding the program's exemption status can be based on models from surrounding states that require exempt programs to post visible signage and signed notification from parents.

6. The Code should be amended to require basic health and safety standards for all exempt programs. Basic health and safety standards to protect the well-being of infants and children are recommended for exempt programs that do not have existing health and safety standards under an oversight organization.

The following basic health and safety standards are recommended:

- a. At least one staff member with current CPR/First Aid certification shall remain on the premises when children are present or at other locations where children are present at all times.
- b. All staff shall have background checks. Depending on the type of program, the background check may be more or less stringent. Because of the differences in programs, the type, extent, and frequency of background checks would need to be determined.
- c. The program shall maintain daily attendance records that document the arrival and departure of all children served.
- d. The program shall have an emergency preparedness plan in place.
- e. The program shall follow existing Virginia laws regarding transportation of children.

7. The Code should be amended in § 63.2-1716 for religious exempt programs as follows:

Currently, religious exempt programs have existing requirements, as written in the Code. However, § 63.2-1716 of the Code does not have specific requirements about safe sleep practices; CPR training requirements for staff; or staff-to-child ratios that are similar to licensed programs. The recommendation is that § 63.2-1716 of the Code be amended to require staff-to-child ratios more consistent with current licensing requirements for child day centers. The revisions below show added text as underlined and removed text as stricken.

- a. At least one staff member with current CPR/First Aid certification shall remain on the premises when children are present or at other locations where children are present at all times.
- b. The child day center employs supervisory personnel according to the following ratio of staff to children:
 1. One staff member to four children from zero to twenty-four months.
 2. One staff member to ~~ten~~ eight children from ages twenty-four months to thirty-six months ~~years~~.
 3. One staff member to ten children from ages thirty-six months to five years.
 4. One staff member to eighteen children from five years to nine years.
 5. One staff member to twenty ~~five~~ children ~~ages six years and older~~ from nine years to twelve years.

c. Adherence to safe sleep practices for infants as recommended by the Department.

Currently, certified preschools have existing requirements in § 63.2-1717 of the Code. No changes to the health and safety requirements for certified preschools were suggested.

The consensus of the study group was to exempt programs of recreational activities offered by local governments from additional basic health and safety requirements because of the extensive risk management procedures already in place for most local government agencies.

8. Pursuant to the authority provided in Section C of 63.2-1716 of the Code, the Department should begin inspecting religious exempt child day centers for compliance with the health and safety requirements in § 63.2-1716 of the Code.

The consensus of the participants in the study is that the Department should inspect religious exempt child day centers and exercise the authority currently granted in the Code to ensure that exemption requirements are met.

9. The Department should develop a system for tracking aggregate data on child injuries and deaths at licensed, regulated, and exempt child day programs.

There is a need for consistent and organized tracking of incidents involving serious injuries to children that occur in child day programs to more accurately document when and where such incidents occur. Data and information obtained from this would help the Department better determine whether additional health and safety requirements are necessary to protect the health and well-being of children receiving care. The Department should implement a system for tracking child injuries and deaths at all child day programs to be able to provide accurate statistics of such incidents. The Department has already proposed this system to require licensed and subsidy-approved child care providers to report serious injuries. Exempt programs should follow the same process once it has been established.

10. The Department should clarify the categories of child day programs and revise descriptions about exemptions and licensure so that parents and the general public are better informed about the different categories of child care, and which programs have Department oversight.

The current language on the Department's website describing types of child day care programs (found at <https://www.dss.virginia.gov/family/cc/index.cgi>) could be confusing and does not clearly describe what "exempt" programs mean. The Department should update its website to reflect the licensure, exemption, and non-regulated categories that are used to define child day programs.

Additional Research Needs

During the course of the study, additional research needs were identified that were not examined because they were beyond the scope of the current study. Additional research needs include:

- Safety issues in unlicensed family day homes, which are where many reported injuries and deaths to children occur.
- A review of § 63.2-1717 of the Code. Edits to § 63.2-1717 of the Code were suggested to remove redundancies about which organizations can oversee and certify private school programs. Discussion revealed that accrediting bodies for private schools have specific requirements about children's safety and well-being that, in some cases, exceed licensing regulations. As § 63.2-1717 of the Code was not the focus of this study, further research is needed to determine if changes are needed.

References:

Virginia Department of Social Services *Child Day Care Overview* [Article]. (n.d.) Retrieved from <https://www.dss.virginia.gov/family/cc/index.cgi>.

2010 Tennessee Code Title 71–Welfare Chapter 3-Programs and Services for Children Part 5-Child Care Agencies 71-3-503-Program and facilities exempt from licensing. [Code]. (n.d.). Retrieved from <http://law.justia.com/codes/tennessee/2010/title-71/chapter-3/part-5/71-3-503>.

Websites:

Websites used to obtain information about licensure exemption categories in surrounding states:	
DC	District of Columbia Register Vol. 54-No.7. District of Columbia Department of Health and District of Columbia Department of Human Services Notice of Final Rulemaking [Regulations]. (2007, April 27). Retrieved from http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/Licensing_Regulations_29_DCMR_3.pdf .
DE	Regulations and Exemptions [Website State of Delaware]. (n.d.). Retrieved from http://kids.delaware.gov/occl/regs-exempts.shtml .
GA	Rule 591-1-1-.46 Exemptions. [Regulation]. (Adopted. F. Nov. 16, 2012; eff. Dec. 6, 2012). Retrieved from http://decal.ga.gov/documents/attachments/Exemptionrules.pdf .
KY	922 KAR 2:090. Child-care center licensure. [Regulation]. (n.d.). Retrieved from http://www.lrc.ky.gov/kar/922/002/090.htm .
MD	Child Care Regulations in Maryland. [Regulations]. (n.d.). Retrieved from http://download.militaryonesource.mil/12038/MOS/Articles/Maryland_childcare.pdf .
NC	<i>North Carolina Health and Human Services Child Care License Requirements</i> . [Article]. (n.d.). Retrieved from http://ncchildcare.nc.gov/parents/pr_sn2_ov_lr.asp .
NJ	Chapter 122 Manual of Requirements for Child Care Centers State of New Jersey Department of Children and Families [Regulations]. (2013, September 1). Retrieved from http://www.state.nj.us/dcf/providers/licensing/laws/CCCmanual.pdf .
OH	Ohio Revised Code Title [51} LI Public Welfare Chapter 5104: Child-Day Care [Code]. (Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013). Retrieved http://codes.ohio.gov/orc/5104.02 .
SC	<i>Who is Exempt From Licensing?</i> [Article]. (n.d.). Retrieved from http://schildcare.org/providers/become-licensed/licensing-exemptions.aspx .
TN	2010 Tennessee Code Title 71–Welfare Chapter 3-Programs and Services for Children Part 5-Child Care Agencies 71-3-503-Program and facilities exempt from licensing. [Code]. (n.d.). Retrieved from http://law.justia.com/codes/tennessee/2010/title-71/chapter-3/part-5/71-3-503 .
WV	78CSR1 Title 78Legislative Rules Department of Human Services Series 1 Child Care Centers Licensing. [Rules]. (n.d.) Retrieved from http://www.dhhr.wv.gov/bcf/Childcare/Documents/ChildCareCenterRegulationWeb.pdf .

Websites for filing for exemption for states with a formal exemption process:

DE	State of Delaware Department of Services For Children, Youth and Their Families <i>Office of Child Care Licensing Application for License Exemption</i> . [Application]. (n.d.). Retrieved from http://kids.delaware.gov/occl/pdf/application-for-license-exemption-rev.2016.02.pdf .
GA	Bright from the Start Georgia Department of Early Care and Learning 1 <i>Exemption Application Instructions</i> . [Application]. (n.d.). retrieved from http://www.decal.ga.gov/documents/attachments/ExemptionApplication.pdf .
TN	2010 Tennessee Code Title 71 – Welfare Chapter 3 - Programs and Services for Children Part 5 - Child Care Agencies 71-3-503 - Program and Facilities Exempt from Licensing. [Code]. (n.d.) retrieved from http://law.justia.com/codes/tennessee/2010/title-71/chapter-3/part-5/71-3-503 .

Appendix A
SENATE JOINT RESOLUTION NO. 63

Requesting the Department of Social Services to study child day programs exempt from licensure. Report.

Agreed to by the Senate, March 7, 2016

Agreed to by the House of Delegates, March 3, 2016

WHEREAS, the Commonwealth requires licensure for most child day programs in an effort to protect the safety and well-being of children receiving care in such programs; and

WHEREAS, § 63.2-1715 of the Code of Virginia currently exempts from the licensure requirement 14 categories of child day programs; and

WHEREAS, a comprehensive review of all categories of child day programs exempt from licensure, along with recommendations regarding whether such programs should remain exempt, is necessary to ensure the continued protection of the children receiving care in such programs; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Department of Social Services be requested to study child day programs exempt from licensure.

In conducting its study, the Department of Social Services shall (i) review all categories of child day programs exempt from licensure under § 63.2-1715 of the Code of Virginia, (ii) formulate recommendations regarding whether such programs should remain exempt from licensure or whether any modifications are necessary to protect the health and well-being of the children receiving care in such programs, (iii) consider such other matters as may be necessary regarding health and safety requirements for licensed child day centers, and (iv) consult with all relevant stakeholders, including the Virginia Department of Education, Virginia Department of Social Services, Virginia Catholic Conference, Old Dominion Association of Church Schools, Virginia Council for Private Education, American Montessori Society, Virginia Association of Independent Schools, Virginia Association of Counties, Virginia Municipal League, YMCA, Child Care Aware of Virginia, Voices for Virginia's Children, and other interested stakeholders.

All agencies of the Commonwealth shall provide assistance to the Department of Social Services for this study, upon request.

The Department of Social Services shall complete its meetings by November 15, 2016, and shall report its findings and recommendations to the House Committee on Health, Welfare and Institutions and the Senate Committee on Rehabilitation and Social Services by December 1, 2016, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2017 Regular Session of the General Assembly and shall be posted on the Department of Social Services' and the General Assembly's websites.

Appendix B
Child Care Program Definitions in § 63.2-100 of the Code of Virginia

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

"Child day program" means 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.

"Family day home" means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving five through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all related to the provider by blood or marriage shall not be required to be licensed.

"Family day system" means any person who approves family day homes as members of its system; who refers children to available family day homes in that system; and who, through contractual arrangement, may provide central administrative functions including, but not limited to, training of operators of member homes; technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.

"Registered family day home" means any family day home that has met the standards for voluntary registration for such homes pursuant to regulations adopted by the Board and that has obtained a certificate of registration from the Commissioner.

Appendix C
Categories of Child Care Programs in Virginia
Source: <https://www.dss.virginia.gov/family/cc/index.cgi>

A child day program in Virginia refers to 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.

There are two types of child day programs in Virginia: **child day centers** (center-based) and **family day homes** (family-based).

Categories of care include:

- Licensed
- Unlicensed (but regulated)
- Approved
- Unlicensed and Unregistered

Some programs offering child day care obtain a general business license to operate from the county within which they do business; however, that license is ***not*** the same as a child day care license obtained from the Virginia Department of Social Services (VDSS).

Licensed- child day care programs can be offered in a child day center or in a family day home. Licensed programs are required to display their license. Licensed programs have an initial inspection and two unannounced inspections per year. Additional inspections are made as a result of violations, allegations and/or complaints. Requirements include background checks, education, training/orientation, and health and safety standards. The number of children allowed in licensed care varies per center or family day home - based on determining factors such as the total square footage in centers and adequate space in homes. The maximum capacity is identified on the provider's posted license.

Unlicensed (but regulated) - Unlicensed (but regulated) child care programs vary in their requirements. These programs are not licensed by VDSS, but do receive oversight in certain areas. For example:

- *Voluntarily registered family day homes* serves 4 or fewer children, and are required to be inspected prior to certification and every two years thereafter, to complete background checks, and meet certain health and safety standards.
- *Religiously exempt child care centers* are required to complete background checks and must self-certify annually that the program is in compliance with background checks and health and safety requirements.
- *Certified preschools* are operated by an accredited private school and are required to complete background checks and must self-certify prior to certification, and annually thereafter, regarding criminal record clearances on all employees, a list of staff qualifications, and health and fire inspection reports.

- *Family day system homes* are family day home programs approved by a licensed family day system. Family day system homes are regulated and not required to be licensed or registered.

Religiously exempt child care centers and certified preschool programs are not inspected by VDSS unless there is a complaint.

Approved- child day care programs are regulated by an entity other than VDSS. These programs include certain northern Virginia localities - Arlington, Alexandria and Fairfax who have the authority to approve by local ordinance certain family day homes and child day centers. These programs must be licensed if they meet Code requirements for licensure.

Unlicensed and Unregistered - child day care programs *do not* have any of the following requirements or safeguards to protect vulnerable children: background checks, training/orientation, or health and safety requirements; and only minimal Code of Virginia requirements apply.

- **The Virginia Department of Social Services *does not* inspect these programs and often times these programs are unknown to the Department.**
- Unlicensed and unregistered centers must meet an exemption in the Code of Virginia in § 63.2-1715. For example, this program may be an after school program that is extra-curricular or sports-related.

Unlicensed and unregistered family day homes provide care in their home or the home of the child. They must follow the Code of Virginia requirements in §§ 63.2-1727, which prohibit the caregiver from being a sex offender or child abuser, and 63.2-1704.1, which requires the caregiver to provide in writing a notice to the parent stating that their child care program is not regulated by the Department and to refer parents to the Department’s website for information explaining the various types of child care options.

	Center-Based		Family-Based		
Licensed	Child Day Center	Short-Term Child Day Center	Family Day Home		
Unlicensed Regulated	Religiously Exempt Child Day Centers	Certified Preschools	Voluntary Registered	Family Day System	
Approved by Local Ordinance	Arlington		Alexandria	Arlington	Fairfax County
Unlicensed Unregistered	License Exempt Centers		Family Day Home		

Appendix D
Code of Virginia § 63.2-1715

§ 63.2-1715. Exemptions from Licensure.

A. The following child day programs shall not be required to be licensed:

1. A child day center that has obtained an exemption pursuant to § 63.2-1716.
2. A program where, by written policy given to and signed by a parent or guardian, school-aged children are free to enter and leave the premises without permission or supervision, regardless of (i) such program's location or the number of days per week of its operation; (ii) the provision of transportation services, including drop-off and pick-up times; or (iii) the scheduling of breaks for snacks, homework, or other activities. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.
3. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.
4. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation.
5. A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week.
6. Instructional programs offered by private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.
7. Instructional programs offered by public schools that serve preschool-age children or that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

8. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended, wherein no child attends for more than a total of six hours per week.

9. Practice or competition in organized competitive sports leagues.

10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services.

11. Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, except for part-time employees working less than two hours per day, (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes, and (iii) is receiving or providing services or participating in activities offered by the establishment.

12. A certified preschool or nursery school program operated by a private school that is accredited by a statewide accrediting organization recognized by the State Board of Education or accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education; the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission that complies with the provisions of § 63.2-1717.

13. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by local governments.

14. A program of instructional or athletic experience operated during the summer months by, and as an extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 and administered by the Virginia Council for Private Education.

B. Family day homes that are members of a licensed family day system shall not be required to obtain a license from the Commissioner.

C. Officers, employees, or agents of the Commonwealth, or of any county, city, or town acting within the scope of their authority as such, who serve as or maintain a child-placing agency shall not be required to be licensed.

Appendix E
Code of Virginia § 63.2-1716

§ 63.2-1716. Child day center operated by religious institution exempt from licensure.

63.2-1716. Child day center operated by religious institution exempt from licensure; annual statement and documentary evidence required; enforcement; injunctive relief.

A. Notwithstanding any other provisions of this chapter, a child day center, including a child day center that is a child welfare agency operated or conducted under the auspices of a religious institution shall be exempt from the licensure requirements of this subtitle, but shall comply with the provisions of this section unless it chooses to be licensed. If such religious institution chooses not to be licensed, it shall file with the Commissioner, prior to beginning operation of a child day center and thereafter annually, a statement of intent to operate a child day center, certification that the child day center has disclosed in writing to the parents or guardians of the children in the center the fact that it is exempt from licensure, the qualifications of the personnel employed therein and documentary evidence that:

1. Such religious institution has tax exempt status as a nonprofit religious institution in accordance with 501 (c) of the Internal Revenue Code of 1954, as amended, or that the real property owned and exclusively occupied by the religious institution is exempt from local taxation.
2. Within the prior 90 days for the initial exemption and within the prior 180 days for exemptions thereafter, the local health department and local fire marshal or Office of the State Fire Marshal, whichever is appropriate, have inspected the physical facilities of the child day center and have determined that the center is in compliance with applicable laws and regulations with regard to food service activities, health and sanitation, water supply, building codes, and the Statewide Fire Prevention Code or the Uniform Statewide Building Code.
3. The child day center employs supervisory personnel according to the following ratio of staff to children:
 - a. One staff member to four children from zero to twenty-four months.
 - b. One staff member to ten children from ages twenty-four months to six years.
 - c. One staff member to twenty-five children ages six years and older.

Staff shall be counted in the required staff-to-children ratios only when they are directly supervising children. In each grouping of children, at least one adult staff member shall be regularly present. However, during designated daily rest periods and designated sleep periods of evening and overnight care programs, for children ages 24 months to six years, only one staff member shall be required to be present with the children under supervision. In such cases, at least one staff member shall be physically present in the same space as the children under supervision at all times. Other staff members counted for purposes of the staff-to-child ratio need

not be physically present in the same space as the resting or sleeping children, but shall be present on the same floor as the resting or sleeping children and shall have no barrier to their immediate access to the resting or sleeping children. The staff member who is physically present in the same space as the sleeping children shall be able to summon additional staff counted in the staff-to-child ratio without leaving the space in which the resting or sleeping children are located.

Staff members shall be at least 16 years of age. Staff members under 18 years of age shall be under the supervision of an adult staff member. Adult staff members shall supervise no more than two staff members under 18 years of age at any given time.

4. Each person in a supervisory position has been certified by a practicing physician or physician assistant to be free from any disability which would prevent him from caring for children under his supervision.

5. The center is in compliance with the requirements of:

a. This section.

b. Section 63.2-1724 relating to background checks.

c. Section 63.2-1509 relating to the reporting of suspected cases of child abuse and neglect.

d. Chapter 3 (46.2-300 et seq.) of Title 46.2 regarding a valid Virginia driver's license or commercial driver's license; of Article 21 (46.2-1157 et seq.) of Chapter 10 of Title 46.2, regarding vehicle inspections; ensuring that any vehicle used to transport children is an insured motor vehicle as defined in 46.2-705; and Article 13 (46.2-1095 et seq.) of Chapter 10 of Title 46.2, regarding child restraint devices.

6. The following aspects of the child day center's operations are described in a written statement provided to the parents or guardians of the children in the center and made available to the general public: physical facilities, enrollment capacity, food services, health requirements for the staff and public liability insurance.

B. The center shall establish and implement procedures for:

1. Hand washing by staff and children before eating and after toileting and diapering.

2. Appropriate supervision of all children in care, including daily intake and dismissal procedures to ensure safety of children.

3. A daily simple health screening and exclusion of sick children by a person trained to perform such screenings.

4. Ensuring that a person trained and certified in first aid is present at the center whenever children are present.

5. Ensuring that all children in the center are in compliance with the provisions of 32.1-46 regarding the immunization of children against certain diseases.

6. Ensuring that all areas of the premises accessible to children are free of obvious injury hazards, including providing and maintaining sand or other cushioning material under playground equipment.

7. Ensuring that all staff are able to recognize the signs of child abuse and neglect.

C. The Commissioner may perform on-site inspections of religious institutions to confirm compliance with the provisions of this section and to investigate complaints that the religious institution is not in compliance with the provisions of this section. The Commissioner may revoke the exemption for any child day center in serious or persistent violation of the requirements of this section. If a religious institution operates a child day center and does not file the statement and documentary evidence required by this section, the Commissioner shall give reasonable notice to such religious institution of the nature of its noncompliance and may thereafter take such action as he determines appropriate, including a suit to enjoin the operation of the child day center.

D. Any person who has reason to believe that a child day center falling within the provisions of this section is not in compliance with the requirements of this section may report the same to the local department, the local health department or the local fire marshal, each of which may inspect the child day center for noncompliance, give reasonable notice to the religious institution, and thereafter may take appropriate action as provided by law, including a suit to enjoin the operation of the child day center.

E. Nothing in this section shall prohibit a child day center operated by or conducted under the auspices of a religious institution from obtaining a license pursuant to this chapter.

Appendix F
Code of Virginia § 63.2-1717

§ 63.2-1717. Certification of preschool or nursery school programs operated by accredited private schools.

§ 63.2-1717. Certification of preschool or nursery school programs operated by accredited private schools; provisional certification; annual statement and documentary evidence required; enforcement; injunctive relief.

A. A preschool or nursery school program operated by a private school accredited by a statewide accrediting organization recognized by the Board of Education or a private school or preschool that offers to preschool-aged children a program accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education; the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission and is recognized by the Board of Education, shall be exempt from licensure under this subtitle if it complies with the provisions of this section and meets the requirements of subsection B, C or D.

B. A school described in subsection A shall meet the following conditions in order to be exempt under this subsection:

1. The school offers kindergarten or elementary school instructional programs that satisfy compulsory school attendance laws, and children below the age of compulsory school attendance also participate in such instructional programs;
2. The instructional programs for children of and below the age of eligibility for school attendance share (i) a specific verifiable common pedagogy, (ii) education materials, (iii) methods of instruction, and (iv) professional training and individual teacher certification standards, all of which are required by a state-recognized accrediting organization;
3. The instructional programs described in subdivisions 1 and 2 have mixed age groups of three-year-old to six-year-old children and the number of pupils in the preschool program does not exceed 15 pupils for each instructional adult;
4. The instructional program contemplates a three-to-four-year learning cycle under a common pedagogy; and
5. Children below the age of eligibility for kindergarten attendance do not attend the instructional program for more than four hours per day.

C. A school described in subsection A shall be exempt from licensure if it maintains an enrollment ratio at any one time during the current school year of five children age five or above

to one four-year-old child as long as no child in attendance is under age four and the number of pupils in the preschool program does not exceed 12 pupils for each instructional adult.

D. A private school or preschool described in subsection A shall meet the following conditions in order to be exempt under this subsection:

1. The school offers instructional classes and has been in operation since January 1984.
2. The school does not hold itself out as a child care center, child day center, or child day program.
3. Children enrolled in the school are at least three years of age and do not attend more than (i) three hours per day and (ii) five days per week.
4. The enrolled children attend only one program offered by the school per day.
5. The school maintains a certificate or permit issued pursuant to a local government ordinance that addresses health, safety and welfare of the children, such as but not limited to space requirements, and requires annual inspections.

E. The school shall file with the Commissioner, prior to the beginning of the school year or calendar year, as the case may be, and thereafter, annually, a statement which includes the following:

1. Intent to operate a certified preschool program;
2. Documentary evidence that the school has been accredited as provided in subsection A;
3. Documentation that the school has disclosed in writing to the parents, guardians, or persons having charge of a child enrolled in the school's preschool program the fact of the program's exemption from licensure;
4. Documentary evidence that the physical facility in which the preschool program will be conducted has been inspected (i) before initial certification by the local building official and (ii) within the 12-month period prior to initial certification and at least annually thereafter by the local health department, and local fire marshal or Office of the State Fire Marshal, whichever is appropriate, and an inspection report which documents that the facility is in compliance with applicable laws and regulations pertaining to food services, health and sanitation, water supply, building codes, and the Statewide Fire Prevention Code or the Uniform Statewide Building Code;
5. Documentation that the school has disclosed the following in writing to the parents, guardians, or persons having charge of a child enrolled in the school's preschool program, and in a written statement available to the general public: (i) the school facility is in compliance with applicable laws and regulations pertaining to food services, health and

sanitation, water supply, building codes, and the Statewide Fire Prevention Code or the Uniform Statewide Building Code, (ii) the preschool program's maximum capacity, (iii) the school's policy or practice for pupil-teacher ratio, staffing patterns and staff health requirements, and (iv) a description of the school's public liability insurance, if any;

6. Qualifications of school personnel who work in the preschool program; and

7. Documentary evidence that the private school requires all employees of the preschool and other school employees who have contact with the children enrolled in the preschool program to obtain a criminal record check as provided in subdivision A 11 of § 19.2-389 as a condition of initial or continued employment. The school shall not hire or continue employment of any such person who has an offense specified in § 63.2-1719. All accredited private schools seeking certification of preschool programs shall file such information on forms prescribed by the Commissioner. The Commissioner shall certify all preschool programs of accredited private schools which comply with the provisions of subsection A.

F. A preschool program of a private school that has not been accredited as provided in subsection A, or which has not provided documentation to the Commissioner that it has initiated the accreditation process, shall be subject to licensure. The Commissioner shall issue a provisional certificate to a private school which provides documentation to the Commissioner that it has initiated the accreditation process. The provisional certificate shall permit the school to operate its preschool program during the accreditation process period. The issuance of an initial provisional certificate shall be for a period not to exceed one year. A provisional certificate may be renewed up to an additional year if the accrediting organization provides a statement indicating it has visited the school within the previous six months and the school has made sufficient progress. Such programs shall not be subject to licensure during the provisional certification period.

G. If a school fails to complete the accreditation process or is denied accreditation, the Commissioner shall revoke the provisional certification and the program shall thereafter be subject to licensure.

H. If the preschool program of a private school which is accredited as provided in subsection A fails to file the statement and the required documentary evidence, the Commissioner shall notify the school of its noncompliance and may thereafter take such action as he determines appropriate, including notice that the program is required to be licensed.

I. The revocation or denial of the certification of a preschool program shall be subject to appeal pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Judicial review of a final agency decision shall be in accordance with the provisions of the Administrative Process Act.

J. Any person who has reason to believe that a private school falling within the provisions of this section is in noncompliance with any applicable requirement of this section may report the same to the Department, the local department, the local health department, or the local fire marshal,

each of which may inspect the school for noncompliance, give reasonable notice to the school of the nature of its noncompliance, and thereafter may take appropriate action as provided by law, including a suit to enjoin the operation of the preschool program.

K. Upon receipt of a complaint concerning a certified preschool program of an accredited private school, or of a private school to which provisional certification has been issued, if for good cause shown there is reason to suspect that the school is in noncompliance with any provision of this section or the health or safety of the children attending the preschool program is in danger, the Commissioner shall cause an investigation to be made, including on-site visits as he deems necessary of the services, personnel, and facilities of the school's program. The school shall afford the Commissioner reasonable opportunity to inspect the school's program, records, and facility, and to interview the employees and any child or parent or guardian of a child who is or has been enrolled in the preschool program. If, upon completion of the investigation, it is determined that the school is in noncompliance with the provisions of this section, the Commissioner shall give reasonable notice to the school of the nature of its noncompliance and thereafter may take appropriate action as provided by law, including a suit to enjoin the operation of the preschool program.

L. Failure of a private school to comply with the provisions of this section, or a finding that the health and safety of the children attending the preschool program are in clear and substantial danger upon the completion of an investigation, shall be grounds for revocation of the certification issued pursuant to this section.

M. If a private school operates a child day program outside the scope of its instructional classes during the school year or operates a child day program during the summer, the child day program shall be subject to licensure under the regulations adopted pursuant to § 63.2-1734.

N. Nothing in this section shall prohibit a preschool operated by or conducted under the auspices of a private school from obtaining a license pursuant to this subtitle.

Appendix G
Code of Virginia § 22.1-19

§ 22.1-19. Accreditation of elementary, middle, and high schools; nursery schools; recognition of certain organizations; child day center regulation.

The Board shall provide for the accreditation of public elementary, middle, and high schools in accordance with standards prescribed by it. The Board may provide for the accreditation of private elementary, middle, and high schools in accordance with standards prescribed by it, taking reasonably into account the special circumstances and factors affecting such private schools. The Board in its discretion may recommend provisions for standards for private nursery schools. Any such accreditation shall be at the request of the private school only. For the purposes of facilitating the transfer of academic credits for students who have attended private schools and are enrolling in public schools, and to meet the requirements of § 63.2-1717, the Board of Education shall authorize, in a manner it deems appropriate, the Virginia Council for Private Education to accredit private nursery, preschool, elementary, and secondary schools.

Appendix H Child Day Program Licensure Exemption Survey

Thank you for participating in this survey.

You are being asked to participate because you are a stakeholder in the Virginia Department of Social Services Child Day Care Program Licensure Exemption Study. The findings of this survey will inform recommendations regarding whether current exempt child day programs should remain exempt from licensure or whether any modifications are necessary to protect the health and well-being of the children receiving care in such programs.

Depending on how detailed your responses are, the survey could take up to 45 minutes to complete. If you cannot complete the survey in one session, you may interrupt and leave the survey, returning to the survey where you left off at a later time.

The survey must be completed by Friday, August 5th at 5:00 PM EST. The survey will not be accessible after that time.

If you have questions about licensure or exemptions as you are completing this survey, please contact Charlene Vincent, Director, Division of Licensing-- Children's Programs via email (charlene.vincent@dss.virginia.gov) or telephone (804-726-7097).

If you require technical assistance while completing this survey, please contact Caroline Kraus via email (ckraus@gramercyresearch.com) or telephone (336-293-8540, EXT 105).

Please answer all questions. Your feedback is appreciated.

Demographics

* 1. What stakeholder organization are you a part of? Please write in your organization in the text box below.

* 2. What is your position at the stakeholder organization? Please write in your position in the text box below.

* 3. How many years have you been a part of the stakeholder organization?

0-1

1-5

6-10

11+

* 4. What is your organization's role in providing child day programs?

* 5. If your organization provides direct care, how many years have you been providing care?

0-1

1-5

6-10

11+

Not applicable

* 6. If you are a direct child care provider, what age group of children do you serve?
Please check all that apply.

- Infants ages birth to 1 year
- Toddlers ages 1-2
- Preschoolers ages 3-5
- School aged children 6+
- Not applicable

* 7. How familiar are you with the current exemptions to licensure for child day programs found in § 63.2-1715 of the Code of Virginia? *Click [here](#) to view the full list of exemptions under § 63.2-1715.*

Very familiar

Somewhat familiar

Not at all familiar

* 8. What questions do you have about any of the current exemptions to licensure for child day programs found in § 63.2-1715 of the Code of Virginia? Please answer in the comment box below.

9. Do you think that exempt child day programs should be subject to the same requirements as licensed programs?

Yes

No

Yes, but only for certain exemptions (please specify which exemptions below)

You will now be asked your opinion of the 14 current exemptions in § 63.2-1715 of the Code of Virginia.

* 10. Exemption #1 States: A child day center that has obtained an exemption pursuant to § 63.2-1716 (click this [link](#) for full text of § 63.2-1716).

Is the meaning of this exemption clear to you?

Yes

No

* 11. Do you agree with the above exemption for religious child day programs?

Yes

No

Why or why not?

* 12. Does the language of this exemption need to be reworded to protect the health and safety of children receiving care in a program using this exemption?

Yes

No



If yes, how? Do you have any suggestions?

- * 13. Exemption #2 states: A program where, by written policy given to and signed by a parent or guardian, school-aged children are free to enter and leave the premises without permission or supervision, regardless of (i) such program's location or the number of days per week of its operation; (ii) the provision of transportation services, including drop-off and pick-up times; or (iii) the scheduling of breaks for snacks, homework, or other activities. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure. *Click [here](#) to view the full list of exemptions under § 63.2-1715.*

Is the meaning of this exemption clear to you?

Yes

No

- * 14. Do you agree with the above exemption?

Yes

No

Why or why not?

- * 15. Does the language of this exemption need to be reworded to protect the health and safety of children receiving care in a program using this exemption?

Yes

No

If yes, how? Do you have any suggestions?

- * 16. Exemption #3 states: A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance



exceeds 25 days in a three- month period. *Click [here](#) to view the full list of exemptions under § 63.2-1715.*

Is the meaning of this exemption clear to you?

Yes

No

* 17. Do you agree with the above exemption?

Yes

No

Why or why not?

* 18. Does the language of this exemption need to be reworded to protect the health and safety of children receiving care in a program using this exemption?

Yes

No

If yes, how? Do you have any suggestions?

* 19. Exemption #4 states: Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation. *Click [here](#) to view the full list of exemptions under § 63.2-1715.*

Is the meaning of this exemption clear to you?

Yes

No

* 20. Do you agree with the above exemption?

Yes

No

Why or why not?



* 21. Does the language of this exemption need to be reworded to protect the health and safety of children receiving care in a program using this exemption?

Yes

No

If yes, how? Do you have any suggestions?

* 22. Exemption #5 states: A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week. *Click [here](#) to view the full list of exemptions under § 63.2-1715.*

Is the meaning of this exemption clear to you?

Yes

No

* 23. Do you agree with the above exemption?

Yes

No

Why or why not?

* 24. Does the language of this exemption need to be reworded to protect the health and safety of children receiving care in a program using this exemption?

Yes

No

If yes, how? Do you have any suggestions?

* 25. Exemption #6 states: Instructional programs offered by private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and programs of school- sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language. *Click [here](#) to view the full list of exemptions under § 63.2- 1715.*

Is the meaning of this exemption clear to you?



Yes

No

* 26. Do you agree with the above exemption?

Yes

No

Why or why not?

* 27. Does the language of this exemption need to be reworded to protect the health and safety of children receiving care in a program using this exemption?

Yes

No

If yes, how? Do you have any suggestions?

* 28. Exemption #7 states: Instructional programs offered by public schools that serve preschool-age children or that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language. *Click [here](#) to view the full list of exemptions under § 63.2-1715.*

Is the meaning of this exemption clear to you?

Yes

No

* 29. Do you agree with the above exemption?

Yes

No

Why or why not?

* 30. Does the language of this exemption need to be reworded to protect the health and safety of children receiving care in a program using this exemption?

Yes



No

If yes, how? Do you have any suggestions?

- * 31. Exemption #8 states: Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended, wherein no child attends for more than a total of six hours per week. *Click [here](#) to view the full list of exemptions under § 63.2-1715.*

Is the meaning of this exemption clear to you?

Yes

No

- * 32. Do you agree with the above exemption?

Yes

No

Why or why not?

- * 33. Does the language of this exemption need to be reworded to protect the health and safety of children receiving care in a program using this exemption?

Yes

No

If yes, how? Do you have any suggestions?

- * 34. Exemption #9 states: Practice or competition in organized competitive sports leagues. *Click [here](#) to view the full list of exemptions under § 63.2-1715.*

Is the meaning of this exemption clear to you?

Yes

No

- * 35. Do you agree with the above exemption?

Yes

No



Why or why not?

- * 36. Does the language of this exemption need to be reworded to protect the health and safety of children receiving care in a program using this exemption?

Yes

No

If yes, how? Do you have any suggestions?

- * 37. Exemption #10 states: Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services. *Click [here](#) to view the full list of exemptions under § 63.2-1715.*

Is the meaning of this exemption clear to you?

Yes

No

- * 38. Do you agree with the above exemption?

Yes

No

Why or why not?

- * 39. Does the language of this exemption need to be reworded to protect the health and safety of children receiving care in a program using this exemption?

Yes

No

If yes, how? Do you have any suggestions?

- * 40. Exemption #11 states: Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, except for part-time employees working less than two hours per day, (ii) can be



contacted and can resume responsibility for the child's supervision within 30 minutes, and (iii) is receiving or providing services or participating in activities offered by the establishment. *Click [here](#) to view the full list of exemptions under § 63.2-1715.*

Is the meaning of this exemption clear to you?

Yes

No

* 41. Do you agree with the above exemption?

Yes

No

Why or why not?

* 42. Does the language of this exemption need to be reworded to protect the health and safety of children receiving care in a program using this exemption?

Yes

No

If yes, how? Do you have any suggestions?

* 43. Exemption #12 states: A certified preschool or nursery school program operated by a private school that is accredited by a statewide accrediting organization recognized by the State Board of Education or accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education; the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission that complies with the provisions of § 63.2-1717. *Click [here](#) to view the full list of exemptions under § 63.2-1715.*

Is the meaning of this exemption clear to you?



Yes

No

* 44. Do you agree with the above exemption?

Yes

No

Why or why not?

* 45. Does the language of this exemption need to be reworded to protect the health and safety of children receiving care in a program using this exemption?

Yes

No

If yes, how? Do you have any suggestions?

* 46. Exemption #13 states: A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by local governments. *Click [here](#) to view the full list of exemptions under § 63.2-1715.*

Is the meaning of this exemption clear to you?

Yes

No

* 47. Do you agree with the above exemption?

Yes

No

Why or why not?

* 48. Does the language of this exemption need to be reworded to protect the health and safety of children receiving care in a program using this exemption?

Yes

No



If yes, how? Do you have any suggestions?

- * 49. Exemption #14 states: A program of instructional or athletic experience operated during the summer months by, and as an extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 and administered by the Virginia Council for Private Education. *Click [here](#) to view the full list of exemptions under § 63.2-1715.*

Is the meaning of this exemption clear to you?

Yes

No

- * 50. Do you agree with the above exemption?

Yes

No
Why or why not?

- *51. Does the language of this exemption need to be reworded to protect the health and safety of children receiving care in a program using this exemption?

Yes

No

If yes, how? Do you have any suggestions?

52. Are there any exemptions that should be added to or removed from the current exemptions to ensure the safety and well-being of children?

Yes

No

If yes, please specify below.

53. What other issues should be considered when thinking of child day programs exempt from licensure?

54. Do you have any other final comments?



Appendix I
Child Day Program Licensure Exemption Survey Summary Report

**Virginia Department of Social Services Child Day Care
Programs
Licensure
Exemption Survey**

Summary Report

Submitted by:
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Executive Summary

Pursuant to Senate Joint Resolution No. 63, the Virginia Department of Social Services (VDSS) contracted Gramercy Research Group to facilitate and conduct a study of child day programs exempt from licensure in consultation with stakeholders. As part of the study, stakeholders were asked to complete a survey to provide their opinions on the 14 current exemptions from the child day program licensure requirements found in § 63.2-1715 of the Code of Virginia.

The VDSS approved the survey and provided a list of relevant stakeholders, who received the survey electronically. Respondents were asked to complete the survey between August 2 and August 8, 2016. Gramercy Research Group attempted to reach non-respondents multiple times via email and telephone. Responses were received from 17 stakeholders; only 2 respondents provided direct child care services. Most respondents held executive-level positions in their respective organizations.

The attached summary report provides an overview of survey responses regarding the exemptions overall, and specific responses regarding agreement with each specific exemption. This summary report also provides an overview of suggestions from respondents about support of, or opposition to, each exemption and suggestions for rewording each exemption.



Survey Methodology

Following the pre face-to-face meeting with Virginia Department of Social Services (VDSS) staff on July 26, 2016, Gramercy Research Group created and submitted a draft survey for the VDSS staff to review. The initial draft was submitted on July 27, 2016. Edits to the initial draft were received on July 28 & July 29, 2016. After making requested edits, the final survey questions were formatted on Survey Monkey.

A member of the VDSS team emailed each stakeholder a letter describing the licensure exemption study, introducing Gramercy Research Group, and requesting stakeholder participation in the online survey and the meetings to facilitate dialogue about licensure exemptions.

On August 2, 2016 the VDSS Child Day Care Program Licensure Exemption Survey was emailed to a list of 15 stakeholders identified by the VDSS staff (Appendix H). Respondents were asked to complete the survey no later than August 5, 2016 at 5:00PM EST. Requests were emailed separately to allow the Gramercy Research Group team to track when emails were open. Emails not opened within two days of the initial email were resent. A final reminder email to complete the survey was sent on the morning of August 5 for those who had not yet completed the survey.

After sending the survey to the initial 15 stakeholders, requests were made by two of the stakeholders to send the survey to alternate contacts at their organization. Surveys were sent to those contacts following each request. One of the alternate contacts was not identified until the morning of August 5; consequently, the survey remained open for responses until August 8, 2016 at 5:00 PM EST to allow her time to complete the survey.

Of the stakeholders contacted, two stakeholders did not complete the survey or reply to invitations to participate in three scheduled face-to-face meetings to discuss the licensure exemptions. To ensure that those stakeholders had the opportunity to voice their opinions, the respective administrative assistant at each stakeholder organization was contacted on August 10, 2016 in attempt to reach the stakeholder. As a result, contact was made with each stakeholder. After contact was made via telephone, one stakeholder was provided with the survey questions offline and emailed her feedback to Gramercy Research Group. That feedback was incorporated into this report and was counted as a response to the survey.

Between August 15, 2016 and August 17, 2016, requests were made to send the survey to an additional seven stakeholders. The survey was reopened and stakeholders were given until 5 PM on Sunday, August 21st to respond to the survey. As a result, an additional three surveys were completed and those responses were incorporated into this report.

Survey Sample

Total number of responding stakeholder organizations: 15



Responding organizations:

1. The Boyd Schools (American Montessori Society)
2. Child Care Aware of Virginia (2)
3. Concerned Citizens for Child Care
4. The Family Foundation of Virginia
5. North American Christian School Accrediting Agency
6. Old Dominion Association of Church Schools
7. Virginia Assembly of Independent Baptists
8. The Virginia Child Care Association (2)
9. Virginia Council for Private Education
10. Virginia Department of Education
11. Virginia Department of Social Services (Division of Child Care and Early Childhood Development)
12. Virginia House of Delegates (later requested to omit responses from analysis)
13. Virginia Municipal League
14. Voices for Virginia's Children
15. YMCA of the USA

Organizations that did not respond:

1. Virginia Association for Early Childhood Education
2. Virginia Association for Independent Baptists
3. Virginia Association of Counties
4. Virginia Catholic Conference
5. Virginia Partnership for Out-of-School Time

Of the 17 respondents, 12 reported serving executive level roles in their organization (e.g., President, Vice President, Executive Director, Associate Director, Founder), three reported policy-related roles (Policy Director, Policy/Program Consultant), and one person reported being a Program Manager.

Most respondents (66.67%) had been part of their organizations for 11+ years.

Only three of the organizations reported that they provide direct care for children; two have been doing so for 11+ years and one for 6-10 years. The other responding organizations were policy makers, advocates, umbrella organizations for entities that provide child care, organizations that assist parents with finding child care, and child care licensing organizations.

Survey Responses

Most respondents reported that they were very familiar (73.33%) or somewhat familiar (26.67%) with the current exemptions for licensure for child day programs.

Responses were mixed with regard to whether exempt child day programs should be subject to the same requirements as licensed programs; five respondents (33.33%) said yes, six respondents (40.00%) said yes, but only for certain exemptions, and four (26.67%) said no.



Respondents were also asked about specific questions they had about the current exemptions to licensure for child day care programs. Responses are summarized below:

- None (n = 7)
- Concern that all exemptions are being targeted for elimination and request for rationale (n = 1) and concern specifically about removing religious exemptions (n = 1)
- Request for suggestions for clarifying exemptions (n = 1)
- Request for information about how exemptions are monitored and how DSS verifies and supervises standards (n = 2)
- Request for clarification about why some programs are required to comply with health and safety requirements and other programs are not (n = 1)
- Request for information about the history of exemptions (n = 1)
- Concern that parents do not understand that some programs are exempt from licensing (n = 1)
- Concern about whether “come & go” is an acceptable practice for children under 12

The remainder of the survey asked specifically about each exemption. Responses are summarized on the following pages.



Exemption 1. A child day center that has obtained an exemption pursuant to § 63.2-1716 (religious exemption)

- 100% of respondents stated that the meaning of the exemption is clear to them.
- 60.00% of respondents support the exemption
- 40.00% of respondents oppose the exemption
- 46.67% of respondents believe that the language of the exemption needs to be reworded

Support	Opposition	Suggested Changes
<ul style="list-style-type: none"> <input type="checkbox"/> Parents have choice to choose religious exempt center <input type="checkbox"/> Minimum standards are in place <input type="checkbox"/> Additional regulations would be burdensome and costly for programs <input type="checkbox"/> Additional regulation would be violation of church & state <input type="checkbox"/> Additional regulation could lead to unwanted regulation of curriculum <input type="checkbox"/> Should be exempt from licensing fees <input type="checkbox"/> Evidence shows religious centers are safer 	<ul style="list-style-type: none"> <input type="checkbox"/> Need for equal protection for all children <input type="checkbox"/> Not all programs under exemption are actually sponsored by religious institution <input type="checkbox"/> Standard training in health and safety should be required for all programs <input type="checkbox"/> Parents unaware that religious exempt don't follow same standards <input type="checkbox"/> Should be more uniformity for programs caring for children in VA <input type="checkbox"/> No programs should be subject to lesser standards 	<ul style="list-style-type: none"> <input type="checkbox"/> Have annual unannounced inspection at all religious exempt programs <input type="checkbox"/> Delete exemption entirely <input type="checkbox"/> Require same health and safety trainings for all people in supervisory positions <input type="checkbox"/> Follow Georgia's model & allow religious programs to be "commissioned" instead of licensed, yet follow all same standards¹ <input type="checkbox"/> Change staff to child ratios (A. 3. c) <input type="checkbox"/> Clarify what information centers must provide in a written statement to parents regarding physical facilities (A. 6) <input type="checkbox"/> Add that a person trained and certified in first aid must be always present <i>and accessible</i> when children are present (B. 4) <input type="checkbox"/> Require same health and safety guidelines as licensed programs

¹Information on Georgia's "commission" regarding licensing standards for religious organizations can be found here: <http://www.daycare.com/georgia/state3.html>



Exemption 2. A program where, by written policy given to and signed by a parent or guardian, school-aged children are free to enter and leave the premises without permission or supervision, regardless of (i) such program's location or the number of days per week of its operation; (ii) the provision of transportation services, including drop-off and pick-up times; or (iii) the scheduling of breaks for snacks, homework, or other activities. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.

- 73.33% of respondents stated that the meaning of the exemption is clear to them.
- 26.67% of respondents support the exemption
- 73.33% of respondents oppose the exemption
- 53.33% of respondents believe that the language of the exemption needs to be reworded

Support	Opposition	Suggested Changes
<ul style="list-style-type: none"> <input type="checkbox"/> Programs allow parents flexibility <input type="checkbox"/> Parents have choice to choose exempt center 	<ul style="list-style-type: none"> <input type="checkbox"/> Safety of children at risk <input type="checkbox"/> Abused by programs who do not allow children to "come and go" <input type="checkbox"/> Difficult to monitor these programs <input type="checkbox"/> No background checks 	<ul style="list-style-type: none"> <input type="checkbox"/> Add minimum health and safety standards <input type="checkbox"/> Add annual inspection <input type="checkbox"/> Add minimum training standards <input type="checkbox"/> Require background checks <input type="checkbox"/> Remove exemption <input type="checkbox"/> Require two adults present at all times <input type="checkbox"/> Require compliance with applicable fire and building codes and health regulations <input type="checkbox"/> Require that all areas of the premises accessible to children are free of obvious injury hazards <input type="checkbox"/> Require that all staff be able to recognize and report child abuse and neglect <input type="checkbox"/> Require procedures to ensure appropriate sight & sound supervision of all children in care at all times <input type="checkbox"/> Require same sq. footage requirement as licensed



Exemption 3. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.

- 93.33% of respondents stated that the meaning of the exemption is clear to them.
- 66.67% of respondents support the exemption
- 33.33% of respondents oppose the exemption
- 33.33% of respondents believe that the language of the exemption needs to be reworded

Support	Opposition	Suggested Changes
<input type="checkbox"/> Government overreach to license such programs <input type="checkbox"/> Programs are academic & instructional in nature <input type="checkbox"/> No young children attend these programs <input type="checkbox"/> Removing exemption would be a financial hardship for these programs <input type="checkbox"/> Programs afford children the opportunity for group educational experiences at a more affordable price	<input type="checkbox"/> Exemption is misused and abused <input type="checkbox"/> Difficult to monitor these programs <input type="checkbox"/> Children still at risk <input type="checkbox"/> No background checks <input type="checkbox"/> If a program is caring for children in a group setting on a daily basis and the parents are not present this is child care.	<input type="checkbox"/> Require background check <input type="checkbox"/> Add basic health and safety standards <input type="checkbox"/> Add monitoring <input type="checkbox"/> Require same sq. footage requirement as licensed centers <input type="checkbox"/> Require sight and sound supervision at all times



Exemption 4. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation.

- 100.00% of respondents stated that the meaning of the exemption is clear to them.
- 66.67% of respondents support the exemption
- 33.33% of respondents oppose the exemption
- 40.00% of respondents believe that the language of the exemption needs to be reworded

Support	Opposition	Suggested Changes
<ul style="list-style-type: none"> <input type="checkbox"/> Participation only for limited time periods <input type="checkbox"/> Government overreach to license such programs <input type="checkbox"/> No young children attend these programs <input type="checkbox"/> Removing exemption would be a financial hardship for these programs <input type="checkbox"/> Programs afford children the opportunity for group educational experiences at a more affordable price 	<ul style="list-style-type: none"> <input type="checkbox"/> Abused because children stay in camps all day for multiple weeks and no standards are followed <input type="checkbox"/> No basic health and safety standards <input type="checkbox"/> No background checks <input type="checkbox"/> Not safe 	<ul style="list-style-type: none"> <input type="checkbox"/> Require background check <input type="checkbox"/> Add basic health and safety standards <input type="checkbox"/> Add monitoring <input type="checkbox"/> Require same sq. footage requirement as licensed centers <input type="checkbox"/> Require sight and sound supervision at all times



Exemption 5. A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week.

- 73.33% of respondents stated that the meaning of the exemption is clear to them.
- 60.00% of respondents support the exemption
- 40.00% of respondents oppose the exemption
- 33.33% of respondents believe that the language of the exemption needs to be reworded

Support	Opposition	Suggested Changes
<input type="checkbox"/> Participation only for limited time periods <input type="checkbox"/> Government overreach to license such programs	<input type="checkbox"/> Not enough protection for kids <input type="checkbox"/> Unclear who/what the programs are <input type="checkbox"/> Exemption is abused <input type="checkbox"/> No background checks <input type="checkbox"/> Exemption not needed	<input type="checkbox"/> Require background checks <input type="checkbox"/> Clarify what entities this is exempting <input type="checkbox"/> Add monitoring <input type="checkbox"/> Require same sq. footage requirement as licensed centers <input type="checkbox"/> Require sight and sound supervision at all times <input type="checkbox"/> Require basic health and safety standards

Exemption 6. Instructional programs offered by private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

- 100.00% of respondents stated that the meaning of the exemption is clear to them.
- 86.67% of respondents support the exemption
- 13.33% of respondents oppose the exemption
- 26.67% of respondents believe that the language of the exemption needs to be reworded

Support	Opposition	Suggested Changes
<input type="checkbox"/> Government overreach to license such programs <input type="checkbox"/> Schools hold accreditation that includes health and safety standards <input type="checkbox"/> Regulated by the Department of Education	<input type="checkbox"/> No background checks	<input type="checkbox"/> Require background checks <input type="checkbox"/> Clarify number of days and hours



Exemption 7. Instructional programs offered by public schools that serve preschool-age children or that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

- 100.00% of respondents stated that the meaning of the exemption is clear to them.
- 73.33% of respondents support the exemption
- 26.67% of respondents oppose the exemption
- 40.00% of respondents believe that the language of the exemption needs to be reworded

Support	Opposition	Suggested Changes
<ul style="list-style-type: none"> <input type="checkbox"/> Government overreach to license such programs <input type="checkbox"/> Schools hold accreditation that includes health and safety standards <input type="checkbox"/> Regulated by the Department of Education 	<ul style="list-style-type: none"> <input type="checkbox"/> No basic health and safety standards <input type="checkbox"/> No background checks <input type="checkbox"/> Preschool aged children should be in licensed care 	<ul style="list-style-type: none"> <input type="checkbox"/> Require background checks <input type="checkbox"/> Require minimum training <input type="checkbox"/> Add minimum health and safety protections <input type="checkbox"/> Add annual inspection <input type="checkbox"/> Clarify number of days and hours <input type="checkbox"/> Require same staff/child ratio for preschoolers as licensed programs <input type="checkbox"/> Require same playground equipment requirements as licensed programs

Exemption 8. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended, wherein no child attends for more than a total of six hours per week.

- 93.33% of respondents stated that the meaning of the exemption is clear to them.
- 86.67% of respondents support the exemption
- 13.33% of respondents oppose the exemption
- 20.00% of respondents believe that the language of the exemption needs to be reworded



Support	Opposition	Suggested Changes
<ul style="list-style-type: none"> <input type="checkbox"/> Government overreach to license such programs <input type="checkbox"/> Programs are highly individualized and do not easily fit in licensing categories <input type="checkbox"/> Regulated by the Department of Education 	<ul style="list-style-type: none"> <input type="checkbox"/> Exemption is abused and programs exceed the number of days and hours defined 	<ul style="list-style-type: none"> <input type="checkbox"/> Add monitoring <input type="checkbox"/> Allow children to attend for more than six hours per week

Exemption 9. Practice or competition in organized competitive sports leagues.

- 93.33% of respondents stated that the meaning of the exemption is clear to them.
- 86.67% of respondents support the exemption
- 13.33% of respondents oppose the exemption
- 33.33% of respondents believe that the language of the exemption needs to be reworded

Support	Opposition	Suggested Changes
<ul style="list-style-type: none"> <input type="checkbox"/> Government overreach to license such programs <input type="checkbox"/> Removing exemption would be a financial hardship for these programs <input type="checkbox"/> Programs afford children the opportunity for group educational experiences at a more affordable price <input type="checkbox"/> Parental involvement in these programs strengthens families 	<ul style="list-style-type: none"> <input type="checkbox"/> Exemption needs more clarity 	<ul style="list-style-type: none"> <input type="checkbox"/> Require background checks <input type="checkbox"/> Clarify age and time limits



Exemption 10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services.

- 100.00% of respondents stated that the meaning of the exemption is clear to them.
- 100.00% of respondents support the exemption
- 0.00% of respondents oppose the exemption
- 6.67% of respondents believe that the language of the exemption needs to be reworded

Support	Opposition	Suggested Changes
<ul style="list-style-type: none"><input type="checkbox"/> Separation of church and state; religious liberty<input type="checkbox"/> Requiring licensure can lead to control of curriculum<input type="checkbox"/> Removing exemption would be a financial hardship for these programs<input type="checkbox"/> Programs only operate for minimal time<input type="checkbox"/> Many regulations for licensure do not apply to these programs<input type="checkbox"/> Parents are on site<input type="checkbox"/> Not a formal contractual agreement		<ul style="list-style-type: none"><input type="checkbox"/> Require background checks



Exemption 11. Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, except for part-time employees working less than two hours per day, (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes, and (iii) is receiving or providing services or participating in activities offered by the establishment.

- 100.00% of respondents stated that the meaning of the exemption is clear to them.
- 3.33% of respondents support the exemption
- 26.67% of respondents oppose the exemption
- 33.33% of respondents believe that the language of the exemption needs to be reworded

Support	Opposition	Suggested Changes
<ul style="list-style-type: none"> <input type="checkbox"/> Government overreach to license such programs <input type="checkbox"/> Parents are on site and have agreed to the care 	<ul style="list-style-type: none"> <input type="checkbox"/> Still providing child care, so there should be requirements <input type="checkbox"/> No basic health and safety standards <input type="checkbox"/> Exemption is abused <input type="checkbox"/> No background checks 	<ul style="list-style-type: none"> <input type="checkbox"/> Require background check <input type="checkbox"/> Add basic health and safety standards <input type="checkbox"/> Add monitoring <input type="checkbox"/> Add day/hour limitations per week (three days?) <input type="checkbox"/> Require sight and sound supervision of children at all times <input type="checkbox"/> Add first aid and allergy training?



Exemption 12. A certified preschool or nursery school program operated by a private school that is accredited by a statewide accrediting organization recognized by the State Board of Education or accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education; the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission that complies with the provisions of § 63.2-1717.

- 100.00% of respondents stated that the meaning of the exemption is clear to them.
- 73.33% of respondents support the exemption
- 26.67% of respondents oppose the exemption
- 33.33% of respondents believe that the language of the exemption needs to be reworded

Support	Opposition	Suggested Changes
<ul style="list-style-type: none"> <input type="checkbox"/> Accredited programs have high health and safety standards <input type="checkbox"/> Programs are monitored <input type="checkbox"/> Oversight by Department of Education 	<ul style="list-style-type: none"> <input type="checkbox"/> Organizations can choose which programs they want to consider child care and which ones they don't <input type="checkbox"/> No minimum health and safety standards 	<ul style="list-style-type: none"> <input type="checkbox"/> Narrow down exempt programs to state recognized preschool programs within the VCPE accreditation system <input type="checkbox"/> Remove exemption entirely <input type="checkbox"/> Add minimum health and safety training <input type="checkbox"/> Add minimum health and safety requirements <input type="checkbox"/> Add annual inspection <input type="checkbox"/> Require background checks



Exemption 13. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by local governments.

- 100.00% of respondents stated that the meaning of the exemption is clear to them.
- 73.33% of respondents support the exemption
- 26.67% of respondents oppose the exemption
- 26.67% of respondents believe that the language of the exemption needs to be reworded

Support	Opposition	Suggested Changes
<input type="checkbox"/> Government overreach to license such programs <input type="checkbox"/> Allows for affordable and safe supervised programs for school-aged children, particularly for children with no other after school activity alternatives <input type="checkbox"/> Programs are an extension of and administered by a qualified agency	<input type="checkbox"/> Health and safety standards established by local governments can vary significantly <input type="checkbox"/> No minimum health and safety standards <input type="checkbox"/> No background checks <input type="checkbox"/> No compelling reason for different standards for these programs	<input type="checkbox"/> Add minimum health and safety training <input type="checkbox"/> Add minimum health and safety requirements <input type="checkbox"/> Add annual inspection <input type="checkbox"/> Require background checks <input type="checkbox"/> Clarify who is program provider

Exemption 14. A program of instructional or athletic experience operated during the summer months by, and as an extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 and administered by the Virginia Council for Private Education.

- 100.00% of respondents stated that the meaning of the exemption is clear to them.
- 93.33% of respondents support the exemption
- 6.67% of respondents oppose the exemption
- 6.67% of respondents believe that the language of the exemption needs to be reworded



Support	Opposition	Suggested Changes
<ul style="list-style-type: none"><input type="checkbox"/> Accredited programs are already accountable<input type="checkbox"/> Government overreach to license such programs<input type="checkbox"/> Programs are an extension of and administered by a qualified agency<input type="checkbox"/> Regulated by the Department of Education	<ul style="list-style-type: none"><input type="checkbox"/> No background checks	<ul style="list-style-type: none"><input type="checkbox"/> Require background checks



Other General Comments on Exemptions:

- Parents do not understand the difference between licensed and unlicensed care.
 - o Need for public education campaign
- Should be basic requirements that all programs must meet (health & safety standards, training, inspections), but some licensing standards are not necessary for all programs.
- Divide exemptions into three categories:
 - o Those that regularly care for children
 - Have set of health, safety, training standards
 - o Those that are a very short period of a temporary nature that aren't child care (like a piano lesson, soccer practice once a week, Sunday school)
 - Require a background check.
 - o Religious license exempt
 - Either require a license or require the licensing standards under a different name (ie, certification)
- An exemption should be added to include child day programs in public schools that provide before and after school care.
- Written policies should include requirements set by the state as well as local governments.
- While considering if there are exemptions or types of licenses the state should consider when regulations and oversight are similar enough to collapse categories to reduce confusion and the opportunity for work-arounds.
- Questions to consider:
 - o Should the state look at making standards easier for everyone to have a baseline of care and safety?
 - o Why are programs seeking to be unlicensed?
 - Are licensing standards too challenging? Too expensive to meet?
- Programs not governed by another legislative authority such as the Department of Education or local government ordinance that provide care and oversight of children should not be exempt from licensing.
- Health and safety standards should be the same for all programs and for all children in those programs.



**Appendix J
 Workgroup Members**

Organization and Representatives¹	Pre-Meeting 7/26/2016	Meeting 1 8/24/2016	Meeting 2 8/31/2016	Meeting 3 9/7/2016
American Montessori Society Mary Ann Boyd		√	√	
Child Care Aware of Virginia Grace Reef, Kimberly Taylor, Sharon Veatch		√	√	√
Concerned Citizens for Child Care Liz Dowdy		√	√	√
Fairfax County Park Authority John Berlin, Ellen Werthman				√
Hanover Parks and Recreation Greg Sager				√
Minnieland Academy Dr. Rosemary Burton		√		√
Old Dominion Association of Church Schools Dan Zacharias		√	√	√
Senator Hanger Holly Herman		√	√	√
Virginia Department of Social Services Tatanishia Armstrong, Edward Richardson, Jamie Sipe, Charlene Vincent, Mary Ward, State Board of Social Services members- Joan Brennan, Kent Willis	√	√	√	√
Virginia Assembly of Independent Baptists Eddy Aliff		√	√	√
Virginia Association of Counties Katie Boyle			√	√
Virginia Catholic Conference Jeffrey Caruso		√		
Virginia Child Care Association Kim Hulcher		√	√	
Virginia Council for Private Education Josie Webster		√	√	√
Virginia Department of Education Cheryl Strobel		√	√	
Virginia House of Delegates – Delegate Filler Corn Leigh Nusbaum		√	√	
Virginia Municipal League				√

¹ Representatives may not have attended all meetings



Organization and Representatives¹	Pre-Meeting 7/26/2016	Meeting 1 8/24/2016	Meeting 2 8/31/2016	Meeting 3 9/7/2016
Janet Areson				
Virginia Parks and Recreation Society Sue Rowland			√	√
Voices for Virginia's Children Emily Griffey		√	√	√
YMCA Elizabeth McBride, Elizabeth Taylor		√	√	√

