



COMMONWEALTH of VIRGINIA

DEPARTMENT OF EDUCATION
P.O. BOX 2120
RICHMOND, VA 23218-2120

DATE: June 20, 2023

TO: Certified Preschools

FROM: Jeff Williams, Director - Office of Child Care Health and Safety, Department of Education

SUBJECT: 2023 Legislative Implementation

This memo will inform you of legislation that passed in the 2023 Virginia General Assembly session that affects child day programs. The legislation will become effective July 1, 2023.

Background Checks for Accreditation by the Virginia Council for Private Education: House Bill (HB) 1701

[HB 1701](#) amends §§ 22.1-289.035 and 22.1-296.3 of the Code of Virginia (Code). This bill amends § 22.1-289.035 of the Code to allow the Virginia Council for Private Education (Council) or its authorized designee to review background check information for current employees of a child day center accredited by the Council for the purposes of seeking or maintaining accreditation by the Council as permitted by § 22.1-19. The bill also amends § 22.1-296.3 to permit the governing board or administrator of a private elementary or secondary school to disclose criminal history record information obtained through the Central Criminal Records Exchange indicating that the private school applicant meets or does not meet the criteria for employment based on whether the applicant has been convicted of a barrier crime as defined in § 19.2-392.02.

The Council oversees accreditation of private preschool, elementary and secondary schools in the Commonwealth of Virginia. The Council requires that private schools accredited pursuant to § 22.1-19 operating a child day program regulated by the Department meet the background requirements in § 22.1-289.035. The Council needs to ensure that the Code allows background check information to be reviewed by the Council for purposes of verifying the completion of required background checks. Therefore, this legislation permits programs to share the eligibility documentation received from the Office of Background Investigations.

Amendment to Exemptions; Private School Exemption: House Bill (HB) 1713/Senate Bill (SB) 964

[HB 1713](#)/ [SB 964](#) amends § 22.1-289.030 of the Code of Virginia. The legislation amends the exemption for private schools in § 22.1-289.030 B9 to remove the requirement that children enrolled in the exempt program be at least five years old and adds that school-age eligible children who are enrolled in the school may attend the program. This legislation expands the age of children

permitted to be enrolled in a private school exempt pursuant to § 22.1-289.030 to allow the private school's program to serve children who meet compulsory school attendance age requirements. Section 22.1-254 of the Code of Virginia, or the compulsory attendance law, requires children who turn five before September 30 of a given school year be enrolled in an educational program for that school year.

Additional provisions in this section require that an exempt program offered by a private school accredited by and in good standing with the Virginia Council for Private Education (VCPE), operates for no more than four hours per day, is staffed by the accredited private school's employees, and is subject to safety and supervisory standards established by VCPE.

No action is needed for programs currently exempt under § 22.1-289.030 B9 that have filed a Statement of Intent with the Superintendent within the last 12 months. Programs currently exempt under § 22.1-289.030 B9 that would like to operate under the revised statute and who have not filed a Statement of Exempt with the Superintendent within the last 12 months must file an exemption [here](#). Once the Department receives the exemption filing, it will be reviewed, and a confirmation email of the filing will be provided if information provided in the Statement of Intent demonstrates compliance with the exemption requirements.

Licensed programs that would like to request the exemption under § 22.1-289.030 B9 must first file for the exemption and receive confirmation from the Department that the filing was processed, then surrender the license to their assigned licensing inspector. Prior to deciding to surrender their license and operate under this exemption, private schools are reminded that programs operating under § 22.1-289.030 B9 are not eligible to participate in the subsidy program and are not eligible to obtain national fingerprint background checks as a regulated child day program through Fieldprint.

Penalty for Illegally Operating Providers: House Bill (HB) 1636

[HB 1636](#) is a technical amendment to § 18.2-371.1 (Abuse & neglect of children; penalty) of the Code of Virginia to include a reference to child day programs and family day systems. This amendment to the Code clarifies that child day programs or family day systems defined in § 22.1-289.02 are included in § 18.2-371.1 and individuals that operate a child day program or family day system without a license are guilty of a Class 4 felony if a child in care receives a serious injury and the program is knowingly operating without a required license.

The amendment to § 18.1-371.1 A also applies to any individual who causes or permits serious injury to the life or health of a child while knowingly operating a child day program or family day system without a required license. The amendment provides children and consumers increased protection in the form of criminal penalties if a child is seriously injured.

Commission on Early Childhood Care and Education: House Bill (HB) 1423/Senate Bill (SB) 1404

[HB 1423](#) / [SB 1404](#) amends § 2.2-208.1 of the Code of Virginia to establish the Commission on Early Childhood Care and Education, formerly the School Readiness Committee. The bill establishes membership composition, term lengths, and facilitation of the Commission; the body's powers and duties; a schedule for meetings; and required deliverables. The terms of existing School Readiness Committee members expire upon the effective date of the legislation.

The Commission on Early Childhood Care and Education is a guiding body, comprised of policymakers, practitioners, parents, and other experts in the early childhood care and educator (ECCE) sector, to set a vision and establish goals for the future of ECCE in the Commonwealth. The Commission's powers and duties include expanding access to ECCE across Virginia;

analyzing opportunities for new financing; retaining, strengthening, and growing the early childhood workforce; gathering and analyzing data to assess outcomes; generating needs assessments and developing recommendations to support family choice, access, and affordability; and generating annual reports on access and outcomes.

The proposed Commission on Early Childhood Care and Education will have a robust membership—including representatives of private and public early childhood programs, Head Start programs, faith-based programs—as well as representatives of public school divisions, local governments, regional coordinating entities, and parents and guardians. Its powers and duties are also expanded to reflect Virginia’s progress towards expanding choice, improving quality, and prioritizing affordability.

This information is being provided to keep providers informed of the activities regarding early childhood education in the Commonwealth. No action is required.

We understand that there is a lot of information provided in this memo. Please join the Office of Child Care Health and Safety for a webinar on June 22, 2023, to learn about new laws related to child day programs and family day systems. This webinar is relevant for licensees, owners, and directors who represent licensed programs, subsidy vendors, voluntarily registered homes, religious exempt centers, certified preschools, and license-exempt programs. More information and instructions for registration can be found in the [Readiness Connections](#) newsletters.

Please send questions to childcarelicensing@doe.virginia.gov.