

Child Care Definitions & Licensing Requirements

No Wonder Parents Are Confused!

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Virginia has an array of child care definitions, which sound similar but have different meanings and different requirements. Parents believe that the array of words used to describe categories of care defined in statute are synonymous with licensing.

This document lists the types of child care defined in Virginia code, including care that is specifically exempted from licensing requirements.

Child Care Licensing in Virginia

In general, in Virginia a license is required when 5 or more unrelated children are cared for in a home for pay. However, northern Virginia has requirements that seek to protect all children in child care.

- In Alexandria, all family child care homes that aren't licensed are required to register with the Alexandria Department of Community & Human Services' Early Childhood Division and are subject to background check, training and inspection requirements.
- In Arlington, a license is required for providers who care for more than 3 unrelated children and a permit is required as soon as a provider cares for one unrelated child for pay. The requirements for a provider with a permit and a license are the same.
- In Fairfax County, a permit is required for all providers who care for one unrelated child for pay.

Virginia State Statutory Definitions

Under Section [§ 63.2-100. Definitions](#), the following terms apply to child care programs:

"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.**

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.

[**Note:** The Virginia code is complicated and not enforceable with regard to the above language. For example, a license is required for homes caring for 6 or more unrelated children. However, providers are prohibited from caring for more than four children under age two unless they have a license. Other than northern Virginia, local licensing offices often will not license providers unless they have six children. The voluntary registration requirement (described below) is merely a list. Training and inspections are not required].

"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.

[**Note:** There is only one family day system in Virginia. It's in Fairfax County].

"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.

[**Note:** Registration is a list of providers who have had a background check. Training and inspections are not required. Providers submit a health & safety checklist that is self-monitored].

Specific Categories of Care Exempted from Licensing in Virginia State

There are 14 categories of child care exempted from state licensing. This includes religious exempt centers, martial arts centers, certified preschools and nursery schools, etc. A full list of the 14 categories and their definitions is located in the appendix.

Northern Virginia Child Care Requirements

ALEXANDRIA:

All family child care homes in Alexandria that are not state licensed must register with the Department of Community & Human Services' Early Childhood Division (ECD). These homes must pass a fire safety inspection and all adults (18 years of age and older) living in the home must consent to a criminal records check for certain crimes, a tuberculosis (TB) screening, reference checks, and all the home's residents 14 years of age and older must undergo a

Child Protective Services clearance. The approval process includes successful completion of ECD's training program and a home study.

Anyone who cares for more than five children, including their own and resident children under the age of 14, must have a Special Use Permit from the City Building & Fire Code Administration. Providers caring for more than six unrelated children must also have a state license.

ARLINGTON:

Family day care home: A private family home where nine or fewer children are received, for a fee, for the care, protection and guidance during only part of the twenty-four (24) hour day, except children who are related by blood, adoption or marriage to the person who maintains the home.

Family Day Care Licensing:

Any person who intends to provide a family day care home in which four (4) through nine (9) children are to be received shall file an application for a license at least two months in advance of the planned opening date to the county manager for a license in the name of the person for the specified structure to which the application relates. No license issued pursuant to this chapter shall be transferable.

Family Day Care Permit:

Family day care homes in which less than four (4) children are received shall comply with all standards and policies prescribed herein except that a license shall not be required. If the county manager determines that such standards and policies are not being met in any family day care home in which less than four (4) children are received, he shall notify the operator of such failure and he shall require compliance within ten (10) days of such notice.

Continued operation beyond the ten-day period without correcting the violation shall be unlawful, and the penalties prescribed under section 59-19 shall apply. In addition to said penalties, the home shall not be operated for a period of six (6) months

unless the county manager receives satisfactory evidence that full compliance with the standards will be made.

FAIRFAX COUNTY:

All providers are required to have a Fairfax County Child Care Permit or a Virginia state family day care home license.

Home child care facility means any facility located in a dwelling or mobile home, as defined in Article 20 of Chapter 112 of the Fairfax County Code (the Zoning Ordinance), where a person, for compensation, regularly provides care, protection, supervision and guidance to one or more children who do not reside in the facility and who are not attended by a parent, guardian or legal custodian while they are in that facility, during a part of the day for at least four days of a calendar week.

If, on a regular basis, a person receives compensation for the care, protection, supervision and guidance of one or more children in a structure other than a dwelling or mobile home, as defined in the Zoning Ordinance, that facility shall be deemed

to be a child care center and included within those facilities defined in this Section.

A home child care facility does not include: (i) any family day home licensed by the Commonwealth pursuant to Virginia Code § 63.2-1701 or any facility exempted from licensure by Virginia Code § 63.2-1715; (ii) any dwelling or mobile home where a person provides care solely for children who reside there; or (iii) any dwelling or mobile home where a person provides care solely for relatives of the resident owner or tenant.

*However, if on a regular basis, a person receives compensation for the care, protection, supervision and guidance of one or more children who do not reside in that dwelling or mobile home and who are not attended by a parent, guardian or legal custodian while they are in that dwelling or mobile home during a part of the day for at least four days of a calendar week, and a home child care facility is established thereby, **then any children who are related to the person who provides such care and are present in that dwelling or mobile home and any other children who reside in that dwelling or mobile home shall be counted and considered in determining whether the facility complies with the provisions of this Chapter.***

APPENDIX:

License Exempt Care in Virginia Code

§ 63.2-1715. Exemptions from licensure.

1. A child day center that has obtained an exemption pursuant to § [63.2-1716](#).

[Note: Section 63.2-1716 says: “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...”]

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 public and 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. Education and care programs provided by public schools that are not exempt pursuant to subdivision A 6 shall be regulated by the State Board of Education using regulations that incorporate, but may exceed, the regulations for child day centers licensed by the Commissioner.
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.

Statutes for Northern Virginia:

Alexandria: <http://alexandriava.gov/dchs/childrenfamily/default.aspx?id=50230>

Arlington: <http://arlingtonva.s3.amazonaws.com/wp-content/uploads/sites/26/2014/02/file672361.pdf>

Fairfax County: <http://www.fairfaxcounty.gov/ofc/fairfax-county-child-care-law.htm>